

# Annual Report

1999-2000 (Pt.) and 2000-2001

(1<sup>st</sup> March 2000 to 31<sup>st</sup> March 2001)



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## Chapter I --- Introduction

Our republic was founded with the objective of securing to its citizens justice, liberty, equality and fraternity. This objective is spelt out in the preamble to the Constitution of India. The Constitution also elaborates the methodology to be followed for reaching this goal. Article 14 of the Constitution enjoins upon the state not to deny to any person “equality before law” or “the equal protection of the laws”.

As explained by the Supreme Court in its judgement in the Mandal case, the concept of equality before the law contemplates “minimizing the inequalities in income and eliminating the inequalities in status, facilities and opportunities not only amongst individuals but also amongst groups of people, securing adequate means of livelihood to its citizens and to promote with special care the educational and economic interests of the weaker sections of the people.

The principle of “right to equality” contained in Article 14 is further reiterated in positive and affirmative terms in Articles 15 to 18. Special care was taken to declare equality of opportunity in the matter of public employment by Article 16. Clause (1) of this Article declares that in the matter of public employment or appointment to any office under the state, citizens of this country shall have equal opportunity. At the same time, care was taken to declare in Clause (4) that nothing in the said Article shall prevent the state from making any provision for reservation of appointments or posts in favour of any backward class of citizen which in the opinion of the state is not adequately represented in the services under the state. Clause (4) of this Article is not an exception to Clause (1). This point is illustrated by the Supreme in its judgement in the Mandal case in the following words:

“We too believe that Article 16(1) does permit reasonable classification for ensuring attainment of the equality of opportunity assured by it. For assuring equality of opportunity, **it may well be necessary in certain situations to treat unequally situated persons unequally.** Not doing so, would perpetuate and accentuate inequality. Article 16(4) is an instance of such classification, put in to place the matter beyond controversy. The ‘backward class of citizens’ are classified as a separate category deserving a special treatment in the nature of reservation of appointments/posts in the services of the State. Accordingly we hold that Clause (4) of Article 16 is not an exception to Clause (1) of Article 16. **It is an instance of classification implicit in and permitted by Clause(1)**”

Article 340 of the Constitution provides for appointment of a commission “to investigate the conditions of socially and educationally backward classes within the territory of India and the difficulties under which they labour and to make recommendations as to the steps that should be taken by the Union or any State to remove such difficulties and to improve their condition and as to the grants that should be made for the purpose by the Union or any State....”

As a matter of fact, in some of the southern States, reservation in favour of backward classes was in vogue for a number of years prior to the Constitution. There was a demand for similar reservation at the Centre. In response to this demand, the Central Government appointed a Backward Classes Commission under Article 340 of the Constitution on January 29, 1953. The Commission, popularly known as Kaka Kalelkar Commission, was required "to investigate the conditions of socially and educationally backward classes within the territory of India and the difficulties under which they labour and to make recommendations as to the steps that should be taken by the Union or any State to remove difficulties and to improve their conditions." The Commission submitted its report on March 30, 1955, but the Government did not act upon its report as, among other things, it did not agree with the recognition of certain specified castes as backward classes.

A Backward Classes Commission was again appointed under Article 340 in the year 1979, which Commission is popularly known as Mandal Commission. The Commission submitted its report on the 31<sup>st</sup> December, 1980. But it took almost ten years for the Government of India to take a decision to implement the recommendations of the Commission. The Government of India issued an Office Memorandum No. 36012/31/90-Estt.(SCT) dated 13<sup>th</sup> August 1990 (Annexure I.1) providing reservation for Socially and Educationally Backward Classes (SEBCs) of 27% of the vacancies filled by direct recruitment in civil posts and services under the Central Government and Public Sector Undertakings and Financial Institutions. It was laid down in the O.M. that the SEBCs would comprise in the first phase the castes and communities which are common to both the lists in the report of the Mandal Commission and the State Governments' lists.

The Government's decision was followed by widespread protest against it, mostly in northern states and a number of writ petitions were filed questioning the said Memorandum along with applications for staying the operation of the Memorandum. The operation of the O.M. was stayed by the Supreme Court. Meanwhile, another Office Memorandum was issued by the Government on 25<sup>th</sup> September 1991 (Annexure I.2) partly modifying the O.M. of 13<sup>th</sup> August 1990.

The Supreme Court in its land-mark judgement dated 16.11.1992 in Writ Petition (Civil) No. 930 of 1990, Indira Sawhney etc. Vs. Union of India and Others etc. etc., popularly known as the Mandal case, held the O.M. No. 36012/31-90-Est.(SCT) dated 13.8.1990 valid and enforceable subject to the exclusion of socially advanced persons/sections (creamy layer) from the notified backward classes. In the judgement the Supreme Court also directed the Government of India, and each of the State Governments and Administrations of Union Territories, to constitute a permanent body, in the nature of a Commission or Tribunal, for entertaining and advising the respective governments on the requests for inclusion and complaints of over-inclusion or under-inclusion in the lists of backward classes and also directed that the advice tendered by such body shall ordinarily be binding upon the concerned Government.

The Government of India vide its Resolution No. 12011/16/93-BCC(C)-Ministry of Welfare dated the 22<sup>nd</sup> of February, 1993 set up an Expert Committee to determine the criteria for identification of the socially advanced persons/sections (creamy layer) in so far as the

Government of India was concerned. The Committee furnished its report on 10-3-93. Later, the Expert Committee was requested by the Government to prepare lists of those castes and communities which figure in the list of Backward Classes contained in the lists of the State Governments as well as the lists contained in the report of the Mandal Commission. The Expert Committee accordingly prepared the list, referred to as "common list", for 14 States/UTs. Thus the stage was prepared for the operationalisation of the O.M. of the 13<sup>th</sup> August 1990 in accordance with the directions of the Supreme Court.

The reservation for Backward Classes took effect from the 8<sup>th</sup> September 1993 when the Government of India issued O.M. No. 36012/22/93-Estt(SCT), Department of Personnel and Training (Annexure I.3) which incorporated in the O.M. of the 13<sup>th</sup> August 1990 the rule of exclusion of Creamy Layer from reservation, on the basis of the recommendations of the Expert Committee, thus fulfilling the condition laid down by the Supreme Court for the implementation of the O.M. of 13<sup>th</sup> August 1990. The Government of India issued another order by Resolution No. 12011/68/93-BCC(C) (Ministry of Welfare) dated the 10<sup>th</sup> September 1993 notifying the first phase of lists or common lists of backward classes for 14 States, on the basis of the recommendations of the Expert Committee on Backward Classes (Annexure I.4).

Subsequently, on 19-10-1994, the Government of India notified Central list of backward classes for 4 States and 3 Union Territories which came out with their respective State lists after the Mandal judgement (Annexure 1.5). Still later, on 24-5-1995, the Government of India issued Central lists for 3 more States and another Union Territory (Annexure 1.5) and a Central list for Union Territory of Chandigarh was issued by the Government of India on 11-12-1997 (Annexure I.5).

### **Establishment of the National Commission for Backward Classes**

In pursuance of the direction of the Supreme Court in the Mandal case judgement, the Government of India enacted the National Commission for Backward Classes Act, 1993 (Act No. 27 of 1993) (Annexure I.6) setting up a National Commission for Backward Classes at the Centre as a permanent body. The Act came into effect on the 2<sup>nd</sup> April 1993. Section 3 of the Act provides that the Commission shall consist of five members, namely a Chairperson who is or has been a judge of the Supreme Court or of a High Court; a social scientist, two persons, who have special knowledge in matters relating to backward classes; and a Member-Secretary who is or has been an officer of the Central Government in the rank of a Secretary to the Government of India. The Government of India constituted the Commission by its Notification No. 12011/34/BCC/Pt. 1 dated 14<sup>th</sup> August 1993 with the first team of five Members with a tenure of three years.

After about six months on expiry of the term of the Members of the first team, the second team of Members of the Commission was nominated by the Central Government on 28-2-97. Their term came to an end on 6.4.2000. Thereafter, after about four months, the

present members were nominated by the Government on 28<sup>th</sup> July 2000. The Members of the Commission are:-

- |       |                           |                  |
|-------|---------------------------|------------------|
| (i)   | Justice Banwari Lal Yadav | Chairperson      |
| (ii)  | Shri C. T. Benjamin       | Member-Secretary |
| (iii) | Shri M.S. Matharoo        | Member           |
| (iv)  | Dr. B.M. Das              | Member           |
| (v)   | Smt. Neera Shastri        | Member           |



## **Chapter II --- Functions of the Commission**

### **Principles and Procedure of the Functioning of the Commission**

The functions of the Commission are laid down in section 9 and section 11 of the Act. Under sub-section (1) of Section 9 of the Act it “shall examine requests for inclusion of any class of citizens as a backward class in the lists and hear complaints of over-inclusion or under inclusion of any backward class in such lists and tender such advice to the Central Government as it deems appropriate”.

The term “list” in the above section refers to “lists prepared by the Government of India from time to time for purposes of making provision for the reservation of appointments or posts in favour of backward classes of citizens which, in the opinion of that Government, are not adequately represented in the services under the Government of India and any local or other authority within the territory of India or under the control of the Government of India”. The term “backward classes” has been defined in clause (a) of the same section (section 2) to mean such backward classes of citizens other than the Scheduled Castes and the Scheduled Tribes as may be specified by the Central Government in the lists”.

Under Section 9(2) of the Act, “The advice of the Commission shall ordinarily be binding upon the Central Government. This mandatory provision is based on and incorporates the directions of the Supreme Court in the Mandal Judgement, which directed the Government of India and the State Governments/UTs to constitute a permanent body, in the shape of a National Commission for Backward Classes and the State Commissions for Backward Classes (in a few States, Committees for Backward Classes) and that the “advice tendered by such bodies shall ordinarily be binding upon the Government” (vide extract of the Judgement at Annexure II.I).

Section 11 of the Act enjoins upon the Central Government to undertake revision of the lists of backward classes at the expiration of ten years after the Act came into force and every succeeding period of ten years, and enables it to undertake such revision at any time sooner, with a view to excluding from such lists those classes who have ceased to be backward classes or for including new backward classes. Under sub-section (2) of this Section, the Central Government is required to consult the Commission while under-taking such revision. The first such revision is due by August 2003. While performing its functions under Section 9(1) of the Act, the Commission has been vested with all the powers of a civil court trying a suit and in particular, in respect of the summoning and enforcing the attendance of any person from any part of India and examining him on oath; requiring the discovery and production of any document; receiving evidence on affidavits; requisitioning any public record or copy thereof from any court or office; issuing notices for the examination of

witnesses and documents; and any other matter which may be prescribed. Section 8(2) empowers the National Commission for Backward Classes to regulate its own procedure. Sections 14 and 15 provide that the Commission shall prepare its annual report for each financial year which together with a memorandum of action taken on the advice tendered by the Commission under Section 9 and the reasons for the non-acceptance, if any, of any such advice and the audit report shall be laid by the Central Government before each House of Parliament.

As per the statutory procedure of the Commission laid down by it under Sub-Section (2) of Section (8) of the Act, the advice of the Commission may be formulated unanimously or by consensus or by majority. Where there is no unanimity or consensus, the advice of the majority will be tendered as the Commission's advice but the dissenting advice also will be furnished to Government.

In regulating its procedure under Section 8(2), the Commission has been guided by the principles of objectivity, transparency and speed. Soon after the Commission was established, it evolved the following steps in 1993 and early 1994 under Section 8(2) of the National Commission for Backward Classes Act :-

- (i) Formulation of the procedure for examination of requests for inclusion and complaints of under-inclusion in the Central list of Backward Classes.
  - (ii) Formulation of Guidelines for Consideration of Requests for Inclusion and complaints of under-inclusion in the Central list.
  - (iii) Preparation of questionnaire based on the guidelines.
- (i) Procedure for examination of Requests for Inclusion and Complaints of under-Inclusion**

This procedure, formulated and prescribed under Section 8(2) of the Act on 23.11.1993, envisaged constitution of Benches of two Members each for each State and Union Territory. With this procedure, it became possible to distribute the work State-wise among the Members who could concentrate on their States and Union Territories. This facilitated speed in the consideration and disposal of requests. While the Bench conducts inquiries and formulates findings, the statutory requirement of the advice being tendered by the Commission is ensured by the findings of the Bench in each case being placed before the full Commission.

The Commission has been making additions and improvements to this procedure from time to time, based on experience and according to needs. The Benches of the Commission formulate advice on the basis of the data already available from different sources such as ethnographic descriptions, anthropological, sociological and historical studies, reports of various Commissions/Committees regarding castes/sub-castes/synonyms/communities, etc. At the same time, the Commission took note of the fact that in respect of certain cases of requests, especially marginal cases or cases where there was no sufficient material to arrive at a conclusion it was necessary to undertake fresh studies. For this purpose, on 10.10.1995, the Commission resolved to make provision for engagement of appropriate research institution

and research scholars of repute, experience and competence, on suitable terms, for undertaking such studies/surveys.

In the light of the experience gained in the first four years, the Commission, on the 11<sup>th</sup> September 1997, introduced certain new procedure with the objective of expediting decisions. The most important of them was to provide for single-Member Benches where inclusion is only by correction of spelling and other linked corrections like punctuation, etc. and in the following three types of cases :-

- (a) Where inclusion is only by correction of spelling and other similar corrections like punctuations, etc., taking care that in the name of spelling correction, etc., caste/community/sub-caste, which is not really in the relevant Central list, is not given an unintended entry into that list;
- (b) Absolute synonyms or synonyms which are coterminous, i.e., names where the boundary denoted by one name is exactly the same as the boundary, by other names;
- (c) Fast-track cases [vide (ii) below], which are already included in the State list;

The Single-Member Benches will also follow the same procedure as the existing benches.

The details of this procedure are given in Annexure II.2.

**(ii) Formulation of Guidelines for Consideration of Requests for Inclusion and Complaints of under-Inclusion in the Central List of Backward Classes**

The Guidelines for Consideration of Requests for Inclusion and complaints of under-inclusion in the Central list of Backward Classes were finalized on 14.2.1994. An important part of the Guidelines for Consideration of Requests for Inclusion and Complaints of under-Inclusion is the set of procedural clarifications on the guidelines. The Guidelines for Consideration of Requests for Inclusion and Complaints of under-Inclusion endures objectivity and uniformity in considering requests for inclusion and exclusion. At the same time, keeping in view the objective of expeditious disposal to the extent possible and ensuring transparency and objectivity, the Commission has introduced in the Guidelines the important concept of "fast-track". The fast-track concept which is a mechanism for speedy identification of backward classes, is based on criteria that are obvious and where social backwardness is patent either on account of the nature of the traditional occupation, with which the caste/community is linked in terms of the caste system, or on account of some other patent circumstances like classification as nomadic or semi-nomadic or earlier classification as a 'criminal' caste. This category of castes/communities was termed as 'fast-track' category and requests from such castes/communities for inclusion were treated with utmost urgency. The fast-track category of castes/communities is covered by the four criteria that come under item 2 Social of Part-A of the Guidelines for Consideration of Requests for Inclusion and Complaints of under-Inclusion, which are extracted below :-

“A. Social

- .....  
 .....  
 .....  
 (e) Castes and communities, which in terms of the caste system, are identified with traditional crafts or traditional or hereditary occupations considered to be lowly or undignified;  
 (f) Castes and communities, which in terms of the caste system, are identified with traditional or hereditary occupations considered to be ‘unclean’ or stigmatized;  
 (g) Nomadic and semi-nomadic castes and communities;  
 (h) Denotified or Vimukta Jati castes and communities.

Explanation : This term refers to castes/communities which had been categorized as criminal tribes under the Criminal Tribes Act, 1924, Act No.VI of 1924 and repealed by the Criminal Tribes (Repeal) Act, 1952, Act No.XXIV of 1952 and subsequently referred to as ‘Denotified or Vimukta Jatis’.

