

Annual Report

2008-2009

1st April, 2008 to 31st March 2009



सत्यमेव जयते

National Commission for Backward Classes
Trikoot-I., Bhikaiji Cama Place,
New Delhi-110066

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Chapter - I

Introduction

The Supreme Court of India in its landmark judgement, in Writ Petition (Civil) No.930 of 1990 *Indira Sawhney and Others Vs Union of India and Others* dated 16.11.1992 (Annexure-I) 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. 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.

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 the National Commission for Backward Classes (NCBC) 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 2nd April 1993. The Government of India constituted the Commission by its Notification No.12011/34/BCC(C)/Pt. I dated 14th August 1993 with the first team of five Members with tenure of three years.

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 Commissions set up in the past by different State Governments and other relevant materials, formulated guidelines for considering requests for inclusions 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 (Annexure-III). 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 8th September 1993 when the Department of Personnel & Training issued its Office Memorandum No.36012/22/93-Estt.(SCT), dated 8th September 1993 (Annexure-IV), the Resolution No.12011/68/93-BCC (C), the then Ministry of Welfare dated 10th September, 1993 and the Resolution No.12011/9/94-BCC, the Ministry of Welfare dated 19th October, 1994 set the stage for the operationalisation of the O.M. of 13th August 1990 (Annexure-V). The O.M. dated 8th 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 13th August 1990 (Annexure-V).

Review of Income Criteria

The first review of the income criteria to exclude socially advanced persons/sections among OBCs was entrusted to the NCBC on 6th December, 2003. The Commission submitted its report on 23rd January, 2004 and recommended that the income limit to determine the socially advanced persons/sections among OBCs be raised from Rs. 1 lakh to Rs. 2.5 lakhs. The recommendation contained in the Report were accepted by the Government along with the recommendation that the task of future Periodic Review of the Income criteria should be taken up every three years or earlier, if the situation demands. The Government of India notified the above vide DOP&T O.M.No. 36033/3/2004 Estt.(Res.) dated 9th March, 2004, raising the income limit to Rs. 2.5 lakhs.

Having regard to the fact that the period of three years have since elapsed from the date of issue of O. M. dated 9th March, 2004, raising the income limit to Rs. 2.5 lakhs, the Government of India, the Ministry of Social Justice & Empowerment, vide Office Order No. 12015/13/2007-BCC dated December, 2007, have entrusted the task of review of the income criteria to this Commission. The Commission has also been 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:-

(I) 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 8th September 1993.

(II) 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.

(III) 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 also received hundreds of representations requesting to review and enhance the existing Rs.2.5 lakhs. Many of the representationists also sought the removal of creamy layer criteria, on the ground that the same is not applied to the Scheduled Castes and Scheduled Tribes and that the Backward Classes have not reached the level of creamy layer, as the Central recognition to the list and reservations came into operation after 46 years of independence. There have also been suggestions for simplification of the existing order and avoid ambiguities and anomalies, causing hardship to the Backward Class candidates, who are made to run from pillar to post for securing caste and income certificates. The need for raising the income limit of Rs 2.5 lakh was also expressed by the public during the visit of the Commission to various States/Uts for the Public Hearings.

In view of the very short period given to the Commission for giving its suggestions/recommendations, the Commission issued Public Notices through leading national and regional newspapers throughout the country seeking views and suggestions of the general public in the matter, especially those of the Backward Classes and their associations and organizations. The Commission also sought the views and suggestions from

the State Governments and Union Territories by separately writing to the respective Chief Secretaries/Secretaries in charge of Backward Classes Welfare Ministries/Departments. The Commission also addressed the State Backward Classes Commissions and the Commissions or Committees in the Union Territories seeking their valuable views in the matter and forward any report compiled by them in this regard.

In response to the public notice, a large number of representations were received from individuals, associations and organizations from backward communities. Many of the views expressed were on specific aspects relating to enhancing the income limit (Creamy Layer) and others relating to simplification, anomalies and ambiguities in the existing Creamy Layer criteria. There have been demands from the public, especially from the members and associations/organization of Backward Classes to raise the income limit of Rs. 2.5 lakh to a reasonable level taking into account devaluation of rupee and increase in the overall price index, GDP, pay revision etc.

The Commission organised a meeting of Chairpersons of States/UT Backward Classes and Secretaries in Charge of the Backward Classes of State/UTs on 11th June, 2008, to gather their views and suggestions regarding review of income criteria. After receiving all the informations, data and interacting with the Government agencies/Departments concerned, the Commission had examined in detail and finalised the report and submitted it to the Government on 01st July, 2008.

The recommendation contained in the Report were accepted by the Government of India and notified the above vide DOP&T O.M.No. 36033/3/2004-Estt.(Res.) dated 14th October, 2008 raising the income limit to Rs. 4.5 lakhs (Annexure-VI).

Visit of Nepali Delegation (Backward Class Commission of Nepal)

A delegation consisting of Hon'ble Chairman, Members and officials of Backward Class Commission, Nepal visited the Commission on 15th January, 2009 and had discussions on rules, regulations, procedures adopted by National Commission for Backward Classes and its functions.



Nepali delegation being received by Hon'ble Chairman, Member-Secretary and officials.



Felicitation of Nepali delegation by Hon'ble Chairman, NCBC



Meeting with visiting delegation

Backward Classes Commissions

The First Backward Class Commission (Kaka Kalelkar Commission)

The First Backward Class Commission was set up by a Presidential Order under Article 340 of the Constitution of India on Jan 29th, 1953, under the Chairmanship of Shri Kaka Kalelkar (popularly known as Kaka Kalelkar Commission). It submitted its report on March 30th, 1955. In its report, it prepared a list of 2399 backward castes or communities for the entire country and 837 of these were classified as 'Most Backward'. The Report was not implemented by the Government.

