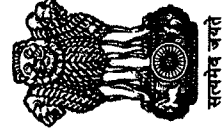


Annual Report

2005-2006
(1st April, 2005 to 31st March, 2006)



National Commission for Backward Classes
Trikoot-I, Bhikaiji Cama Place,
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28 August, 2006

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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.

National Commission for 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 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 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 a 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 Commission 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. 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-III*). 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.

Review of Income Criteria

The Government of India, Ministry of Social Justice & Empowerment, vide Office Order No.12011/6/97-BCC dated 6th 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 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 8th 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 on 23rd 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 09th 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).

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 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 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
(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
(August 2000 to August 2003) |

D **From 13-8-2002 onwards**

- | | | |
|----|------------------|--|
| 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 to 18-8-2005) |
| 4. | Member | Smt. Neera Shastri
(29.9.2003 onwards) |
| 5. | Member | Dr. B. Babu Rao Verma
(6.10.2003 onwards) |

E **Existing**

- | | | |
|----|------------------|---|
| 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) |
| 3. | Member | Smt. Neera Shastri
(29.9.2003 onwards) |
| 4. | Member | Dr. B. Babu Rao Verma
(6.10.2003 onwards) |
| 5. | Member | Shri Yogeshwar Prasad Yogesh
(from 10.03.06 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 1162 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, 708 cases were for inclusion in the Central Lists for different States/Union Territories and 454 cases were for rejection. Against 708 cases for inclusion of castes/sub-castes/synonyms/communities in the Central List, 700 have already been notified by the Central Government. Similarly, advice of the Commission for rejection in all 454 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 2006 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 cases of Inclusion and one case of addition of explanation in the Central List of BCs for Rajasthan.

1998-99	351 (including 5 for correction of error in spelling etc.)
1999-2000 (upto Feb.2000)	244 (including 1 for correction in spelling)
2000 - March 2001	13
2001 – 2002	22
2002 – 2003	21
2003 – 2004	10
2004 – 2005	20
2005 – 2006 (April to July 2005)	4 (including revised Central List of Pondicherry)

II. *Work done during April 2005 to March 2006*

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 the formal meeting of the Commission for which date and time are fixed by the Chairman.

During the year 2005-06 Justice Ram Surat Singh, Chairman held office up to 12th August, 2005. During this period, 4 meetings were held and based on these 4 advices were sent to the Ministry of Social Justice & Empowerment. Since the Office of the Chairman of the Commission did not get filled up during the year and remained vacant till the end of the year, no further meetings of the Commission could be fixed to finalise the advices in respect of those cases, which were otherwise ready. Whilst statistically the number of cases in which advices were sent remained 4, it needs to be clarified however, that one of the cases, namely revision of Central List of Pondicherry, was a major exercise involving deletion of 300 communities and inclusion of 47 castes/communities/sub-castes/synonyms. This was finalized during the year 2005-06.

Further, during this period the Commission held 3 public hearings for considering the requests for inclusion of castes/communities in the Central List from 2 States and 1 UT as per details indicated below.

Public Hearings held during April 2005 – March 2006

S.No.	State/UT	Date	Place		Castes/Communities
1	Haryana	21-Apr-05	Chandigarh	1.	Koieri, Kushwaha, Kachhi, Maurya, Murai, Murav, Shakyra
2	Uttanchal	9-Jun-05	Dehradun	1.	Gorkha
				2.	Jatt Sikh
				3.	Rai Sikh (Mahatam)
3	A&N Islands	22-Jul-05	Port Blair	1.	Ranchis, Karen

During the period under report, the Commission tendered 4 advices in respect of castes/ sub-castes/ communities/ synonyms of 3 States and 1 UT to the Central Government as per the details given below:

Advices tendered to Government of India during 2005-06

S.No.	State/UT	Advice No.	Date	Name of the caste/community/ sub-caste/synonym	Remarks
1	Pondicherry	Pondicherry/91/2005	01.04.2005	#	Revision
2	Rajasthan	67/Rajasthan/2005	20.05.2005	Pujari (Sewak)	Rejection
3	Uttanchal	Uttanchal/1/2005	16.08.2005	Rai-Sikh (Mahatam)	Inclusion
4	A&N Islands	1/A&N Islands/2005	16.08.2005	Karen	Inclusion

All caste/ communities in the Central and UT lists were considered for under-inclusion and over-inclusion.

Of these 4 advices, 2 were for inclusion in the Central List and 1 was for rejection. Besides these, 1 advice tendered was for under-inclusion and over-inclusion in the Central List of Pondicherry. The details are given below:-

S. No.	State/UT	Inclusion	Rejection	Spelling Correction/ Amendment
1	Pondicherry#			
2	Rajasthan		1	
3	A&N Islands	1		
4	Uttanchal	1		
	Total	2	1	0

All caste/ communities in the Central and UT lists were considered for under-inclusion and over-inclusion.

During the year 2005-06, the Government of India notified the inclusion / amendments in the Central List of OBCs for the States / Uts as per the details given below:

Inclusions / amendments in the Central List of OBCs notified by Govt. of India during 2005-06

Sl. No	Name of the State	Old Entry	New Entry
1.	Andhra Pradesh	37. Methar (Muslim)	37. Mehtar (Muslim)
		106. Nil	106. Sikligar
		107. Nil	107. Siddula
2.	Bihar	125. (Kulahia)	125. (Kulahia) (correction only in Hindi version of the entry)
		130. Nil	130. Bakho (Muslim)
		131. Nil	131. Thakurai (Muslim)
		15. Kurmi (Mahto), Kurmi (Mahto) (in Chhotanagpur Division only)	15. Kurmi, Kurmi (Mahto) (in Chhotanagpur Division only)
3.	Delhi (NCT of Delhi)	54. Nil	54. Rai-Sikh (Mahtam)
4.	Goa	16. Nil	16. Bhandari Naik
5.	Gujarat	9. Bharwad (except where they are STs), Motabhai Bharwad, Nanabhai Bharwad, Gadaria	9. Bharwad (except where they are STs), Motabhai Bharwad, Nanabhai Bharwad, Gadaria, Dhangar
		98. Nil	98. Jagri
		99. Nil	99. Khavas
		100. Nil	100. Sagar
6.	Karnataka	113. Kurba (except in Coorg District)	113. Kuruba
		170. Somavamsha Arya Kshatriya, Tambat, Nalabund, Chitragar, Chitara, Chitari	170. Somavamsha Arya Kshatriya, Tambat, Nalabund, Chitragar, Chitara, Chitari, Aryakshatriya and Sarige
		184. Nil	184. Hindu Sadaru

7.	Maharashtra	139. Tambat	139. Tambat, Twashita Kasar, Kansar
		70. Kunbi (subcastes Lewa Kunbi, Lawa Patil, Lewa Patidar)	70. Kunbi (subcastes Lewa Kunbi, Lawa Patil, Lewa Patidar), Kurmi
		222. Nil	222. Yellam/Yelam
8.	Madhya Pradesh	10. Chipa-Sindhi-Khatri	10. Chipa-Sindhi-Khatri (correction only in Hindi version of the entry)
9.	Orissa	178. Patara/Patra, Goudia Patara	178. Patara/Patra, Goudia Patara, Asini Patara/Aswini & Ashwini Patara
		48. Hansi, Tanti, Sukuli, Vina, Tulabhina, Rangani, Dera, Dewanga, Kosta, Salia, Patsalia, Buna, Bunkar/Bunkara, Bangali Tanti/Bangiya Tanti, Matibansa Tanti, Asina Tanti, Aswina Tanti, Ashani Tanti, Aswina Tanti, Rangani Tanti/Rangani Tantee/Ranginee Tanti/Ranguni Tanti	48. Hansi, Tanti, Sukuli, Vina, Tulabhina, Rangani, Dera, Dewanga, Kosta, Salia, Patsalia, Buna, Bunkar/Bunkara, Bangali Tanti/Bangiya Tanti, Matibansa Tanti, Asina Tanti, Aswina Tanti, Ashani Tanti, Aswina Tanti, Rangani Tanti/Rangani Tantee/Ranganee Tantee/Rangini Tanti/Ranguni Tanti, Rangini Hansi
		186. Koppula Vellama	186. Koppula Vellama, Kapala Velama, Kapulu Elama, Koppala Elama, Kappula Elama, Kupala Velama, Kapala Elama, Kapala Elaga, Koppala Velama
		194. Nil	194. Tamuli
10.	Pondicherry	32. Chakkala	32. Chakkali
		34. Chatadi (Chattada or Srivaishnava)	34. Chattadi (Chattada or Srivaishnava)
		74. Irulas	74. Irular
		75. Isai Vallalar	75. Isai Vellalar or Melakarar
		95. Kammalana, Kamsalas	95. Kammalar (Kamsali, Viswabhman and Viswa Karma, Kauruvay)
		111. Kuyanar	111. Kosavans , Kuyavar
		115. Kulala	115. Kulela, Kulalar, Kummari
		116. Kumbaran	116. Kumbarar
		120. Labbai	120. Lubbai
		126. Mangala(Nayee- Brahman)	126. Nayee Brahmin/Mangali
		147. Mutiriyam/Muthiriyar	147. Muthirayar/Muthiriyar
		158. Naniar	158. Nainar
		159. Narikoravan	159. Narikuravar
		161. Nokka	161. Nokkar
		166. Padayachi	166. Padayatchi
		174. Pranopkari	174. Pandithar (Ambattan, Pronopakari and Nasivan)
		205. Rauter	205. Ravuthar
		221. Thiya	221. Tiyya, Elhura, Thiyyas
		244. Vanniyakula Khatriya	244. Vanniakula Kshatriya including Vanniar or Vanniyar Gounder, Kondar or Vannia Gounder and Vannikandar (other than Vella gounder belonging to Vanni Vanniyakula Kshatriya caste)
		250. Vettaikaran	250. Vettaikarar

11.	Uttar Pradesh	22. Tamoli	22. Tamoli, Barai, Chaurasia
		9. Kurmi	9. Kurmi, Kurmi-Sainthwar/Kurmi-Mall
		75. Nil	75. Unai Sahu

III Building up of Data-Base

For considering Requests for Inclusion and Complaints of Under-inclusion and Over-inclusion under section 9(1) of the Act, the Commission requires data of population and other data. The Government and the Commission have also to get ready for the work arising from Section 11 of NCBC Act. For the purpose of these exercises under section 9(1) as well as Section 11, data alongwith a number of parameters-social, educational, economic-for each relevant caste/community/sub-caste/sub-community have to be gathered. The Commission in its Annual Reports have been suggesting that requisite infrastructure for this purpose should also be developed by the Central Government and the State Governments in the Ministries of welfare, and Personnel, in this regard. The major portion of the data is to come from the States and U.Ts. A system should be established for collecting and processing data for this purpose on a continuing basis.

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

The Commission have been trying its best to build-up data base in respect of the castes/communities in the Central List of OBCs. This exercise could be completed only with the full co-operation of the State/UT Governments. Even though, the Commission have been addressing the State/UT Governments in this regard, the information are still awaited from them. Except for the information furnished by one or two States, the information furnished by other States/UTs is not as per the request made by the Commission. However, in the absence of adequate data/information, the Commission has been gathering information from the RGI,

such as population of 1931 census, projected data for 1951, from ethnographic accounts etc. Therefore, the commission recommends that necessary instructions be given and preparations be made for collection of population data caste-wise/community-wise well in the time for the census operations of 2011.

IV Third National Conference – Follow-up Action

The NCBC is in pursuit of collection of information, for further course of action, relating to the implementation by the State/UT Governments and State/UT Backward Classes Commissions of the important resolutions of the 3rd National Conference on Backward Classes, especially the resolution regarding the commonality between the Central and State/UT lists of Backward Classes and categorization of Backward Classes in the States/UTs wherever it is not done.