Since Guidelines 2(e) and 2(f) refer to certain types of occupations, in order that there may not be any doubt or ambiguity about the specific occupation referred to in these two guidelines, paragraph 7 of the Procedural Clarifications on the Guidelines, which is part of the Guidelines for Consideration of Requests for Inclusion and Complaints of under-Inclusion, lists these occupations as follows :-

“-----traditional artisanal crafts; fishing, hunting, bird-snaring; agricultural labour on the lands of others; earth-work, stone-breaking, salt-manufacturing, lime-burning, toddy-tapping, animal rearing, butchery; hair-cutting; washing of clothes, ferrying by boat; safai (scavenging); knife grinding; grain roasting; entertaining through song and dance, acrobatics, jugglery, snake-charming, acting; begging or mendicancy.”

“Wherever a caste or community fulfils the guidelines 2(e) or (f) or (g) or (h), the Bench/Commission may take it as adequate evidence of backwardness. In such cases, the Bench shall take into account such other data/information that may be made available to it or come to its notice, and it may make such further inquiry as it deem proper and necessary. Having done so and being satisfied that there are no sufficient grounds to take contrary view regarding the backwardness of the caste or community making the request, the Bench may, after examining the matter of inadequacy of representation as indicated in ‘D’ (Guidelines for Consideration of Requests for Inclusion and Complaints of under-Inclusion) proceed to formulate its findings.”

The adoption of this procedure in fast track cases has enabled the Commission to formulate advices on a large number of castes/sub-castes/synonyms/communities whose social backwardness is patent and indisputable without loss of time in gathering extensive evidence. It has not only helped in deciding the cases of a large number of genuinely backward classes but also helped to conserve the time and energy of the Commission to devote more time to cases which do not come under the fast-track category. The Commission has also prescribed in paragraphs 8 & 9 of the Procedural Clarifications on the Guidelines a very simple and quick procedure for cases of requests where inclusion has to be made by rectification of apparent 'clerical error' or factual mistake at the stage of the preparation of the common list and in cases of synonyms/sub-castes/different names of the same caste or community/local variants of the same caste or community.

The philosophy underlying the Guidelines for Consideration of Requests for Inclusion and Complaints of under-Inclusion including the Procedural Clarifications on the Guidelines, which is one of the three basic documents formulated by the Commission to guide its functioning (the other two being, the "Procedure for examination of requests for inclusion and complaints on under inclusion", which details the formation of Benches, formulation of Bench findings and formulation of the Commission's advices, etc., and the "Questionnaire for Consideration of Requests for Inclusion and Complaints of under-inclusion in the Central List of Other Backward Classes" is that justice should be expeditiously rendered to deserving backward classes. A more elaborate procedure comprising collection of data, inquiry etc., which would require more time and energy, has been reserved for cases of castes/communities not covered by the Guidelines at 2(e) or (f) or (g) or (h) of the Guidelines for Consideration of Requests for Inclusion and Complaints of under-Inclusion and para 6 and 7, or 8 or 9 of the Procedural Clarifications on the Guidelines, the logic being that some of these non-fast-track communities may be socially backward and some may not be and hence the need for detailed inquiry depending on the nature of each case.

The details of the Guidelines and Procedural Clarifications thereon are at Annexure II.2.

### **(iii) Preparation of Questionnaire**

In order to enable the collection of data to examine each case of request or complaint, with reference to the Guidelines, a Questionnaire was prepared on 26.4.1994, on the basis of the Guidelines. With a view to facilitate furnishing of data in the Questionnaire, it is divided into Phase I and Phase II. Wherever information relating to Phase I and Phase II can be furnished without loss of time, it is required to be furnished together. Where it is not possible to furnish all the information sought in Phase II, the available information may be furnished along with Phase I information and the rest of the data later.

The idea is that in many cases data relating to Phase I may be adequate to arrive at findings by the Commission on the specific issue of request for inclusion or complaint of under-inclusion.

As another measure for speeding up findings, four of the questions viz. 7 to 10 under sub-heading 'A. Social' of Part II of the questionnaire have been identified as "fast track" questions, answers to which may be adequate for disposal of requests for inclusion or complaints of under-inclusion in respect of castes/communities under 'fast-track'.

The Commission took note of the fact that if it waited for the data sought in the Questionnaire before starting inquiry into requests and complaints, then matters would get indefinitely delayed, jeopardizing the legitimate interests of castes/communities which are genuinely backward. Therefore, the Benches of the Commission commenced holding public hearings, preceded by individual letters as well as public notices through media, in which the parties as well as the representatives of the State Governments were invited to be present.

## CHAPTER III - WORK DONE BY THE COMMISSION

### Requests of castes/sub-castes/communities

The second Commission on the expiry of its term in early 2000 had left requests regarding 25 castes/sub-castes/communities pending for consideration for inclusion under Section 9(1) of the National Commission for Backward Classes Act, 1993. In addition to this backlog, the Commission during the period from 1<sup>st</sup> March 2000 to 31<sup>st</sup> March 2001 received requests for inclusion in the central list of backward classes in respect of 39 castes/sub-castes/communities. A statewise break-up of the number of requests for inclusion is given in the statement in **Annexure III.1**.

During the period under report the Commission held 7 public hearings for examination of the requests. The details on the public hearings are as below :-

#### Statewise list of public hearings

Sl.No.	State/UT	No. of castes covered	Venue & date	Bench
1.	Delhi	9	New Delhi 16 & 17 Nov.'00	Full Bench
2.	Karnataka	4	Bangalore 18 & 19 Dec.'00	3-Member
3.	Uttar Pradesh	3	Allahabad 13 January'01	2-Member
4.	Rajasthan	7	Jaipur 22 & 23 Jan.'01	Full Bench
5.	West Bengal	2	Kolkata 20 Feb.'01	2-Member
6.	Kerala	1	Thiruvananthapuram 23 Feb.'01	2-Member
7.	Pondicherry	2	Pondicherry 5 March'01	Full Bench

The names of the castes/communities/sub-castes in respect of which public hearings took place are available in **Annexure III.2.**

### **Advices**

After carrying out detailed analysis and examination the Commission tendered advice in respect of 13 castes/communities/sub-castes/synonyms to the Central Government for inclusion/rejection. Of the 13 cases pertaining to 3 states 6 were for inclusion in the central list of backward classes and 7 for rejection. The details are as below :-

Sl. No.	State	No. of advices	For inclusion	For rejection
1.	Delhi	8	5	3
2.	Karnataka	4	1	3
3.	Tripura	1	-	1

The advices in respect of remaining castes and communities for which hearings have been held are under preparation and would be tendered shortly.

### **Notification of inclusion of castes/communities in the central list of OBCs**

At the time of appointment of the present members of the Commission *vide* notification no.12015/8/99-BCC dated 28<sup>th</sup> July 2000 advices in respect of 160 castes/communities for inclusion in the central list of backward classes for the States/UTs were pending with the Ministry for notification. During the period under report advices in respect of 6 more castes/communities were tendered to the Government for inclusion in the central list of backward classes. Out of the total advices in respect of 166 castes/communities pending for inclusion in the central list of backward classes with the Ministry, 151 have been included in the central list of backward classes for States/UTs by the Ministry *vide* notification no.71, New Delhi dated 4<sup>th</sup> April 2000 and No.210, New Delhi dated 21<sup>st</sup> September 2000 (list is at **Annexure III.3**), leaving out 15 castes/communities to be notified.

The Commission, since inception has tendered advices for inclusion in respect of 658 castes/communities out of which 643 have been notified covering almost all the States/UTs.

### **Rejection of castes/communities for inclusion in the central list of backward classes**

A backlog of rejection advices in respect of 23 castes/communities was pending with the Ministry at the time of the appointment of the present members of the Commission. During the period under report, the Commission tendered rejection advices in respect of 7 castes/communities to the Ministry.

Out of the total rejection advices in respect of 30 castes/communities Ministry have communicated approval in respect of 22 castes/communities, leaving pendency of 8



castes/communities in respect of which approval is awaited. A statement of rejection advices in respect of 22 castes/communities is at **Annexure III.4**.

The Commission since inception has tendered 422 rejection advices of which Government have accepted 414 advices covering almost all the States/Union Territories.

### **Revision of Central Lists**

In pursuance to the recommendation of the Mandal Commission the Govt. in the Deptt. of Personnel & Training *vide* O.M. No. 36012/31/90-Est.(SCT) dated 13.8.1990 introduced reservation of 27 % of the vacancies to be filled by direct recruitment for Socially & Educationally Backward Classes in civil posts and services under the Government of India. It provided for similar instructions in respect of public sector undertakings and financial institutions, including public sector banks, to be issued by the Department of Public Enterprises and the Ministry of Finance respectively. It was also laid down in the above-cited O.M. that the Socially & Educationally Backward Classes would comprise in the first phase the castes/communities which were common to both the lists of Mandal Commission as well as the States' Lists.

The above O.M. was challenged in the Supreme Court in *Indira Sawhney & Ors. Vs. Union of India & Ors.* Supreme Court while upholding the validity of reservation also observed that there should be a periodic revision of these lists with a view to excluding those who have ceased to be backward or for inclusion of new classes, as the case may be. It further stipulated that the permanent bodies to be set up by the Centre as well as by each State/Union Territory to consider requests for inclusion and complaints of over-inclusion and under-inclusion in the list of other backward classes of citizens, shall also be consulted while undertaking revision.

The underlying philosophy of periodic revision is that reservation is for those backward classes who need it and who are handicapped without it and not for those who after availing themselves of and enjoying the benefits of reservation have ceased to be backward. Castes/communities which have advanced to the level of forward sections of the society should yield place to those who have not reached this stage of development and are in greater need of reservation. As such there is need for exclusion of such castes/communities which have advanced socially and educationally, from the list of backward classes.

With this end in view and in keeping with the judgement of the Supreme Court in *Indira Sawhney & Ors. Vs. Union of India & Ors.* Case, the National Commission for Backward Classes Act, 1993 provides for a decennial revision. Section 11 of the Act reads as under: –

- (1) “The Central Government may at any time and shall at the expiration of ten years from the coming into force of this Act and every succeeding period of ten years thereafter, undertake revision of the lists with a view

to excluding from such lists those classes which have ceased to be backward classes or for including in such lists new backward classes;

- (2) The Central Government shall, while undertaking any revision referred to in sub-section (1) consult the Commission.”

Government in the Ministry of Social Justice & Empowerment entrusted the task of identifying backward classes which have ceased to be backward for purpose of revising the lists, as envisaged under section 11 of the Act, to the Commission. The first decennial revision of the lists consisting of about 2300 castes/sub-castes/communities is to be completed by the year 2003. This exercise can be done only on the basis of data relating to socio-economic and educational status and representation in central and state government service (including public sector undertakings, financial institutions, etc.) in respect of each caste/community as well as backward classes as a whole. This information is not available with the Commission as no countrywide organized effort to collect the data/information on backward classes as a whole has been made in the past. This is a massive exercise and the time available is short and does not permit an exhaustive national survey of all the castes/sub-castes/synonyms, etc. Besides the constraint of time, the availability of resources and finances at the disposal of the Commission are also impediments in carrying out a survey of the entire population of the country. The Commission, therefore, decided to get the necessary information/data regarding socio-economic and educational status and representation in the government service, etc. from the State Governments/Union Territory Administrations and Ministries/Departments of the Central Government as well as other organisations. In a few and marginal cases where the information is inadequate to arrive at a decision survey could also be resorted to. The Commission also decided to have a meeting of a few social scientists with a view to soliciting their views on parameters to be adopted for identifying castes/communities which have ceased to be backward, as envisaged under section 11 of the National Commission for Backward Classes a 1993 as well as to finalize the questionnaire designed by the Commission. A meeting of social scientists was held on 17.2.2001 and a questionnaire was evolved for the purpose (**Annexure III.5**). The State Governments/Union Territory Administrations as well as State Backward Classes Commissions have been requested to send the requisite information/data to enable the Commission to carry out the exercise within the time frame.

The Commission is hopeful of completing the task of revision of lists of backward classes which have ceased to be backward provided the requisite information is furnished by the State Governments and others, expeditiously.

## Chapter IV

# RECOMMENDATIONS AND SUGGESTIONS

The Commission since its inception has given various suggestions and recommendations in the Annual Reports forwarded to the Government from time to time regarding measures to be taken by the Central and the State Governments for enabling the Commission to function effectively as well as suggestions for the overall social, educational and economic development of the backward classes.

The Commission's Annual Report for 1993-94 & 1994-95 was tabled in the Parliament on 20-12-2000 along with Action Taken Report and Comments of the Government (Annexure-IV.1). The recommendations and suggestions in this report of the Commission related to the following areas of action:-

- (1) Building up of relevant socio-economic and population data in respect of castes/communities, particularly backward castes/communities
- (2) Measures to be taken by the State Governments/Union Territory Administrations to help the Commission Benches during the public hearings and afterwards such as promptly providing information in the National Commission for Backward Classes's questionnaire and furnishing of relevant orders, notifications etc.
- (3) Issues relating to prompt action by the Central Government for notification of backward classes on the Commission's advice and other aspects relating to the reservation like the need for raising the percentage of reservation in certain cases and classification of backward classes into different categories according to the levels of backwardness.
- (4) Measures other than reservation required for the overall social, educational and economic development of backward classes.
- (5) Measures that will help improve the functioning of the Commission.

The Commission appreciates that in respect of some of the recommendations/suggestions of the Commission the Government has taken prompt action and in respect of some other recommendations, references have been made to various Central Government Ministries/Departments and to the State Governments and Union Territory Administrations. However, the Commission regrets to state that it has not been kept informed of the action taken and has not shared the information which is said to have been received from various States/Union Territories.

Action with regard to some of the important recommendations is yet to be taken by the Government, regarding a few of which the Government has stated its reservations and disagreement.

In the Annual Report for the years 1996-97(Part), 97-98, 98-99 & 99-2000 (Part), the Commission had, while reiterating the recommendations/suggestions contained in the Annual Report for the years 1993-94 & 1994-95, suggested certain additional steps to be taken by the Central as well as the State Governments, which *inter alia* included an important recommendation regarding the need for **entrusting the Commission with additional responsibility of guiding and monitoring the progress of social, educational and economic development of backward classes**. In this Report, the Commission had also endorsed **the various suggestions and recommendations made in the First Conference of State Backward Classes Commissions and Backward Classes Welfare Departments organised by the National Commission for Backward Classes on the 24<sup>th</sup> and 25<sup>th</sup> November, 1997**. The annual report of the Commission for the years 1996-97(Part), 97-98, 98-99 & 99-2000 (Part), of which the recommendations of the First National Conference of State Backward Classes Commissions form a part, is yet to be tabled in the Houses of the Parliament along with an Action Taken Report. Therefore, the Commission is not aware of the steps being taken, if any, on the recommendations/suggestions contained therein.

As for the action so far taken by the Government, the Commission notes from the Action Taken Report tabled in the Parliament that some steps have already been taken by different Ministries and Departments of the Central Government for the educational and economic welfare of backward classes. The Action Taken Report has mentioned the following schemes being implemented by the Ministry of Social Justice & Empowerment since 1998-99:-

1. Assistance to Voluntary Organisations
2. Hostels for Other Backward Classes Boys and Girls
3. Pre-examination Coaching Centres for Other Backward Classes.
4. Pre-matric Scholarships for Other Backward Classes.
5. Post-matric Scholarship for Other Backward Classes

It has also been mentioned that the National Backward Classes Finance and Development Corporation, set up in 1992, is giving financial assistance to eligible persons belonging to backward classes through State Channelising Agencies.

