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**COMMITTEE ON WELFARE OF  
OTHER BACKWARD CLASSES  
2012-2013**

**MINISTRY OF SOCIAL JUSTICE AND  
EMPOWERMENT**

**MEASURES FOR STRENGTHENING AND  
GIVING CONSTITUTIONAL STATUS TO  
NATIONAL COMMISSION FOR  
BACKWARD CLASSES (NCBC)**

**FIRST REPORT**



**LOK SABHA SECRETARIAT  
NEW DELHI**

FIRST REPORT  
COMMITTEE ON WELFARE OF  
OTHER BACKWARD CLASSES  
(2012-2013)

(FIFTEENTH LOK SABHA)

MEASURES FOR STRENGTHENING AND GIVING  
CONSTITUTIONAL STATUS TO NATIONAL  
COMMISSION FOR BACKWARD  
CLASSES (NCBC)

MINISTRY OF SOCIAL JUSTICE AND  
EMPOWERMENT

*Presented to Lok Sabha on 27.08.2012  
Laid in Rajya Sabha on 27.08.2012*



LOK SABHA SECRETARIAT  
NEW DELHI

*August, 2012/Bhadrapada, 1934 (Saka)*

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COMPOSITION OF THE COMMITTEE ON WELFARE OF  
OTHER BACKWARD CLASSES (OBCs) (2012-13)

Shri Bijoy Krishna Handique — *Chairman*

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3. Shri Sameer Bhujbal
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(iv)

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SECRETARIAT

- |    |                    |   |                            |
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| 1. | Dr. R.K. Chadha    | — | <i>Joint Secretary</i>     |
| 2. | Shri N.C. Gupta    | — | <i>Director</i>            |
| 3. | Shri R.R. Kumar    | — | <i>Additional Director</i> |
| 4. | Ms. Suvaiba Shaikh | — | <i>Committee Assistant</i> |

## INTRODUCTION

I, the Chairman, Committee on Welfare of Other Backward Classes having been authorized by the Committee to present the Report on their behalf, present this First Report on "Measures for strengthening and giving constitutional status to National Commission for Backward Classes (NCBC)" pertaining to the Ministry of Social Justice and Empowerment.

2. The Committee took evidence of the representatives of the Ministry of Social Justice and Empowerment and National Commission for Backward Classes (NCBC) on 24th July, 2012. The Committee also *inter-alia* discussed the issue with the representatives of the Ministry of Social Justice and Empowerment and NCBC in their sittings held on 29th June and 17th July, 2012. In addition to this the Committee also held an informal discussion with the Chairman of NCBC on 24th July, 2012. The Committee wish to express their thanks to the representatives of the Ministry and NCBC for appearing before the Committee for evidence and furnishing the information desired by the Committee in connection with the examination of the subject.

3. The Report was considered and adopted by the Committee at their sitting held on 23rd August, 2012.

4. The Committee place on record their appreciation for the valuable assistance rendered to them by the officials of the Lok Sabha Secretariat attached to the Committee.

5. For facility of reference and convenience, the observations and recommendations of the Committee have been printed in bold letters in Part-II of the Report.

NEW DELHI;  
24 August, 2012  

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2 Bhadrapada, 1934 (Saka)

BIJOY KRISHNA HANDIQUE  
Chairman,  
Committee on Welfare of  
Other Backward Classes.

## **REPORT**

### **PART I**

#### **NARRATION ANALYSIS**

##### **A. INTRODUCTORY**

1.1 The framers of the Constitution took note of the fact that certain communities in the country were suffering from extreme social, educational and economic backwardness arising out of age-old practice of untouchability and certain others on account of this primitive agricultural practices, lack of infrastructure facilities and geographical isolation, and who need special consideration for safeguarding their interests and for their accelerated socio-economic development. The former community was notified as Scheduled Castes and Scheduled Tribes as per provisions contained in Clause 1 of Articles 341 and 342 of the Constitution respectively. For the upliftment of SCs and STs various safeguards provided in the Constitution for the SCs & STs and various other protective legislations have also been enacted by Government of India (**Annexure I**). Besides this the latter community that are disadvantaged because of being socially exploited and educationally deprived, are referred as 'socially and educationally backward classes' in the Constitution. This section is commonly referred as Other Backward Classes (OBCs). To protect and promote the interest of the OBCs the Government of India set up National Commission for Backward Classes (NCBC). The backward classes are basically those castes/communities that are notified as socially and educationally Backward Classes by the State Governments or those that may be notified as such by the Central Government from time to time. There are special provisions for these backward classes given in the Constitution for safeguarding the interests of the backward classes. The Constitutional safeguards for OBCs are as follows:—

- (i) Article 15 (4) of the Constitution enjoins upon the state the creation of special provisions for the advancement of any socially and educationally backward classes of citizens or for the scheduled castes and scheduled tribes;
- (ii) Article 16(4) further enables the state for making provisions for the reservation of appointments or posts in favour of any backward class of citizens which in the opinion of the state is not adequately represented in the services under the state;
- (iii) Article 38 makes it obligatory for the state to "strive to promote the welfare of the people by securing and protecting as effectively as it may a social order, in which Justice, Social, Economic and Political shall inform all the institutions of the National Life";



- (iv) Article 46 further contains a very significant directive regarding promotion of educational and economic interests of other weaker sections and protects them from social injustice and all forms of exploitation; and
- (v) Article 340 in Part XVI of the Constitution contains "Special provisions relating to certain classes" and under this part Article 340 envisages the appointment of a Commission to investigate the conditions of Backward Classes.