The Members of the Commission held discussions with the officers of the different State/UT Governments and Chairmen and Members of State/UT Commissions on these issues during their official tours. They were impressed upon the imperative need for having commonality between the Central and State lists. The State/UT Governments were requested to send necessary proposals for including in the Central List the castes / communities which are included in the respective State/UT list but not yet included in the Central List for that State/UT along with details including survey reports and other data / information on the basis of which the State/UT Govt./Commission decided to include such castes / communities in the State/UT list, so that the students belonging to such castes / communities can avail of the benefits and concessions from the Central Government, more so in the wake of the proposed 27% reservation in all Central educational institutions to enable the students to have access to the prestigious professional educational institutions in the country.

NATIONAL CONFERENCE

I. INAUGURAL SESSION

The National Commission for Backward Classes, New Delhi organized the 3rd National Conference of Chairpersons of State Backward Classes Commissions on 27th July 2005 at New Delhi.

2. Chairpersons of State Backward Classes Commissions of fifteen States/UTs and Principal Secretaries/Secretaries of six States/UTs participated in the Conference in addition to two States which were represented by their Resident Commissioners. A list of participants is at '**Annexure - VII**'.

3. The Agenda of the Conference was:

- i) Empowerment of Central and State Backward Classes Commissions.
- ii) Categorisation of Central and State lists of OBCs and maintenance of uniform list.
- iii) Creamy Layer Policy – Preparation of lists of Artisans engaged in hereditary occupation/calling for their exclusion from the purview of "Creamy Layer".
- iv) Educational empowerment of Backward Classes.
- v) Building of NCBC and SBCCs as resource houses.

Detailed agenda / Background notes are at '**Annexure – VIII**'.

4. The Conference was inaugurated by Smt. Meira Kumar, Hon'ble Union Minister for Social Justice & Empowerment, whilst the valedictory address was delivered by Smt. Subbalakshmi Jagadeesan, Hon'ble Minister of State for Social Justice and Empowerment. Justice Ram Surat Singh, Chairperson, NCBC, presided over the conference.

5. The Inaugural Session began with presentation of a bouquet by Chairperson, NCBC to Smt. Meira Kumar, Hon'ble Union Minister for Social Justice & Empowerment. This was followed by the traditional lighting of the lamp by the Union Minister for Social Justice & Empowerment. Thereafter, Justice Ram Surat Singh, Chairperson, NCBC delivered his welcome address.

While extending a hearty welcome to the Union Minister and to all the delegates, he referred to some of the important issues which needed to be discussed in the Conference. He pointed out that whilst the NCBC has been receiving thousands of representations from members of OBC castes/communities regarding non-implementation of the reservation policy and redressal of grievances of various types these matters could not be addressed by the NCBC in the absence of necessary powers for dealing with such cases. He pointed out that some of the State Commissions such as Karnataka, U.P., M.P. etc. have been vested with more powers and functions which enable them to play an active role in the welfare of OBCs, besides vesting them with the right to deal complaints of injustice. He also suggested that appropriate steps should be taken to issue the list of artisans and those engaged in hereditary occupations who are required to be excluded from the Creamy Layer.

The need for reservation for OBCs in Central educational institutions was also stressed. He also referred to the changing social scenario and the urgent necessity therefore for caste-based census. The full text of the Welcome Address is placed at 'Annexure - IX'.

6. Smt. Meira Kumar, Hon'ble Union Minister for Social Justice and Empowerment inaugurated the Conference. In her Inaugural Address she stated that the Government of UPA has committed itself for the overall development of the Backward Classes in the country and has undertaken several measures for their empowerment, socially, educationally and economically. She mentioned that as on date, the Central list of Backward Classes has been notified in respect of 26 States/UTs and a total number of 2278 castes/communities have been included in these lists. She suggested that a time bound programme should be evolved for clearing of the pending applications and also uniformity in the recommendations for inclusion of castes and communities in the Central as well as in the State lists. She also mentioned about the implementation of the rule of reservations to OBCs in civil posts and educational institutions and that a Reservation Bill codifying all the executive orders has already been introduced in the Parliament. She informed the conference that the Prime Minister has called for a comprehensive region-wise, State-wise and district-wise database to enable the Government to improve the quality of decision-making in respect of various issues relating to welfare of OBCs. The full text of the Inaugural Address is placed at 'Annexure - X'.

7. The inaugural session ended with a Vote of Thanks by Shri S.K. Purkayastha, Member-Secretary, NCBC.

II. BUSINESS SESSION

8. Following the inaugural session, the Business Session started with an Address by Smt. Neera Shastri, Member, NCBC introducing the Agenda. She stated that whilst liberty, equality, justice and human dignity are the basic principles of contemporary society, in India, injustice, inequality and discrimination exist in all its forms by way of social stratification and hierarchy. She expressed the view that the identification of Backward Classes has not been done properly and it has practically not served the interests of the deserving classes. Whilst dwelling on the agenda items she clarified that empowerment of the Commissions will ultimately lead to empowerment of Backward Classes in real terms in every sphere of life and thereby provide the cementing factor for a vibrant economy and a unified nation. She urged that the Backward Classes Commissions at the Center and in the States must be given power to attend to the grievances of the Backward Classes in respect of improper implementation and violation of rules of reservation, non-issuance of caste and income certificates etc. She also drew attention to categorization in the Central and State lists of OBCs. She stated that classification based on degree of backwardness should be made and the percentage of the reservation should be properly apportioned to each category. She pointed out that this would help the deserving backwards to get the advantage of reservation and would bridge the gap of inequality between different categories of Backward Classes. She also touched upon the preparation of list of artisans engaged in hereditary occupation as laid down in the Creamy Layer notification and also on the issue of educational empowerment of Backward Classes including reservation in Central educational institutions. The complete text of her Address is placed at 'Annexure - XI'.

ANDHRA PRADESH

9.1 Chairperson, Andhra Pradesh Backward Classes Commission, Justice D. Subramanian stated that the Commission is a Statutory Body and has been empowered to look into the grievances of OBCs and to rectify the difficulties faced by them. Whilst speaking on the subject of reservation pointed out that SCs, STs and OBCs constitute 78% of the population of the State and that earlier the total reservation in the State was 46%. This was however increased recently by 5%, thereby taking reservations upto 51%. This increase in reservation is now under legal challenge before the Andhra Pradesh High Court. In so far as categorization of OBCs is concerned he stated that in Andhra Pradesh they had earlier been categorized into four groups namely, 'A', 'B', 'C' and 'D', for which reservation of 7%, 10%, 1% and 7% respectively had been apportioned. Recently, one new category 'E' has been included for which 5% reservation has been made.

9.2 He mentioned that some of the castes/communities which have been recognized as OBC in States neighbouring Andhra Pradesh have not yet been included in the list of OBCs in Andhra Pradesh. He stated that this needs to be rectified and accordingly steps have been initiated to include the castes/communities which have migrated from other States.

9.3 He pointed out that in order to identify Backward Classes, detailed field survey is absolutely necessary and for this purpose sufficient funds are required. He stated that the Central Govt. should allot funds for population surveys and NCBC should take up this matter with the Government of India.

ASSAM

10. Chairperson, Assam Backward Classes Commission Justice S Haque agreed with the proposals in the agenda paper relating to empowerment of NCBC and State Backward Classes Commissions, educational empowerment of Backward Classes, categorization of Central and State Lists of OBCs, etc. He stressed that Backward Classes Commissions should be given powers similar to that vested in the National Commissions for SC, ST, Minorities and Women. He also suggested that NCBC should impress upon the State Governments to empower the State Commissions. Regarding creamy layer, he suggested that it should be examined whether retired persons who were still to settle their children should be excluded from the "creamy layer". He also drew attention to a phenomenon observed in Assam OBC communities seeking for Scheduled Tribe status because of their apprehensions of getting delisted from the OBC List and the need, therefore, to maintain parity between SC/ST and OBC List. He also dwelt on the question of lack of proper data regarding the OBC population and the difficulties arising thereof, including the question regarding adequacy of representation in Government services. He stressed that it is absolutely essential to undertake population surveys of OBC as a whole and of each caste/sub caste. He suggested particularly that NCBC should immediately take up the matter with the Government of India for undertaking a special census of OBC population and their status in all States. He pointed out that this would help in reviewing the continuation or exclusion of any caste or community from the list of OBCs.

BIHAR

11. Chairperson of Bihar Backward Classes Commission, Justice Dharam Pal Sinha, agreed with the points made in the background note and pointed out that the State

Commission has not been empowered to consider complaints and grievances of OBCs. In so far as categorization is concerned, however, he stated that in Bihar there are two categories – the “Extremely Backward” and the “Backward”. He mentioned that 112 castes are included in the “Extremely Backward” category and 42 castes are included in the Backward category. He pointed out that no caste specific survey has been undertaken so far and stressed that a census of OBC castes/communities should be undertaken by the Govt. of India. In conclusion, he suggested that the powers under Article 338 of the Constitution should be vested with the NCBC and State Backward Commissions in respect of OBCs.

CHHATISGARH

12. In respect of Chhatisgarh, Shri B.L. Thakur, Commissioner for ST, SC and OBC Development stated that Chhatisgarh, which has been bifurcated from Madhya Pradesh has adopted the rules, regulations and lists of Madhya Pradesh. He also stated that whilst there is no Backward Classes Commission in the State, an OBC Cell has been set up in the Tribal Research Institute to handle the grievances and complaints of OBCs. In so far as the general problems of OBCs are concerned, he stated that this is dealt with by a Board headed by the Chief Minister.

DELHI

13. NCR of Delhi was represented by Shri Sanjay Pratap Singh, Secretary who stated that in the Backward Classes Commission at present, there is no Chairperson and Members. Because of lack of funds and staff there is also no activity at present. He expressed the view that the State Backward Classes Commission, when reconstituted should deal with grievance redressal for OBCs, and also oversee the implementation of the large number of schemes for OBCs in the same manner as the Minorities Commission and Women Commission are doing. He pointed out that the NCR of Delhi has a very large OBC population and there are complaints relating to reservations, income certificates, etc. which need to be looked into by a properly constituted Commission.

GOA

14.1 Chairperson of Goa Backward Classes Commission, Shri Jaiprakash V. Naik, Advocate, stated that reservation for OBCs in Goa has decreased from 27% to 19.5%.

14.2 Dealing with the question of the State Commission, he pointed out that the Commission was of the view that it had inherent powers under Section 10 of their Act to issue notices after taking suo moto cognizance for implementation of reservation policy in Goa. This exercise of suo moto power had been challenged in the High Court in 1999 by the Govt. of Goa and the High Court held that the Commission could not go beyond the provisions of Section 9 and it had no suo moto powers. The Commission has, therefore, proposed to the State Govt. to amend Section 9 so that it has the powers to take suo moto cognizance in matters relating to reservation. Regarding castes survey, he stated that a caste survey has been carried out and a copy thereof has been sent to NCBC.

14.3 Regarding categorization of Backward Classes he stated that since Goa is a small state there is little scope for categorization and any step in that direction would be fraught with difficulties.

GUJARAT

15.1 Chairperson, Gujarat Backward Classes Commission, Justice Suganya Ben K. Bhatt stated that the State Backward Classes Commission should be empowered to advise on the quantum of reservation to which each listed community is entitled. As regards categorization she expressed the view that this is a “high way” issue, whilst the State Backward Classes Commission is still dealing with ‘sub way’ issues. She, however, stressed that there is need for proper dialogue and cooperation between the SBCCs and NCBC and for this purpose an adequate communication channel has to be opened. She also pointed out the differences in the recommendations of SBCCs and the NCBC in respect of certain communities which have applied to both Commissions and suggested that NCBC should await for the completion of data collection by the State Commission, especially since NCBC has no resource of its own to carry out surveys in any particular State.