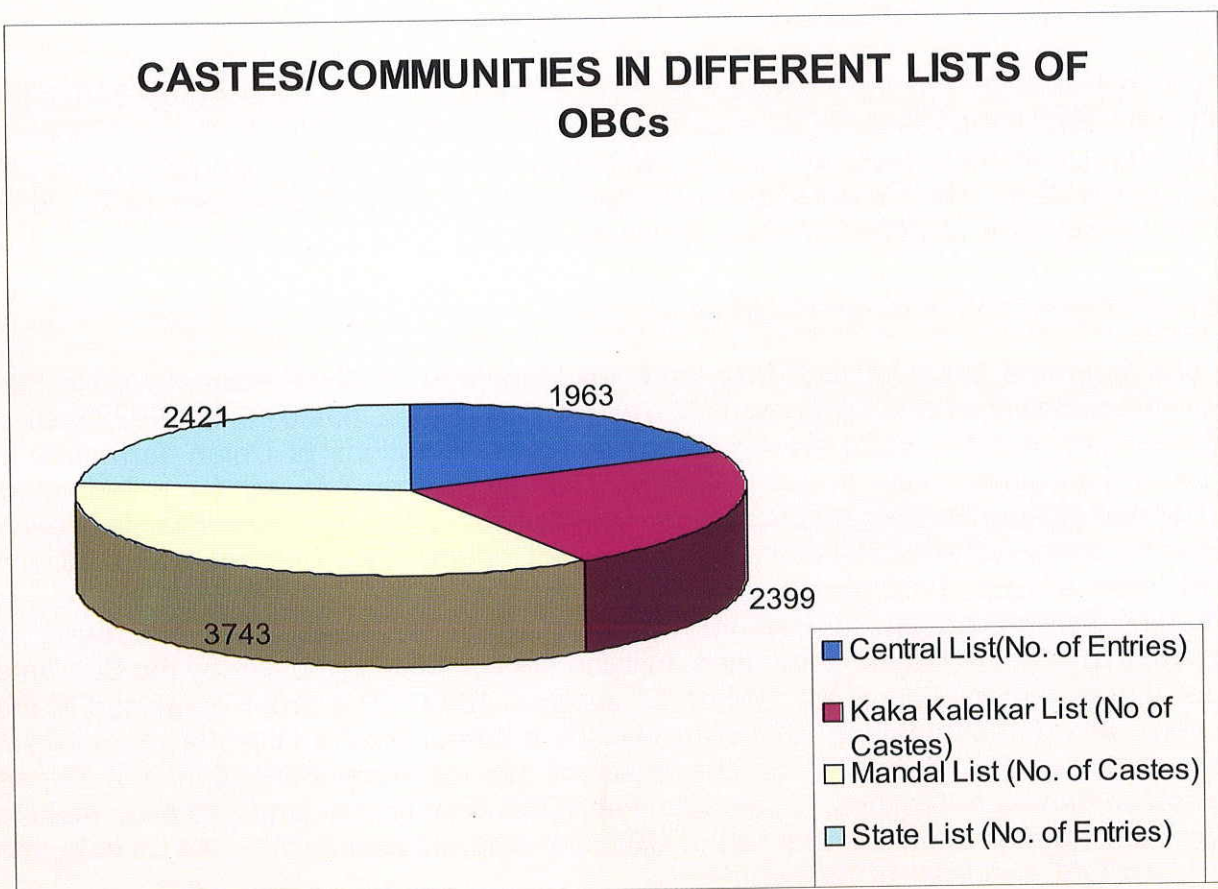
The Second Backward Class Commission (Mandal Commission)

By an order made by the President of India, in the year 1979, under Article 340 of the Constitution a Backward Classes Commission was appointed to investigate the conditions of socially and educationally backward classes within the territory of India, popularly known as Mandal Commission. The Commission submitted its report on 31st December, 1980. In its report, the Commission identified 3743 castes/communities.

National Commission for Backward Classes

The Supreme Court of India in its landmark judgement, in Writ Petition (Civil) No. 930 of 1990 – Indira Sawhney and Others vs Union of India and Others dated 16.11.1992 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. The Department of Personnel and Training vide OM dated 8th Sep, 1993 also incorporated in the OM of 13th August, 1990 the rule of exclusion of Socially Advanced Persons / Sections from reservation, on the basis of recommendations of the Expert Committee, fulfilling the condition laid down by the Supreme Court for the implementation of the OM of 13th August, 1990. The order contained in the Resolution dated 10th September, 1993 of the Ministry of Welfare notified the first phase lists of Backward Classes for 14 States, on the basis of the recommendations of the Expert Committee on Backward Classes. Thereafter, the NCBC from time to time had been making inclusion / amendment in the Central List of OBCs for different States/UTs. As on date, the Central List of OBCs consists of 1963 entries.

A graphical representation of the number of entries/caste-communities identified by the above three Commissions are as under:





Darzi Caste/Community



Weaver Caste/Community

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 in 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).

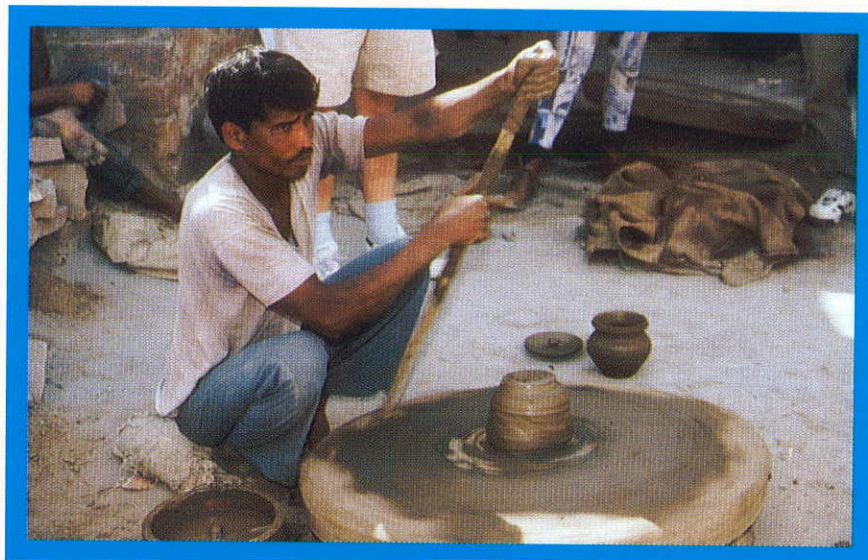
Section 11 of the Act enjoins upon the Central Government to undertake revision of the lists of backward classes at the expiration of ten years after the Act came into force and thereafter every succeeding period of ten years, and enables it to undertake such revision at any time, with a view to excluding 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 (Annexure-VII). 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.

