

# Annual Report

2004-2005

(1<sup>st</sup> April, 2004 to 31<sup>st</sup> March, 2005)



National Commission for Backward Classes  
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7<sup>th</sup> June, 2005







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## Chapter I

### Introduction

#### Landmark Judgement

The Supreme Court of India in its landmark judgement dated 16.11.1992 (Judgement Writ Petition (Civil) No.930 of 1990 – Indira Sawhney and Others Vs Union of India and Others) directed the Government of India, State Governments and Administrations of Union Territories to constitute a permanent body in the nature of Commission or Tribunal for entertaining, examining and making recommendations upon requests for inclusion and complaints of over-inclusion and under inclusion in the list of OBCs (*Annexure-I*). Government of India was also directed to specify the basis for applying the relevant and requisite socio-economic criteria to exclude socially advanced persons/sections (creamy layer) from other backward classes so that this would become a means of ensuring flow of the benefits of reservation to the really needy people.

In pursuance of the direction of the Supreme Court, the Government of India enacted the National Commission for Backward Classes Act, 1993 (Act No.27 of 1993) (*Annexure-II*), for setting up a National Commission for Backward Classes at the Centre. 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 Act came into effect on the 2<sup>nd</sup> April 1993. The Government of India constituted the Commission by its Notification No.12011/34/BCC(C)/Pt. I dated 14<sup>th</sup> August 1993 with the first team of five Members with a tenure of three years.

#### National Commission for Backward Classes

In pursuance of the direction of the Supreme Court, the National Commission for Backward Classes Act, 1993 (Act No.27 of 1993) was enacted by Parliament and the National Commission for Backward Classes was set up by the Govt. of India. Section 9(1) of the Act provides that it shall “examine the 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. Section 9(2) of the Act further provides that the advice of the Commission shall ordinarily be binding upon the Central Government. Section 11 of the Act also provides for periodic revision of lists by the Central Government 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 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 subsection (1), consult the Commission.

The NCBC, after studying the criteria/indicators framed by the Mandal Commission and the Commission set up in the past by different State Governments and other relevant materials formulated the guidelines for considering requests for inclusion in the list of Other Backward Classes.

### **Creamy Layer**

In the context of Supreme Court's direction regarding exclusion of socially advanced persons/sections from OBCs, the Govt. of India constituted an expert committee headed by Justice R.N. Prasad (Retd.) and three other members comprising a social scientist and two officers with wide administrative experience, to determine the criteria for identification of the socially advanced persons/sections (creamy layer) for exclusion of 'Creamy Layer' from OBCs. The Committee submitted its report on March 10, 1993 and the same was accepted by the Government of India. The Committee defined the 'creamy layer' as when a person has been able to shed off the attributes of social and educational backwardness and has secured employment or has engaged himself in some trade/profession of high status and at which stage he is normally no longer in need of reservation.

Reservation of posts for Backward Classes in the services of Government of India took effect from the 8<sup>th</sup> September 1993 when the Department of Personnel & Training issued its Office Memorandum No.36012/22/93-Estt.(SCT), dated 8<sup>th</sup> September 1993 (*Annexure-IV*), the Resolution No.12011/68/93-BCC (C), the then Ministry of Welfare dated 10<sup>th</sup> September, 1993 and the Resolution No.12011/9/94-BCC, the Ministry of Welfare dated 19<sup>th</sup> October, 1994 set the stage for the operationalisation of the O.M. of 13<sup>th</sup> August 1990 (*Annexure-III*). The O.M. dated 8<sup>th</sup> September 1993 incorporated the rule of exclusion of socially advanced persons/sections 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 Office Memorandum of 13<sup>th</sup> August 1990.

### **Review of Income Criteria**

The Government of India, Ministry of Social Justice & Empowerment, vide Office Order No.12011/6/97-BCC dated 6<sup>th</sup> October, 2003, entrusted the task of review of the income criteria to this Commission. The Commission was also asked to give suggestions / recommendations on some other issues relating to the creamy layer criteria.