The Commission is of the view that these measures are qualitatively and quantitatively insufficient taking into account the size of the backward classes population, which is about 52% of the population according to the estimate of the Mandal Commission, and the requirements and urgency of their developmental needs. Much more concerted and targeted measures with adequate budgetary provisions will have to be taken. The National Backward Classes Finance Development Corporation has to be geared up to provide the necessary financial support required by backward classes, who consist of a wide array of social groups with differing socio-economic and occupational backgrounds like small owner-cultivator peasants, agricultural labourers, artisan and artisanal classes, hereditary service groups as well as nomadic and semi-nomadic communities, not only as loans to individuals but also in the form of group infrastructure appropriate to the needs and choice of each such group of

backward classes. It should also provide macro as well as micro financing tailored to the specific needs of each such group and individuals.

The Action Taken Report has also mentioned some other schemes being implemented by different Ministries/Departments, like the schemes of Department of Education, Ministry of Human Resources Development such as community polytechnics, vocationalisation of secondary education, pre-vocational education at lower secondary stage, national programme of nutritional support to primary education popularly known as mid-day meal schemes and the Lok Jumbish and Shiksha Karmi projects for promoting primary education in Rajasthan, and the new scheme launched by the Ministry of Rural Development known as 'Swarnjayanti Gram Swarajgar Yojana' which is stated to be a "holistic programme of micro-enterprises covering all aspects of self-employment" with the objective of bringing the assisted poor families above the poverty line in three years by providing them income generating assets through a mix of bank credit and Government subsidy. The scheme will seek to lay emphasis on skill development through well designed training courses. **These schemes and measures are not specifically targeted to the backward classes. The Commission is of the view that while such general welfare measures will also help the Backward Classes, the Government should adopt similar schemes and measures and other measures as outlined in the Commission's recommendations for the benefit specifically of the backward classes, with adequate budgetary outlays and result oriented efforts. A reasonable time-frame should be fixed to successfully complete such schemes.**

The Action Taken Report also stated that the Ministry of Rural Development was processing an amendment to the Land Acquisition Act, 1894 in consultation with Ministry of Law, Justice & Company Affairs for effectively implementing the policy of land reforms. The proposed policy changes in the land and tenancy reform laws should be expedited and implemented ensuring that they really benefit the backward classes and other weaker sections. There should not be any loopholes in such laws and other measures recommended by the Commission for adoption like fair agricultural labour wages, etc.

In addition to the measures for educational and economic development of backward classes, the Commission in its annual report for 1993-94 and 1994-95 as well as in the annual report for 1996-97(Part), 97-98, 98-99 & 99-2000(Part) and the First National Conference of Backward Classes had also suggested various **measures for the proper and effective implementation of the reservation policy and for the effective functioning of the Backward Classes Commissions.** On many of these recommendations, the Government is yet to take action. The Commission does not propose to repeat here the various recommendations and suggestions made for the educational and economic development of backward classes and the effective implementation of reservation policy and hope that the Government would implement them with sincere efforts and adequate financial, institutional and organizational support, and not in a truncated, inadequate and half-hearted manner.

The Commission however feels it necessary to recapitulate and reiterate some of the suggestions and recommendations made by the Commission in its earlier annual reports with regard to the important and urgent requirements that will help the Commission as well as the Government in the tasks ahead. While the Commission has almost completed the task of

examining requests for inclusion or complaints of under-inclusion of any backward class of citizens as a backward class in the Central lists, there are a few more requests still pending. There is also, before the Government, the important task arising out of Section 11 of the National Commission for Backward Classes Act, viz., the revision of the Central lists which will be a massive and urgent exercise to be completed by 2003. In this task the Commission is expected to play an important role. In addition, the Government has in the Action Taken Report referred to above has also agreed to the need for classification of castes/communities in the Central lists into different categories, a task which is important to ensure that the benefits of reservation are apportioned fairly among the backward classes which are at different levels of backwardness. In carrying out such tasks, the Government and the Commission will feel utterly handicapped in the absence of generation of relevant data/information regarding castes/communities. For the Commission this lacuna will be felt all the more constricting, because of the Commission's inability to generate the required data/information on its own due to lack of adequate staff and other infrastructure. The Commission is of the view that the matters will not ease for the Commission and the Government, unless and until **urgent and effective** steps are taken by the Central and States Governments on the various recommendations and suggestions made by the Commission.

In view of the above position, the Commission would like to reiterate the important recommendations/suggestions which have already been made in the earlier annual reports and in the report of the First National Conference of State Backward Classes Commissions and Backward Classes Welfare Departments, but have not yet been satisfactorily and completely acted upon by the Central as well as the State Governments:-

## **1. Building Up of Data-Base**

**1.1 Comprehensive socio-economic surveys including collection of population data, educational data and data pertaining to representation in the State and Central Government services, Public Sector Undertakings, Financial Institutions etc. in respect of each caste/sub-caste/community/sub-community be undertaken by each State Government and Union Territory Administration.** This is essential particularly for the purpose of the revision of the central lists envisaged under Section 11 of the National Commission for Backward Classes Act which is to be completed before 2003 and also for classification of castes/communities in the central lists into different categories according to their level of backwardness. Though it has been mentioned in the Action Taken Report mentioned above that certain States such as Goa, Himachal Pradesh and Tripura have already undertaken socio-economic survey of castes/communities and some other States are about to complete the same through their own agencies, so far none of these States have been able to furnish to this Commission, adequate and useful data in respect of castes/communities contained in the respective central lists for these States. Similarly, the Commission has not been able to get any data from the Central Government in respect of the representation of different backward castes/communities in the Central Government services, though the Commission has been specifically asking for such data from the Ministry of Personnel, for quite some time. This is in spite of the claim made in the Action Taken Report that five of the Ministries/Department have already set up special cells for Other Backward Classes and in twelve of the Ministries/Departments, Scheduled Castes/Scheduled Tribes Cells, in addition

to their normal duties, are also looking after the work relating to Other Backward Classes. Therefore, adequate infrastructure should be created and manpower of high quality be found for this purpose in each State / Union Territory and in the central government Ministries/Departments. For this purpose, a Special Cell may be created in the Ministry of Personnel and in each of the Ministries dealing with employment in the services of the Central Government, Public Sector Undertakings and financial institutions, with the Cell in the Ministry of Personnel coordinating and collecting the data from all the cells and other sources. Similar arrangements must be created in all States and Union Territories.

## **1.2 Population data caste-wise/community-wise should be undertaken at the time of decennial census operations.**

The Commission is of the considered view that the population and other socio-economic data are a basic and essential requirement for ascertaining the relative socio-economic status of backward classes and evolving appropriate welfare and development strategies in respect of them and the absence of such basic data will be a stumbling block in the Governmental efforts in this regard. The advantages of generating such data will surely far outweigh any apprehended disadvantages. The fact, pointed out by the Registrar General of India, Census, and cited in the 'Action Taken Report', that "there is no authoritative text or compendium, which can claim to list all the castes/sub-castes" need not come in the way of collection of caste-wise/community-wise population data. At least the population of castes/communities listed in the central and state lists can be enumerated which will help in measuring development indicators for comparative analysis and will be particularly useful for revision exercise. The Commission, therefore, particularly urges upon the Central Government to reconsider its earlier decision in respect of this recommendation.

## **2. Notification of Backward Classes lists**

**2.1 In order to avoid hardship to the members of backward classes, the Central Government should promptly notify inclusion of castes/communities in the Central lists after the receipt of the Commission's advice in that regard.**

**2.2 The Central lists be published in the language(s) of each State in addition to English and Hindi, and in each list the names as given in the language(s) of the State shall be treated as the original and authenticated names.**

**2.3 All rejection advices of the Commission should be promptly notified in the official gazette as the legal way of informing all members of community whose request for inclusion has been rejected.**

## **3. Amendment of National Commission for Backward Classes Act, 1993 – Utilising National Commission for Backward Classes for Guidance and Monitoring Efforts**

At present there is no nodal agency to provide guidance for the formulation and implementation of various socio-economic programmes and other efforts, governmental, institutional as well as voluntary, for the welfare and development of backward classes and for their coordination and monitoring. It is necessary to entrust the task of monitoring the progress of the backward classes on all fronts and coordinating and monitoring of the various programmes and schemes sponsored by the Central and State Governments and providing objective and well informed guidance to these efforts to some nodal agency which is well equipped and has genuine concern for the interests of backward classes. The National Commission for Backward Classes is the only national body which is in a position to undertake this task on behalf of the Government of India and in the larger national interest. Some State Governments have already incorporated a provision in the respective Acts entrusting the task of monitoring of all measures and programmes for the Backward Classes to the respective State Commissions for backward classes. National Commission for Backward Classes had also written to the government on the 2<sup>nd</sup> of September 1997, offering its services for this task and reiterated this in various high-level discussions, but to no avail. The objective of the proposed amendment is to guide and monitor the progress of social, educational and economic development of backward classes. The proposed amendment is as follows:-

**Introduce new Section 9A, to be worded as follows:-**

**“9A. It shall be the duty of the Commission**

- (a) to advise the Union and States regarding measures undertaken and required to be undertaken for the expeditious social, educational and economic advancement of the Backward Classes and each Backward Class and monitor implementation of such measures and the qualitative and quantitative adequacy of such measures and their implementation and provide guidance for such measures and their implementation.
- (b) to monitor and evaluate the performance of Backward Classes as a whole and each backward class in competitive examinations and other selections at the Union and States levels, both under the reservation quota as well as the merit quota and advise on and guide the measures necessary to expeditiously improve such performance.
- (c) to help ensure provision of support for community and voluntary efforts for the comprehensive and total removal of the backwardness and inequality of the backward classes.
- (d) to undertake any other tasks considered by it to be necessary to fulfill the object of enabling the backward classes as a whole and each backward class to expeditiously advance socially, educationally, and economically to a level of all-round equality.



### **Addition to existing Section 10**

Add the words “and under Section 9A and Section 11” after the words “under sub-Section (1) of Section 9”.

#### **4. Tabling of Annual Reports in Parliament – Amendment to Section 15 of the National Commission for Backward Classes Act**

The existing Section 15 reads as follows:-

“The Central shall cause the annual report, together with a memorandum of action taken on the advice tendered by the Commission under section 9 and the reasons for the non-acceptance, if any, of any such advice, and the audit report to be laid as soon as may be after they are received before each House of Parliament.”

It has been found that it takes many years before an annual report is laid in the House on account of the time taken by the Government to prepare the action-taken report. It is essential that the Annual Report reaches the people’s representatives and the people as early as possible after it is forwarded to the Central Government. The purpose can be achieved by providing for a two stage operation and amending the Section as follows:-

*“15(1) The Central Government shall cause the annual report to be laid before each House of Parliament at their very first session after the annual report is received by the Central Government.*

*(2) Thereafter as early as possible the Central Government shall cause to be laid before each House of Parliament a memorandum of action-taken on the advices tendered by the Commission under Section 9 and other advices tendered by the Commission and the reasons for non-acceptance, if any, of any such advice and the audit report in the earliest session possible.”*

#### **5. Amendment of the definition of “lists” in the National Commission for Backward Classes Act so that it does not appear to preclude policies and programmes other than reservation in services**

Clause (c) of Section 2 under the head “Definitions” of the National Commission for Backward Classes Act, 1993 defines “lists” as “*prepared by the Central Government of India from time to time for purposes of making provision for the reservation of appointments or posts in favour of backward classes of citizens which, in the opinion of the Government, are not adequately represented in the services under the Government of India and any local or other authority within the territory of India or under the control of the Government of India.*” It looks as though nothing other than reservation is envisaged for the Backward Classes. While there are proposals for extension of reservation to education and for the provision of developmental and welfare programmes for the Backward Classes, it is necessary to widen

the scope of the above provisions. This can be done by the following addition at the end of Clause (c):-

*“and for purposes of making provision for reservation in any other area of activity and for purposes of programmes for the developmental and welfare of backward classes to enable the backward classes as a whole and each backward class to reach a level of equality with the advanced sections of the society.”*

**6. All members to have co-terminus term**

Under existing provisions every member shall hold office for three years from the date he assumes office. In actual practice different members join on different dates and, therefore, their term comes to an end at different dates. Towards the end, this comes in the way of continuance of activity. To facilitate continuance of activity till the last day Section 4 may be amended whereby the three-year term of every member shall be counted from the date of notification nominating the members for each term of the Commission. It is presumed that all members would assume office immediately after the notification and in fact should do so. But if any member fails to join promptly his effective period will get reduced to the extent of the number of days taken by that member.

**7. Avoidance of confusion in possible future litigations as in the past**

The Supreme Court has directed at the end of Clause (C) of para 123(A) of its majority Judgement in the Mandal case that “..... any petition or proceeding questioning the validity, operation or implementation of the two impugned Office Memorandums, on any grounds whatsoever, shall be filed or instituted only before this Court and not before any High Court or other Court or Tribunal.”

According to this Commission's understanding and interpretation, this direction especially with the inclusion of the words “operation or implementation” covers the examination of requests, the findings arrived at and the advice tendered to the government in favour of inclusion or rejection of requests and similarly with regard to the future task of complaints of over-inclusion (which means requests for deletion of any existing entry) and the decisions of the government on receipt of the Commission's advice in each case. And therefore, any petition or proceeding on any advice of this Commission or decision of the Government shall be filed or instituted only before the Supreme Court and not before any High Court or other Courts or any Tribunal. This direction of the Supreme Court is obviously framed carefully not only with the benefit of hindsight of the past muddled story [pointed out in the Commission's annual report for 1996-97(Part), 97-98, 98-99 & 99-2000 (Part)] but also with foresight of future potential for confusion, like the possible contradictory judgements from different High Courts if persons/organisations aggrieved by the rejection or any other advices of the Commission are allowed to go to different High Courts of India which may result in confusion and chaos about the identity and composition of backward classes. The

Commission has taken the stand of exclusive jurisdiction of Supreme Court in specific cases of Writ Petitions filed in the past in certain High Courts in which the Commission has been one of the respondents. Therefore, it would be desirable for the government to take the initiative and suitably move the Supreme Court to ensure that any Writ Petition on the findings and advices of the Commission And the decision of the government shall be filed only in the Apex Court, to seek directions of the Supreme Court that all pending Writ Petitions in all High Courts are transferred to the Supreme Court and to issue appropriate directions to the High Courts and to take other steps to ensure that on account of ignorance of the directions of the Supreme Court at the end of Clause (c) of para 123(A) of the Mandal Judgement referred to, Writ Petitions may not be filed in different High Courts.

## 8. False Certificates – Prevention and Punishment

In order to prevent non-backward classes from securing false caste-certificates, taking advantage of similarities in names, and also to ensure that members of genuine backward classes do not experience any difficulty in getting caste certificates promptly, the Commission recommends that the Central Government as well as the State Governments take the following statutory measures:-

- (a) Provide a statutory base for the process and machinery of caste-certification, which should be fully transparent, either by way of an Independent Act or as a Chapter in the relevant Acts already existing in some States, covering different aspects of reservation, with the twin-objectives of expeditiously issuing caste-certificates to the genuine members of backward classes without any scope for harassment or delay and effective prevention and detection of false claims and nipping such claims in the bud and if, in rare cases, false claims escape scrutiny at entry point, providing for the earliest subsequent detection and severe penalties both for beneficiaries and for issuers of false certificates; this should also suitably find place in a Central Act on reservation for backward classes. The Central and State Acts should *inter alia* provide for publication of application for caste certificates and names of applicants and caste through public media and by affixing in certain places (eg. Panchayat Office of the village).
- (b) The Central Government and the respective State Governments should encourage setting up of Committees of various castes/communities for a watch and ward system of internal vigilance and safeguards within the communities.
- (c) The Central Government and the respective Governments should guide and ensure that such statutory systems are established in each State/Union Territory and, thereafter, the Central Government should guide and monitor such statutory schemes in each State/Union Territory so as to ensure their effective and continuous functioning without any deterioration.
- (d) There seem to be some loopholes in the names as given in the notified lists in some cases, partly because some of the backward castes, in their effort to upgrade caste status through psycho-semantic means have adopted caste names similar to those of upper castes. This gives a handle to those seeking and issuing false caste-certificates. This and the question

of how the caste names should be listed in the lists should be carefully studied and preventive measures incorporated. While this exercise has to be taken up even now, it will have to be taken up in a thorough manner at the time of the first revision of the lists.