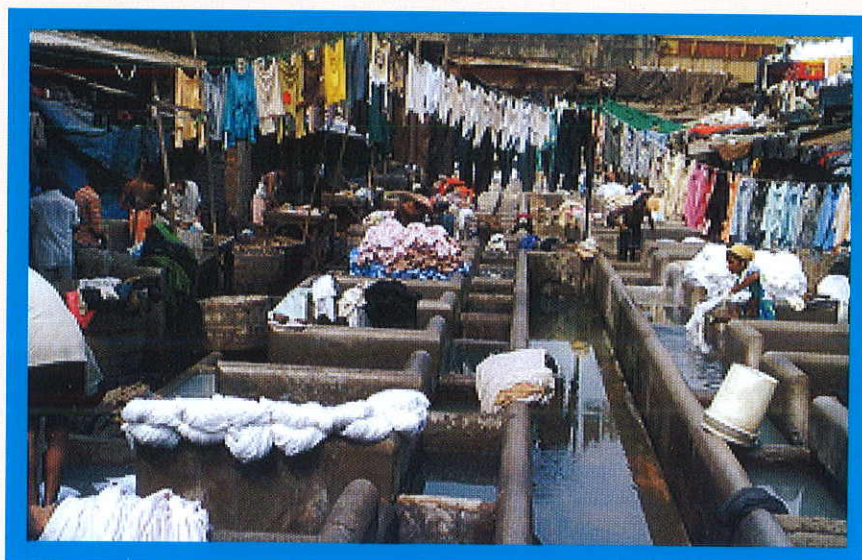
As per the procedure laid down by the Commission under Sub-Section (2) of Section (8) of the National Commission for Backward Classes Act, 1993 the advice of the Commission may be formulated unanimously or by consensus or by majority. Where there is no unanimity or consensus, the advice of the majority 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 NCBC 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.
- (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.



Kumhar Caste/Community



Dhobi Caste/Community

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 2nd 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 14th 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 (expired while in harness on 16.8.1998)
6.	Member	Shri M. S. Matharoo (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
(died in harness on 24.3.2002) |
| 2. | Member-Secretary | Shri C. T. Benjamin
(6.4.2000 to 31.7.2000 as Secretary)
(1.8.2000 to 31.7.2003 as Member Secretary) |
| 3. | Member | Shri M. S. Matharoo
(14.7.1999 to 13.7.2002) |
| 4. | Member | Dr. B. M. Das
(28.08.2000 to 27.08.2003) |
| 5. | Member | Smt. Neera Shastri
(03.9.2000 to 02.9.2003) |

D From 13-8-2002 to 12-8-2005

- | | | |
|----|------------------|---|
| 1. | Chairperson | Justice (Retd.) Ram Surat Singh
(13.8.2002 to 12-8-2005) |
| 2. | Member-Secretary | Shri S.K. Purkayastha
(9.8.2004 onwards)
Smt. Chitra Chopra
Secretary (04-8-2003 to 30-7-2004) |
| 3. | Member | Shri M. S. Matharoo
(19.8.2002 onwards) |
| 4. | Member | Smt. Neera Shastri
(29.9.2003 onwards) |
| 5. | Member | Dr. B. Babu Rao Verma
(6.10.2003 onwards) |

E From 13-8-2005 onwards

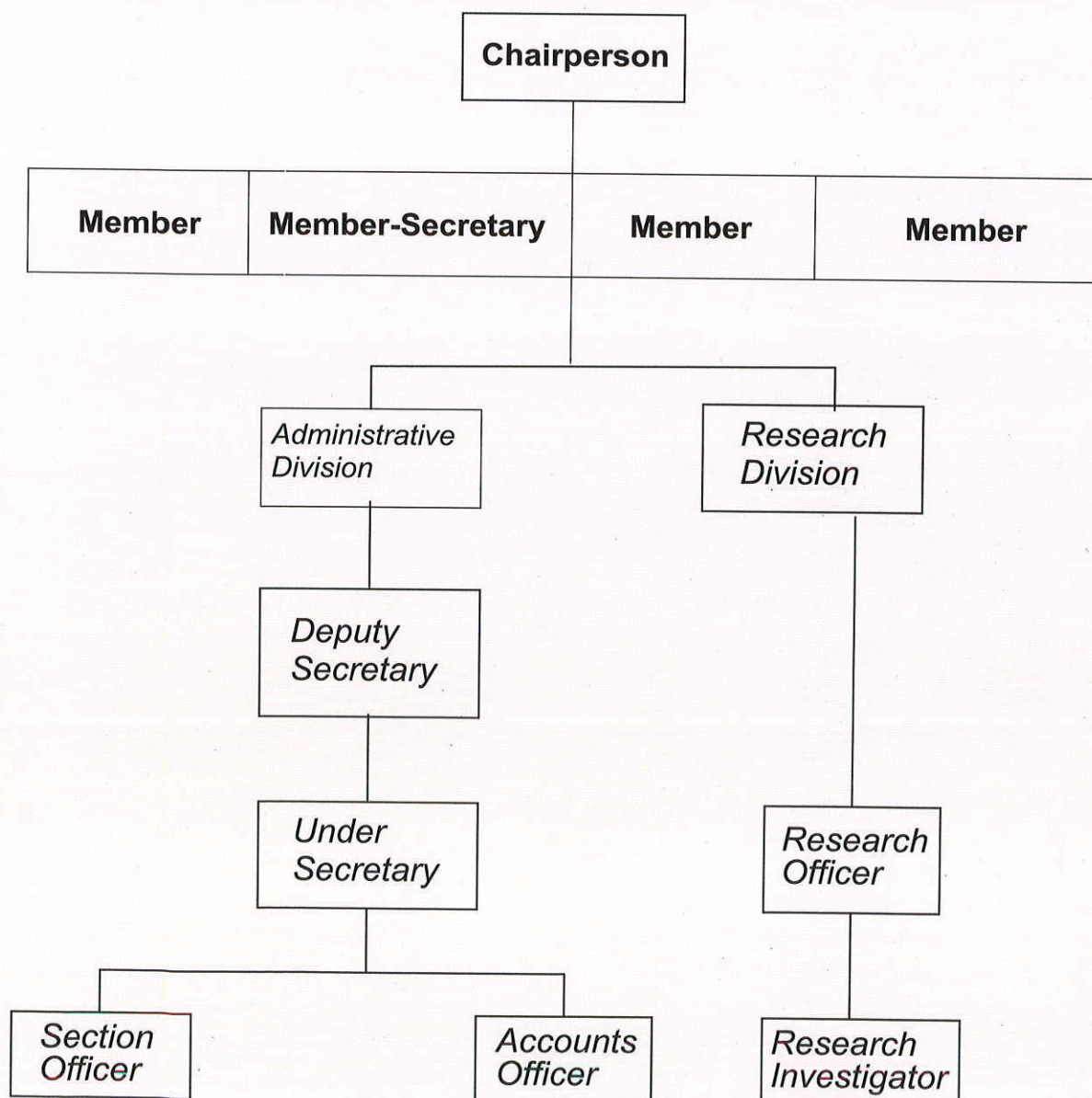
- | | | |
|----|------------------|--|
| 1. | Chairperson | Justice (Retd.) S. Ratnavel Pandian
(14.8.2006 onwards) |
| 2. | Member-Secretary | Shri S.K. Purkayastha (9.8.2004 to 8.8.2007)
Shri Lakshmi Chand
(18.08.2007 to 05.07.2008) |
| 3. | Member | Shri M. S. Matharoo
19.08.2002 to 18-8-2005
Shri. Yogeshwar Prasad Yogesh
(from 10.03.06 to 31.05.2007) |
| 4. | Member | Smt. Neera Shastri
(29.9.2000 to 28.9.2003) |
| 5. | Member | Dr. B. Babu Rao Verma
(6.10.2003 to 5.10.2006) |