The Commission on 23<sup>rd</sup> January 2004 submitted its "*Report on the Review of Income Criteria for Exclusion of 'Socially Advanced Persons/Sections' (Creamy Layer) among Other Backward Classes from the benefit of 27% Reservation in the Posts and Services under Government of India*" to the Govt.

*Government of India accepted the recommendations of the Commission and vide O.M. No.36033/3/2004-Estt.(Res.) dated 09<sup>th</sup> March 2004 raised the income limit from Rs.1 lakh to Rs.2.5 lakh for determining the creamy layer amongst the OBCs (Annexure-V).*

The Commission was also asked to give suggestions/recommendations on some other issues relating to the creamy layer criteria. The terms of reference given to the Commission are as follows:-



- (1) To review the existing ceiling of income/wealth to determine the 'Creamy Layer' amongst OBCs as notified vide Department of Personnel & Training (DOPT) OM No. 36012/22/93-Estt (SCT) dated 8<sup>th</sup> September 1993.
- (2) To evolve and suggest formulae through which the periodic revision of income ceiling/criteria in terms of quantum or rupee be fixed so that the income ceiling for determining the 'Creamy Layer' amongst OBCs is revised from time to time as per the formulae.
- (3) Also to consider and advise the Government on the following:-
  - (a) Whether the 'Creamy Layer' criteria will apply only to sons/daughters of the persons mentioned in the respective categories, such as, the service category or also to the persons themselves;
  - (b) Whether the rule of exclusion will apply where the income from salaries alone or from agricultural land alone, exceeds the prescribed limit or the income ceiling will apply to the consolidated income from both.
  - (c) The committee may also examine as to how income from sources other than salary or agricultural land is to be dealt with;
  - (d) Evaluation of posts equivalent or comparable in the public sector undertakings, banks, insurance organizations, universities or comparable posts and positions under private employment for the purpose of application of the criteria enumerated in category II-A and II-B.
  - (e) Presently, if any person in categories I, II, III and V-A, who is not ineligible to receive the benefit of reservation has income from other sources of wealth (without clubbing his income from salary or agricultural land) which will bring him within the criteria under item VI, then he shall be ineligible for reservation. In this context, it may be examined whether, irrespective of the post, service, employment, profession, trade, industry, etc., if the income of a parent or the combined income of parents exceeds the limits specified under category VI, the rule of exclusion be applied.

The Commission has since submitted its report in respect of the above terms of reference on 17<sup>th</sup> August, 2004 to the Government.



## Chapter II

### Functions 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 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". The term "list" in this 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/Union Territories to constitute a permanent body, in the shape of a National Commission for Backward Classes and the State Commissions 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-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 thereafter every succeeding period of ten years, and enables it to undertake such revision at any time, 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. Under sub-section (2) of this Section, the Central Government is required to consult the Commission while under-taking such revision. 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 Commission 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 procedure laid down by the Commission under Sub-Section (2) of Section (8) of the National Commission for Backward Classes Act, 1993 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) of the Act, the Commission has been guided by the principles of objectivity, transparency and speed. In fact soon after the Commission was established, it took the following steps under Section 8(2) of the National Commission for Backward Classes Act, 1993 :-

- (i) Formulated the procedure for examination of requests for inclusion in the lists and complaints of over-inclusion or under-inclusion in the Central list of Backward Classes. (*Annexure-VI*)
- (ii) Formulated guidelines for consideration of requests for inclusion and complaints of under-inclusion in the Central list.
- (iii) Prepared questionnaire for obtaining data in respect of requests for inclusion of castes/communities.

The Commission has been making additions and improvements to this procedure from time to time, based on experience and according to needs.