## **9. Creamy Layer**

The revision of the monetary limit of Rs. 1.00 lakh, fixed as a criteria for exclusion of socially advanced persons and groups (creamy layer) in respect of categories which cannot be identified in terms of socially prestigious positions, is long overdue. This limit fixed in 1993 by the Expert Committee should have been revised at least once every three years, but so far not a single revision has taken place. There should not be any further delay in this regard as that will cause irretrievable loss to many backward class candidates as by every passing day many of them will be crossing their eligible age-limit prescribed for competitive examinations.

## **10. Other Suggestions**

The Commission also reiterates the various other specific suggestions and recommendations made by the First Conference of State Backward Classes Commissions and Backward Classes Welfare Departments organised by the National Commission for Backward Classes on the 24<sup>th</sup> and 25<sup>th</sup> November, 1997, which were reproduced in Chapter IV of the Commission's annual report for the years 1996-97 (Part 1), 97-98, 98-99 & 99-2000 (Part); they have been made with a view to ensuring full, effective and proper implementation of reservation for the backward classes and enabling the Backward Classes Commissions to discharge their functions and responsibilities efficiently and expeditiously.

## ANNEXURE – I.1

G.I., Dept. of Per. & Trg., O.M. No.36012/31/90-Est. (SCT), dated 13.8.1990

**SUBJECT :**            **27% Reservation for Socially and Educationally Backward Classes in Civil Posts/ Services.**

In a multiple undulating society like ours, early achievement of the objective of social justice as enshrined in the Constitution is a must. The Second Backward Classes Commission, called the MANDAL COMMISSION, was established by the then Government with this purpose in view, which submitted its report to the Government of India on 31<sup>st</sup> December, 1980.

2. Government have carefully considered the report and the recommendations of the Commission in the present context regarding the benefits to be extended to the socially and educationally backward classes as opined by the Commission and are of the clear view that at the outset certain weightage has to be provided to such classes in the services of the Union and their Public Undertakings. Accordingly orders are issued as follows :-

- (i) 27% of the vacancies in civil posts and services under the Government of India shall be reserved for SEBC;
- (ii) The aforesaid reservation shall apply to vacancies to be filled by direct recruitment. Detailed instructions relating to the procedure to be followed for enforcing reservation will be issued separately.
- (iii) Candidates belonging to SEBC recruited on the basis of merit in an open competition on the same standards prescribed for the general candidates shall not be adjusted against the reservation quota of 27%.
- (iv) The SEBC would comprise in the first phase the castes and communities which are common to both the lists in the report of the Mandal Commission and the State Governments' lists. A list of such castes/communities is being issued separately;
- (v) The aforesaid reservation shall take effect from 7.8.1990. However, this will not apply to vacancies where the recruitment process has already been initiated prior to the issue of these orders.

3. Similar instructions in respect of public sector undertakings and financial institutions including public sector banks will be issued by the Department of Public Enterprises and Ministry of Finance respectively.

## Annexure – I.2

G.I., Dept. of Per. & Trg., O.M. No.36012/31/90-Est. (SCT), dated 25.9.1991

**SUBJECT :           Amendment to the 27% reservation in service for Socially and Educationally Backward Classes.**

The undersigned is directed to invite the attention to OM of even number, dated the 13<sup>th</sup> August, 1990, on the above mentioned subject and to say that in order to enable the poorer sections of the SEBCs to receive the benefits of reservation on a preferential basis and to provide reservation for other economically backward sections of the people not covered by any of the existing schemes of reservation, Government have decided to amend the said Memorandum with immediate effect as follows :-

2.       (i)   Within the 27% of the vacancies in civil posts and services under the Government of India reserved for SEBCs, preference shall be given to candidates belonging to the poorer sections of the SEBCs. In case sufficient number of such candidates are not available, unfilled vacancies shall be filled by the other SEBC candidates.

         (ii)   10% of the vacancies in civil posts and services under the Government of India shall be reserved for other economically backward sections of the people who are not covered by any of the existing schemes of reservations.

         (iii)   The criteria for determining the poorer sections of the SEBCs or the other economically backward sections of the people who are not covered by any of the existing schemes of reservations are being issued separately.

## Annexure – I.3

G.I., Dept. of Per. & Trg., O.M. No.36012/22/93-Est. (SCT), dated 8.9.1993

**SUBJECT :** *Reservation for Other Backward Classes in Civil Posts and Services under the Government of India - Regarding.*

The undersigned is directed to refer to this Department's O.M. No.36012/31/90-Estt. (SCT), dated the 13<sup>th</sup> August, 1990 and 25<sup>th</sup> September, 1991, regarding reservation for Socially and Educationally Backward Classes in Civil Posts and Services under the Government of India and to say that following the Supreme Court judgement in the Indira Sawhney and other v. Union of India and others case [Writ Petition (Civil) No.930 of 1990], the Government of India appointed an Expert Committee to recommend the criteria for exclusion of the socially advanced persons/sections from the benefits of reservations for Other Backward Classes in civil posts and services under the Government of India.

2. Consequent to the consideration of the Expert Committee's recommendations, this Department's Office Memorandum No.36012/31/90-Estt. (SCT), dated 13.8.1990, referred to in para (1) above is hereby modified to provide as follows :-

- (a) 27% (twenty-seven per cent) of the vacancies in civil posts and services under the Government of India, to be filled through direct recruitment, shall be reserved for the Other Backward Classes. Detailed instructions relating to the procedure to be followed for enforcing reservation will be issued separately.
- (b) Candidates belonging to OBCs recruited on the basis of merit in an open competition on the same standards prescribed for the general candidates shall not be adjusted against the reservation quota of 27%.
- (c) (i) The aforesaid reservation shall not apply to persons/sections mentioned in column 3 of the Schedule to this Office Memorandum. (See Appendix 1.)  
 (ii) The rule of exclusion will not apply to persons working as artisans or engaged in hereditary occupations, callings. A list of such occupations, callings will be issued separately by the Ministry of Welfare.
- (d) The OBCs for the purpose of the aforesaid reservation would comprise, in the first phase, the castes and communities which are common to both the lists in the report of the Mandal Commission and the State Governments' Lists. A list of such castes and communities is being issued separately by the Ministry of Welfare.

- (e) The aforesaid reservation shall take immediate effect. However, this will not apply to vacancies where the recruitment process has already been initiated prior to the issue of this order.

3. Similar instructions in respect of public sector undertakings and financial institutions including public sector banks will be issued by the Department of Public Enterprises and by the Ministry of Finance respectively effective from the date of this office memorandum.

To

All Ministries/Departments of Government of India.

Copy :

1. Department of Public Enterprises, New Delhi }
2. Ministry of Finance (Banking and Insurance }  
Divisions), New Delhi }

It is requested that the said instructions may be issued in respect of PSUs, Public Sector Banks and Insurance Corporations.



## APPENDIX 1

## PERSONS/SECTIONS EXCLUDED FROM RESERVATION

[Schedule TO G.I., Dept. of Per. &amp; Trg., O.M. No.36012/22/93-Estt.(SCT) dated 8-9-1993]

Description of category	To whom rule of exclusion will apply
I. Constitutional Posts	<p>Sons and daughter(s) of –</p> <ul style="list-style-type: none"> <li>(a) President of India;</li> <li>(b) Vice-President of India;</li> <li>(c) Judges of the Supreme Court and the High Courts;</li> <li>(d) Chairman and Members of UPSC and of the State Public Service Commission; Chief Election Commissioner; Comptroller and Auditor-General of India;</li> <li>(e) Persons holding constitutional positions of like nature.</li> </ul>
II. Service Category	
A. Group 'A'/Class I officers of the All India Central and State Services (Direct Recruits).	<p>Son(s) and daughter(s) of ---</p> <ul style="list-style-type: none"> <li>(a) parents, both of whom are Class I officers;</li> <li>(b) parents, either of whom is a Class I officer;</li> <li>(c) parents, both of whom are Class I officers, but one of them dies or suffers permanent incapacitation;</li> <li>(d) parents, either of whom is a Class I officer and such parent dies or suffers permanent incapacitation and before such death or such incapacitation has had the benefit of employment in any International organisation like UN, IMF, World Bank, etc., for a period of not less than 5 years;</li> <li>(e) parents, both of whom are Class I officers die or suffer permanent incapacitation and before such death or such incapacitation of the both, either of them has had the benefit of employment in any International organisation like UN,</li> </ul>

IMF, World Bank, etc., for a period of not less than 5 years;

Provided that the rule of exclusion shall not apply in the following cases :-

- (a) Sons and daughters of parents either Of whom or both of whom are Class I officers and such parent(s) dies/die or suffer permanent incapacitation;
- (b) A lady belonging to OBC category has got married to a Class I officer, and may herself like to apply for a job.

**B. Group 'B'/Class II officers of The Central and State Services (Direct Recruitment)**

Son(s) and daughter(s) of ---

- (a) parents both of whom are Class II officers;
- (b) parents of whom only the husband is a Class II officer and he gets into Class I at the age of 40 or earlier;
- (c) parents, both of whom are Class II officers and one of them dies or suffers permanent incapacitation and either one of them has had the benefit of employment in any International organisation UN, IMF, World Bank, etc., for a period of not less than 5 years before such death or permanent incapacitation;
- (d) parents of whom the husband is a Class I officer (direct recruitment of pre-forty promoted) and the wife dies; or suffers permanent incapacitation; and
- (e) parents, of whom the wife is a Class I officer (Direct Recruit or pre-forty promoted) and the husband is a Class II officer and the husband dies or suffers permanent incapacitation;

Provided that the rule of exclusion shall not apply in the following cases :-

Sons and daughters of ---

- (a) Parents both of whom are Class II officers and one of them dies or suffers permanent incapacitation;

Sons and daughters of ---

- (a) Parents, both of whom are Class II officers and both of them die or suffer permanent incapacitation, even though either of them has had the benefit of employment in any international organization like UN, IMF, World Bank, etc., for a period of not less than 5 years before their death or permanent incapacitation.

### C. Employees in Public Sector

The criteria enumerated in A and B above in this category will apply mutatis mutandis to officers holding equivalent or comparable posts in PSUs, Banks, Insurance organisations, Universities, etc., and also to equivalent or comparable posts and positions under private employment, pending the evaluation of the posts on equivalent or comparable basis in these institutions, the criteria specified in Category VI below will apply to the officers in these institutions.

### III. Armed forces including Paramilitary Forces (Persons holding civil posts are not included).

Son(s) and daughter(s) of parents either or both of whom is or are in the rank of Colonel and above in the Army and to equivalent posts in the Navy and the Air Force and the Paramilitary Forces;

Provided that ---

- (i) If the wife of an armed forces officer is herself in the armed forces (i.e., the category under consideration) the rule of exclusion will apply only when she herself has reached the rank of Colonel;
- (ii) the service ranks below Colonel of husband and wife shall not be clubbed together;
- (iii) if the wife of an officer in the armed forces is in civil employment, this will not be taken into account for applying the rule of exclusion unless she falls in the service category under item no. II in which case the criteria and conditions enumerated therein will apply to her independently.

IV. Professional class and those engaged  
In Trade and Industry

- (i) Persons engaged in profession as a doctor, lawyer, chartered accountant, income tax consultant, financial or management consultant, dental surgeon, engineer, architect, computer specialist, film artists and other film professional, author, playwright, sports person, sports professional, media professional or any other vocations of like status.
- (ii) Persons engaged in trade, business and industry.

Criteria specified against Category VI will apply.

Criteria specified against Category VI will apply.

EXPLANATION ---

- (i) Where the husband is in some profession and the wife is in a Class II or lower grade employment, the income/wealth test will apply on the basis of the husband's income.
- (ii) If the wife is in any profession and the husband is in employment in a Class II or lower rank post, then the income/wealth criterion will apply only on the basis of the wife's income and the husband's income will not be clubbed with it.

V. Property owners

A. Agricultural holding

Son(s) and daughter(s) of persons belonging to a family (father, mother and minor children) which owns ---

- (a) only irrigated land which is equal to or more than 85% of the statutory ceiling area, or
- (b) both irrigated and unirrigated land, as follows :-
  - (i) The rule of exclusion will apply where the pre-condition exists that the irrigated area (having been brought to a single type under a common denominator) 40% or more of the statutory ceiling limit for irrigated land (this being calculated by excluding the unirrigated portion). If this pre-condition of not less than 40% exists, then only the area of unirrigated land will be taken into account. This will be done by converting, the unirrigated land on the basis of the converting, the unirrigated

land on the basis of the conversion formula existing, into the irrigated type. The irrigated area so computed from unirrigated land shall be added to the actual area of irrigated land and if after such clubbing together the total area in terms of irrigated land is 85% or more of the statutory ceiling limit for irrigated land, then the rule of exclusion will apply and disentitlement will occur).

- (ii) The rule of exclusion will not apply if the land holding of a family is exclusively unirrigated.

#### B. Plantations

- (i) Coffee, tea, rubber, etc.
- (ii) Mango, citrus, apple plantations, etc.

Criteria of income/wealth specified in Category VI below will apply. Deemed as agricultural holding and hence criteria at A above under this category will apply. Criteria specified in Category VI below will apply.

#### C. Vacant land and/or buildings in urban areas or urban agglomerations

Explanation : - Building may be used for residential, industrial or commercial purpose and the like two or more such purposes.

#### VI. Income/Wealth Test

Son(s) and daughter(s) ---

- (a) Persons having gross annual income of Rs.1 lakh or above or possessing wealth above the exemption limit as prescribed in the Wealth Act for a period of three consecutive years.
- (b) Persons in Categories I, II, III and V-A who are not disentitled to the benefit of reservation but have income from other sources of wealth which will bring them within the income/wealth criteria mentioned in (a) above.

EXPLANATION :-

- (i) Income from salaries or agricultural land shall not be clubbed;
- (ii) The income criteria in terms of rupee will be modified taking into account the change in its value every three years. If the situation, however, so

demands, the interregnum may be less.

EXPLANATION :- Wherever the expression "permanent incapacitation" occur in this schedule, it shall mean incapacitation which results in putting an officer out of service.

## MINISTRY OF WELFARE

## RESOLUTION

New Delhi, the 10<sup>th</sup> September, 1993

No.12011/68/93-BCC(C).—The Government of India have had under consideration the judgement of the Supreme Court dated 16.11.92 in the case of Indira Sawhney and Others Vs. Union of India and Others (No.930 of 1990) relating to reservation of 27% vacancies in civil posts and services under the Government of India in favour of Other Backward Classes (OBCs).

2. The OBCs for the purpose of the aforesaid reservation as per orders of the Government of India issued vide O.M. No.36012-22-93-Estt. (SCT) of 8<sup>th</sup> September, 1993 by the Ministry of Personnel, Public Grievances & Pensions (Department of Personnel & Training), would comprise, in the first phase, the castes and communities which are common to both the lists in the report of the Mandal Commission and the State Governments' Lists.

3. The Expert Committee on 'Creamy Layer' headed by Justice (Rtd.) R.N. Prasad, was commissioned to prepare the Common Lists in respect of the following States which had notified the list (Appendix Allahabad) of OBCs for the purpose of reservation in State Services as on the date of judgement of the Supreme Court:

1. Andhra Pradesh
2. Assam
3. Bihar
4. Goa
5. Gujarat
6. Haryana
7. Himachal Pradesh
8. Karnataka
9. Kerala
10. Madhya Pradesh
11. Maharashtra
12. Punjab
13. Tamil Nadu
14. Uttar Pradesh

4. The Common Lists prepared by the Committee have been accepted by the Government. The Government has decided to notify the annexed lists of the Other Backward Classes in the context of implementation of the aforesaid O.M. The lists shall be deemed to have taken effect from 8<sup>th</sup> September, 1993.