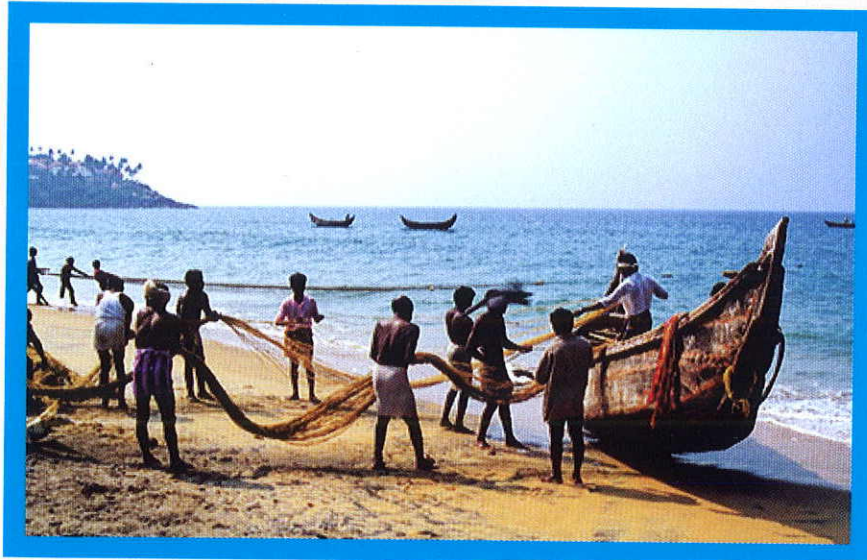
Note : * Shri Yogeshwar Prasad Yogesh died in harness on 31.05.2007.

F Existing

- | | | |
|----|------------------|---|
| 1. | Chairperson | Justice(Retd.)S.Ratnavel Pandian
(14.8.2006 onwards) |
| 2. | Member-Secretary | Smt. Chitra Chopra
(11.11.2008 onwards) |
| 3. | Member | Dr. Subbha Somu
(28.03.2007 onwards) |
| 4. | Member | Shri Ram Awadhesh Singh
(08.06.2007 onwards) |
| 5. | Member | Shri Abdul Ali Azizi
(15.10.2007 onwards) |

**ORGANIZATIONAL CHART OF NATIONAL COMMISSION
FOR BACKWARD CLASSES**





Fishermen Caste/Community



People of Mochi Caste/Community

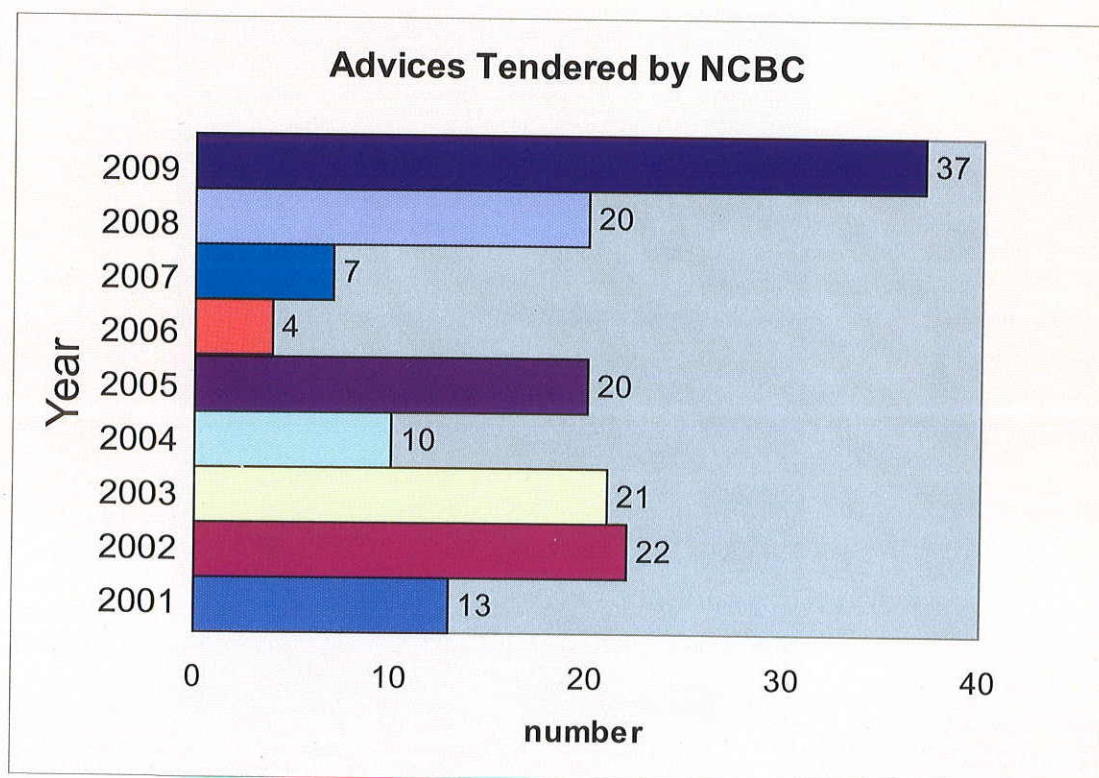
Chapter IV

Work done by the Commission

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

Since its inception, the Commission has tendered 1221 Advice in respect of cases of castes/communities/sub-castes/synonyms for inclusion/rejection of Other Backward Classes in the Central List for various States and Union Territories from time to time under section 9(1) of the NCBC Act, 1993 and for further necessary action by the Ministry of Social Justice & Empowerment under section 9(2) of the Act.