15.2 She also expressed the view that there should be a National Data Bank covering all OBC communities and a common questionnaire should be prepared for all States for the purpose of delisting any community and a uniform methodology should be followed at the national level and the State level. She added that the progress made by a community before being delisted should be reviewed by the Commissions at regular intervals of 3 to 5 year to evolve whether the performance has actually percolated to the community.

15.3 Shri O. Ravi, Secretary to the State Govt. of Gujarat added that the SBCC should be a multi Member body but in Gujarat it is a single Member Commission. He expressed the view that a multi Member Commission should be given the same powers as Commissions for SCs and STs. He also pointed out that in Gujarat 137 castes/communities have been included in the State List as socially and educationally Backward Classes. They have also been categorized into four groups namely Nomadic Tribes, Denotified Tribes, Backward Classes and Most Backward Classes. He stressed the necessity for field surveys to be carried out and especially to monitor the progress made by the communities over the years. He stated that State Govt’s request to the Central Govt. for survey of OBCs had met with the response that it is the State Government’s responsibility to conduct surveys. He pointed out it should have been possible to obtain the data required when the 2001 census was carried out. Since a survey of this nature would cost about Rs.30 crores, which is beyond the means of the State Govt. he requested that this be taken up at the highest level so that the funds are made available by the Govt. of India.

15.4 Dwelling on the question of differences between the State List and the Central List for OBCs, he expressed the view that the State List should be adopted. He also touched upon the issue of fake certificates and the steps to be required to control them.

15.5 Shri K.G. Vanzara, Director, OBC Welfare extended an invitation for the next Conference to be held in Gujarat. He recounted the experiences of authorities in Gujarat regarding the issue of fake OBC certificates. He stated that persons of castes which are not included in SC/BC might have obtained about lakhs of bogus caste certificates. They have done it by declaring themselves suo motto as SC/BC and in many cases this is being done at the time of entry of children in schools when their parents inserted an SC or BC caste against the name of their wards even though they do not belong to that caste. In this context he referred to the landmark judgement of Supreme Court in *Madhuri Patel vs. State of Maharashtra & ors.* which requires that all caste certificates issued in all the States and UTs

should be verified at the level of the State Govt. by a Committee headed either by a Joint Secretary or Additional Secretary. He urged all persons to check whether in their State a committee for cross verification of Caste Certificates has been set up and whether cross verification has been taking place. He also mentioned that Hon'ble Supreme Court recently recommended to the Central Govt. that in respect of all recruitment done during the last 5 years, caste certificates should be cross verified.

15.6 Regarding problems faced in issuing certificates pertaining to the creamy layer, Shri Vanzara suggested that the instructions for creamy layer should be issued from the Ministry of Social Justice & Empowerment and not from the Deptt. of Personnel & Training. He also pointed out the difficulties in implementing the creamy layer policy and that even though a person's annual income may run into lakhs of rupees it is still difficult to declare him as belonging to creamy layer.

15.7 Regarding categorization, he was of the view that even though this is a sensitive issue, categorization should be undertaken. He also suggested that for effective follow up of the deliberations of the Conference a core group should be formed from the delegates and this core group should meet the Hon'ble Union Minister, Hon'ble State Minister and Secretary of the Ministry of Social Justice & Empowerment for proper implementation.

HARYANA

16. Haryana was represented by Shri A.K. Singh, Director who stated that in Haryana 27% reservation in civil posts for OBC has been in existence from 1994. He pointed out that out of 72 castes/communities in the OBC List, 67 have been categorized as Block A and for them 16% of the vacancies have been reserved. The remaining 5 castes, which have very large population 11% of vacancies have been reserved. He also pointed out that from 1995, the reservation policy has also been implemented in the educational sphere, including professional and higher educational institution. In so far as "creamy layer" is concerned he stated that artisans and those following traditional occupations have been excluded from the creamy layer. He pointed out that in Haryana they are facing problem with migrant labour especially from Bihar and U.P. who belong to OBC castes/communities in their own State but have not been included in the List in Haryana. He also expressed the need for having a Statutory Backward Classes Commission. Regarding filling up of backlog vacancies, he drew attention to the problem created by 50% cap on reservation in each year which stands in the way of filling up of backlog vacancies. He also touched upon the question of reservation in private sector.

HIMACHAL PRADESH

17. Himachal Pradesh was presented by Shri Bhim Sen, Principal Secretary who stated that the State has a three Member Backward Classes Commission and after the retirement of the last Chairman the post is still vacant. In so far as the reservation is concerned he stated that a survey was carried out in 1993 and 47 castes were identified who constitute 16% of the population and they have been declared as backward. State Govt. has also provided reservations of 12% in class I and II services and 18% for class III and IV. He pointed out that categorization of the 47 castes identified would not be feasible at this stage since fresh survey would be required for which State Govt.'s finances are not available. He also pointed out that every 10 years, a survey should be carried out. Regarding variations between the State List and the Central List he suggested that the Centre should adopt the

State Lists and thereby ensure a uniform list. Regarding empowerment of State Commissions he was of the view that State Backward Classes Commission need to be empowered to oversee the implementation of the welfare schemes and the instructions relating to reservation.

JAMMU & KASHMIR

18.1 Justice Muzafar Jan, Chairperson, J&K Backward Classes Commission agreed with the views expressed by other Chairman for empowerment of the Commissions and stated that unless Commissions have more powers they would not be in a position to provide substantial justice. On the question of categorization, he pointed out that the conditions in J&K are substantially different from the rest of the country since only 3 out of 14 districts have people of different castes.

18.2 He agreed with the view that the artisan groups should be excluded from the purview of creamy layer. Regarding the survey, he expressed a very serious and genuine concern. He pointed out that even for the basic functioning of the Commission grants are not provided and unless funds are provided, it is not possible to undertake surveys. He extended an invitation for holding the next conference in Kashmir with the expenditure being met by the Central Govt.

JHARKHAND

19.1 On behalf of Jharkhand Backward Classes Commission Justice Loknath Prasad, Chairman agreed that there should be empowerment of NCBC and the SBCCs. However, he pointed out that empowerment by itself would not be adequate unless the SBCCs are properly manned, vacancies are filled up promptly and people with requisite qualification only are appointed. He suggested that some provisions and guidelines should be recommended to the State Govts. regarding the qualifications for the Chairman and Members of SBCCs. He also stressed the necessity for providing adequate funds to the SBCCs.

19.2 He also suggested that there should be a cell in NCBC to monitor implementation of the recommendations made in the Conference and the Member-Secretary, NCBC should report the position at the next Conference.

19.3 Regarding categorization, he was of the view that this is a very sensitive issue and should be left to the State Govts. Referring to his own experience he stated that in the rural areas there is hardly any difference between "Backward Classes" and "Most Backward Classes" and whatever difference there is only in the urban areas. He also mentioned that in Jharkhand initially categorization was done into two classes namely "Backward" and "Extremely Backward". Subsequently, when during verification it was found that conditions of the two categories were practically similar, the categorization was given up. He also mentioned that such categorization has also not been done in Gujarat and J&K.

KARNATAKA

20.1 Chairperson, Karnataka Backward Classes Commission, Shri S. Siddagangaiah recounted the various activities undertaken by the Karnataka Backward Classes Commission in respect of the agenda issues. He pointed out that in so far as empowerment

of the Karnataka Backward Classes Commission is concerned, the Commission has been given powers under Section 11 of their Act to conduct survey of the entire population once in 10 years. In addition, under Section 9(2) they have been given powers for conducting surveys, whilst under Section 9(3) KBCC has been given the very important task of supervising the implementation of various welfare schemes meant for the upliftment of BCs. Under this provision KBCC has got powers to inspect, to review and to question any Department regarding welfare schemes of BCs.

20.2 In so far as categorization is concerned he pointed out that in 2002, OBCs have been divided into five categories, for which altogether 32% reservation has been made. He disputed the view that categorization is not required by pointing out that for category I in Karnataka 4% reservation has been made for the most backward communities and this category of people have been exempted totally from the creamy layer. They have also been given other benefits for education, including non-payment of fees and fee exemption etc. He was of the view that categorization would be helpful to the most Backward Classes of people.

20.3, He pointed out that in the educational sector, in Govt. institutions and aided institutions they are insisting upon reservation of 32% of the seats for BCs and even at the highest level such as M.Tech and ME.

20.4 Regarding the artisan classes he stated that KBCC is thinking of adding another category i.e. a 6th category covering nomadic and semi-nomadic tribes including artisans.

20.5 He informed the Conference that for carrying out comprehensive survey of the entire population, KBCC had sent an estimate of Rs.15 crores to the State Govt. The State Govt. had thereafter sanctioned Rs.1 crore from its own funds and requested Central Govt. for Rs.1 crore as advance. Subsequently, Central Govt. has released to Karnataka State Govt. Rs.21.5 crores for conducting the comprehensive survey and out of that Rs.15 crores has already been released to KBCC. KBCC has taken steps for conducting a comprehensive survey and is proposing to initiate the survey from 2nd October 2005. The survey will be conducted through District Collectors and through Group 'C' Officers belonging mainly to Education Department and to Revenue Department.

MADHYA PRADESH

21.1 On behalf of Madhya Pradesh Backward Classes Commission Shri S.S. Dangas, Chairman gave a detailed account of the powers vested by the State Govt. in the MP Backward Classes Commission. He pointed out that under Section 9 of their Act the powers vested in the Commission are as follows :

- i) to act as watchdog Commission for the protection afforded to the members of the Backward Classes under the Constitution and under any other law for the time being in force;
- ii) to watch the proper and timely implementation of the programme meant for the welfare of BCs and to suggest improvement in such programme of the State Govt. or any other body or authority responsible for implementation of such programme;
- iii) to tender advice regarding reservation for BCs in public service and for admission in educational institutions;

- iv) to ascertain the category of persons or groups falling under the Creamy Layer within the BCs including the power to define the "Creamy Layer";
- v) to perform such other functions as may be assigned to by the State Govt.

21.2 Whilst recommending these functions for vesting in NCBC and SBCCs he pointed out that there should be three more additional features which need to be brought into the NCBC. He suggested that the NCBC, being representative of OBCs consisting of more than 50% of the national population, should consist of at least seven Members in order to give appropriate representation to all regions of the country. He also recommended the term of office of the Member should be five years and they should be given a Constitutional status similar to that of Central Minister and Minister of State. He also suggested that there should be uniformity in the powers and functions of all Commissions, both NCBC and SBCCs.

21.3 Regarding empowerment of BCs he agreed with the views expressed by the Chairperson of Jharkhand Backward Classes Commission. He stated that after providing for reservation for SCs (16%) STs (20%) only 14% is available for OBCs and that if there is categorization into three or four groups then only 2 to 3% reservation would be available to each category. He stated that earlier Govt. had resolved to grant 27% reservation to OBCs, but the High Court has stayed implementation of that order and only if the stay is vacated, then the question of categorization could be considered.

21.4 Regarding preparation of list of artisans engaged in hereditary occupation and their exclusion from the creamy layer he pointed out that Madhya Pradesh has already excluded artisans and those following hereditary occupations from the creamy layer. He pointed out that all artisans who work in the rural areas are fully exempted from the creamy layer and those in the urban areas are also exempted if they are not paying income tax. He also mentioned that the State Backward Classes Commission has been utilizing its power to recommend modification in the "creamy layer" from time to time. He pointed out that considerable harassment is caused by revenue authorities whilst issuing income certificates and so clarifications have been issued that Class II Class III and military officers below the rank of Colonel should not be asked to furnish salary certificates since they are exempted from the creamy layer.