### Chapter III

#### Composition of the Commission

In accordance with the directions of the Supreme Court, the Government of India enacted the National Commission for Backward Classes Act, 1993 (Act No.27 of 1993) on 2<sup>nd</sup> April 1993 for setting up the National Commission for Backward Classes at the Centre. Section 3 of the Act provides that the Commission shall consist of five Members, comprising 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. Every Member of the Commission shall hold office for a term of 3 years from the date he assumes office. The Govt. of India constituted the Commission by its Notification No.12011/34/BCC/Pt.I dated 14 August 1993. The details regarding the composition of the Commissions are as under:

**A. From 18.8.1993 to 17.8.1996**

- |                     |                            |
|---------------------|----------------------------|
| 1. Chairperson      | Justice (Retd.) R N Prasad |
| 2. Member-Secretary | Shri P S Krishnan          |
| 3. Member           | Dr. Dhirubhai L Seth       |
| 4. Member           | Dr. Dinesh Singh Yadav     |
| 5. Member           | Dr. Prasannan              |

(All the above members completed their 3-year tenure)

**B. From 28.2.1997 to 27.2.2000**

- |                     |   |
|---------------------|---|
| 1. Chairperson      | Justice (Retd.) Shyam Sunder  |
| 2. Member-Secretary | Shri P S Krishnan   |
| 3. Member           | Shri Akshay Bhai Sahu   |
| 4. Member           | Prof. Uday Pratap Singh   |
| 5. Member           | Shri Navtej Singh Puadhi<br>(expired while in harness on 16.8.1998) |
| 6. Member           | Shri M S Matharoo<br>(joined on 14.7.1999)                          |

(While Members from sl. nos. 1-4 completed their 3-year tenure on 27.2.2000 Shri M S Matharoo continued till 13.7.2002 when he completed 3-year term)



**C. From 28.7.2000 onwards**

- |                     |  |
|---------------------|--|
| 1. Chairperson      | Justice (Retd.) B L Yadav<br>(died in harness on 24.3.2002)  |
| 2. Member-Secretary | Shri C T Benjamin<br>(6.4.2000 to 31.7.2000 as Secretary)<br>(1.8.2000 to 31.7.2003 as Member-Secretary) |
| 3. Member           | Shri M S Matharoo<br>(14.7.1999 to 13.7.2002)  |
| 4. Member           | Dr. B M Das<br>(28.08.2000 to 27.08.2003)  |
| 5. Member           | Smt. Neera Shastri<br>(August 2000 to August 2003)   |

**D. Existing**

- |                     |   |
|---------------------|---|
| 1. Chairperson      | Justice (Retd.) Ram Surat Singh<br>(13.8.2002 onwards)  |
| 2. Member-Secretary | Shri S.K. Purkayastha<br>(9.8.2004 onwards)<br><br>(Smt. Chitra Chopra<br>Secretary 04-8-2003 to 30-7-2004) |
| 3. Member           | Shri M S Matharoo<br>(19.8.2002 onwards)  |
| 4. Member           | Smt. Neera Shastri<br>(29.9.2003 onwards)   |
| 5. Member           | Dr. B. Babu Rao Verma<br>(6.10.2003 onwards)  |



## Chapter IV

### Work done by the Commission

#### I. Overview of the work done by the Commission since beginning

Since its inception, the Commission has tendered Advice in respect of 1153 castes/sub-castes/synonyms/Communities for inclusion of castes/communities/sub-castes/synonyms relating to Other Backward Classes in the Central List for various States and Union Territories from time to time to the Central Government in the Ministry of Social Justice & Empowerment. Of these, 700 cases were for inclusion in the Central Lists for different States/Union Territories and 453 cases were for rejection. Against 700 cases for inclusion of castes/sub-castes/synonyms/communities in the Central List, 675 have already been notified by the Central Government. Similarly, advice of the Commission for rejection in all 453 cases has been accepted by the Government.