A graphical presentation showing the year-wise advice tendered to the Govt of India for inclusion/rejection of castes/communities in the Central List of OBCs for different States/Uts during the year 2000-01 to 2008-09 is as under:-



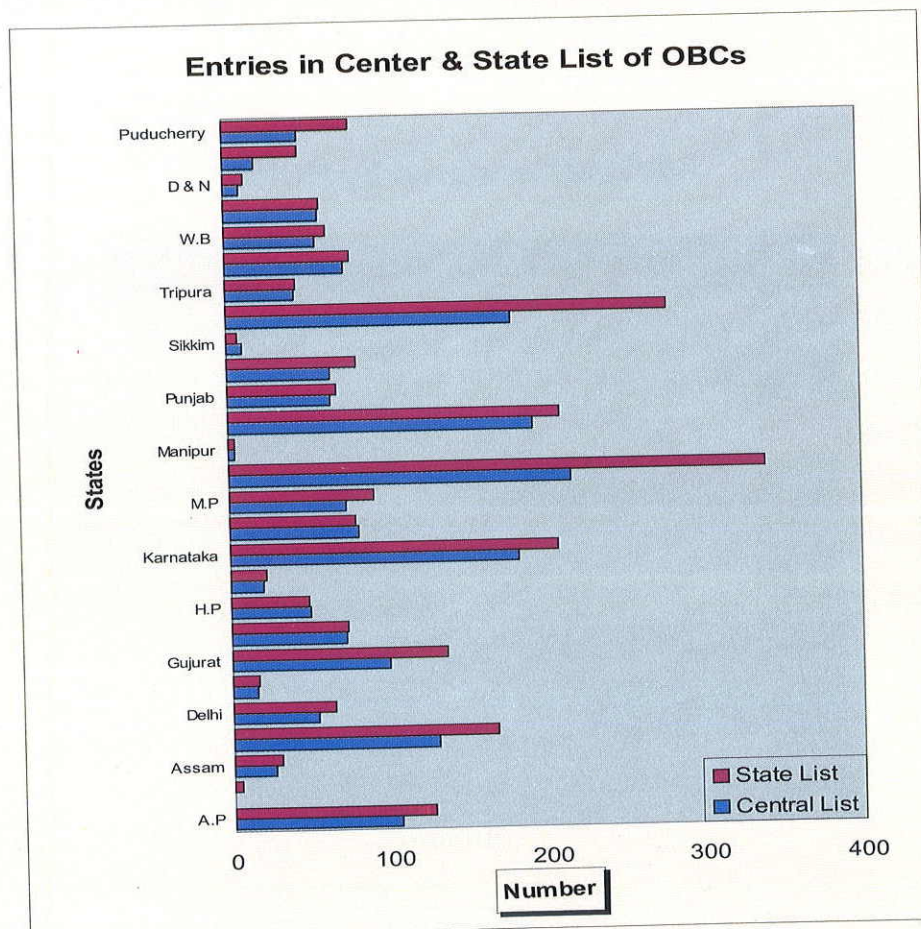
II. Work done during April 2008 to March 2009

Under sub-section (1) of Section 9 of the National Commission for Backward Classes Act, the Commission examines 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. While the Commission processes the requests received from various Organisation, it is only those cases in respect of which advices are furnished and sent to the Government are reflected in the Report. The advice of the Commission are finalized in formal meetings of the Commission for which date and time are fixed by the Chairman.

During the year 2008-09, the Commission held 16 meetings upto March 2009 and 37 advices relating to inclusion/rejection of castes/communities/sub-castes/synonyms have been considered & approved and were sent to the Ministry of Social Justice & Empowerment.

During the period from April 2008 to March 2009, the Commission held 15 public hearings in 13 States and 1 Union Territory for considering the requests for inclusion of castes/communities in the Central List of OBCs for the respective States /UTs as per details indicated below.

As on date 29 States/UTs have notified their respective list of backward classes. The Central List of OBCs have been notified in respect of 27 States/UTs. The entries in the States/UTs list of BCs and Central List of OBCs for different States/UTs is graphically shown as under:-



During the period from April 2008 to March 2009, the Commission held 15 public hearings in 13 States and 1 Union Territory for considering the requests for inclusion of castes/communities in the Central List of OBCs for the respective States /UTs as per details indicated below:-

Public Hearings held during April 2008 – March 2009

S.No	State/UT	Date	Place		Castes/Communities
1.	Bihar	16-Apr-08	Patna	1. 2. 3. 4. 5.	Soyar Ansari/Julaha Badhai Itfarosh/Itafarosh/Gadheri / Itpaj/ Ibrahimi (Muslim) Adrakhi
2	Maharashtra	25-Apr-08	Mumbai	1. 2. 3. 4. 5. 6. 7. 8. 9. 10. 11. 12. 13. 14. 15. 16. 17. 18. 19. 20. 21. 22. 23. 24. 25.	Mariaiewala, Kadklakshmiwale, Margammawale Gihara/Gahara Darwesi, Vaghwale- Shah(Muslimreligion), Aashwalwale Hasmi/Dafli Gavlon (Gavalvansh) Ladasi Udasi Singaade Banjara Phande Banjara Sunar Banjara Shighadya Banjara Koli Bariya Begari Burbuk Chadar Chandal Korachar or Korwe Manjhar Mujawar Watas, Bhadwal, Rajaak Kandel Rautiya Sanpagarudi(Muslim Religion) Kudmude (synonym of Joshi)
3.	Assam	2-May-08	Guwahati	1. 2. 3. 4.	Marm, Newar (Nepali comm..) Khaund (Ex -Tea Garden Labourers/Tribes) Sawar Rudra Pal (for removing the area restriction)