21.5 On the question of educational empowerment of BCs, he stated that 27% reservation made in general hostel and Chhatra Grah Yojna for backward student have been implemented. He pointed out that in educational institutions for Backward Classes reservation is only 14%. However, to encourage people to sit for examinations held by MP Public Service Commission and also by the UPSC the State Govt. is providing cash incentives of Rs.50,000 and Rs. 1 lakh respectively to be paid in three phases. In the matter of scholarships also the scales for OBCs are equivalent to that of SC and ST, but in technical education income criteria for OBCs is of Rs.44,500 per annum. He requested that the NCBC should recommend reservation for technical education in the Central Govt. institutions. He also suggested relaxation in age for OBCs applying for Government jobs should be increased from 3 years to 5 years.

21.6 Coming to the question of socio economic survey, he pointed out that despite paucity of funds with the State Govt. some provision has been made in the budget. The State Govt. is also writing to the Central Govt. He suggested, however, that NCBC should take up with the Central Govt. the necessity for a Special Component Plan for OBCs in the

same mode as that for SCs and STs. Secondly, Central Sector Schemes should be framed for overall development of OBCs and centrally Sponsored Schemes should be started for educational development of OBCs. He also suggested that Special Central Assistance to be provided for family oriented programmes for OBCs for training, marketing and advancement.

MAHARASHTRA

22. On the behalf of the Maharashtra Backward Classes Commission, Prof. (Dr.) Anuradha Bhoite, referred to the problems faced by the Maharashtra BCC in functioning namely, lack of adequate and trained staff, lack of computers etc. She suggested that the Commission should be given powers to monitor schemes for the welfare of OBCs. She also suggested that for convenience of the public, the Commission should be made responsible for the issue and distribution of caste certificates.

ORISSA

23. Shri S.K. Sehrawat, Addl. Resident Commissioner, Govt. of Orissa stated that the State Govt. fully support the idea of empowerment of State BCCs and also that the proposal for categorization since this would help equitable distribution of benefits of reservation to different groups. Regarding surveys he stated that it is a sensitive issue and cannot be undertaken at present. He, however, requested Govt. of India to provide funds for undertaking a detailed survey of Backward Classes. He mentioned that the State of Orissa has more than 200 castes/communities. He also pointed out that for the preparation of list of artisans they would require help of Govt. of India in so far as funds are concerned.

PUNJAB

24.1 Chairman, Punjab Backward Classes Commission Shri Bhagat Singh, stated that the Punjab SBCC had been created by an executive order in 1993 and after the first chairman relinquished his office in 1997, till 2003 there was no full-time chairman. Presently the Commission is becoming proactive.

24.2 Regarding empowerment of Punjab SBCC, he stated that a draft Bill has been prepared taking into account the provisions contained in the Karnataka, the Madhya Pradesh and the NCBC Act and the proposal is now under the consideration of the Govt. of Punjab. He stated that the Commission has also suggested that supervisory powers be vested in the Commission. In this connection, he suggested that if a model State BCC Act can be prepared by the NCBC or by the Govt. of India and circulated to the State Govts., it would be of great help.

24.3 Regarding categorization, he submitted that the matter is sensitive and also since there is lack of data, categorization has not taken place so far. In the new Bill, however, a provision for this purpose has been made. He pointed out that there was reservation for Backward Classes since 1960. At present it is 12% for direct recruitment in Govt. bodies, whilst in educational institutions it is only 5%. He also expressed necessity for comprehensive survey of OBC population.

SIKKIM

25.1 Chairman, Sikkim Commission for Backward Classes Shri M.B. Dahal, stated that Sikkim SCBC has been created by SCBC Act-1993. The SCBC Act-1993 was partially amended in the year-2001 enabling the State Government to appoint Chairperson, a person who is a socio-political worker of eminence, ability, integrity and standing and who inspires confidence among the Other Backward Classes as the Chairperson of the Commission.

25.2 He stressed that Sikkim has a specific Historical and Socio-economic background with its social structure based on three ethnic communities - the Bhutias, the Lepchas and the Nepalese and therefore this needs special attention, while identifying the castes/communities. The Sikkim Govt. have already notified 10 Backward Class communities viz. Bhujel, Gurung, Limboo, Rai, Manger, Sunuwar, Tamang, Thami, Jogi and Dewan. Whilst the case of Dewan Community in the Central List is yet to be settled, the Limboos and Tamangs too have been accorded Scheduled Tribe status. He further pointed out that different Nepali ethnic castes have been either individually or generally categorized by the Central and respective State Governments as "Nepalis" or "Gorkhas" "Gurkhas" which automatically include among others, the Bahuns, the Chettris, the Newars and the Sanyasis.

25.3 He mentioned that the percentage of reservation in jobs and higher studies presently being followed in the State is 21% for MBC and 14% for OBCs. The present income-ceiling applicable for determining "Creamy-Layer" amongst MBCs/OBCs of the State is Rs.2.00 lakhs.

25.4 Regarding empowerment, he submitted that the Backward Classes Commissions, both at the National as well as State level should be empowered with functions for looking into the grievances of Backward Classes and redressing them properly, and the steps already being taken up by NCBC in this direction, are appreciated.

25.5 He also endorsed the view of undertaking a survey of Backward Classes to gather full informations about the present status of Backward Classes, so that proper planning to evolve appropriate policies for their development and reviewing their progresses could be done. The SCBC is presently working out for preparation of a District-wise MBC/OBC population-data of the State, based on the 1999 census, which is nearing completion. Similar educational as well service-data of the Other Backward Classes of the State are also being prepared, but may take some more time to update.

25.6 On the Question of reservation in Central Educational Institutions he agreed with the views of the August Home, the need for extending the reservation to Central Institutions.

TAMIL NADU

26.1 On behalf of Tamil Nadu Backward Classes Commission Justice Arumugham referred to the circular sent to all State Govts. for sending the data on Backward Classes and stated that it is 13 years since Supreme Court gave its judgement in the Indira Sawhney case and no authority had sent any instructions earlier regarding the data base to be created for implementing the Supreme Court Judgement. He pointed out that after 1931 census there has been no caste census and States have, therefore, on different occasions and at different

points had to undertake sample surveys to meet their requirements. He submitted that for the database to be created, data collection is a must and for this purpose a door-to-door census is required. He requested NCBC to recommend to the Union Govt. to undertake data collection. In this context he recommended the manner in which Karnataka is being assisted by the Union Govt. with funds for undertaking a comprehensive survey.

26.2 With regard to functioning of the Tamil Nadu Backward Classes Commission, he stated that so far 148 castes/communities have been listed in the 'Backward' category and 45 communities have been included in the 'Most Backward' category. He pointed out the difficulties in arriving at a subjective satisfaction unless castes are identified on the basis of material and evidence and in this context pointed out the inability of the people of different communities to collect the statistical data and the relevant matters required for consideration to establish their social and educational backwardness.

UTTAR PRADESH

27.1 On behalf of the Uttar Pradesh Backward Classes Commission Shri Jaganath Prasad Yadav, Chairman, stated that he was in agreement with all others that castes engaged in hereditary occupations and artisans should be excluded from the application of the creamy layer criteria. He also stated that for the development of Backward Classes and in order to bring them into the main stream of society reservation in education is a must. He was of the view that reservation in education should even precede job reservation.

27.2 Regarding empowerment of State Commissions he noted that the power to deal with grievances of Backward Classes has been vested in UP State Backward Classes Commission and it is utilizing this power effectively.

27.3 He suggested that a Committee should be constituted for maintaining coordination between the National Backward Classes Commission and the State Backward Classes Commissions so that the available data on Backward Classes can be shared and utilized for their development; it would also help in preparation of development initiatives for the benefit of OBCs. It would also assist in apprising different organizations of the welfare measures being implemented by the Govt. for Backward Classes. He also suggested that to ensure uniformity in the data inputs utilized by State Backward Classes Commissions a questionnaire may be prepared at the national level which should be utilized by all SBCC. He also requested that for social, educational and economic development of Backward Classes the process of monitoring and investigation of implementation of reservation policy guidelines should be expedited. He also drew attention to the discrepancies in the Central and State Lists of OBCs which creates misunderstandings of the criteria adopted for inclusion of castes in the Backward Classes lists in the States and in the Centre. He expressed the view that this matter should be sorted out so as to bring uniformity in the list and to avoid problems faced by the Backward Classes. He also mentioned the necessity of preparation of a separate list of castes which move from place to place and are involved in traditional occupation so that they can be provided whatever benefits feasible.

WEST BENGAL

28.1 On behalf of West Bengal Backward Classes Commission Justice Malay Sengupta, Chairperson stated that out of a total population of 8 crore West Bengal 15% approximately belong to the OBC castes/communities. However, the extent of reservations for OBC has

been kept by the State Govt. at 7%. The reservation of 7% has been made not only in the service sector, but also in the educational sphere at the school level.

28.2 Regarding empowerment of the State Backward Classes Commission he requested for guidance from NCBC as also from the State Backward Classes Commissions of U.P., Madhya Pradesh, Andhra Pradesh and Karnataka.

28.3 He also agreed with the requirement mentioned by other States for comprehensive survey for identification of OBCs. Regarding exclusion of artisans and persons following tradition professions from creamy layer he expressed some reservation by pointing out that even amongst some of these artisan groups there are creamy layers and it would be contrary to the dictum of the Indira Sawhney judgement to exclude them totally.

28.4 He also pointed out that the list of OBCs is required to be mandatorily reviewed at the end of 10 years for considering deletion of those castes/communities which have advanced. He pointed out that several State Govts. are overlooking this requirement and are not asking the State Backward Classes Commission to carry out the review as required at the end of the 10 year period.

III. RESOLUTIONS

29. Dr. Babu Rao Varma, Member, NCBC summarised the main points which emerged during the Business Session. The detailed text of the summary made by Dr. Varma is placed at 'Annexure – XII'.

29.1 Empowerment of Backward Classes Commissions

29.1.1 The Conference after detailed deliberations about the need to empower the National Commission for Backward Classes and State/UT Backward Classes Commissions recommends that the National Commission for Backward Classes and State/UT Backward Classes Commissions should be empowered with adequate functions to look into the grievances of Backward Classes and oversee the implementation of the rule of reservation, apart from the limited functions already entrusted, viz., examining requests for inclusion in the list of Backward Classes and complaints of under-inclusion and over-inclusion, on the lines of the functions of the SC and ST, Minorities and Women Commissions.

29.1.2. The Backward Classes Commission at the Centre as well in States/UTs have been receiving number of grievances from Backward Class castes/communities regarding improper implementation and violation of the rule of reservations, non issue of caste and income certificates, issue of bogus caste certificates and other issues related to the reservation policy and development of Backward Classes. The National and State Commissions are unable to attend to such grievances as they are not empowered to do so.

29.1.3 It is recommended that the National Commission for Backward Classes should be entrusted with all similar powers and functions enumerated in Article 338 of the Constitution in respect of SC and ST Commissions.

29.1.4 The State/UT Backward Classes Commissions, which do not have similar powers, may take up with their respective Governments the issue of their empowerment.