A Statement showing the total number of castes / sub-castes / synonyms / communities in respect of which Advices tendered since inception, year-wise from August 1993-94 to March 2005 is as under:

Year	Number of castes/sub-castes/ synonyms/ communities in respect of which Advices tendered during the period
August, 1993-94 to 1994-95	161 (of which 129 were inclusions by correction of error in spelling, etc.)
1995-96	30 (3 inclusion by correction of error in spellings, etc.)
1996-97 (upto July, 1996)	33 upto period covered by the Annual Report for 1995-1996
1996-97 (early August 1996)	32
1997-98	216 Inclusion one case of addition of explanation in the List of BCs for Rajasthan.
1998-99	351 (including 5 by correction of error in spelling etc.)
1999-2000 (upto Feb.2000)	244 (including 1 by correction in spelling)
2000 - March 2001	13
2001 - 2002	22
2002 - 2003	21
2003 - 2004	10
2004 - 2005	20

#### II. Work done during April 2004 to March 2005

During the period under report (April 2004 - March 2005), requests for inclusion of 57 castes/sub-castes/communities in the Central List of Backward Classes were with the Commission. Of these requests received, advice in respect of 20 cases has already been sent to the Ministry of Social Justice & Empowerment and 37 cases are under consideration of the Commission.



A state-wise break-up of the number of requests for inclusion, pending as on 31.3.2005, is given in the statement at *Annexure-VII*.

Further, during this period the Commission held 12 public hearings for considering the requests for inclusion of castes/communities in the Central List from 10 States as per details indicated below.

**Public Hearings held during April 2004 – March 2005**

S.N.	State/UT	Date	Place	Castes/Communities
1.	Bihar	6&7-Oct-04	Patna	1. Bakho 2. Kurmi 3. Soyar 4. Thakurai (Muslim)
2.	Daman & Diu	19&20-Jan-05	Moti Daman	1. Tandel 2. Rana
3.	Delhi	11-Aug-04	Delhi	1. Jat
4.	Karnataka	11&12-Oct-04	Bangalore	1. Aryakshatriya and Sarige as synonym of Somavamsha Aryakshatriya 2. Hindu Sadaru 3. Shivachara Nagartha
5.	Maharashtra	5-Jul-04	Mumbai	1. Kurmi as a sub-caste of Kunbi 2. Yellam/Yelam
6.	Orissa	23&24-Sep-04	Bhubaneshwar	1. Asini Patara/Aswini & Ashwini Patra 2. Rangini Hansi as a synonym of Hansi/Tanti 3. Tamuli 4. Koppala Velama & its spelling variants Complete UT and Central Lists were considered.
7.	Pondicherry	1-3 Jun-04 9-10 Sep-04 6-8 Dec-04	Pondicherry	
8.	Punjab	11-Mar-05	Amritsar	1. Yadav/Ahir
9.	Rajasthan	17&18-Feb-05	Jaipur	1. Ramgarhia as synonym of Khathi Tarkhan 2. Kurmi 3. Pujari (Sewak) 4. Kayam-Khani
10.	Uttar Pradesh	16-17 Dec-04	Lucknow	1. Barai & Chaurasia 2. Kurmi-Sainthwar 3. Katua 4. Sawant 5. Tonk Kshatriya 6. Unai Sahu



During the period under report, the Commission tendered advice in respect of 39 castes/ sub-castes/ communities/ synonyms to the Central Government as per the details given below:

**Advices tendered to Government of India during 2004-05**

S.No.	State/UT	Advice No.	Date	Name of the caste / community / sub-caste / synonym
1	2	3	4	5
1.	Andhra Pradesh	A.P./71/2004	15.10.2004	Mehtar (Muslim)
2.	Bihar	Bihar/36/2004	06.01.2005	Deletion of 'Mahto' from 'Kurmi (Mahto)'
3.	Bihar	Bihar/37/2004	06.01.2005	Bakho (Muslim)
4.	Bihar	Bihar/38/2004	06.01.2005	Thakurai (Muslim)
5.	Daman & Diu	1/Daman&Diu/2005	10.03.2005	Rana
6.	Goa	19/Goa/2004	23.08.2004	Bhandari Naik
7.	Karnataka	115/2004/Karnataka	26.10.2004	Kunchitiga
8.	Karnataka	116/Karnataka/2004	06.01.2005	Aryakshatriya and Sarige as synonym of Somavamsha Aryakshatriya
9.	Karnataka	117/Karnataka/2004	06.01.2005	Hindu Sadaru
10.	Karnataka	118/Karnataka/2004	06.01.2005	Shivachara Nagarcha
11.	Maharashtra	Maharashtra/36/2004	06.09.2004	Kurmi as synonym of Kunbi
12.	Maharashtra	Maharashtra/37/2004	06.09.2004	Yellam/Yelam
13.	Orissa	Orissa/90/2004	06.01.2005	Asini Patara/Aswini & Ashwini Patara as sub-castes of Patara
14.	Orissa	Orissa/91/2004	06.01.2005	Rangini Hansi as synonym of Hansi/Tanti
15.	Orissa	Orissa/92/2004	06.01.2005	Koppala Velama & others as spelling variants of Koppula Vellama
16.	Orissa	Orissa/93/2004	06.01.2005	Tamuli
17.	Pondicherry	Pondicherry/90/2004	17.12.2004	Chakkali Chattadi (Chattada or Srivaishnava) Irular Isai Vellalar or Melakalar Kammalar (Kamsali, Viswav-Brahman and Viswa Karma, Kauruvaw) Kosavans, Kuyavar Kulela, Kulalar, Kummari



1	2	3	4	5
				Kumbarar Lubhai Nayee Brahmin/ Mangali Muthirayar/ Muthiriyar Nainar Narikuravar Nokkar Padayatchi Pandithar (Anpattan, Pronopakari and Nasivan) Ravuthar Tiyya, Elhura, Thiyyas Vanniakula Kshatriya including Vanniar or Vanniyar Gounder, Kondar or Vannia Gounder and Vannikandar (other than Vella Gounder belonging to Vanni Vanniyakula Kshatriya Caste) Vettaikarar
18.	Uttar Pradesh	U.P.-92/2005	06.01.2005	Barai and Chaurasia as synonyms of Tamoli
19.	Uttar Pradesh	U.P.-93/2005	06.01.2005	Kurmi-Sainthwar/Kurmi-Mall as sub-caste of Kurmi
20.	Uttar Pradesh	U.P.-94/2005	06.01.2005	Unai Sahu

Of these 20 advices, 15 were for inclusion in the Central List and 2 were for rejection. Besides these, 3 advices tendered were for spelling correction/amendment in respect of 22 castes / communities in 3 States/UT, as per details given below :-

Sl. No.	State/UT	Advices Tendered	Inclusion	Rejection	Spelling Correction/ Amendment
1.	Andhra Pradesh	1	0	0	1
2.	Bihar	3	2	0	1
3.	Daman & Diu	1	1	0	0
4.	Goa	1	1	0	0
5.	Karnataka	4	2	2	0
6.	Maharashtra	2	2	0	0
7.	Orissa	4	4	0	0
8.	Pondicherry	1	0	0	20
9.	Uttar Pradesh	3	3	0	0
<b>Total</b>		<b>20</b>	<b>15</b>	<b>2</b>	<b>22</b>



## Chapter V

### Recommendations and Suggestions

Since inception, the Commission has given various suggestions and recommendations in several of its Annual Reports, regarding measures to be taken by the Central and the State Governments, for the overall social, educational and economic development of the backward classes.

The Commission 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. The Commission does not propose to repeat here all the various recommendations and suggestions made. 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 undertaking the tasks ahead. There is also the important task arising out of Section 11 of the National Commission for Backward Classes Act, viz. the revision of the Central lists, which is a massive exercise. In carrying out such tasks, the Government and the Commission will feel severely handicapped in the absence of regular flow of relevant data/information regarding castes/communities.