5. The National Commission for Backward Classes, set up under the provisions of the National Commission for Backward Classes Act, 1993 in pursuance of the direction of the Supreme Court in the aforesaid case shall entertain, examine and recommend upon requests for inclusion and complaints of over-inclusion and under-inclusion in the lists of Other Backward Classes of citizens.

### ORDER

Ordered that a copy of the resolution be communicated to all State Governments, UT Administrations, Ministries/Departments of Government of India.

Ordered also that the resolution be published in the Gazette of India for general information.

M.S. PANDIT, Jt. Secy.



GOVERNMENT OF INDIA  
MINISTRY OF WELFARE

New Delhi, dated the 24<sup>th</sup> May, 1995/3 Jyaistha, 1917

**RESOLUTION**

No.12011/7/95-BCC.—The Government of India, vide the Ministry of Personnel, Public Grievances & Pensions (Department of Personnel and Training) O.M. No.36012/22/93-Estt.(SCT), dated the 8<sup>th</sup> September, 1993 have reserved 27 per cent of vacancies in civil posts and services under the Central Government, to be filled through direct recruitment, in favour of the Other Backward Classes (OBCs). This O.M. also specifies that the OBCs for the purpose of aforesaid reservation would comprise, in the first phase, the castes/communities which are common to both the lists in the Report of the Mandal Commission and the State Governments' lists of OBCs.

2. The Common Lists of OBCs in respect of 14 States, namely, Andhra Pradesh, Assam, Bihar, Goa, Gujarat, Haryana, Himachal Pradesh, Karnataka, Kerala, Madhya Pradesh, Maharashtra, Punjab, Tamil Nadu and Uttar Pradesh, in the context of implementation of aforesaid O.M. dated the 8<sup>th</sup> September, 1993, were notified as the Central List of OBCs in the Ministry of Welfare's Resolution No.12011/68/93-BCC(C) dated the 10<sup>th</sup> September, 1993 and published in the Gazette of India—Extraordinary--Part I, Section I, No.186, New Delhi, Monday, September, 13<sup>th</sup>, 1993/Bhadra 22, 1915.

3. Subsequently, the common lists of OBCs in respect of 4 States and 3 Union Territories, namely, Orissa, Rajasthan, Tripura, West Bengal, Dadra and Nagar Haveli, Daman and Diu and Pondicherry were also notified in the Ministry of Welfare's Resolution No.12011/9/94-BCC dated the 19<sup>th</sup> October, 1994, for inclusion in the Central List of OBCs in the context of implementation of the aforesaid O.M. dated the 8<sup>th</sup> September, 1993, and published in the Gazette of India—Extraordinary--Part I, Section I, No.163, New Delhi, Thursday, October, 20, 1994/Asvina 28, 1916.

4. The Government of India have now drawn up the common lists of OBCs in respect of the States of Jammu and Kashmir, Manipur, Sikkim and the National Capital Territory of Delhi, and have decided to notify the annexed common lists in respect of these three States and one Union Territory for inclusion in the Central List of OBCs in the context of implementation of the aforesaid O.M. dated the 8<sup>th</sup> September, 1993 of the Department of Personnel and Training. These lists shall take effect from the date of issue of this Resolution.

Sd/-

(BHAGWATI PARSHAD)  
*Joint Secretary to the Government of India*

**ORDER**

Ordered that a copy of this Resolution be communicated to all State Governments, Union Territory Administrations, Ministries/Departments of the Government of India.

Ordered also that this Resolution be published in the Gazette of India for general information.

Sd/-

(BHAGWATI PARSHAD)  
*Joint Secretary to the Government of India*

**MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS**  
(Legislative Department)

*New Delhi, the 2<sup>nd</sup> April, 1993/Chaitra 12, 1915 (Saka)*

The following Act of Parliament received the assent of the President on the 2<sup>nd</sup> April, 1993, and is hereby published for general information :—

**THE NATIONAL COMMISSION FOR BACKWARD CLASSES ACT, 1993**  
No.27 of 1993

[2<sup>nd</sup> April, 1993]

An Act to constitute a National Commission for Backward Classes other than the Scheduled Castes and the Scheduled Tribes and to provide for matters connected therewith or incidental thereto.

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

CHAPTER I

PRELIMINARY

1. *Short title extent and commencement.*— (1) This Act may be called the National Commission for Backward Classes Act, 1993.

- (2) It extends to the whole of India except the State of Jammu and Kashmir.
- (3) It shall be deemed to have come into force on the 1<sup>st</sup> day of February, 1993.

2. *Definitions.*—In this Act, unless the context otherwise requires,—

(a) “backward classes” means such backward classes of citizens other than the Scheduled Castes and the Scheduled Tribes as may be specified by the Central Government in the lists;

(b) “Commission” means the National Commission for Backward Classes constituted under section 3;

(c) “lists” means lists prepared by the Government of India from time to time for purposes of making provision for the reservation of appointments or posts in favour of backward classes of citizens which, in the opinion of that Government, are not adequately represented in the services under the Government of India and any local or other authority within the territory of India or under the control of the Government of India;

(d) “Member” means a Member of the Commission and includes the Chairperson;

(e) “prescribed” means prescribed by rules made under this Act.

## CHAPTER II

## THE NATIONAL COMMISSION FOR BACKWARD CLASSES

3. *Constitution of National Commission for Backward Classes* .—(1) The Central Government shall constitute a body to be known as the National Commission for Backward Classes to exercise the powers conferred on, and to perform the functions assigned to, it under this Act.

(2) The Commission shall consist of the following Members nominated by the Central Government :—

- (a) a Chairperson, who is or has been a Judge of the Supreme Court or of a High Court;
- (b) a social scientist;
- (c) two persons, who have special knowledge in matters relating to backward classes; and
- (d) a Member-Secretary, who is or has been an officer of the Central Government in the rank of a Secretary to the Government of India.

4. *Term of office and conditions of service of Chairperson and Members* —(1) Every Member shall hold office for a term of three years from the date he assumes office.

(2) A Member may, by writing under his hand addressed to the Central Government, resign from the office of Chairperson or, as the case may be, of Member at any time.

(3) The Central Government shall remove a person from the office of Member if that person —

- (a) becomes an undischarged insolvent;
- (b) is convicted and sentenced to imprisonment for an offence which, in the opinion of the Central Government, involves moral turpitude;
- (c) becomes of unsound mind and stands so declared by a competent court;
- (d) refuses to act or becomes incapable of acting;
- (e) is, without obtaining leave of absence from the Commission, absent from three consecutive meetings of the Commission; or
- (f) has, in the opinion of the Central Government, so abused the position of Chairperson or Member as to render that person's continuance in office detrimental to the interests of backward classes or the public interest.

Provided that no person shall be removed under this clause until that person has been given an opportunity of being heard in the matter.

(4) A vacancy caused under sub-section (2) or otherwise shall be filled by fresh nomination.

(5) The salaries and allowances payable to, and the other terms and conditions of service of, the Chairperson and Members shall be such as may be prescribed.

5. *Officers and other employees of the Commission*—(1) The Central Government shall provide the Commission with such officers and employees as may be necessary for the efficient performance of the functions of the Commission.

(2) The salaries and allowances payable to, and the other terms and conditions of service of, the officers and other employees appointed for the purpose of the Commission shall be such as may be prescribed.

6. *Salaries and allowances to be paid out of grants*—The salaries and allowances payable to the Chairperson and Members and the administrative expenses, including salaries, allowances and pensions payable to the officers and other employees referred to in section 5, shall be paid out of the grants referred to in sub-section (1) of section 12.

7. *Vacancies, etc., not to invalidate proceedings of the Commission*—No act or proceedings of the Commission shall be invalid on the ground merely of the existence of any vacancy or defect in the constitution of the Commission.

8. *Procedure to be regulated by the Commission*—(1) The Commission shall meet as and when necessary at such time and place as the Chairperson may think fit.

(2) The Commission shall regulate its own procedure.

(3) All orders and decisions of the Commission shall be authenticated by the Member-Secretary or any other officer of the Commission duly authorised by the Member-Secretary in this behalf.

### CHAPTER III

#### FUNCTIONS AND POWERS OF THE COMMISSION

9. *Functions of the Commission*—(1) The Commission shall examine requests for inclusion of any class of citizens as a backward class in the lists and hear complaints of over-inclusion or under-inclusion of any backward class in such lists and tender such advice to the Central Government as it deems appropriate.

(2) The advice of the Commission shall ordinarily be binding upon the Central Government.

10. *Powers of the Commission*—The Commission shall, while performing its functions under sub-section(1) of section 9, have all the powers of a civil court trying a suit and in particular, in respect of the following matters, namely:--

- (a) summoning and enforcing the attendance of any person from any part of India and examining him on oath;
- (b) requiring the discovery and production of any document;
- (c) receiving evidence on affidavits;
- (d) requisitioning any public record or copy thereof from any court of office;
- (e) issuing commissions for the examination of witnesses and documents; and
- (f) any other matter which may be prescribed.

11. *Periodic revision of lists by the Central Government*—(1) The Central Government may at any time, and shall, at the expiration of ten years from the coming into force of this Act and every succeeding period of ten years thereafter, undertake revision of the lists with a view to excluding from such lists those classes who have ceased to be backward classes or for including in such lists new backward classes.

(2) The Central Government shall, while undertaking any revision referred to in sub-section (1), consult the Commission.

## CHAPTER IV

### FINANCE, ACCOUNTS AND AUDIT

12. *Grants by the Central Government*—(1) The Central Government shall, after due appropriation made by Parliament by law in this behalf, pay to the Commission by way of grants such sums of money as the Central Government may think fit for being utilised for the purposes of this Act.

(2) The Commission may spend such sums as it thinks fit for performing the functions under this act, and such sums shall be treated as expenditure payable out of the grants referred to in sub-section(1).

13. *Accounts and audit*—(1) The Commission shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed by the Central Government in consultation with the Comptroller and Auditor-General of India.

(2) The accounts of the Commission shall be audited by the Comptroller and Auditor-General at such intervals as may be specified by him and any expenditure incurred in connection with such audit shall be payable by the Commission to the Comptroller and Auditor-General.

(3) The Comptroller and Auditor General and any person appointed by him in connection with the audit of the accounts of the Commission under this Act shall have the same rights and privileges and the authority in connection with such audit as the Comptroller and Auditor General generally has in connection with the audit of Government accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the offices of the Commission.

14. *Annual report*—The Commission shall prepare, in such form and at such time, for each financial year, as may be prescribed, its annual report giving a full account of its activities during the previous financial year and forward a copy thereof to the Central Government.

15. *Annual report and audit report to be laid before Parliament*—The Central Government shall cause the annual report, together with a memorandum of action taken on

the advice tendered by the Commission under section 9 and the reasons for the non-acceptance, if any, of any such advice, and the audit report to be laid as soon as may be after they are received before each House of Parliament.

## CHAPTER V

### MISCELLANEOUS

16. *Chairperson, Members and employees of the Commission to be public servants*—The Chairperson, Members and employees of the Commission shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code (45 of 1860).

17. *Power to make rules*—(1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

(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) salaries and allowances payable to, and the other terms and conditions of service of, the Chairperson and Members under sub-section (5) of section 4 and the officers and other employees under sub-section (2) of section 5;
- (b) the form in which the annual statement of accounts shall be prepared under sub-section (1) of section 13;
- (c) the form in, and the time at, which the annual report shall be prepared under section 14;
- (d) any other matter which is required to be, or may be, prescribed.

(3) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the succession sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form to 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.

18. *Power to remove difficulties*—(1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make provisions, not inconsistent with the provisions of this Act as appear to it to be necessary or expedient, for removing the difficulty;

Provided that no such order shall be made after the expiry of a period of two years from the date of commencement of this Act.

(2) Every order made under this section shall, as soon as may be after it is made, be laid before each House of Parliament.

19. *Repeal and saving*—(1) The National Commission for Backward Classes Ordinance 1993 (Ord. 23 of 1993) is hereby repealed.

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

K.L. MOHANPURIA  
Secy. to the Govt. of India

**Judgement Writ Petition (Civil) No.930 of 1990 – Indira Sawhney  
Versus Union of India  
And others (16.11.1992)**

THE FOLLOWING DIRECTIONS ARE GIVEN TO THE  
GOVERNMENT OF INDIA,  
THE STATE GOVTS. AND THE ADMINISTRATION OF UNION  
TERRITORIES

123(A). The Government of India, each of the State Governments and the Administrations of Union Territories shall, within four months from today, constitute a permanent body for entertaining, examining and recommending upon requests for inclusion and complaints of over-inclusion and under-inclusion in the lists of other backward classes of citizens. The advice tendered by such body shall ordinarily be binding upon the Government.

(B) Within four months from today the Government of India shall specify the bases, applying the relevant and requisite socio-economic criteria to exclude socially advanced persons/sections ('creamy layer') from 'Other Backward Classes'. The implementation of the impugned O.M. dated 13<sup>th</sup> August 1990, shall be subject to exclusion of such socially advanced persons ('creamy layer').

This direction shall not however apply to States where the reservations in favour of backward classes are already in operation. They can continue to operate them. Such States shall however evolve the said criteria within six months from today and apply the same to exclude the socially advanced persons/sections from the designated 'Other Backward Classes'.

(C) It is clarified and directed that any and all objections to the criteria that may be evolved by the Government of India and the State Governments in pursuance of the direction contained in clause (B) of Para 123 as well as to the classification among backward classes and equitable distribution of the benefits of reservations among them that may be made in terms of and as contemplated by clause (1) of the Office Memorandum dated 25<sup>th</sup> September 1991, as explained herein, shall be preferred only before this court and not before or in any other High Court or other court or Tribunal. Similarly, any petition or proceeding questioning the validity, operation or implementation of the two impugned Office Memorandums, on any grounds whatsoever, shall be filed or instituted only before this Court and not before any High Court or other Court or Tribunal.



124. The Office Memorandum dated August 13, 1990 impugned in these writ petitions is accordingly held valid and enforceable subject to the exclusion of the socially advanced members/sections from the notified 'Other Backward Classes', as explained in para 123(B).

Clause (i) of the Office Memorandum dated September 25, 1991 requires – to uphold its validity – to be read, interpreted and understood as intending a distinction between backward and more backward classes on the basis of degrees of social backwardness and a rational and equitable distribution of the benefits of the reservations amongst them. To be valid, the said clause will have to be read, understood and implemented accordingly.

Clause (ii) of the Office Memorandum dated September 25, 1991 is held invalid and inoperative.

The Writ Petitions and Transferred Cases are disposed of in the light of the principles, directions, clarifications and order contained in this Judgement.

No costs.

Sd/- CJI  
(M.H. KANIA)  
Sd/- J  
(M.N. VENKATACHALIAH)  
Sd/- J  
(A.M. AHMADI)  
Sd/- J  
(B.P. JEEVAN REDDY)

NEW DELHI,  
November 16, 1992

### NATIONAL COMMISSION FOR BACKWARD CLASSES

Under sub-section (2) of Section 8 of the National Commission for Backward Classes Act, 1993 (Act No.27 of 1993), the National Commission prescribes the following procedure:

#### *I. Procedure for examination of requests for inclusion in the lists and hearing of complaints of over-inclusion or under-inclusion in such lists.*

1.
  - (i) Examination of requests and hearing of complaints under Section 9(1) of the National Commission for Backward Classes Act (hereinafter referred to as the Act) shall generally be done by a bench of 2 members.
  - (ii) The benches shall be as per Annexure-I.
  - (iii) All cases of requests and complaints pertaining to a State or U.T. shall stand, referred to the bench indicated against that State.
  - (iv) The Chairperson may, if he so desires, associate with any of the other benches in addition to his benches for the specific States and U.T.s lists in Annexure-I.
  - (v) Whenever exigencies of work-load require, the Commission may create additional benches for any State or U.T.
2.
  - (i) The bench will place its findings in each case before the Commission.
  - (ii) In case of difference of opinion between the two members of a bench, each Member of the bench may place his findings separately before the Commission.
  - (iii) In case of difference of opinion between the 2 Members of a bench or under any other circumstances deemed necessary by the Commission, the Commission may expand a bench by adding a third Member to it and the Members of this expanded bench may place their findings jointly or separately to the Commission.
3.
  - (i) The Commission will consider the findings of each bench and formulate its advice to the Central Government.
  - (ii) The advice may be formulated unanimously or by consensus or by majority.
  - (iii) Where any Member differs from the majority he may formulate his dissenting advice.