4.	Mizoram	2-May-08	Guwahati	1.	Gorkha
5.	Uttar Pradesh	17-Jun-08	Lucknow	1.	Rawat Rajput
				2.	Kurmi Patanwar
				3.	Joria
				4.	Katuaw
				5.	Tonk Kshatriya (Chimba Biradari)
				6.	Sanwat
				7.	Gada
				8.	Bhat
				9.	Muniri
6.	Himachal Pradesh	3-Jul-08	Shimla	1.	Batehda
				2.	Badhai, Ramgarhi, Dhiman (Excluding Lohar),
				3.	Vishwakarma Populace living in Malana revenue village of Kullu district
				4.	Populace i.e. Bangahalias
				5.	Choharka other than SC & ST
				6.	Jat/Jaat
7.	Karnataka	22-Jul-08	Bengaluru	1.	Baggaru
				2.	Bavandhi
				3.	Dasari, Dasaru, Chakravadya Dasa
				4.	Ghisade
				5.	Gurkha
				6.	Jangala, Telugu Jangama, Pakanathi Jangama
				7.	Kodagu Kapala
				8.	Kumbri Marati (Uttara Kannada District)
				9.	Malaya
				10.	Pangual, Pangusal
				11.	Raya Rawath, Ravath
				12.	Tewar, Kalari, Kallar
				13.	Banjari, Brinjari, Vanjara, Wanjari, Lambaid, Gore or Gorla
				14.	Daveri
				15.	Garudi, Garudiga, Garadiga
				16.	Paradhis Girini Waddar, Tudug Woddar, Kallu Vaddar, Mannu Voddar, Bhandi

				17.	Vaddar Banna (Kodagu District) Kodagu Heggade Amma Kodava Anappan
8.	Karnataka	23-Jul-08	Bengaluru	1.	Ambi, Barika, Rajabhoi Gangamathastha, Kabber, Koli, Konkan Kharvi, Kolimahadev, Maddar
9.	Maharashtra	21-Aug-08	Mumbai	1.	Boharshi, Bahurupiya, Bhorapi, Rairandhra, Ayyar and Ayyari
				2.	Gusai/gosai
				3.	Bhartiya Irani
				4.	Bhatt
				5.	Gavlan (Gavalvansh)
				6.	Gurjar-Kadiya
				7.	Saisutar
				8.	Hindu Dharkar
				9.	Bharat Bagwan, Kosare, Savatamali Pachkalashi, Chaukalshi, Vadval, Rain(Bagwan)
				10.	Audhiya
				11.	Badak, Barav
				12.	Bagalu
				13.	Marbar Vaghari
				14.	Balsanthnam
				15.	Baoriya
				16.	Bathini
				17.	Bhampta or Ghantichore or Pardeshi
				18.	Pong
				19.	Dasar
				20.	Uchila
				21.	Bhanddura, Billawa
				22.	Kharvi
				23.	Bindali
				24.	Chakravadaya-Dasar
				25.	Chenwu or Chenwawaar
				26.	Chimur
				27.	Chintala
				28.	Dakaleru
				29.	Harkantara, Maangeli, Maangeley, Page, Sanduri
				30.	Gadaba or Godba
				31.	Gangani
				32.	Gaarodi
				33.	Goller
				34.	Godaka
				35.	Habura

10.	Maharashtra	22-Aug-08	Mumbai	<ol style="list-style-type: none"> 1. Harani 2. Hil-Redidas 3. Deveri 4. Vinkar, Vanya, Bankar 5. Kachshiya 6. Korach, Padlor 7. Lodvak, Gaud Kalal, Shivhare 8. Katipamula 9. Kirar 10. Korachar or Korwe 11. Kodaku Alias Korwa 12. Komakapu 13. Kondu 14. Chunari 15. Mahil 16. Maidasi 17. Mazwar 18. Matiyara, Matihara 19. Mankar Khalu 20. Mondiwara, Mondiwara 21. Munda 22. Paachbhotla, Paachbotla 23. Padampari 24. Pamula 25. Panchama 26. Panda 27. Fur 28. Purwali 29. Raachbhoya 30. Sangari 31. Santal 32. Saunta or Sonta 33. Sawteli 34. Saare 35. Shingadav or Shingadya
11.	Puducherry	28-Aug-08	Puducherry	<ol style="list-style-type: none"> 1. Marudha Naidu 2. Nattar 3. Ottar 4. Palayapattu Naidu 5. Vandayar 6. Ekali, Mannan 7. Vellala Chettiar 8. Gollalu 9. Jangamar 10. Pariyari 11. Chettiar, Pattinava Chettiar, 12. Vadabaliya 13. Pattu Saliar, Saliars 14. Parkavakula Moopnar

				15. Ediga 16. Vadugan Naidu 17. Vaniya Chetty 18. Ezhuthachan, Ezhuthachans Kudumbi
12.	Andhra Pradesh	3-Nov-08	Hyderabad	1. Pehelwan 2. Barai, Marar & Tamboli 3. Darvesh (Faqeer) 4. Kurmi 5. Goud 6. Bare 7. Gudia 8. Bhunjwa, Bharbhuj 9. Kshatriya Rajput 10. Gajula Kapu
13.	Kerala	27-Nov-08	Thiruvananthapuram	1. Naidu 2. Padmasali as subcaste of Salia 3. Naidu (Baliya) 4. Kongu Vellalar
14.	Goa	17-Jan-09	Panaji	1. Christian Teli/Ghanekars 2. Shimpi (including Christian Shimpi) 3. Christian Renders 4. Kshatriya Komarpant Samaj 5. Christian counterparts of Hindu OBCs
15.	Madhya Pradesh	17-Feb-09	Bhopal	1. Mandhav 2. Batthi, Baretha, Rajak 3. Dholi, Damami 4. Haridas 5. Otari, Garhwa, Jhariya 6. Koyri 7. Kalotha 8. Kisri, Kasri 9. Voveriya 10. Khairuwa 11. Tanwar 12. Aghariya 13. Sut, Sarthi 14. Telanga, Tilga 15. Rajbhar 16. Kudumi 17. Golan, Gawalan, Gaulan 18. Rajjadh, Rajjadh 19. Jadam 20. Gayaar/Pardhaniya

During the period under report, the Commission tendered 37 advices in respect of castes/ sub-castes/ communities/ synonyms of 13 States and 1 UT to the Central Government as per the details given below:

Advices tendered to Government of India during April, 2008 to March, 2009

UTTARAKHAND

(Advice No: Uttarakhand/2-4/2007 dated 24 July, 2008)

- (1) Gorkha
- (2) Gada
- (3) Ranwalta Jaunpuri Community

ORISSA

(Advice No : Orissa/94-103/2008 dated 25 July, 2008)