29.2 Categorisation of List of Backward Classes

29.2.1 The Conference has deliberated in detail the various aspects of categorization of the Central and State Lists of Backward Classes. It is recommended that the State/UT Backward Classes Commissions should take up categorization of Backward Classes based on the degree of backwardness and other factors and suggests appropriate percentage of reservation to be apportioned to each category. This will help in equitable distribution of reservation benefits to all Backward Classes to an extent by precluding the possibility of comparatively less backward castes/communities among BCs cornering more benefits of reservation and other facilities to the disadvantage of the more and/or most backward castes/communities and thus, in the long term, to bridge the gap of inequality between different categories of Backward Classes. As and when the States/UTs complete the categorization of their respective lists of BCs, measures can be taken for categorization of Central list of BCs for each State.

29.3 Preparation of list of castes/communities of artisans engaged in hereditary occupations/callings

29.3.1 The Conference resolves that the State/UT level Backward Classes Commission may undertake the preparation of the list of castes/communities of artisans engaged in hereditary occupations/callings and furnish the same to the National Commission for Backward Classes expeditiously to initiate measures for exemption of such castes/communities from the purview of creamy layer as per DOPT O.M. No. 36012/22/93-Estt(SCT) dated 07-09-1993.

29.4 Reservation in Central Educational Institutions

29.4.1 The Conference noted with concern that the Central Government have not still provided reservation to Backward Classes in Central educational institutions, including IITs, IIMs, Law Universities etc and thus the OBCs are denied the facility of quality higher education in the prestigious institutes like IITs, IIMs etc. on the principle of reservation.

29.4.2 The State Governments are providing reservation to OBC students in admissions to the educational institutions under the State Government to the extent of the percentage of reservation earmarked for them in the State services.

29.4.3 Unless the Backward Classes are provided the facility of availing quality education on the principle of reservation in the educational institutions under the Central Government also, they will not be able to fully avail of the benefit of reservation in services.

29.4.4 In view of this anomaly, the Conferences urges the Central Government to expedite issue of orders providing for 27% reservation to OBC students in admissions to Central educational institutions including Central Universities, IITs, IIMs, Law Universities, Medical Colleges and other professional institutes.

29.5 Census & Survey of Backward Classes and building of NCBC as a National Level and State/UT Commissions as State/UT level Resources Houses for date/information on Backward Classes of India

29.5.1 The Conference noted the urgent need to find out the changes that have occurred among BC castes/communities particularly in terms of their population, occupational diversity, social mobility, incidence of poverty, trends in their migration within the country and abroad for evolving appropriate policies and schemes for their welfare and development. In this regard, the Conference also took note that Prime Minister has called for a comprehensive region-wise, State-wise and district-wise database particulars relating to OBCs to be prepared and submitted to the Government to enable the Government to improve the quality of decision making in respect of various issues relating to welfare of Backward Classes. A survey of Backward Classes has also been a long-pending demand of the Backward Classes associations/organizations.

29.5.2 In view of the above, the Conference resolved that the State/UT Backward Classes Commissions have to undertake a detailed survey of Backward Classes of the respective States/UTs expeditiously.

29.5.3 The Government should provide adequate funds to undertake the survey.

29.5.4 The Conference also expressed the imperative need to conduct the Census of Backward Classes by the Central Government along with the decennial General Census.

30. The Conference also discussed other relevant matters pertaining to the welfare of Backward Classes and their empowerment and resolved as follows:-

Reservation in Services

30.1 Age relaxation

The Conference recommends that the age relaxation extended to OBC candidates for appointment in Central and State Govt. services should be enhanced from 3 years to 5 years.

30.2 Backlog vacancies

The backlog vacancies of OBCs should not be counted against the 50% ceiling prescribed by the Supreme Court in Indira Sahney case.

30.3 BC representative in Selection Committees

At least one representative of Backward Classes should be nominated to all Selection Committees set up for filling up of vacancies/posts.

30.4 Free travel for OBC candidates

The candidates belonging to Backward Classes should be given free travel facilities to appear for competitive examinations and interviews in respect of Central and State level services.

30.5 Adequate Plan Provisions

The Conference recommends that adequate plan outlays should be earmarked for the welfare and developmental schemes in respect of Backward Classes.

30.6 Filling up Vacancies in the Commissions

The Conference recommends that the Governments should fill up all the vacancies in the State Backward Classes Commissions with qualified persons as per respective Acts.

30.7 Speedy clearance of pending requests by the BC Commissions

It was suggested that, as observed by the Minister for Social Justice & Empowerment, the BC Commissions may adopt a time-bound procedure to complete the enquiry and decision on cases of requests for inclusion in the lists of Backward Classes and regarding uniformity between the Central and State BC lists, the State Commissions are requested to send proposals with justification to include such of the BC castes including synonyms which are included in the State lists but not found in the Central list, to the National Commission for consideration.

30.8 Regular Conferences

It was suggested holding Conferences periodically in different parts of the country, at least once in a year.

It was also suggested that there shall be a Cell in the NCBC to monitor the recommendations/resolutions of the Conferences which are to be implemented either by the Central Government or by State Governments.

IV. VALEDICTORY SESSION

31. The Valedictory Session which followed immediately thereafter was presided over by Chairperson, National Commission for Backward Classes. Smt. Subbalakshmi Jagadeesan, Minister of State, Ministry of Social Justice & Empowerment delivered the Valedictory Address. In the course of her speech she emphasized the need for empowerment of weaker sections of the society so that the cherished goal of establishment of an egalitarian society based on total equality and imbalances is realized. She also mentioned that only Government's measures will not be sufficient to achieve the goal, but the Commissions at the Centre and State level have an important role to play to bring awareness among Backward Classes so that benefits are availed by Backward Classes to the maximum extent. She also appreciated the gesture of the NCBC and the State Commissions for voluntarily coming forward to shoulder greater responsibility for the welfare and development of Backward Classes. The detailed text of the speech is placed at 'Annexure – XIII'.

32. The Conference ended with a Vote of Thanks by Shri S.K. Purkayastha, Member Secretary, NCBC.

**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/- CJT

(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 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 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
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 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-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-Est. (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-Est. (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.

¹ Annexure-III

² Appendix 2 to Annexure-IV

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

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

To

All Ministries/Departments of Government of India.

Copy:

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

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

Appendix 1 to Annexure-IV

PERSONS/SECTIONS EXCLUDED FROM RESERVATION

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

<u>Description of category</u>	<u>To whom rule of exclusion will apply</u>
I. Constitutional Posts	Sons and daughter(s) of – (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	Son(s) and daughter(s) of ---
A. Group 'A'/Class I officers of the All India Central and State Services (Direct Recruits).	(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 ---

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

C. Employees in Public Sector

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

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

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

Provided that ---

- (i) If the wife of an armed forces officer is herself in the armed forces (i.e., the category under consideration) the rule of exclusion will apply only when she herself has reached the rank of Colonel; the service ranks below Colonel of husband and wife shall not be clubbed together;
- (ii) 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
- (iii)

enumerated therein will apply to her independently.

IV. Professional class and those engaged
In Trade and Industry

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

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

Criteria specified against Category VI will apply.

Criteria specified against Category VI will apply.

EXPLANATION ---

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

V. Property owners

A. Agricultural holding

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

- (a) only irrigated land which is equal to or more than 85% of the statutory ceiling area, or
- (b) both irrigated and unirrigated land, as follows :-

- (i) The rule of exclusion will apply where the pre-condition exists that the irrigated area (having been brought to a single type under a common denominator) 40% or more of the statutory ceiling limit for irrigated land (this being calculated by excluding the unirrigated

portion). If this pre-condition of not less than 40% exists, then only the area of unirrigated land will be taken into account. This will be done by converting, the unirrigated land on the basis of the converting, the unirrigated land on the basis of the conversion formula existing, into the irrigated type. The irri- gated 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.

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.

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

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 agri- cultural 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.

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: 9th 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 8th 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:

<u>Category</u>	<u>Description of Category</u>	<u>To whom the rule of exclusion will apply</u>
VI	INCOME/WEALTH TEST	Son(s) and daughter(s) of
	(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.	
	(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.	

Explanation:

Income from salaries or agricultural land shall not be clubbed.

2. The provisions of this Office Memorandum take effect from the 4th 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. Verna)
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, Trikoot-I, Bhikaji 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.T.s. 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.

Appendix to Annexure-VI

Extract of the Meeting of the Commission held on 11th September, 1997 Amending the Procedure under Sub-Section (2) of Section 8 of the National Commission for Backward Classes Act, 1993 (Act No.27 of 1993)

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

1. Examination of and Public Hearing in respect of the following types of Requests and Complaints under Section 9(1) of the Act and formulation of the Bench findings may be done by single-Member Benches :-
 - a) where inclusion is only by correction of spelling and other similar corrections like punctuations, etc. taking care that in the name of spelling correction, etc., a caste/community/sub-caste, which is not really in the relevant Central List, is not given an unintended entry into that List.
 - b) Absolute synonyms or synonyms which are co-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.

List of Participants**National Commission for Backward Classes**

- | | | | |
|----|-------------------------|---|------------------|
| 1. | Justice Ram Surat Singh | - | Chairperson |
| 2. | Shri M.S. Matharoo | - | Member |
| 3. | Smt. Neera Shastri | - | Member |
| 4. | Dr. B. Baburao Varma | - | Member |
| 5. | Shri S.K. Purkayastha | - | Member-Secretary |

Ministry of Social Justice & Empowerment

- | | | | |
|----|-------------------------------|---|---------------------------|
| 1. | Smt. Meira Kumar | - | Hon'ble Union Minister |
| 2. | Smt. Subbalakshmi Jagadeesan- | | Hon'ble Minister of State |
| 3. | Dr. Prasanna Kumar | - | JS (M&BC) |

State Backward Classes Commission***Andhra Pradesh***

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Assam

1. Justice Haque
Chairman
Assam Backward Classes Commission
Christian Basti
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Bihar

1. Justice Dharampal Sinha,
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Chhattisgarh

1. Shri B.L. Thakur
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Govt. of Chhattisgarh
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Gujarat State Backward Classes Commission
Gandhi Nagar
Gujarat
2. Shri B.L. Parmar
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1. Justice Muzafar Jan
Chairperson
State Commission for BCs
Government of Jammu & Kashmir
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1. Shri Bhagat Singh
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Principal Secretary
Department of Social Welfare & TAD
Govt. of Rajasthan
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Govt. of Sikkim
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Third National Conference on Backward Classes 27th July, 2005

Background Note

The reservation for Backward Classes took effect from 8th September, 1993 when the Central Government issued O.M. NO. 36012/22/93-Estt(SCT), Department of Personnel & Training by which the Government provided 27% reservation for backward classes in civil posts and services under the Central Government and Public Sector Undertakings and Financial Institutions subject to the condition laid down by the Supreme Court in Indira Sawhney and Ors vs Govt. of India and Ors (ie. exclusion of socially advanced persons/sections among OBCs from the purview of reservation). On the 10th September, 1993, the Central Government also notified its first phase lists of Backward Classes in respect of 14 States, on the basis of the principle of commonality (i.e., by including in the first phase Central list for each State/UT those castes/sub-castes/communities which were commonly found included in the list recommended by the Mandal Commission as well as in the respective State/UT Government's lists). As on date, the Central list of Backward Classes have been notified in respect of 26 States/UTs and a total number of 2278 castes/communities have been included in these lists.

2. Notwithstanding the provisions of the Constitution, recognition of the backward classes as a category of people requiring special attention in socio-economic development was a late-starter at the national level and in some States. Now, it is necessary that this delay is not compounded by weakness in developmental planning and efforts for accelerated social, educational and economic empowerment of Backward Classes so that they are able to reach a level of all-round equality expeditiously.
3. Based on the suggestions made by the State/UT Backward Classes Commissions for the current National Conference, this Conference proposes to take up the following items for deliberations and brief background notes are given accordingly for detailed deliberations:-

- I. Empowerment of Backward Classes Commissions
- II. Categorisation of the Central and State Lists of Backward Classes
- III. Preparation of List of Artisans engaged in Hereditary Occupations/Callings for their exclusion from the purview of "Creamy Layer".
- IV. Educational Empowerment of Backward Classes
- V. Survey of Backward Classes and building of NCBC as a National level and State/UT Commissions as State/UT level Resources Houses for data/information on Backward Classes of India.