- (iv) Where necessary, the Commission may request any bench to examine any further aspects and review its findings in that light, and thereafter again furnish its findings for the Commission's consideration.

- 4. (i) The Commission will furnish its advice to the Government along with the dissenting advice, if any.

## ***II. Procedure for detailed background study, monitoring, guidance, etc.***

- 5. (i) For purposes of detailed background studies, monitoring, guidance etc., all the States and U.Ts. shall be entrusted to the special care of a Member as listed in Annexure-II
- (ii) The Chairperson and other Members may, in addition, tour any other State or U.T. for purpose of comparative understanding of situations and systems, etc.

## ***III. Tours***

- 6. (i) The Members may undertake tours of States in the light of the work allocation made by the Commission under I & II above.
- (ii) The Members will mark copies of their tour schedule to the Chairperson, Member-Secretary and other Members.
- (iii) Important findings and observations arising from the tours may be intimated to the Office of the Commission (hereinafter referred to as the Office) for incorporation in the Annual Report under Section 14 of the Act.

## ***IV Meetings***

- 7. (i) The Commission will normally hold its regular meetings twice a month.
- (ii) The regular meetings will be held at the Commission's Office in Delhi.
- (iii) The Commission may hold additional meetings as and when necessary.
- (iv) The agenda items and agenda notes for and the minutes of the meetings will be prepared and circulated by the Member-Secretary.
- (v) Any Member may propose items for inclusion in the agenda leaving ordinarily a period of 15 days.
- (vi) Quorum for all meetings shall be 3.

**Extract of the Meeting of the Commission  
Held on 11<sup>th</sup> September, 1997 Amending the Procedure  
Under Sub-Section (2) of Section 8 of the National Commission for Backward  
Classes Act, 1993  
(Act No.27 of 1993)**

.....the Commission prescribed the following procedure under Sub-Section (2) of Section 8 of the National Commission for Backward Classes Act, 1993 (Act No.27 of 1993) in continuation of/in amendment of the procedure laid down earlier with immediate effect :-

1. Examination of and Public Hearing in respect of the following types of Requests and Complaints under Section 9(1) of the Act and formulation of the Bench findings may be done by single-Member Benches :-
  - a) where inclusion is only by correction of spelling and other similar corrections like punctuations, etc. taking care that in the name of spelling correction, etc., a caste/community/sub-caste, which is not really in the relevant Central List, is not given an unintended entry into that List.
  - b) Absolute synonyms or synonyms which are co-terminous, i.e., names where the boundary denoted by one name is exactly the same as the boundary denoted by other name(s) and where one or more of these name(s) is/are in the relevant Central List and the Request is for the inclusion of the other name(s);
  - c) Fast Track cases, which are already included in the State List;
  - d) The Single-Member Benches will follow the same process of public notice of their hearings and other matters, as the existing Benches are following.
2. The Chairperson may nominate the Member for each such Single-member Bench.
3. Where necessary, the Chairperson may also add to or otherwise modify the composition of any of the Benches of the Commission.

## Annexure III.1

**List of pending requests in respect of castes/sub-castes/synonyms/communities for  
inclusion in the Central List of OBCs as on 31.3.2001**

**Andhra Pradesh (10)**

1. Muslim
2. Kapu, Telaga, Balija, Ontari
3. All Sections of Balija, Setti Balija
4. Veerasaiva Lingayat, Linga Balija
5. Varala, Thogra, Bholla, Balija
6. Gajala Kapu as a synonym of Thurupu Kapu
7. Sikligar
8. Patra
9. Sondi/Sundi
10. Ekil, Ekile, Eakri, Vyakari, etc. as synonyms of Pala-Ekari

**Bihar (4)**

11. Bakho
12. Saikalgar (Sikaligar)
13. Kurmi
14. Soyar

**Delhi (9)**

15. Ezhava/Thiyya
16. Rayakwar/Raikwar
17. Swami/Vaishnav/Vaishav Brahmin
18. Ansari as synonym of Julaha
19. Salmani synonym of Nai
20. Idrishi synonym of Darzi
21. Naddaf as synonym of Dhunia
22. Mansoori as synonym of Dhunia
23. Jat

**Gujarat (6)**

24. Jagari
25. Dhanga
26. Khavas
27. Sagar
28. Kansara
29. Chaki

**Haryana (1)**

30. Lodh, Lodha, Lodhi

**Karnataka (4)**

31. Gouda/Gowda as synonym of Vokkaliga  
 32. Namdhari Gowda  
 33. Telugu Gowda  
 34. Vokkaliga (Urban Area)

**Kerala (1)**

35. Mallava (Veera Shaiva)

**Maharashtra (1)**

36. Chakali

**Orissa (9)**

37. Gajula Kapu/Gajulu Kampa  
 38. Kampo/Kapu  
 39. Reddy (Reddi)  
 40. Ezhava  
 41. Dumal Gouda  
 42. Pandara Mali  
 43. Maahaanta/Maahaata  
 44. Kalal/Kalar  
 45. Rangani Tanti

**Punjab (1)**

46. Prajapatra Ghumiyar

**Rajasthan (7)**

47. Chobdar  
 48. Kakri/Krekani  
 49. Silawat  
 50. Patidar, Kulmi and Kurmi  
 51. Rajput  
 52. Sahu-Ghanchi-Teli-Rathore  
 53. Sidh

**Tripura (1)**

54. Teli

**Uttar Pradesh (4)**

55. Bagwan  
 56. Kurmi, Sainthwar  
 57. Sanwat  
 58. Dohar

**West Bengal (2)**

59. Nashya-Sekh  
 60. Shershabadia (Badia/Bhatia)

**Chandigarh (1)**

61. Yadav/Ahir

**Dadra & Nagar Haveli (1)**

62. Bhandari

**Pondicherry (2)**

63. Kapu, Telaga, Baliya, Ontari  
 64. Muslim

## Annexure III.2

**Castes/communities in respect of which public hearings took place from 1.3.2000 to 31.3.2001**

Sl. No.	State	Caste/community
1.	Delhi	1. Ezhava/Thiyya 2. Rayakwar/Raikwar 3. Swami/Vaishnav/Vaishnav Brahmin 4. Ansari as synonym of Julaha 5. Salmani synonym of Nai 6. Idrishi as synonym of Darzi 7. Naddaf as synonym of Dhunia 8. Mansoori as synonym of Dhunia 9. Jat
2.	Karnataka	1. Gouda/Gowda 2. Telugu Gowda 3. Namdhari Gowda 4. Vokkaliga (urban)
3.	Uttar Pradesh	1. Bagwan 2. Kurmi, Sainthwar 3. Sanwat
4.	Rajasthan	1. Chobdar 2. Kakri/Krekani 3. Silawat 4. Patidar, Kulmi and Kurmi 5. Rajput 6. Sahu-Ghanchi-Teli Rathore 7. Sidh
5.	West Bengal	1. Nashya-Sekh 2. Shershabadia (Badia/Bhatia)
6.	Kerala	1. Mallava (Veera Shaiva)
7.	Pondicherry	1. Kapu, Telaga, Baliya, Ontari 2. Muslims



**Annexure III.3****List of Castes/Communities notified by the Ministry vide notification no.71 and 210 dated 4<sup>th</sup> April 2000 and 21<sup>st</sup> September 2000****Andhra Pradesh**

1. Yellapu/Yellapondlu
2. Salivahana
3. Bukka Ayavar
4. Vania, Vanniar, Vannikula Kshatriya
5. Sarollu
6. Mangala, Bhajantri
7. Atirasa (of Polavaram, Gopalapuram, Koyyalagudem, Buttayagudem, Chagallu Mandals of West Godavari Distt. And Devipattanam, Korukonda and Gokavaram Mandals of East Godavari Distt.)

**Bihar**

8. Nagar (This does not include Maithili Brahmins and immigrant Nagars from other States who are Brahmins and Baniyas)

**NCT of Delhi**

9. Arak, Arakvanshiya

**Goa**

10. Kalaikar

**Gujarat**

11. Teli Sahu, Teli Rathod, Teli Rathore
12. Marada or Marwada Waghari, Wadwa Waghri
13. Vaghari Gamicho, Vedu Churalia, Jhakudia (where they are not STs)
14. Fool Mali, Marathi Mali, Kach Mali, Jire Mali
15. Bagban, Rayeen
16. Kachhia, Kachhi, Kachi-Kushwaha, Maurya-Koria
17. Bhandari
18. Kathi
19. Bhadbhunja
20. Sathwara

**Haryana**

21. Dawala, Soni Dawala, Nyaaria
22. Rohilla
23. Pal
24. Suthar, Dhiman
25. Tarkhan, Barhai, Baddi
26. Jangam-Jogi
27. Panchal
28. Zargar, Soni

**Himachal Pradesh**

29. Julaha, Ansari (other than those included in the ST list)
30. Tarkhan

**Karnataka**

31. Uppina Kolaga, Vokkaliga (Rural areas only)
32. Rama Kshatriya
33. Ramaraja Kshatriya
34. Servegara (South Kanara)
35. Servegara (North Kanara)
36. Koteyar
37. Kotegara
38. Kotegar (other than those in the list of SC), Kotekar
39. Uppara
40. Kallu Kutiga Uppara
41. Melusakkreyavaru
42. Namada Uppara
43. Sunna Uppara
44. Sunnagara
45. Padit/Padti
46. Uppaliga
47. Uppaliga Shetty
48. Sagar, Sagara
49. Kerebandiyavaru
50. Pattasale
51. Savitha
52. Bandari/Bhandari
53. Bajanthri/Bhajanthri
54. Mahale
55. Hadapada
56. Melagara

- 57. Pariyala
- 58. Somavamsha Arya Kshatriya
- 59. Tambat, Nalabund, Chitragar
- 60. Pinjara, Pinjari, Nadaf
- 61. Ladaf, Mansoori, Dudekula
- 62. Kumbri Maratha (belonging to Uttra Kannada District)
- 63. Kulavadi (Sudra), Marati (belonging to Uttar Kannada District)

#### **Kerala**

- 64. Nadar (Hindu Nadar, Nadar included in the SIUC and Nadar belonging to Christian religious denominations other than the SIUC)
- 65. SIUC (excluding Nadar specified in Item No.42 which is item no.49 of the State List)

#### **Madhya Pradesh**

- 66. Chippla-Sindhi-Khatri
- 67. Bhishti-Abbasi
- 68. Qassab-Qureshi
- 69. Julaha-Ansari, Momin-Ansari
- 70. Multani Luhar
- 71. Nat
- 72. Niyargar, Niyargar-Multani, Niyaria
- 73. Gaddi
- 74. Sodhi, Sodi, Sundi, Sondi
- 75. Banjara, Mukeri, Makrani

#### **Maharashtra**

- 76. Ahir Koli, Pan Koli, Bari
- 77. Kachhi
- 78. Lonia, Luniya, Nuniya
- 79. Gujarati Dhobi
- 80. Sappaliga
- 81. Teli-Lingayat, Teli Sahu, Teli Rathod, Ganiga
- 82. Bagban/Rayeen
- 83. Pahad, Pahadi
- 84. Kalal, Kalar, Sav Kalar
- 85. Dode Gujar, Dore Gujar
- 86. Kohli (This does not cover members of the Khatri caste/community who originally belong to the Punjab and use Kohli as a title/surname)

**Orissa**

87. Tambuli, Tamali
88. Matibansa Tanti
89. Asina Tanti
90. Aswina Tanti
91. Ashani Tanti
92. Aswinna Tanti
93. Kandha-Kumbhar
94. Telugu Kachara, Telugu, Telanga, Telenga (only those members of "Telugu, Telanga, Telenga" who belong to the same caste as Telega, Pamula or Telegu Kachara)
95. Odachasa, Banayat Odiya
96. Ashtralohi/Ashtalohi Karmakar
97. Kamila
98. Sunari, Sunaree, Viswa Brahman (Sunari)
99. Swarnakar/Swaransilpi
100. Kalanga
101. Bhanja Puran
102. Koppula Vellama
103. Scheduled Caste converts to Christianity and their progeny
104. Kalwar
105. Arua
106. Hatua
107. Alia
108. Shudra (in Puri Dist. Only)
109. Mali, Phulia, Sabgbaria, Bhajhemali
110. Muni
111. Raula (Raula of Ganjam District only)
112. Kalandi Baishanaba/Kalandi Vaishnab

**Pondicherry**

113. Thattar, Por Kollor, Thachar, Kalthachar, Kollar, Karumar
114. Meenavar-Sambadavar, Meenavar-Chinna-Pattanavan, Meenavar Peria-Pattanavan, Meenavar Pattanavan, Meenavar-Parvatharajakulam
115. Nadar (including Christian Nadar)
116. Namdev Maratha

**Rajasthan**

117. Wazir
118. Saini, Bagwan
119. Rayee/Rayeen, Kunjra
120. Sunar, Soni
121. Kasai

- 122. Gaddi
- 123. Kalbi
- 124. Bhatiara
- 125. Rai-Sikh

### **Sikkim**

- 126. Jogi

### **Tamil Nadu**

- 127. Pooluva Gounder
- 128. Kallar Kula Thondaman

### **Tripura**

- 129. Rajbhar

### **Uttar Pradesh**

- 130. Tanwar, Singhariya
- 131. Mukeri, Rankia, Mekrani
- 132. Sain (Nai)
- 133. Hela Lalbegi (other than those who are included in the SC List)
- 134. Sheikh Sarvari (Pirai), Pirahi
- 135. Bot (does not include 'Bhotia' who are already in the ST list in UP)
- 136. Kuthaliya Bora (belonging to Almora, Pithoragarh, Bageshwar and Nainital Dists.)
- 137. Kalal, Kalwar, Kalar
- 138. Dohar
- 139. Kasera, Thathera, Tamrakar, Kalaikar
- 140. Rai Sikh (Mahatam)

### **West Bengal**

- 141. Thami
- 142. Kasai-Quraishi
- 143. Kalwar
- 144. Hawari, Dhobi (other than those included in the list of SCs)
- 145. Tamboli/Tamali
- 146. Tamang
- 147. Khen (Non-Bania category)
- 148. Chamling
- 149. Scheduled Caste converts to Christianity and their progeny
- 150. Rayeen (Kunjra)
- 151. Hela/Halia/Chasi-Kaibartta, Das Kaibartta

**List of 22 rejection cases approved by the Ministry****Andhra Pradesh**

1. Isai Vellalar

**Goa**

2. Beri Muslims/Beri
3. Khan Farooque/Kan Muslim
4. Bhandari

**Madhya Pradesh**

5. Kaurav, Kawnra, Kaunrae

**Maharashtra**

6. Maratha *alias* Kumbi

**Orissa**

7. Khandait
8. Mahanayak/Mahanayak Sudra
9. Dalapati/Dalua
10. Rajasri Balasi/Balasi

**Pondicherry**

11. Senaithalaivar Christian

**Rajasthan**

12. Kayam Khani (Muslim)
13. Guru, Garu, Garg Brahman
14. Sheikh Farooqui
15. Bishnoi

**Tamil Nadu**

16. Kannadiyan Naidu
17. Jain Nainar

**Tripura**

18. Muslim

**West Bengal**

19. Sunnwar
20. Agrehari
21. Mahishya
22. Khandait

**Annexure III.5****QUESTIONNAIRE****Part-1****General Descriptive Data of the State**

1. Name of the State
2. (a) When was reservation for OBC in the services of the State started?  
  
(b) What was the percentage of such Reservation for OBC then?
3. Has the State government set up any machinery / cell for monitoring the implementation of the reservation scheme? If so, furnish particulars
4. What steps has the State government taken and proposes to take for helping and enabling the OBC to successfully compete and secure appointments in the State/Central Services (services under Govt. of India, Public Sector Undertakings, Financial Institutions etc.)
5. Literacy rate of the States:-