In view of the above position, the Commission would like to reiterate some of the important recommendations/suggestions which have been made in the earlier annual reports and which need to be acted upon by the Central as well as the State Governments:-

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

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 Central/State Governments and Union Territory Administrations. 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. So far none of the States have been able to furnish to this Commission, adequate and relevant data in respect of castes/communities included in the respective Central Lists for these States. It is necessary for this purpose that a Special Cell is 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.

#### **2. Collection of caste-wise/community-wise population data 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 for them. 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. 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.

### **3. Educational Facilities**

Although the Government have provided reservation of 27% in jobs in Central Services, but no orders have been issued providing reservations to OBCs in admission to the Central Educational Institutions and Universities etc. The Commission has requested the Government on more than one occasion to issue necessary orders providing 27% reservation to B.C. students in Central Educational Institutions including all IITs & other professional colleges, Indian Institute of Management and National Universities. Several States are providing reservation in the State Educational Institutional and Universities but Central Government has yet to issue orders for reservation in admission to OBC students in Central Educational Institutions and also implementation of rule of reservation in teaching staff of the Universities as it is now observed in non teaching staff only. Such a measure will not only help BC students to have the benefit of premium institutions and universities under the control of the Central Government, but also will go a long way towards the educational empowerment of the B.Cs.

#### **Amendment to Act:**

It may be pointed out that mere inclusion of castes/communities in the Central lists of backward classes and the periodic revision of such lists are not enough to achieve, in a reasonable time-frame, the Constitutional goal of improving the condition and status of backward classes and eradicating their backwardness. This will be possible only if concerted efforts are made by the Government to tackle their problem of backwardness, not only by reservation but also by other affirmative actions for social, educational and economic progress of backward classes, supported by a proper mechanism at the national level to ensure proper implementation of these measures and to evaluate their impact on the empowerment of backward classes.

The Commission is of the view that apart from the task of inclusion and exclusion of castes/communities in the Central lists and periodic revision of lists, the Commission has also to be entrusted with the tasks of advising the Government on welfare and developmental schemes and programmes required to be evolved for the backward classes and monitoring the implementation of such schemes and programmes and the rule of reservation.

The NCBC is in a position to undertake this task on behalf of the Government of India and in the larger national interest. In view of this, the Commission has suggested suitable amendments in the Act to empower the Commission to guide and monitor the progress of social, educational and economic development of backward classes and also the rule of reservation etc. in the interest of backward classes.

Under Clause (10) of Article 338 of the Constitution, the National Commission for Scheduled Castes and Scheduled Tribes are entrusted for guiding the progress and development and grievances of backward classes also. But it is understood that the SC Commission is overburdened with the



problems of SCs and therefore it does not have either time or resources to look into the problems of backward classes. Since the National Commission for Backward Classes has come into existence in 1993 it is appropriate if these functions and powers are entrusted to this Commission, which is the only body at national level, by suitably amending the Act.

In view of the foregoing circumstances, it is the considered view of the Commission that **constitutional status be accorded to the National Commission for Backward Classes along with the functions of guiding and monitoring the progress of social, educational and economic development of backward classes and redressal of their genuine grievances and violation of rights and concessions so graciously provided by the Government in the overall interest of Backward Classes.**

There is need to create awakening among the backward classes through various media about the several educational facilities, economic development and other programmes undertaken by the Central Government for empowerment of Backward Classes.

#### **4. Issue of Certificate – Proper implementation of the latest orders by the Issuing Authorities.**

During the visits of Benches of the Commission to various States/UTs, it came to the notice of the Members that the notifications regarding amendment/addition in castes/communities in the lists, latest creamy layer criteria enhancing the limit, etc. are not available, with the issuing authorities in the State. The members of the OBC community have been put to difficulty. The issuing authorities insist that until and unless they receive through the State Government the latest orders issued by the Govt. of India, they are not in a position to issue certificates as per the latest orders produced by the members of the OBC community. It was also brought to the notice of the Commission, that even though there are orders that the people migrated from their native place to other States/UTs can apply for the OBC certificate from the State/UT where they are presently residing, the certificates are not being issued. In terms of DOPT letter No.36012/22/93-Estt.(SCT) dated 15<sup>th</sup> November, 1993, it is clarified that authorities of the State/UT Admn. may issue the OBC Certificate to a person who has migrated from another State on the production of a genuine certificate issued to his father by the prescribed authority of the State of his father's origin, except where the prescribed authority feels that a detailed enquiry is necessary through the State of origin, before the issue of such certificate. Even though Govt. of India has been circulating the latest Orders to the State Govt. etc., the same does not seem to reach down below to the competent authorities.