Empowerment of Backward Classes Commissions

4. Setting up of the National Commission for Backward Classes at the Centre and State/UT level Backward Classes Commissions consequent to the Supreme Court's judgement in Indira Sawhney and Others vs Union of India and Others is an initial and

important step in favour of the Backward Classes of India. Arising from the above mentioned Supreme Court judgement, the National Commission for Backward Classes Act and the State Backward Classes Commission Acts, the primary function entrusted to the Backward Classes Commissions is to examine requests for inclusion of any class of citizens as a backward class in the lists of backward classes and hear complaints of over-inclusion or under-inclusion of any backward class in such lists and tender such advice to the respective Governments as they deem appropriate.

5. The Backward Classes Commission at the Centre as well as in most of the States have been receiving number of grievances from Backward Class castes/communities regarding improper implementation and violation of the rule of reservations, non issue of caste and income certificates, and other issues related to the reservation policy and development of backward classes. The National and most of the State Commissions have not been entrusted with any functions to look after such grievances of Backward Classes for their proper redressal. Therefore, the National and most of the State Commissions are unable to attend to the grievances of the Backward Classes and oversee the implementation of the rule of reservation and its violations, and suggest appropriate measures to the Government to rectify the same, as is being done by the National Commissions for Scheduled Castes, Scheduled Tribes, Minorities and Women.

6. Recently, some of the State Governments like Uttar Pradesh, Madhya Pradesh, Karnataka and Andhra Pradesh, have been entrusted with functions of looking into the grievances of Backward Classes and overseeing the rule of reservations and its violations to their respective Backward Classes Commissions. It is appropriate that the National Commission and other State Commissions are also empowered with such functions, in the interest of Backward Classes who constitute about 52% of our population and for whom various measures are being taken at the Centre and States.

7. The NCBC has already sent proposals to amend the NCBC Act to entrust these functions to it and also to accord Constitutional status to it. The State Commissions where such functions have not been entrusted may consider to take up the matter with the respective State Governments. The empowerment of the Commissions is one of the important themes proposed to be discussed in the Conference.

Data/Statistics/Census

8. India's backward classes (other than Scheduled Castes and Scheduled Tribes) account for about 52% of the total population of the country and there is enormous range of diversity among them in terms of occupation, customs and level of development. Social formation and the pace of development might be slow but it has taken place in different forms as change is an inevitable phenomenon, though it may vary from State to State, region to region and community to community. There is a need to find out the changes that have occurred among these castes/communities particularly in terms of their population, occupational diversity, social mobility, incidence of poverty, trends in their migration within the country and abroad. However, there is no reliable source of collecting adequate data and information to gauge such changes among them. After 1931, there was no caste-wise survey in India. The data/statistics/information available with regard to them through some academic case studies etc. are very limited to comprehend the socio, economic and educational changes that have occurred since the ushering in of Independence and a planned economy.

9. In view of the above, it is necessary to undertake a survey of Backward Classes to gather full information about the present status of Backward Classes as a whole and of each caste/sub-caste/community among them, which will not only help in planning their development but also in reviewing their progress. Recently, Karnataka State Commission for Backward Classes has undertaken a project for surveying of Backward Classes. This is a welcome step. The Census of Backward Classes, which has not been undertaken since 1931, has to be conducted again by the Government of India in view of its importance for policy making and the functioning of the Commissions. It is also one of the important demands of Backward Classes organizations.

10. It is imperative to have a close networking between the NCBC on one hand and State Commissions for backward classes on the other hand for building up NCBC as a national level resource house and State/UT Backward Classes Commissions as State/UT level resource houses in respect of backward classes. Since the nature of the work entrusted to the Central and State Commissions are almost similar, the database generated would help them to interact and to do their functions with quality data/information and thus do justice to Backward Classes. Such data-base at national level in the NCBC will also be benefited by the OBC communities for having first hand information and also bringing awareness among OBC community and also help development planners to evolve appropriate policies for their development.

Creamy Layer and Occupational Groups

11. As per the DOPT Order dated 8-9-1993 the rule of exclusion will not apply to persons working as artisans or engaged in hereditary occupations, callings. A list of such occupations, callings was to be issued separately, but till date no such list has been notified. The underlying philosophy is that castes and communities, which in terms of the caste system, are identified with traditional crafts or traditional or hereditary occupations considered to be lowly or undignified are still to raise to a level in the society and as such they should get the benefit to the optimum level. A vast majority of the castes/communities in the OBC lists belong to artisan/artisanal, denotified, nomadic, semi-nomadic and occupational or personal service groups. The work of preparation of such a lists would be easier and less time consuming if the State/UT Governments furnish the information to the NCBC, which would help in the preparation of the list of OBC castes/communities engaged in artisan/artisanal and hereditary occupations, which will be excluded from the purview of “creamy layer” as the Govt. of India (DOPT) order dated 8-9-1993.

Categorisation of Backward Classes

12. Even though much time has lapsed after the implementation of Reservation for Backward Classes for measuring the advancement made by the Backward Classes communities, it is felt that classification of Central and State lists of Backward Classes into categories based on the degree of backwardness should be made and the percentage of reservation should be appropriately apportioned to each category. This will help in precluding the possibility of comparatively less backward castes/communities among Backward Classes cornering more benefits of reservation and other facilities to the disadvantage of the more and/or most backward castes/communities and thus, in the long term, to bridge the gap of inequality between different categories of backward classes.

Such a classification could be done only with the cooperation of States/UT Governments. As and when the States/UTs complete the categorization of their respective lists of Backward Classes, measures can be taken for categorization of Central list of Backward Classes. Such categorization has been undertaken by most of the State Governments like UP, MP, Maharashtra, Karnataka, Andhra Pradesh, Kerala. In Indira Sawhney case, the Supreme Court has held that such classification of Backward Classes is not unconstitutional.

13. Most of the State/UT Commissions in their agenda proposals have stressed the need for avoiding discrepancy between the Central and State/UT lists in respect of number and names of sub-castes/synonyms of a particular caste/community included in the list of BCs for a State/UT. The need for avoiding such discrepancies and the question of to what extent it will be possible could be a point of discussion in the Conference.

14. The Conference may also deliberate on issues pertaining to reservation in Central educational institutions and other related matters. The Central Government have not still provided reservation to Backward Classes in Central educational institutions, including IITs, IIMs, Law Universities, etc. Thus the OBCs are denied the facility of quality higher education in the prestigious institutes like IITs, IIMs etc. on the principle of reservation.

Welcome Address By Justice Ram Surat Singh Chairperson, National Commission for Backward Classes

Hon'ble Minister for Social Justice & Empowerment, distinguished guests and friends, I extend you a hearty welcome to this conference. This conference has been organized to provide a forum to discuss some of the important issues. The background paper which you have already received deals exhaustively with the purpose, need and importance of this issue.

We are gratified to note that Chairpersons of State/UT Backward Classes Commissions and their representatives of State Govts./UT and distinguished invitees have responded to our invitation and this no doubt is a measure of their abiding interest in the welfare of backward classes and need to initiate positive action towards amelioration of deprived sections of our society.

I would like to share with you, on this occasion, some of the important issues related to the OBCs. One of the important issues is that, the Commission, under Section 9(1) of the NCBC Act 1993 has been assigned the limited mandate of examining requests for inclusion or over-inclusion in the Central List of OBCs and tender such advice to the Government as deems appropriate. However, the Commission has been receiving thousands of representations from the members of OBC castes/communities regarding non-implementation of reservation policy for OBCs and redressal of grievances of various types. Unfortunately, in view of the mandate given to the Commission, these matters lie outside the purview of the Commission and therefore, the Commissions at the Centre and State Levels find themselves in a very awkward position being not able to respond to such grievances for lack of any provision in the NCBC and State BCs Act, to take action especially in regard to non-implementation of reservation quotas and grievances of members of OBCs. I would urge the Government to consider vesting in the Commission, the necessary powers to deal with such cases.

At the same time, I would also like to add that some of the State Commissions viz., Karnataka, U.P., M.P. have more powers and functions that enables them to play an active role in the welfare of BCs besides vesting them with the right to deal complaints of injustice.

Secondly the OM of 8-9-1993 regarding reservation of Other Backward Classes in Civil Posts and Services under the Government of India is still incomplete. According to the OM, the rule of exclusion will not apply to persons working as artisan or engaged in hereditary occupations, callings. A list of such castes and communities was to be issued separately by the Ministry. The same has not yet been issued. I request the Government to take appropriate action in this direction.

The plan for the educational development of Backward Classes should include to bring about real equality for BCs in the entire gamut of education so as to bring about parity at all levels. Many of the State/UT Govts. are already implementing reservation in educational institutions for OBCs. There is no reservation in the Institutions under the Central government for OBCs. Reservation at the national level for Backward Classes, which has been introduced only in appointments or posts in the services, should be extended to seats in the Central Educational Institutions also.

Social changes and the pace of development might be slow but it has taken place in different forms because change is an inevitable phenomenon. It may vary from State to State, region to region and community to community. Therefore, there is a need to find out the changes that have occurred among the OBCs particularly in terms of population, occupational diversification, incidence of poverty etc. by generating information base on a combination of macro level perspectives and micro level observations. Class, occupation, income, power and mobilization capacity are accepted today as the effective channels of upwards social mobility.

A vast majority of the castes/communities in the OBC lists belong to artisan/artisanal, denotified, nomadic, semi-nomadic and lowly occupational or personal service groups. A limited number of families belonging to such castes may have obtained upward mobility. Also the traditional occupational services like tailoring, haircutting, washing of clothes, pressing of oil-seeds pottery etc. may also have been affected. As a result, many of these service classes have been compelled to either become agricultural labourers in the villages or have ended up in the cities and towns as unskilled manual workers. In the same way, some of the castes/communities in the OBC list who are peasants, cultivators, traders and professionals may have had scope for improvement in the last 10 years. More over a stage may come, where we cannot escape the revision of the central and State Lists, those castes/communities which have advanced. The underlying philosophy of revision is that reservation should be only for those backward classes that are genuinely deserving and are handicapped without it and not for those who after availing themselves of and enjoying the benefits of reservation and or through other socio-economic processes have ceased to be backward. As such there is a need for caste based Census.

Under Section 9(1) of NCBC Act, 1993 Advice are tendered to the Ministry. The speedy disposal of such advices are must to ensure that the long-denied benefits and other benefits of reservation available to OBCs are not delayed further to the eligible members of OBCs. Therefore it is necessary to fix a time-bound action plan to notify the castes/communities speedily. I am not going into the details of other issues, which will be deliberated in the conference.

Before concluding I would like to mention yet another factor, which is a reality and raises the question which I am often asked how long will the identification of castes/communities and protective discrimination afforded by the Constitution continue? Indeed it is a query that is not easy to answer, but my reply was that as soon as the OBCs reach the level of others in the main stream of the society and when both currents move along together, this may come to an end. Therefore, it is time that Government and the Commission should work faster together to achieve a society totally devoid of choice and preference which was the dream cherished by Mahatma Gandhi.