- (1) Belama
- (2) Kurum
- (3) Goudia & Laxminarayana Goudia
- (4) Synonyms of Chitra, Chitrakar
 - (i) Chitrasilpi
- (5) Synonyms of Gola
 - (i) Mathurapuria Gouda
 - (ii) Gopapuria Gouda
 - (iii) Nanda Gouda
 - (iv) Kanja Gouda
- (6) Synonyms of Banayat Odiya
 - (i) Benayat Oriya
 - (ii) Benayit Odia
 - (iii) Banayat
 - (iv) Banayat Oriya
 - (v) Odia & Udia
- (7) Synonyms of Belama
 - (i) Ellama
- (8) Synonyms of Kumbhar
 - (i) Kumbhakar
- (9) Chattada Srivaishnab
- (10) Synonyms of Tamuli
 - (i) Tamili, Bangiya Tambuli, Tambili, Bangiya Tamboli, Bangiya Tamili, & Tambula

ORISSA

(Advice No : Orissa/104-108/2008 dated 25 July, 2008)

- (1) Chasa Paiko
- (2) Odia/Odia Khandayat
- (3) Mahalayak
- (4) Dalua-Paik
- (5) Odra Khandayat Kalanji

ORISSA

(Advice No : Orissa/109-112/2008 dated 04 August, 2008)

- (1) Chasa Mahanty/Mahanty
- (2) Mahisya
- (3) Jyotish Abadhan, Jyotish Nayak
- (4) Tailik Vaishya

MAHARASHTRA

(Advice No: 39/Maharashtra/2007 dated 24 July, 2008)

1. Vatkar, Vatkari, Votankar, Vatokar, Otkari, Otokar, Vatokaar
2. Kasar
3. Nili
4. Fakir Bhandrawala
5. Shikalgar
6. Dhangari
7. Besta, Besti, Bestallu
8. Yalam/Yallam
9. Shikaligar/Shikalgar/Shikilgar/Shiklikar/Sikalkar/Siklikar/Sikilgar/Siklighar/Sikligar/Sikalgar/Sikkaligar/Cyclegar/Saikalgar
10. Suthar
11. Garpagari
12. Mansoori, Nadaff
13. Kurba, Kurubar
14. Lohar-Gada, Dodi, Khatawali
15. Hajam, Kalseru, Navliga, Kanshi, Valand
16. Bhavgar, Shiv Shimpi, Namdev
17. Odevar
18. Vadhai/ Lohar Khatvadhai
19. Nalband
20. Govari, Gawari
21. Khandeshi Koli, Kharva or Kharvi, Koli (other than included in ST) – Synonyms of Koli
22. Kumbara/Kumbhara/Kulala/Mulya
23. Muslim Madari, Gaarudi, Saapwale
24. Muslim Beldar
25. Muslim Gawli

MAHARASHTRA

(Advice No: 40/Maharashtra/2007 dated 29 July, 2008)

- (1) Kasera
- (2) Machimmar (Daldi)
- (3) Fakir
- (4) Dhankar
- (5) Sakka
- (6) Bawarchi, Bhatiara (Muslim)
- (7) Attar
- (8) Bhoyar

- (9) Darji
- (10) Dommara
- (11) Lakhari
- (12) Bhaldar
- (13) Mahat, Mahoot, Mahawat
- (14) Khatik (Muslim), Qureshi

GUJARAT

(Advice No : 44/Gujarat/2008 dated 04 August, 2008)

- (1) Arab (Muslim)
- (2) Nizama (Hindu)
- (3) Sumra (Muslim)
- (4) Tamboli
- (5) Charan Gadhvi, Charan
- (6) Bajania
- (7) Mistri (Suthar/ Sutar), Suthar, Mistri, Gujar (Suthar/ Sutar), Gujjar, Gujjar (Suthar/Sutar).
- (8) Prajapati (Gujjar Prajapati, Varia Prajapati, Sorthia Prajapati), Sorathiya Prajapati
- (9) Satawara, Sathwara-Kadia, Dalwadi and Kadia
- (10) Mochi

GOA

(Advice No : 20/Goa/2008 dated 24 July, 2008)

- 1. Barber (including Christians)
- 2. Kumbhar (including Christians)
- 3. Mahar (including Christians)
- 4. Gabit
- 5. Blacksmith / Tinsmith

KARNATAKA

(Advice No: 200/Karnataka/2007 dated 24 July 2008)

- 1. Begadi, Bagali
- 2. Budubuduki, Bududki, Chhetri, Garadi
- 3. Nairi
- 4. Jeeragar, Najabund
- 5. Padithi
- 6. Talawara / Talwar, Myasa Nayaka, Urs Nayaka, Byada, Bargi, Hirshikari
- 7. Bovi
- 8. Mansuri
- 9. Padiar, Seregara
- 10. Vajantri (Uttara Kannada District)
- 11. Gadiga, Gunagi
- 12. Upanador/ Upa Nadavar
- 13. Vaniyan

ANDHRA PRADESH

(Advice No: Andhra Pradesh/72/2007 dated 25 July, 2008)

1. Chakali, Vannar
2. Devaravandlu, Yellammavandlu, Mutyalammavandlu
3. Veerabhadreeya
4. Kalinga

WEST BENGAL

(Advice No: West Bengal/74/2007 dated 25 July, 2008)

1. Rai
2. Bharbhujia
3. Dewan
4. Patidar
5. Bahshi Barman
6. Pahadia Muslim

PUDUCHERRY

(Advice No: 92/Puducherry/2007 dated 29 July, 2008)

- (1) Khatri
- (2) Mannudayar / Pathar/ Poonul Kuyavar/ Vellar/ Mannudayar/ Pathar/ Poonul Kuyavar / Vellar
- (3) Latin Catholics
- (4) Mahratta (Non-Brahmin) including Khatik
- (5) Parkavakula Pillai / Parkavakula Udaiyar
- (6) Pattu Chettiar
- (7) Salia Chettiar
- (8) Vadamalai Chettiar
- (9) Maricar / Saibu
- (10) Valayal Naidu / Cavara Naidu/ Gavaralu
- (11) Kannar/ Pathar

CHATTISGARH

(Advice No : 2/Chattisgarh/2008 dated 29 July, 2008)