**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



**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 a 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



**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.



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<sup>1</sup> and 25<sup>th</sup> September, 1991<sup>2</sup>, 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.

<sup>1</sup> Annexure-III

<sup>2</sup> Appendix 2 to Annexure-IV



## Appendix 1 to Annexure IV

### PERSONS/SECTIONS EXCLUDED FROM RESERVATION

[Schedule TO G.I., Dept. of Per. & 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, IMF, World Bank, etc., for a period of not less than 5 years;</li> </ul> <p>Provided that the rule of exclusion shall not apply in the following cases :-</p> <ul style="list-style-type: none"> <li>(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;</li> <li>(b) A lady belonging to OBC category has got married to a Class I officer, and may herself like to apply for a job.</li> </ul>



Description of category	To whom rule of exclusion will apply
B. Group 'B'/Class II officers of The Central and State Services (Direct Recruitment)	<p data-bbox="805 249 1154 281">Son(s) and daughter(s) of ---</p> <p data-bbox="756 291 1317 323">(a) parents both of whom are Class II officers;</p> <p data-bbox="756 369 1390 443">(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;</p> <p data-bbox="756 464 1390 684">(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;</p> <p data-bbox="756 705 1390 810">(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</p> <p data-bbox="756 831 1390 978">(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;</p> <p data-bbox="805 999 1390 1073">Provided that the rule of exclusion shall not apply in the following cases :-</p> <p data-bbox="805 1094 1097 1125">Sons and daughters of—</p> <p data-bbox="756 1146 1390 1220">(a) Parents both of whom are Class II officers and one of them dies or suffers permanent incapacitation;</p> <p data-bbox="805 1241 1097 1272">Sons and daughters of —</p> <p data-bbox="756 1293 1390 1545">(b) 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.</p>
C. Employees in Public Sector	<p>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.</p>



Description of category	To whom rule of exclusion will apply
III. Armed forces including Paramilitary Forces (Persons holding civil posts are not included).	<p>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;</p> <p>Provided that —</p> <ul style="list-style-type: none"> <li>(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;</li> <li>(ii) the service ranks below Colonel of husband and wife shall not be clubbed together;</li> <li>(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.</li> </ul>
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.	Criteria specified against Category VI will apply.
(ii) Persons engaged in trade, business and industry.	Criteria specified against Category VI will apply.
	EXPLANATION —
	<ul style="list-style-type: none"> <li>(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.</li> <li>(ii) If the wife is in any profession and the husband is in employment in a Class II or</li> </ul>



Description of category	To whom rule of exclusion will apply
V. Property owners	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.
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 un- irrigated 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. Planatations	Criteria of income/wealth specified in Category VI below will apply.
(i) Coffee, tea, rubber, etc.	Deemed as agricultural holding and plantations, etc. hence criteria at A above under this category will apply. Criteria specified in Category VI below will apply.
(ii) Mango, citrus, apple	



Description of category	To whom rule of exclusion will apply
C. Vacant land and/or buildings in urban areas or urban aggro-	Explanation : Building may be used for residential, industrial or commercial purpose and the like two or more such purposes.
VI. Income/Wealth Test	<p data-bbox="846 447 1159 489">Son(s) and daughter(s) —</p> <p data-bbox="805 495 1395 684">(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.</p> <p data-bbox="805 705 1395 894">(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.</p> <p data-bbox="846 909 1101 951">EXPLANATION :-</p> <p data-bbox="813 961 1395 1035">(i) Income from salaries or agri- cultural land shall not be clubbed;</p> <p data-bbox="805 1056 1395 1245">(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.</p> <p data-bbox="846 1260 1395 1404">EXPLANATION : Wherever the expression “permanent incapacitation” occur in this schedule, it shall mean incapacitation which results in putting an officer out of service.</p>



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.
3. The OM of even number, dated the 13<sup>th</sup> August, 1990, shall be deemed to have been amended to the extent specified above.