I am indeed grateful to Hon'ble Minister for devoting her precious time despite her busy schedule to inaugurate this conference. I am also grateful to all the participants for having responded to our invitation. I would like to emphasise again that without active support and assistance of the State Govts./UT Adms. and the State Backward Classes Commissions it would not be possible for the NCBC to complete this work. I once again welcome you all to this conference and I am sure that deliberations will be very useful.

Thank you all. Jai Hind.

Address of Hon'ble Union Minister for Social Justice & Empowerment, Smt. Meira Kumar - Chief Guest at the Third National Conference of Backward Classes on 27th July, 2005.

I am glad to inaugurate the Third National Conference of the National and State Backward Classes Commission being held today, 27th July, 2005 which has a very important agenda to discuss and deliberate. I am sure that the deliberations of this Conference on various issues relating to Backward Classes will be very useful.

2. The Government of the UPA has committed itself for the overall development of the Backward Classes in the country and their empowerment, socially, educationally and economically. UPA Government has undertaken several measures in this direction. The National and State Commissions will have to play a very important role in creating awareness among backward classes who are often in the dark about these measures and therefore unable to reap the benefit of these measures.
3. The reservation for Backward Classes took effect from 8th September, 1993 when the Central Government issued O.M. NO. 36012/22/93-Estt(SCT), Department of Personnel & Training by which the Government provided 27% reservation for backward classes in civil posts and services under the Central Government and Public Sector Undertakings and Financial Institutions subject to the condition laid down by the Supreme Court in Indira Sawhney and Ors vs Govt. of India and Ors (ie.. exclusion of socially advanced persons/sections among OBCs from the purview of reservation). On the 10th September, 1993, the Central Government also notified its first phase lists of Backward Classes in respect of 14 States, on the basis of the principle of commonality (ie., by including in the first phase Central list for each State/UT those castes/sub-castes/communities which were commonly found included in the list recommended by the Mandal Commission as well as in the respective State/UT Government's lists). As on date, the Central list of Backward Classes have been notified in respect of 26 States/UTs and a total number of 2278 castes/communities have been included in these lists.
4. The principal function of the National and State BC Commissions is to examine the claims of castes/communities for inclusion in the list of BCs, hear complaints of over-inclusion or under-inclusion and undertake periodical revision of the lists. It is often seen that the claims of castes seeking recognition as BCs remain pending for long time in the Commissions, thus denying the benefit of reservation etc. to these poor people who may be otherwise eligible on account of belated action by the Commissions. I would suggest that a time-bound programme should be evolved for clearing of the pending applications.
5. The Government have issued several executive orders for implementation of the rule of reservation to OBCs in civil posts and educational institutions. Now it has been proposed to codify all these orders through a reservation Act, a bill for which has already been introduced in the Parliament.
6. The UPA Government believes that there must be a direct link between privatization and social needs. It is necessary to evolve certain measures to protect the

occupational groups among OBCs so that their interests are not jeopardized and livelihood assured in the face of the policy of Liberalisation, Privatisation and Globalisation.

7. Prime Minister has called for a comprehensive region-wise, State-wise and district-wise database particulars relating to OBCs to be prepared and submitted to the Government of India to enable the Government to improve the quality of decision making in respect of various issues relating to welfare of OBCs. In this direction, the State level and National Commissions have to move fast in preparing and consolidating such database.

8. It is imperative to have a close networking between the NCBC on one hand and State Commissions for backward classes on the other hand for building up NCBC as a national level resource house and State/UT Backward Classes Commissions as State/UT level resource houses in respect of backward classes. Since the nature of the work entrusted to the Central and State Commissions are almost similar, the database generated would help them to interact and to perform their functions with quality data/information and thus do justice to Backward Classes within the stipulated period. Such data-base at national level in the NCBC will also be benefited by the OBC communities for having first hand information and also bringing awareness among OBC community and also help development planners to evolve appropriate policies and strategies for their development and bridging the gaps among the most backward and backward in OBC lists.

9. As per the DoPT Order dated 8-9-1993 the rule of exclusion will not apply to persons working as artisans or engaged in hereditary occupations, callings etc. The underlying philosophy is that castes and communities, which in terms of the caste system, are identified with traditional crafts or traditional or hereditary occupations considered to be lowly or undignified are still to raise to a level in the society and as such they should get the benefit to the optimum level. A vast majority of the castes/communities in the OBC lists belong to artisan/artisanal, denotified, nomadic, semi-nomadic and occupational or personal service groups. The work of preparation of such a lists will have to be expedited. I hope that the State Commissions and National Commission will coordinate each other in completing the task of preparation of the list of OBC castes/communities engaged in artisan/artisanal and hereditary occupations, which will be excluded from the purview of "creamy layer" as the Govt. of India (DOPT) order dated 8-9-1993.

10. Hon'ble Chairman in his address raised the issue of a grievance regarding backlog in reservation of OBCs since it falls outside the purview of the existing Commission. I would request him to send me whatever the grievances I would certainly have a look into it and have them examined and see what we can do about it. We do not want any member of OBC to have any kind of grievance and we will certainly come forward to find solution to the problem at the earliest.

11. I thank the Chairman, NCBC and Members for having invited me to inaugurate this Conference. I declare it open and look forward to your fruitful deliberations and recommendations to help evolve suitable strategies for the empowerment of Backward Classes. I hope this occasion will inspire you to rededicate yourself to the wider cause of welfare of Backward Classes and delivery of timely justice to them.

**Address Introducing the Agenda By Smt. Neera Shastri, Hon'ble Member,
NCBC**

Respected Cabinet Minister for Social Justice & Empowerment Smt Meira Kumar, respected Minister of State for SJ&E, Smt. Subbulakshmi Jagdeesan, Hon'ble Chairperson Justice Ram Surat Singh ji, hon'ble Chairpersons & Secretaries/Heads of Deptt. of Govt. of India and States and Honoured Guests & invitees.

2. Liberty, equality, justice and human dignity are the basic principles of contemporary society. At the same time, injustice, inequality and discrimination in India exist in its all forms by way of social stratification and hierarchy. Job reservation has to be programmed in such a manner that the most deserving sections of backward classes is benefited. Till date, the identification of the backward classes has not been done properly and practically and it has not served the interests of the deserving classes.

3. This is the third official National Conference on Backward Classes, the first and second were held in 1997 and 2003, respectively. It was a long felt-demand but little had been done till 1993 when consequent upon the Supreme Court Judgment in Indira Sahney & ors. Vs. Govt. of India & ors, an important step in favour of Backward Classes was taken with the enactment of National Commission for Backward Classes Act, 1993, whose primary function is to examine the requests for inclusion of any class of citizens as a Backward Class in the list of BCs and hear complaints of over-inclusion or under-inclusion of any BCs in such lists and tender such advice to the respective Govts; as they deem appropriate.

4. The main agenda suggested by NCBC for this conference is about the Empowerment of Central/State BC Commissions, which is followed by Categorization of Central/State lists of OBCs and & maintenance of uniform lists, Creamy Layer as a policy-preparation and list of artisans engaged in hereditary occupations/calling for their exclusion from the purview of "Creamy Layer", Educational Empowerment of Backward Classes, building of NCBC and State Backward Classes Commissions as Resource Centers. There are other items & issues suggested by the States for discussions. A few words about the main agenda are worth mentioning. Empowerment of the Commission will ultimately lead to empowerment of backwards in real terms in every sphere of life and thereby provide the cementing factor for a vibrant economy and a unified nation. For this BC Commission at the Central/States must be given power to attend the grievances of the BCs regarding improper implementation and violation of the rule of reservations, non-issuance of caste and income certificates and to monitor all matters to safeguard rights of BCs and to suggest appropriate measures to the Govt. to rectify the same as is being done by the National Commissions for SCs, STs, Minorities & Women.

5. In this context it is worth mentioning that State Govts. Like UP, MP, Karnataka and AP have entrusted the BC Commissions to look into the grievances of BCs and other matters related to it, so it is appropriate that the NCBC & other State BC Commissions be empowered with such functions in the interest of BCs who constitute 52.0% of the total population. The NCBC has already sent proposal to amend the NCBC Act to entrust these functions and accord constitutional status to it which is pending with the Central

Govts. So, this is one of the important issues proposed to be discussed in the Conference.

6. The second issue on agenda is categorization of Central/State lists of OBCs. It is felt that classification based on the degree of backwardness should be made and the percentage of the reservation should be appropriately apportioned to each category. This will help the deserving backwards to get the advantage of reservation and will bridge the gap of inequality between different categories of BCs. Such a classification could be done only with the co-operation of States/ UT Govts. Such categorization has been undertaken by most of the States Govts. like UP, MP, Maharashtra, Karnataka, AP & Kerala.

7. There is a need to avoid discrepancy between the Central & State/ UT lists in respect of number & names of sub-castes/synonyms of a particular caste/ community included in the list of BCs.

8. I would like to inform that the Commission has introduced the important concept of fast-track in the guidelines. The fast track concept which is a mechanism for speedy identification of backward classes is based on criteria that are obvious and where social backwardness is patent on account of the nature of traditional occupation.

9. The next issue on agenda is related to Creamy Layer policy including preparation of list of Artisans engaged in hereditary occupations, which is very important for rule of exclusion according to DOPT order. A list of such occupations had to be issued separately, but till date no such list has been notified. Therefore, in this regard speedy action is required to be taken.

10. The next issue on agenda pertains to Educational Empowerment of BCs, which in turn is related to reservation in Central educational institutions and related matters. The Central Govt. has still not provided reservation to the BCs in Central educational institutions including IITs, IIMs, and Law Institutes etc. The OBCs are denied the facility of higher education in prestigious institutions as mentioned above on the principle of reservation, which is a possible point for discussion in the Conference.

11. And last but not the least, building of NCBC & State Backward Classes Commissions as a resource center is of utmost importance. Since the nature of the work entrusted to the Central & State Commissions are almost similar, the database generated would not only help the Commissions to prevent discrepancy but it will also help the Govt. to frame policies for their development.

12. We are grateful to the Hon'ble Prime Minister as he has taken keen interest in the systematic development and welfare of the OBCs and sent a very important advice that a comprehensive region-wise, State-wise and District-wise database relating to OBCs may be prepared to enable the Central Government to improve the quality of decision making in respect of various issues relating to welfare of OBCs. Today in this conference, we invite suggestions from the State/UT Commissions in this regard.

13. I am happy to inform that in the past 12 years of existence of NCBC, we have covered virtually every State and tendered advice on about 1133 castes/communities' requests out of 2278.

14. Respected Cabinet Minister for SJ&E's presence in our midst is a source of encouragement for us. Her words, I am certain will be a source of inspiration for us in our task ahead.

**Address of Dr. B. Babu Rao Varma, Hon'ble Member NCBC
summarizing the deliberations**

We have circulated a background note listing out some items on which the views of the distinguished Chairpersons of the State Commissions and other distinguished guests have been solicited. I must acknowledge that all the participants have contributed valuable and fruitful suggestions not only on the specific items of the agenda but other important relevant issues pertaining to general welfare of backward classes and their empowerment. I assure you that all the suggestions given by the participants of this Conference will certainly find place in our proceedings.

Initiating the discussions, Justice R. N. Prasad, the first Chairman of the National Commission, dealt with the empowerment of the National Commission for Backward Classes. He suggested that all the powers and functions enumerated under Article 338, now enjoyed by the Scheduled Castes and Scheduled Tribes Commission, should also be given to the National Commission for Backward Classes. All the Chairpersons and other distinguished participants also stressed the need for empowerment of the BC Commissions.