All (Male + Female)		Male		Female	
1991	2001	1991	2001	1991	2001

Total (Rural + Urban)

Rural

Urban



6. (a) Total number of posts in services  
under the State Government

		1991		2001	
	Male		Female	Male	Female
(i)	Group A / Class I				
(ii)	Group B / Class II				
(iii)	Group C / Class III				
(iv)	Group D / Class IV				

- (b) Out of the total number of posts,  
number of posts held by the  
members of OBCs

		1991		2001	
	Male		Female	Male	Female
(i)	Group A / Class I				
(ii)	Group B / Class II				
(iii)	Group C / Class III				
(iv)	Group D / Class IV				

**Part II**

**GENERAL DATA ABOUT THE CASTE/COMMUNITY  
UNDER CONSIDERATION**

1. **Name of the caste/sub-caste/community/social group / synonym under review**
2. **Is it the main caste/community? If not, give the name of the main caste**
3. **Give the names of other sub-castes / sub-communities / synonyms etc.**
4. **Is the caste/community/sub-caste known by any other name? If so, name that**
5. **Population in the State of caste/sub-caste/ community/synonym etc. under review**                      **1991**                      **2001**
6. **Whether the caste/community is spread all over the State or concentrated in some districts of the State? In case of the latter position, name the district(s)**
7. **Specify the religions, faiths, sects if any which members of the caste/community/ sub-caste etc. follow**
8. **Do you think that with reservation the status of the caste/community has improved or likely to improve? If no, give reasons**

## DATA RELATING TO SOCIAL AND OTHER FACTORS

### A. Social

1. **Whether the caste/community under consideration is generally regarded as socially backward even now**
2. **What is the traditional occupation of the caste/community?**
3. **Whether there are any occupations other than the main occupation referred to at 2 above, on which substantial numbers of members of the caste/community depend for livelihood. If so, specify such occupations**
4. **Has the caste/community got or acquired significant resource base in terms of infrastructure such as land, buildings, workshop, quarries, etc.**
5. **Whether or not the women of the caste/community, as a general practice, assist the family in income generation for their livelihood**  
  
**If so, specify the type/nature of work:**
6. **Whether or not the children of the caste/community, as a general practice, assist the family in income generation for their livelihood?**

**If so, specify the type / nature of work:**

7. What percentage of the population of the caste/community etc. (male, female, children taken together) are landless manual (both agricultural and non-agricultural) labourers?
8. Whether the caste/community is, in terms of the caste system, identified/linked with any traditional occupation

If so,

- (a) Specify which traditional occupation they are identified / linked with?
- (b) Whether the traditional or hereditary occupation / craft is, in terms of the caste system, regarded to be lowly, undignified, unclean or stigmatized?
- (c) The percentage (approximately) of the population of the adult members (males and females taken together) of the caste/community, actually engaged in that occupation
- (d) Of the adult members of the caste/community who are actually not engaged in that occupation, what proportion (approximately) are engaged in:-
  - i) Agricultural labour for wage
  - ii) Other manual labour for wage (specify which)
  - iii) Cultivation of own land
  - iv) Other occupations [like services (clerical/supervisory/managerial/academic) in Government, Public Sector, Universities, Colleges & Schools, organised private sector, trade/commerce/contracts/entrepreneurial manufacture, professions (lawyer, doctor, consultancy etc.)

(Specify the occupation(s):-

- 10. Is the caste/community categorized as:-**
- i) Nomadic caste/community/tribe**
  - ii) Semi-nomadic caste/community/tribe**
- 11. (a) Is the caste/community categorized as De-notified or Vimukta Jati caste/Community/tribe [in terms of Criminal Tribes (Repeal) Act, 1952, Act No. XXIV of 1952]**
- (b) If the answer is yes, what is the present Occupation(s) of the members of the Caste/community?**
- 12. Gender wise number of MLAs/MLCs/MPs belonging to the caste/community elected during the last election and their proportion to the total strength of the Legislative Assembly/Council/Parliament**
- 13. State the gender wise number of members of the caste/community elected to the elective bodies at the district level, i.e., panchayati raj institutions, Zilla Parishad, Zilla Panchayat, District Council etc. at the last election**

**B. Educational**

**1. i) Number of literates of the caste/community in the State**

	<b>1991</b>		<b>2001</b>	
<b>Male</b>		<b>Female</b>	<b>Male</b>	<b>Female</b>
<b>Total</b>			<b>Total</b>	

**ii) Literacy rate of the caste/community in the State**

	<b>1991</b>		<b>2001</b>	
<b>Male</b>		<b>Female</b>	<b>Male</b>	<b>Female</b>
<b>Total</b>			<b>Total</b>	

**2. Matriculates (or equivalent High School Examination) among the members of the caste/community in the State**

	<b>1991</b>		<b>2001</b>	
<b>Male</b>		<b>Female</b>	<b>Male</b>	<b>Female</b>
<b>Total</b>			<b>Total</b>	

**3. Graduates among the members of the caste/community in the State**

	<b>1991</b>		<b>2001</b>	
<b>Male</b>		<b>Female</b>	<b>Male</b>	<b>Female</b>
<b>Total</b>			<b>Total</b>	

**3(a) Any other professional training or skill-acquired; specify**

- 4. Where such caste/community is not spread over the entire State but is largely concentrated in one or a few districts, furnish the following information:**

- | i) Total literacy rate of the district(s): |  | 1991 | 2000 |
|--------------------------------------------|--|------|------|
|                                            |  |      |      |

- ii) Number of literates of the caste/ community in the district(s)**

1991		2001	
Male Total	Female	Male Total	Female

- iii) **Literacy rate of the caste/community in the district(s):-**

1991		2001	
Male	Female	Male	Female
Total	Total	Total	Total
100	100	100	100

- 5. Matriculates (or equivalent High School Examination) in the district(s)**

1991		2001	
Male Total	Female	Male Total	Female

**6. Graduates among the members of the caste/community in the district**

	1991		2001	
Male Total		Female	Male Total	Female

**C. Economic**

**1. Number of posts in services of the State Government held by the members of the caste/community under consideration**

(Specify the year of reference)

	Total posts	Held by members of OBC s	Held by the members of the caste
Group A / Class I			
Group B / Class II			
Group C / Class III			
Group D / Class IV			

**2. Besides State Government Services, state how many persons of the caste/community under consideration are engaged in the following areas of employment and professions:**

- a) State level Public Undertakings, autonomous/semi-autonomous establishments
- b)
  - (i) Teachers in colleges and universities
  - (ii) Administrative personnel in colleges and universities
  - (iii) Doctors
  - (iv) Engineers



- (v) Advocates
- (vi) Self-employed/  
any other income  
generating categories

**D. Representation in the services of the Central Government**

(Specify the year of reference)

**1. Total number of posts under the Central Government**

Group A : .....

Group B : .....

Group C : .....

Group D : .....

**2. Number of posts held by all OBCs in the present Central List**

Group A : .....

Group B : .....

Group C : .....

Group D : .....

**3. Number of posts held by the caste/community under consideration**

**Group A** : .....

**Group B** : .....

**Group C** : .....

**Group D** : .....

## Annexure IV.1

**Action Taken Report/Comments of the Government on the  
Recommendations and Suggestions made the National Commission for  
Backward Classes in its Annual Report for 1993-94 & 1994-95**

S.No.	RECOMMENDATION	ACTION TAKEN/COMMENTS
1	<p><b>Building up of Data-base</b></p> <p>For considering Requests for inclusion and complaints of under-inclusion and over-inclusion under Section 9(1) of the Act, especially in respect of castes/communities other than those in the "Fast-Track" as defined by the NATIONAL COMMISSION FOR BACKWARD CLASSES (vide Section III of this Report), the Commission requires data of population and other data. The government and the Commission have also to get ready right from now for work arising from Section 11, data along a number of parameters – social, educational, economic – for each relevant caste/community/sub-caste/sub-community have to be gathered without any delay. There is neither requisite infrastructure for this purpose nor adequate awareness about this task either in the Central Government or in most of the State Governments and UT Administrations. The Commission has already addressed the Central Government in the Ministries of Welfare and Personnel as also the State Governments in this regard. The major portion of the data is to come from the States and UTs.</p>	<p>The recommendation has been forwarded to States/UTs for taking appropriate action.</p>

- 1.2 The NCBC strongly recommends that comprehensive socio-economic surveys including collection of population data pertaining to each caste/sub-caste/community / sub-community be undertaken by each State Government and UT Administration.
- 1.3 Adequate infrastructure will have to be created and manpower of high quality will have to be found for this purpose in each State. The Central Government in the Ministries of Welfare, Personnel and Home will have to establish the systems of collecting and processing data for this purpose on a continuing basis.
- 1.4 All Ministries dealing with employment in the services of the Central Government, public sector undertakings and financial institutions will also have to play a role in this. For example, it is necessary to know the proportion of successful candidates both under the merit quota as well as under the reservation quota, Caste-wise and State-wise in order to identify those castes/communities which are not able to get a reasonable share of the benefit, so that their specific problems could be identified and attended to. It is also necessary to have data along the same lines in respect of those already in services.
- 1.5 In the above context the Commission emphasizes that these data regarding quotas, covering those already in service and cumulatively and continuously updated on a annual basis, referred to in the para above, are required to fulfil the Constitutional criteria prescribed by the latter part of Clause 4 of the 16, which reads as follows (relevant portion emphasized):-
- The recommendation was forwarded to the State Governments and UT Admns. for comments. The replies received, so far, indicate that the State Governments of Goa, Himachal Pradesh and Tripura have completed the survey. State Governments of Karnataka and Sikkim and the UT Administration of A&N Islands will get the needful done through their own agencies. The States of Haryana, Orissa, Uttar Pradesh and the UTs of Delhi and Dadra & Nagar Haveli are in favour of collection of database at the time of collection of other data during the ensuing census i.e. 2001. Views of the Registrar General of India have been received and given in the comments at S.No. 1.7 below. The matter is being pursued with other States/UTs.

“Nothing in this 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 of the State.”

- 1.6 The Commission, therefore, recommends that for the specific purpose of gathering data on a continuing basis on merit and reserved quotas, as mentioned in the above two paras, a Special Cell be created in the Ministry of Personnel and in each of the Ministries dealing with the employment in the services of the Central Government, PSUs and Financial Institutions, with the Cell in the Ministry of Personnel coordinating and collecting the data of all the cells and other sources. It is further recommended that similar arrangements be created in all States and UTs.

The recommendation was forwarded to the Central Ministries as well as all the States/UTs. Five of the Ministries / Departments of the Government have already set up such special cells. In twelve of the Ministries/Departments, SC/ST Cells in addition to their normal duties are also looking after the work of the OBCs, keeping in view the above recommendations.

The Ministries/Departments of Agricultural Research and Education, Water Resources, Space and Youth Affairs & Sports do not feel the necessity of having special cells exclusively for OBCs. Department of Personnel & Training and the other Ministries/Departments are being pursued to give their comments.

- 1.7 These exercises will also require population data in respect of each caste. The Mandal Commission and many other Commissions have recommended gathering of data caste-wise by the Census of India as is being done in the case of SCs and STs. But for the reasons which are not realistic in Indian conditions, this suggestion has not been favourably entertained by the Ministry of Home Affairs under whom the Registrar of India and Census Commissioner functions. Now a stage has come when this can no more be avoided.

The recommendation was forwarded to the Registrar General of India, Ministry of Home Affairs, which is responsible for census operations. In reply vide their D.O. No. 9/35/99-CD(CEN) dated 31.8.1999, the Ministry of Home Affairs have stated the following:-

- 1.8 Therefore, the Commission recommends that necessary instructions be given and preparations be made for collection of popu-

“The suggestion/recommendation of the National Commission made in its Annual Report for the years 1993-94 and 1995-96 regarding collection of population data caste/community-wise at the Census Operations of 2001 has been examined carefully. Caste-wise enumeration was discontinued after Independence, i.e.,

lation data caste-wise/community-wise well in time for the census operations of 2001.

from Census 1951. Even in the census prior to 1951, the collection of caste data had posed serious difficulties in view of the inherent complexities and had suffered both on account of completeness and accuracy.

The question of caste-wise enumeration in the census has now been posed after 50 years of Independence and 5 censuses. This is bound to trigger a debate on whether or not such a step would accentuate the caste consciousness among the people and make them think in terms of numerical strength, thereby adding a dimension to the existing social, economic and political dimensions of caste. The divisive influence of 'caste' notwithstanding, the proposal under consideration cannot be supported for the following reasons:-

(i) Caste continues to be the most divisive factor of our society. Irrespective of its importance or relevance in determining social status of a person, defining his social interactions and deciding his political affiliations, it will be prudent not to let it acquire a legal validity.

(ii) In the Constitution of India, one comes across specific mention about protection to be given to the "educationally and socially backward classes", "backward classes" and "weaker sections". However, "caste" is referred to in the Constitution only as a ground on which discrimination of any nature is to be avoided. However, the proposed caste-based census will categorize population into OBCs, which comprises certain castes

ignoring thereby the criteria of social, educational or economic backwardness. This will not be in conformity with the secular spirit of the Constitution.

(iii) By proposing to include caste in the next census, it is being attempted to quantify population on the basis of caste. This will pre-suppose a precise definition of 'caste' which is understood both by the officials doing the census work as well as the responding public. This is very difficult to achieve especially as caste includes sub-castes and, at times, sub-sub-castes. The number of castes is so large that this would make census-work very difficult and complicated. In fact, there is no authoritative text or compendium which can claim to list all the castes/sub-castes.

In view of the above, caste-based enumeration at the 2001 Census cannot be undertaken.

## 2. For greater expedition at Pre-Public Hearing Stage

2.1 In a number of cases, especially those not covered by the "Fast Track", the Benches of the Commission are hampered in their Public Hearing because Questionnaires have not been received back filled up from the State Governments. This in turn is partly at least because the existing machinery in the States does not seem to have been augmented adequately to meet the needs to the new work arising from the principle behind the First Phase Cental List, the Mandal judgment and the NCBC Act. Often the personnel who have been looking after the work pertaining to SC and ST in

The recommendations at S.No. 2 to 5 have been forwarded to the State Governments / UT Administrations for appropriate action. As per the information received the State Governments of Karnataka, Kerala, UP, Tamil Nadu and Tripura have reportedly furnished the information asked for by the Benches of the Commission, in time, and provided full cooperation.

The matter is being pursued with other States/UTs.

the State, and in some States also some other weaker sections, have been entrusted by the governments to undertake the work pertaining to the Backward Classes also. This deficiency needs to be remedied so that Public Hearing in such cases can be taken up more expeditiously.

- 2.2 One of the specific areas, neglected by many States, is the failure to translate the Commission's Questionnaire into the languages of the State, for facility of the people, as requested by the Commission as long back as 16-5-1994. This needs implementation by all such States.

### 3. **Public-Hearing Stage**

In several States, particularly States where the listing of Backward Classes is relatively recent, the requisite amount and quality of information is not made readily available to the Bench during the Public Hearings resulting not only in some inconvenience to the Members of the Bench but also delay in the progress of the Enquiry. Even the request of the Commission to send all orders, circulars, notifications, lists of BCs and other connected documents, has not been complied with at all or has been complied with only partially by a number of State Governments. This is partly on account of the reason given at (2) above. It is also partly because certain State Governments are yet to apply their mind adequately to various issues pertaining to backward classes including being fully equipped to assist the Benches of the Commission at Public Hearings. This deficiency needs to be removed.