No.36033/3/2004-Estt(Res)

**Government of India**  
**Ministry of Personnel, Public Grievances and Pensions**  
**Department of Personnel and Training**

North Block, New Delhi.

Dated: 9<sup>th</sup> March, 2004.**OFFICE MEMORANDUM**

**Subject: Revision of Income Criteria to exclude socially advanced persons/sections (Creamy Layer) from the purview of reservation for Other Backward Classes (OBCs).**

The undersigned is directed to invite attention to this Department's O.M. No. 36012/22/93-Estt.(SCT) dated 8<sup>th</sup> September, 1993 which inter alia provides that sons and daughters of persons having gross annual income of Rs. 1 lakh or above for a period of three consecutive years fall within the creamy layer and are not entitled to get the benefit of reservation available to the Other Backward Classes. It has been decided to raise the income limit from Rs.1 lakh to Rs. 2.5 lakh for determining the creamy layer amongst the OBCs. Accordingly the following entry is hereby substituted for the existing entry against Category VI in the Schedule to the above referred O.M:

Category	Description of category	To whom rule of exclusion will apply
VI	INCOME/WEALTH TEST	<p>Son(s) and daughter(s) of</p> <p>(a) Persons having gross annual income of Rs. 2.5 lakh or above or possessing wealth above the exemption limit as prescribed in the Wealth Tax Act for a period of three consecutive years.</p> <p>(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 or wealth which will bring them within the income/wealth criteria mentioned in (a) above.</p> <p><u>Explanation:</u></p> <p>Income from salaries or agricultural land shall not be clubbed.</p>

2. The provisions of this Office Memorandum take effect from the 4<sup>th</sup> February, 2004.



3. All the Ministries/Departments are requested to bring the contents of this Office Memorandum to the notice of all concerned.

Sd/-

(K.G. Verma)

Deputy Secretary to the Government of India

Tele: 23092797

To

1. All the Ministries/Departments of the Government of India.
2. Department of Economic Affairs (Banking Division), New Delhi.
3. Department of Economic Affairs (Insurance Division), New Delhi.
4. Department of Public Enterprises, New Delhi.
5. Railway Board.
6. Union Public Service Commission/Supreme Court of India/Election Commission/ Lok Sabha Secretariat/Rajya Sabha Secretariat/Cabinet Secretariat/Central Vigilance Commission/President's Secretariat/Prime Minister's Office/Planning Commission
7. Staff Selection Commission, CGO Complex, Lodi Road, New Delhi.
8. Ministry of Social Justice and Empowerment, Shastri Bhavan, New Delhi.
9. National Commission for SCs and STs, Lok Nayak Bhavan, New Delhi.
10. National Commission for Backward Classes, Trikot-I, Bhikaiji Cama Place, R.K. Puram, New Delhi.
11. Office of the Comptroller and Auditor General of India, 10, Bahadurshah Zafar Marg, New Delhi - 110002.
12. Information and Facilitation Centre, DOPT, North Block, New Delhi (100 copies).
13. Spare Copies - 400



## 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**

- (i) The members may undertake tours of States in the light of the works 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.

## **V. Staff Car**

- (i) For use of staff car, each Member is allowed upto 600 litres of petrol per quarter including official & non-official purposes.
- (ii) Keeping in view the exigencies of work, until a staff car is made available for office, the Joint Secretary / Deputy Secretary may take car on hire on daily basis.



**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)**

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.....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-terminus, 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.