Clause (10) of Article 338 provides that the grievances of Backward Classes, notified by the President of India on the recommendations of a Commission constituted under Article 340, will also be looked after by the Commission constituted under Article 338. The present National Commission for Backward Classes Act and the State Backward Classes Commission Acts were prepared based on the functions enumerated by the Supreme Court in its directions in the Mandal judgment. In view of the changed circumstances and the imperative need to attend to the grievances of backward classes, **the National and State Backward Classes Commissions should be empowered with adequate functions on the lines of the SC and ST Commissions**, apart from the limited functions already entrusted, i.e., examining the requests for inclusion and exclusion in the list of backward classes.

It is further recommended that **all the powers and functions which are enumerated in Article 338 of the Constitution in so far as backward classes are concerned**, which are at present vested with the SC/ST Commission constituted under Article 338, but which are actually not being performed by that Commission, **should be entrusted to the National Commission for Backward Classes and similar functions should also be entrusted to the State Commissions**. The State Commissions may take up this matter with their respective State Governments. These powers have to be entrusted to the BC Commissions because the Commissions are getting lot of grievances from the backward classes regarding the non-implementation of rule of reservation etc. There is nobody at the central level to look into their grievances at present. At the state level, some of the State Commissions have been already entrusted the functions of overseeing the rule of reservations, look into the violations, look into other programmes, but at the national level there is nobody to take up such functions.

Mr. Krishnan has dealt with lots of other issues. He mentioned that several recommendations which he made when he was the Chairman of the Working Group on

Backward Classes of the Planning Commission for the welfare and development of backward classes have still not been implemented.

The other issue is about the categorization. During discussions, several members have expressed their views. It is a very sensitive matter as it has to be done based on certain criteria. The Supreme Court while delivering judgement in Indira Sahney has stated that categorization is not unconstitutional. It is desirable to do it. However, it is left to the State Governments to undertake the categorization. The Supreme Court has cited the example of Andhra Pradesh's categorization with appreciation. Several other State Governments have undertaken the categorization. It is the prerogative of the State Governments and State Commissions to categorise their list of backward classes based on the degree of backwardness, based on the occupational pattern etc. For instance, Andhra Pradesh has done it like Nomadic/aboriginal Tribes, Nomadic/Semi-Nomadic Tribes in Group A, and similarly the occupational groups in another Group B, and HC group and Group D for other categories of backward classes included in the list. I know about the shortage of funds because I was the Commissioner for Backward Classes in Andhra Pradesh. The funds should reach the backward among backwards proportionately. That is why we have suggested sub-plans with thrust on most backward classes. If the categorization is done in the States, it can also be introduced at the Central level. Unless the State Governments categorise their lists and provide us the same.

The Creamy Layer criteria, which was formulated by an Expert Committee in a record time of 15 days and which the Government of India had accepted in toto, has been now a guiding star for their vision. Of late the Govt. of India revised the Creamy Layer ceiling upto Rs. 2.5 lakhs based on the recommendation of the National Commission. **There is a need for timely periodical revision of this ceiling in future also.** This revision should not be kept pending for 11 or 12 years as in the past. **The task of such periodic revision should also be entrusted to the National and State Backward Classes Commissions.**

While issuing the orders for 27% reservation for OBCs the Govt. has provided for exclusion of artisan castes/communities engaged in traditional occupations and callings from the purview of Creamy Layer. But such castes/communities are yet to be identified and notified. Our Ministry has been pressing us in this regard. We have also been requesting the State Commissions to identify the artisans and their callings for excluding them from the purview of creamy layer. Unless we receive the list of artisans and callings from the State Governments, we will not be able to identify the artisans in respect of Central lists. Therefore, this Conference requests that the preparation of the list of castes/communities engaged in traditional occupations and callings will have to be attended to by the Backward Classes Commissions in the States and Union Territories expeditiously.

Reservation in services is, of course, one of the important aspects raised by several speakers here. **The reservation in services have to be properly implemented and reviewed periodically.** It has been said that the age-relaxation of 3 years which is now available for BC candidates for appearing in competitive examinations should be enhanced to 5 years.

The backlog vacancies should not be counted against the 50% ceiling prescribed by the Govt. of India. In this regard, I may recall that the Parliamentary Committee under the Chairmanship of Mr. Sudarsana Nachiyappan has already tabled the bill in the Parliament and it is coming up for discussion and we are all expecting that the Bill will take care of several aspirations of backward classes in respect of reservation in services. That is now open for discussion also as it has been table before the Parliament. The full text of the bill has not been received by us. I think we will try to get it and then we can react to it. The Bill is in fulfillment of one of the commitment made by the UPA Government in its Common Minimum Programme that all the notifications issued for reservations to SCs, STs and BCs will be codified in an Act.

The issue of reservation in Central educational institutions is a matter which has been pending for the last many years. **The National Commission and all the State Commissions and Backward Classes people as a whole have been requesting that reservation for backward classes should be extended to the central educational institutions.** All the State Governments, except I think West Bengal, they are all providing reservation to backward classes candidates in their State educational institutions to the extent of the percentage of reservation provided in the services. This demand was stressed in the first Conference and the second Conference and again for the third time this Conference resolves that **the Central Government should expedite the issue of orders providing 27% reservation to OBC students in admissions to Central educational institutions, IITs, IIMs, Law Universities etc. so that the backward class students will have the benefit of quality education in our premier institutions and will be able to compete in the competitions.**

As several speakers have rightly pointed out, **there should be adequate plan outlays earmarked for the welfare of backward classes.**

Regarding survey of backward classes, there is no second opinion and survey has to be undertaken in a scientific manner. Several speakers have suggested that it has got to be little standardized. Recently, our Prime Minister has sent a note from his office that the data base collections about backward classes should be expedited for the government to plan their development and for the quality of decisions to be taken in this regard.

Madam, we want to bring to your kind notice that **for the survey the funds are the greatest constraint.** All the Commissions agree that we should conduct survey for facilitating review of schemes for backward classes, but they have also expressed concerned about lack of funds. Recently Karnataka State Commission has undertaken a survey and some other Commissions are also going to undertake such surveys. **Survey is important when we again got to review the lists as per the Act and whenever the Government desires to review the lists. The revision has to take place with full data and particulars and it cannot be done in a data vacuum.**

One other suggestion was that the **when next census is undertaken the caste-wise particulars should be obtained.**

The Central Government seems to have provided funds for the Karnataka Commission to undertake the survey. Similar provisions should also be given to other States to proceed with their surveys as desired by the Government of India and as per the

felt needs of all the backward classes and the Commissions. I request the Hon'ble Minister, who is going to deliver the Valedictory address, to kindly ensure necessary funds from the Government for the surveys to be undertaken.

Now coming to the point of filling up of vacancies in the Commissions. In some Commissions, most of the vacancies have not been filled up. Our general recommendation is that all the vacancies in the State Commissions should be filled up promptly. In my view, the members of the Commissions should be filled up with knowledgeable persons.

As suggested by Hon'ble Minister, the National and State Commissions should evolve a time bound programme for clearing of pending applications seeking recognition as BCs.

The Backward Classes people are mostly in the dark about the existence of various welfare measures being undertaken by the Central and State Government in favour of them. As Hon'ble Minister has suggested the Backward Classes Commissions should create awareness among Backward Classes about the existence of such welfare measures so that the Backward Classes can take the benefit of such measures.

Another suggestion that came up was that instead of holding conferences after every 2 or 3 years, better to have annual conferences, in different parts of the country, for interaction, to exchange problems. I am happy to note that the Chairman of Jammu & Kashmir Commission has invite us to hold the next Conference in Srinagar and we have also got invitation from Gujarat to hold the Conference there. We have taken note of this suggestion and we would hold regular conferences, at least once in a year.

It was also suggested that a cell should be created in the NCBC for following up the various recommendations of this Conference and future conferences.

Several other suggestions have come up but because of paucity of time I am not able to narrate them here. It is a matter for appreciation that the Director, Backward Classes in Gujarat has been able to unearth the incidence of bogus caste certificates and also cancel selection of holders of such bogus caste-certificates. What I have attempted here is only to highlight important suggestions/recommendations of this Conference on the agenda items. Whatever the consensus are there about the many items discussed here, they will certainly find place in the shape of recommendations to the Government. It is our duty to bring them to the notice of the Government and to apprise the Government about what is to be done about them and what is the feeling of backward classes representatives here.

With these few words, I must again express our gratefulness to the Hon'ble Minister and all the Chairpersons and senior members and experts who have given very valuable thoughts and suggestions for the welfare of Backward Classes.

Thank you very much.

**Address of Hon'ble Minister of State for Social Justice & Empowerment
Smt. Subbalakshmi Jagadeesan - at the Third National Conference of
Backward Classes on 27th July, 2005**

I am privileged to address the Third National Conference of the Backward Classes that has been organized by the National Commission for Backward Classes. I am sure the deliberations held today will be very useful in the process of streamlining the functions of the OBC Commissions and also in furthering the welfare and development of backward classes.

2. The struggle for social justice and eradication of inequality is more difficult than the fight for political freedom and democracy because one is fighting the enemy outside to attain the freedom and democracy, while in the other case one is fighting the enemy within. In a welfare state, the Justice to backward classes becomes the Constitutional obligation of the Government. In order to provide justice to the weaker sections of the society and remove social disparities, certain provisions have been made in the Constitution that envisage special provisions for the reservations in government service and social & educational advancement of the weaker sections of the society. These provisions are meant to bring equality of opportunity to the weaker sections and to eradicate the effect of deprivation that they have suffered for centuries and therefore, this should not be construed as mere patronage from the Government to the sections of the society for the purpose of appeasement. The discrimination against the weaker sections of the society existed from time immemorial and we have to resolve it for ending the discrimination and bring about empowerment of weaker sections of the society so that the cherished goal of establishment of an egalitarian society based on total equality and imbalances is realized.

3. Let me assure, that at this juncture, the UPA Government, is committed to empower the backward classes socially, educationally and economically so that they achieve overall development. Several schemes and measures are already under implementation for the upliftment of the backward classes. The various measures adopted by the Government alone will not be sufficient to achieve the goal, without the support of the Commissions' at the Centre and State level in bringing an awareness

amongst the backward classes so that benefits of the Constitutional provisions are availed by the backward classes to the maximum extent.

4. My Ministry has been working actively in this direction and we have launched various schemes under the National Backward Classes Finance and Development Corporation to promote economic and developmental activities for the development of the backward classes and to assist the poorest sections of this classes in skill development & self-employment ventures. With a view to strengthen the Corporation, its authorized share capital has been increased to Rs.700 crores.

5. Recently there have been some requests from the backward classes to extend the reservation to institutions under the Central Government and other sectors as well. As the UPA Government is already ceased the matter and is aware of the importance of the necessity of such requests it is in the process of streamlining the reservation policy of backward classes. A bill to this effect, namely SCs, STs & OBCs Reservation in posts & services Bill 2004 has already been introduced in the Parliament and the Standing Committee of the Parliament dealing with this issue has also made its recommendations which together issues relating to carry-forward of the unfilled vacancies of OBCs, as in the case of SC/ST is under consideration of the Government.

6. I am particularly glad that the NCBC has organized this conference at this juncture and I wish to congratulate, Justice Ram Surat Singhji for all his efforts. I am happy that the agenda for this conference also includes developmental issues and speedy disposal of all cases of inclusion of the genuine backward classes in the Central and State list of OBCs. I also appreciate the gesture of the NCBC and State Commissions for voluntarily coming forward to shoulder greater responsibility for the welfare and development of backward classes.

7. I hope you will strengthen our endeavors and the backward classes by putting forth your collective wisdom to achieve this historic task of upliftment of backward classes and enable them to stand on their own feet in every field.

I assure you that my Ministry shall give the deepest thought and highest priority to the outcome of the deliberations of this conference in the interest of the advancement of the backward classes.