#### B. GENESIS OF NATIONAL COMMISSION FOR SCHEDULED CASTES AND SCHEDULED TRIBES

1.2 For effective implementation of various safeguards provided in the Constitution for the SCs & STs and various other protective legislations, the Constitution provided for appointment of a Special Officer under Article 338 of the Constitution. The Special Officer who was designated as Commissioner for SCs & STs was assigned the duty to investigate all matters relating to the safeguards for SCs and STs in various statutes and to report to the President upon the working of these safeguards.

1.3 On persistent demand of the Members of Parliament that the Office of the Commissioner for SCs & STs alone was not enough to monitor the implementation of Constitutional safeguards, a proposal was moved for amendment of Article 338 of the Constitution (46th Amendment) for replacing the arrangement of one Member system with a Multi-Member System while the amendment of Article 338 was still under consideration, the Government decided to set up a Multi-Member Commission through an administrative decision *vide* Ministry of Home Affairs' Resolution No. 13013/9/77-SCT(1) dated 21.7.1978. The functions of the Commission for SCs & STs broadly corresponded with those of the Commissioner for SCs & STs.

1.4 The functions of the Multi-Member Commission set-up in 1978 were modified *vide* Ministry of Welfare's Resolution No. BC-13015/12/86-SCD VI dated 1-9-1987 and the Commission for SCs & STs was renamed as the National Commission for Scheduled Castes and Scheduled Tribes. It was set up as a National Level Advisory Body to advise the Government on broad policy issues and levels of development of Scheduled Castes and Scheduled Tribes. The statutory National Commission for Scheduled Castes and Scheduled Tribes came into being consequent upon passing of the Constitution (Sixty Fifth Amendment) Bill, 1990. The first Commission under the Constitution (65th Amendment) Act was constituted on 12-3-1992 replacing the Commissioner for Scheduled Castes and Scheduled Tribes and the Commission set up under the Ministry of Welfare's Resolution of 1987.

1.5 Consequent upon the Constitution (Eighty-Ninth Amendment) Act, 2003 coming into force on 19-2-2004 *vide* Notification of that date the erstwhile National Commission for Scheduled Castes & Scheduled Tribes has been replaced by (1) National Commission for Scheduled Castes, and (2) National Commission for Scheduled Tribes.

1.6 The Constitutional provisions in respect to National Commission for Scheduled Castes (Article 338) and the National Commission for Scheduled Tribes (Article 338 A) including the duties of the Commission have been shown at **Annexure-II**.

#### C. OTHER BACKWARD CLASSES (OBCs)

1.7 Article 338(10) of the Constitution has special provision of other backward classes which is reproduced as under:—

In this article, references to the Scheduled Castes shall be construed as including references to such other backward classes as the President may, on receipt of the report of a Commission appointed under clause (1) of article 340 by order specify and also to the Anglo-Indian community.

1.8 Article 340(1) of the Constitution empowers the President of India to appoint a Commission to investigate the conditions of socially and educationally backward classes and to make recommendations as to the steps that should be taken by the Central or any State Governments to remove such difficulties and to improve their condition and as to the grants that should be made for their welfare by the Central or any State Governments. The provision laid down in Article 340 is reproduced below:—

##### **Appointment of a Commission to Investigate the Conditions of Backward Classes**

- (i) The President may be order appoint a Commission consisting of such persons as he thinks fit to investigate the conditions of socially and educationally backward classes within the territory of India and the difficulties under which they labour and to make recommendations as to the steps that should be taken by the Union or any State to remove such difficulties and to improve their condition and as to the grants that should be made for the purpose by the Union or any State and the conditions subject to which such grants should be made, and the order appointing such Commission shall define the procedure to be followed by the Commission.
- (ii) A Commission so appointed shall investigate the matters referred to them and present to the President a report setting out the facts as found by them and making such recommendations as they think proper.
- (iii) The President shall cause a copy of the report so presented together with a memorandum explaining the action taken thereon to be laid before each House of Parliament.

1.9 The first Commission was appointed by the President of India under Article 340(1) headed by Shri Kaka Kelkar. The second Commission was appointed under the Chairmanship of Shri B.P. Mandal on 20-12-1978 and the report submitted by that Commission enumerating the backward classes of different states of the country was judicially examined by the Supreme Court in Indra Sawhney case, now commonly known as Mandal Case 1992 Supp. (3) S.C.C. 217. The Supreme Court upheld the method adopted by the Mandal Commission for identifying the backward classes.