- (1) Dhariya, Dhosi (Gadariya), Gadariya(Pal Baghele)
- (2) Panwar
- (3) Hunga Lohar, Garola, Lohar (Vishwakarma)
- (4) Kurmvanshi, Chandrakar, Chandra Nahu, Kumbhi Gavel (Gamel), Sirvi
- (5) Pinjara (Hindu Kesaria/Kosaria)
- (6) Mowar
- (7) Panka
- (8) Dudsena
- (9) Khathiya
- (10) Jhhani, Soni (Swarnkar)

TAMIL NADU

(Advice No : 110/Tamil Nadu/2007 dated 28 July 2008)

- (1) Okkaliga Gowda

Bihar

(Advice No : 39/Bihar/2008 dated 04 July 2008)

- (1) Adrakhi

Bihar

(Advice No : 40/Bihar/2008 dated 04 August, 2008)

- (1) Soyar
(2) Ansari/Julaha
(3) Badhai

Madhya Pradesh

(Advice No : 56/Madhya Pradesh/2007 dated 04 August, 2008)

- (1) Bargahi, Bargah
(2) Bari
(3) Mina(Rawat), Deshwali
(4) Dhariya, Dhoshi (Gadariya) (Pal Baghele)
(5) Panwar
(6) Hunga Lohar, Garola, Lohar (Vishwakarma)
(7) Kurmvanshi, Chandrakar, Chandra Nahu, Kumbhi Gavel (Gamel), Sirvi

Madhya Pradesh

(Advice No : MP/57/2009 dated 31. 03. 2009)

- (1) Salwi

Uttar Pradesh

(Advice No : 95/Uttar Pradesh/2008 dated 21 January, 2009)

- (1) Kurmi-Patanwar
(2) Gada



Blacksmith Cast/Community



Mali Cast/Community

**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 13th 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 25th 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 2nd April, 1993/Chaitra 12, 1915 (Saka)

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

THE NATIONAL COMMISSION FOR BACKWARD CLASSES ACT, 1993
No.27 of 1993 [2nd 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 1st 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

Annexure-III

No. 12011/16/93-BCC(C)
GOVERNMENT OF INDIA
MINISTRY OF WELFARE
New Delhi, the 22nd February, 1993

RESOLUTION

The Supreme Court, in its Majority Judgement in Writ Petition (Civil) No 930 of 1990. *Indira Sawhney and Others etc. Vs. Union of India and Others etc.*, delivered on 16th November, 1992 has, inter alia, directed that "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' and further that the implementation of the impugned O.M. dated 13th August, 1990 shall be subject to exclusion of such socially advanced persons ('creamy layer')".

2. Having regard to the fact that a lot of specialised inputs would be needed to determine the bases viz. socio-economic criteria for identification of the 'creamy layer', it has been decided to set up an Expert Committee consisting of :

- | | | |
|----|--|------------------|
| 1. | Justice Ram Nandan Prasad (Retd.)
High Court Patna | Chairman |
| 2. | Shri M.L. Sahare (Social Scientist)
Former Chairman, U.P.S.C. | Member |
| 3. | Shri P.S. Krishnan
Former Secretary (Welfare)
Govt. of India | Member |
| 4. | Shri R.J. Majithia, former Chairman
Revenue Board,
Government of Rajasthan | Member-Secretary |

to make recommendations to the Govt. of India, in regard to the said socio-economic criteria. The Committee will also give recommendations on such other matters relating to the implementation of the judgement of the Supreme Court, as the Government of India may consider necessary.

3. The Headquarters of the Committee will be located at Delhi.

4. The Committee will devise its own procedures in the discharge of its functions. All the Ministries and Departments of the Government of India will furnish such information and documents and provide such assistance as may be required by the Committee. It is hoped that the State Governments and Union Territory Administrations and others concerned will extend their fullest cooperation and assistance to the Committee.

5. The Committee shall submit its Report on the socio-economic criteria for exclusion of the 'creamy layer' from Other Backward Classes latest by 10th March, 1993

Sd/-
(M. S. PANDIT)
Jt. Secy. (M&BC)

ORDER

ORDERED that a copy of the resolution be communicated to all Ministries/Departments of the Government of India/State Governments and U.T. Administrations.

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

Sd/-
(M. S. PANDIT)
Jt. Secy. (M&BC)

Annexure-IV

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 13th August, 1990¹ and 25th September, 1991², 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 (a) 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.

¹ Annexure-V

² Appendix 2 to Annexure-IV

2. 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 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"> (a) President of India; (b) Vice-President of India; (c) Judges of the Supreme Court and the High Courts; (d) Chairman and Members of UPSC and of the State Public Service Commission; Chief Election Commissioner; Comptroller and Auditor-General of India; (e) Persons holding constitutional positions of like nature.
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"> (a) parents, both of whom are Class I officers; (b) parents, either of whom is a Class I officer; (c) parents, both of whom are Class I officers, but one of them dies or suffers permanent incapacitation; (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; (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;

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 ---

- (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.

C. Employees in Public Sector

The criteria enumerated in A and B above in this category will apply mutatis mutandis to

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

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.

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.

Criteria specified against Category VI will apply.

- (ii) Persons engaged in trade, business and industry.

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 follow:-
- (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 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
- (i) Coffee, tea, rubber, etc.
- (ii) Mango, citrus, apple plantations, etc.
- C. Vacant land and/or buildings in urban areas or urban agglomerations
- 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.
- 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.

Appendix 2 to Annexure-IV

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 13th 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 13th August, 1990, shall be deemed to have been amended to the extent specified above.

Annexure-V

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 31st 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-VI

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: 14th October, 2008.

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 8th September, 1993 which inter alia provided that sons and daughters of persons having gross annual income of Rs. 1 lakh or above for a period of three consecutive years would fall within the creamy layer and would not be entitled to get the benefit of reservation available to the Other Backward Classes. The limit of income for determining the creamy layer status was raised to Rs. 2.5 lakh vide this Department's OM of even number dated 9.3.2004. It has now been decided to raise the income limit from Rs.2.5 lakh to Rs. 4.5 lakh per annum 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 the 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. 4.5 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 of wealth which will bring them within the income/wealth criteria mentioned in (a) above.</p> <p>Explanation: Income from salaries or agricultural land shall not be clubbed.</p>

2. The provisions of this Office Memorandum take effect from the 3rd October, 2008.

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)
Director

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

Copies forwarded to :

The Chief Secretaries of all the States/UTs for information and necessary action.

Annexure-VII

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.

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.