#### 4. Post-Public Hearing State

In some cases, after the Public Hearing, the Bench requires some further information from the State Governments, before the Findings of the Bench can be formulated. Partly for the same reason as mentioned at (2) and (3) above, such information is not promptly available. If remedial steps are taken with reference to (2) and (3), they may also improve matters at this stage.

#### 5. State of Findings and Advice

Subject to the above, the Commission and its Benches have been trying to speed up the Findings and Advices, conscious of the fact that any avoidable delay causes avoidable hardships to a number of individuals who belong to the Backward Classes. It will concentrate its efforts further to improve the tempo at the stage of formulation of Findings and Advices to the maximum extent possible.

#### 6. Post-Advice Stage

6.1 There have been considerable delays in the issue of orders by Government after the Commission's advice in a number of cases is tendered. Such delays cause hardship to the Backward Classes. In view of the mandatory provision in Section 9(2) of the Act, the Commission feels that there is no justification for such time-lag.

Advices tendered by the Commission have been examined by the Government as per the provisions of the NCBC Act and necessary action has been taken as early as possible.

6.2 It is, therefore, recommended that the Ministry of Welfare may examine the matter in the light of the above mandatory provision in Section 9(2) and take steps to ensure issue of orders promptly after receipt of the Commission's advice in each case.

6.3 For this purpose, the Commission recommends that in notifications of the

Necessary action is being taken on the Advices of the Commission as per

decision of the Government in each case, the Government do publish also the advice of the Commission including the Findings of the Bench.

the provisions laid under NCBC Act.

- 6.4 The Commission has decided to incorporate in its future Annual Reports, the; Advice including the Bench Findings in each case on which the Government has taken a decision.

The Advices in respect of inclusion of new community and amendment to existing list are being notified after following necessary procedure. As regards rejection Advices the matter has been examined in consultation with the Ministry of Law, Justice and Company Affairs and it is felt that it is not necessary to notify such requests which have been rejected. NCBC is however free to mention it in its annual report, if deemed appropriate.

7. At this stage, the Commission would also make its observations pertaining to the listing of castes, as this may be some guidance for the future.

- 7.1 (a) A good number of errors of spellings, which tantamount to non-inclusion, arise from problems of transliterations from the local language to English and to Hindi. The Central Lists are published only in English and Hindi. This problem can be eliminated or at least minimized if the Lists are published in the language(s) of each concerned State, in addition to English and Hindi, and it is specially mentioned in each List that the names as given in the language(s) of the State shall be treated as the original authenticated name in case of any difficulty regarding spelling.

All States/UTs have been requested to furnish authenticated copies of Central Lists of OBCs translated in the languages included in the VIIIth Schedule of the Constitution of India. As soon as the lists are available the process to notify the same would be initiated.

The Commission, therefore, recommends that the Lists be published in the language(s) of each State in addition to English and Hindi, and in each List the

names as given in the language(s) of the State shall be treated as the original and authenticated names.

(b) Efforts are made by some castes to seek ameliorative synonyms or names in addition to or in substitution of existing names which are felt as stigmatized or derogatory. This is part of their search for self-respect denied to them over the centuries. The Commission has every sympathy with this aspiration of the Backward Classes. At the same time, some of these synonyms and names unintentionally become a cover for some members of forward castes to grab benefits not intended for them. Therefore, it is necessary to provide certain safeguards in the shape of explanations or note which meet both objectives. While the Commission and its Benches have followed this method in appropriate cases, as, for example, in the cases of "Kalavanthula" and "Pitchiguntala" of Andhra Pradesh, the Commission hopes the Central Government will also appreciate the issue behind this.

The observation is of general nature and the point has been noted.

(c) The other trend pertains to seeking the inclusion of what may be called "generic" names. These names also can sometimes become a cover for some members of forward castes to secure benefits intended for Backward Classes. It is, therefore, more appropriate to take action under Section 9 in terms of specific names rather than a single generic name.

The observation is of general nature and the point has been noted.

8. Further, two important suggestions which will help to improve the functioning of the Commission pertain to the rank/status of the Members other than the Chairperson.

- 8.1 Regarding the procedure for the release of funds in terms of Section 12 of the Act, a copy of the Resolution of the Commission is at Annexure V-I. The Commission is conscious that along with financial autonomy, financial discipline also needs to be observed. Therefore, the Commission has recommended the creation of the post of or the designation of a Financial Adviser under the Commission. Action needs to be taken on these lines under Section 12(1) without any further delay as has already been done in respect of the National Human Rights Commission set up after the NCBC, in terms of the Protection of Human Rights Act which contains an identical provision.

The National Commission for Backward Classes in its Annual Report for 1993-94 and 1994-95 recommended that the post of Financial Adviser may be created under the Commission separately on the lines of the similar provision in respect of the National Human Rights Commission. The financial data, i.e., actual expenditure of the Commission during the last four years is as under:-

(Rs. in Lakhs)

1996-97	1997-98	1998-99	99-2000
83.91	122.00	126.00	127.00

As is evident from the above, the budget provision of the Commission is meager and the expenditure of the Commission is only on salary and related items and there are no schemes. Therefore, there is hardly any justification for a separate post of Financial Advisor for NCBC keeping in view the amount involved and the likely additional financial implication the post may have.

- 8.2 Keeping in view the realities of the situation, including particularly the indifference in many quarters at the national as well as State level, and the consequent constraints, right at the outset the Commission had unanimously recommended the Government of India that the rank/status of a Union Cabinet Minister be accorded to the Chairperson and that of the Minister of State (Independent Charge) of the Government of India to the other 4 Members. This was not acted upon by the Government of India till the end of the period covered by this Report. But it needs to be mentioned that subsequently the Government of India partly acted upon the unanimous

The Chairman and the Members of NCBC enjoy the rank and status as per the provisions of National Commission for Backward Classes a i.e., the Chairman enjoy the status of a judge of the Supreme Court or of a High Court as relevant to his case depending upon the office earlier held by him and the Members enjoy the status of a Secretary to the Government of India. Justice R.N. Prasad, the Chairman of the first Commission was granted the status of Union Cabinet Minister which was personal to him.

recommendation of the Commission by according the Status of the Union Cabinet Minister to the Chairperson. While this partly removed the constraints referred to above, the constraints in respect of other Members still remain. A copy of the Resolution passed by this Commission in this regard after the Chairperson was accorded Union Cabinet Minister status is at Annexure-V.2. This lacuna needs to be removed without further delay. This will also amount to according appropriate dignity by the Government of India to this important Commission dealing with a major part of the population of the country which is more than half of the population of the country according to the Mandal Commission.

9. Representations have been made to the Members of the Commission in the course of their visits to different parts of the country that the castes/communities of the BCs are at different levels of social and educational backwardness and economic status, and there are wide disparity among them in this regard. Therefore they sought classification of BCs into categories based on relative degrees and levels of backwardness and apportionment of the total reservation for BCs among those categories so that all castes of BCs may be able to compete only with their equals on reasonably equal terms and all of them may have a level playing field. It was also represented that considering the population of BCs (other than SCs and STs) as a whole, the 27% reservation for them is inadequate. It appears that these factors weighed with several State Governments who have classified the BCs (other than SCs and STs) in two or more categories and apportioned the total reservation for BCs among these different categories. Such States are Bihar, Tamil Nadu, Andhra Pradesh, Karnataka, Kerala, Maharashtra and Haryana.

9.1 Having considered the matter in all its aspects, the National Commission recommends that:-

(i) The BCs (other than SCs and STs) in the Central lists be classified into different categories, based on different degrees and levels of backwardness and the total reservation for such BCs (other than SC and ST) be apportioned among these categories. While making the categories and their apportionment, there should be a clear direction that if the apportioned percentage of reservation for the lower categories are not fully utilized by any of them, then the un-utilized portion should be transferred to the next higher category and so on, such that the total reservation for Backward Classes remain.

(ii) The percentage of representation for the BCs (other than SCs and STs) be raised above 27%.

(i) Advices are still being received from the National Commission for modification in the Central list of Backward Classes. It is too early, therefore, to implement this recommendation. The issue can be taken up for consideration at the time of revision as envisaged in Section 11(1) of the NCBC Act.

Government of India has already adopted the criteria for exclusion of the socially advanced persons/sections (creamy layer) from the benefits of reservation for other backward classes in civil posts and services under the Government of India.

(ii) In view of the Supreme Court Judgement in the Indira Sawhney case which inter-alia restricts overall reservation in Govt. services/jobs to a overall maximum of 50%, it may not be possible to accept the recommendation.

10. Before concluding, the Commission wishes to mention briefly, certain other measures to be adopted for the social, educational and economic advancement of the Backward Classes.

10.1 The Backward Classes are set apart in terms of their social and educational backwardness, on the one hand, from castes and communities occupying historically and socially advantageous position in the traditional social structure and, on the other, from the SCs and STs who still live, in conditions of social and

In addition to providing reservation in employment in government services, the Ministry of Social Justice & Empowerment is implementing a number of schemes for the welfare of OBCs as indicated below since 1998-99:-

economic deprivation and atrocities. In itself, the category of the BCs, comprises of a wide array of socially and educationally backward castes and communities with varied occupational and economic backgrounds. The policy and programmes for their advancement, therefore, call for a differentiated approach, sensitive to different economic, educational and social needs of communities placed at different levels of social and educational backwardness and economic deprivation.

10.2 In economic and occupational terms the BCs, by and large, comprise of peasant and artisanal communities and those who provide various traditional services.

10.3 Among the peasantry there are two types of communities: the numerically large, but socially and educationally backward communities of owner-cultivators of small land holdings and those tenant cultivators and landless labour. Seen in this context, reservation remain only a partial provision which for its fuller utilization will have to be buttressed with other policies and programmes for their advancement. There is urgent need for effectively implementing the policy of land reform, a fair agricultural wage and price policy and providing adequate economic and educational opportunities for the BC through measures like residential schools, scholarships and free hostel accommodation, coaching for competitive examinations and training for self-employment. Although some of these programmes have been taken up in a few States, and have shown promising results, most of these programmes, where started, are starved of resources. The Central Government and State Governments should commit adequate resources for this purpose.

1. Assistance to Voluntary Organisations.
2. Hostels for Other Backward Classes Boys and Girls.
3. Pre-examination Coaching Centres for Other Backward Classes.
4. Pre-matric Scholarships for Other Backward Classes.
5. Post-matric Scholarship for Other Backward Classes.

The National Backward Classes Finance and Development Corporation (NBCFDC) set-up in January, 1992 also gives financial assistance to eligible persons belonging to Backward Classes through State Channelising Agencies.

Further the other Ministries/ Departments are also taking up measures such as:

(i) Deptt. of Education, Ministry of Human Resources and Development is implementing the schemes of community polytechnics, vocationalisation of Secondary Education, Pre-vocational education at lower secondary stage, National Programme of Nutritional support to Primary Education popularly known as Mid-day meal schemes and the Lok Jumbish and Shiksha Karmi projects for promoting primary education in Rajasthan.

(ii) The Ministry of Rural Development is processing an amendment to the Land Acquisition Act, 1894 in consultation with Ministry of Law, Justice & Company Affairs for effectively implementing the policy of Land reforms.

- 10.4 The plight of artisanal communities of the BCs has worsened in the recent years. These are the communities which have preserved and perfected in our society a variety of skills and specializations for millennia. A great many of these communities, as for example the oil pressers, the potters, the blacksmiths, etc. have wholly or considerably lost their occupations with the advent of mechanized and large scale system of production. Of course, a few enterprising individuals from among these communities have been able to adopt to the change of refining traditional skills and upgrading their production units to meet the requirements of the new production and market system. Some of them have even acquired new skills and education. But by and large members of the traditionally skilled communities are being increasingly dispersed into a variety of small and marginal occupations or have been pushed into casual labour in such industries as construction in the urban areas and landless agricultural labour in the rural areas.
- (iii) The Ministry of Rural Development has also launched a new scheme known as Swarnjayanti Gram Swarojgar Yojana, which is a holistic programme of micro-enterprises covering all aspects of self-employment. Its objective is to bring the assisted poor families above the poverty line in three years by providing them income generating assets through a Mix of bank credit and Govt. subsidy. The scheme will seek to lay emphasis on skill development through well-designed training course.
- The State Govts./UT Admn. Have also taken up various schemes for welfare of OBCs.
- 10.5 In this context, the erosion and loss of some highly developed skills and crafts preserved by many artisanal communities in our country is a matter of great concern. These crafts and skills have been preserved by these communities over a period of several centuries and at great sacrifice to themselves. It was their craft that has made possible for them to produce a variety of artifacts which are simultaneously aesthetic objects as well as objects of utility in every day life. Their occupational activities as artisans are, therefore, not only a means of livelihood for them, but an integral part of our culture and knowledge systems which they have kept alive for generations. Illustratively, these including weaving, metal and woodcrafts, sculpting, stone-carving.



10.6 The plight of those communities whose occupations have been taken over by other groups belonging to the upper strata of the society in the process of modernization is equally bad. In their case, there has been a sharp downward mobility both in economic and social terms. They have lost their traditional means of livelihood and survive today as rejects of the liberalized market. The significant aspect of their deteriorating social and economic conditions is illustrated by the fisher and dhobi communities. The fishing operations have become highly capital intensive with the use of mechanized trawlers. The traditional fishing communities are being pushed out from their occupation or are reduced to being wage earners on trawlers or at other stages of processing of the seafood. In other words, members of the traditional fishing communities have increasingly become casual wage-earners of the 'fishing industry'. Similarly, the dhobis have lost access to water and open plots for carrying out their occupational operations of washing and cleaning of clothes. This activity is being increasingly performed through mechanized laundries, owned usually by the members belonging to communities other than of the dhobis — frequently the members of the upper castes, with members of dhobi castes as wage-labourers. Similar is the condition of the communities involved in processing leather, in weaving and spinning of cloth etc. A large number of people involved in those occupations are pushed from subsistence-level existence to penury and destitution. They are now swelling the ranks of the underemployed landless labour. The loss of skills, preserved and developed for centuries in our country is indeed a great loss to the society. All these have resulted in the creation of a mass of 'unemployable' population in the

economy, with the hitherto highly skilled population becoming 'unskilled' and 'unemployed'.

10.7 The Central and State Governments will have to devise measures in respect of each of these communities keeping in view their specific requirements. Special programmes of providing credit and subsidies for upgrading their skills and for promoting their ownership of small scale manufacturing and processing units need to be devised centrally and at the States level. Special educational needs of the younger generations of these communities, both in terms of liberal and vocational education will have to be identified and met. Reservations should not become an alibi for not evolving and implementing policies for general economic and social advancement of the peasant and artisanal communities which by and large comprise the category of the BCs.

10.8 Recently in several States, the special categories of the nomadic, semi-nomadic and the de-notified tribes have been merged in the BC communities. These communities occupy the bottom-most rungs of the OBC category. Their literacy levels are abysmally low, their occupational skills, if any, have only negative relevance in the modern economy. These groups need special recognition and attention both in the implementation of the reservation policy and for their general economic, educational and social advancement. For the children of these communities to be universally enrolled and kept in schools, a special programme of financial and other assistance to the parents of school-going children of these communities will have to be devised. Also, programmes for developing 'employable skills' of their parents will have to be considered.

- 10.9 For all categories of BCs, occupational mobility is an important need. For this purpose and for the overall advancement of the BCs, education is recognized as one of the most important means.
- 10.10 In brief, a large package, over and above Reservations, will have to be devised and implemented for the social, educational and economic advancement of the Backward Classes – a package which is specifically designed to serve the developmental needs of different types of communities comprising the BC category.