1.10 The Supreme Court in Indra Sawhney case suggested appointment of a statutory Commission at the National level for the purpose of consideration of requests for inclusions of castes and consideration for exclusion.

#### D. NATIONAL COMMISSION FOR BACKWARD CLASSES (NCBC)

1.11 As per a note furnished to the Committee by the Ministry of Social Justice and Empowerment:—

"In pursuance of the Supreme Court's Judgement in Indra Sawhney vs. UoI case, the Department of Personnel & Training *vide* its O.M. dt. 8.9.1993 *inter alia* directed that "The OBCs would comprise, in the first phase, the castes and communities which are common to both the lists (*i.e.* in the report of the Mandal Commission and the State Governments' lists)'.

In the above judgement, the Supreme Court had also directed that a statutory Commission' be set up to which complaints of 'under-inclusion, over-inclusion or non-inclusion" of classes and sections in the list of backward classes could be made. Accordingly, the Government of India enacted the National Commission for Backward Classes (NCBC) Act, 1993 (Act No. 27 of 1993) dated 1.2.1993, for setting up a National Commission for Backward Classes.

As per the provision of the NCBC Act, 1993 (**Annexure III**), the National Commission for Backward Classes (NCBC) was set up in August, 1993 to examine the requests for inclusion and complaints of over-inclusion and under-inclusion in the Central Lists of OBCs, and tender appropriate advice to the Central Government."

1.12 The Commission has jurisdiction all over the country except the State of Jammu & Kashmir. The Section 3 of the Act determines the composition of the Commission that consists of 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 tenure of each member of the Commission is three years from the date he/she assumes office. The functions of NCBC as described in the Act are as follows:—

- (i) 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.
- (ii) The advice of the Commission shall ordinarily be binding upon the Central Government.

1.13 The Act also gives certain powers to the Commission to enable it to discharge its functions under the Act. The Commission has all the powers of a civil court trying a suit and in particular, in respect of the following matters, namely:—

- (i) Summoning and enforcing the attendance of any person from any part of India and examining him on oath;
- (ii) Requiring the discovery and production of any document;
- (iii) Receiving evidences on affidavits;
- (iv) Requisitioning any public record or copy thereof from any court or office;
- (v) Issuing commissions for examinations of witnesses and documents; and
- (vi) any other matter which may be prescribed.

1.14 Besides, the above mentioned functions, the Commission can also be consulted by the Central Government while undertaking any revision of Central OBCs list. Under Section 14 the Commission expected to prepare an annual report giving a full account of its activities during the previous financial year and forward a copy thereof to the Central Government. Since its inception the NCBC has presented following reports to the Government:—

- (i) Report on the Review of Income Criteria for exclusion of "Socially Advanced Persons/Sections" ("Creamy Layer") among Other Backward Classes, dated 23rd January, 2004.
- (ii) Report on the Review of Income Criteria for exclusion of "Socially Advanced Persons/Sections" ("Creamy Layer") among Other Backward Classes, dated 1st July, 2008.
- (iii) Report-Review of the Existing Ceiling of Income/Wealth to determine the Creamy Layer dated 14.09.2011.

#### E. PERFORMANCE OF NATIONAL COMMISSION FOR SCHEDULED CASTES (NCSC) WITH REGARD TO OTHER BACKWARD CLASSES (OBCs)

1.15 Under Article 338(10), the NCSC is empowered to address grievances of not only of Scheduled Castes (SCs) but also of Other Backward Classes (OBCs) and Anglo-Indians. As a result the width, amplitude and the extent of the functions mentioned in the clause (5) of Article 338 apply in all their rigour to backward classes as the duty in this regard is entrusted to the National Commission for Scheduled Castes.

1.16 Thus all the grievances pertaining to OBCs, received by NCBC are being forwarded to the Office of the National Commission for Scheduled Castes since the NCBC has no powers to look into the grievances of OBCs. The Committee were informed that from the records available in the NCBC office, no information has been received from the office of the National Commission for Scheduled Castes as to the number of cases in which complaints concerning OBCs have been dealt with

by the National Commission for Scheduled Castes, investigations carried on, rights protected and safeguards ensured for OBCs. The NCBC presumes that the National Commission for Scheduled Castes since the Constitution has come into existence *i.e.* from 26.1.1950 has been engaging in the duty of safeguarding in the interests of the backward classes as mandated by Article 338(5) read with Article 338(10).

1.17 The Committee desired to know as to what arrangements has the National Commission for Scheduled Castes (NCSC) made for disposal of the grievances pertaining to OBCs community specifically. The Ministry of Social Justice and Empowerment in a written note informed as under:—

"The NCSC deals with grievances pertaining to SCs as well as OBC communities with existing staff strength. No separate arrangement to deal with the representations pertaining to OBCs has been made in NCSC. However, a National Coordinator has been appointed in NCSC on honorary basis to oversee the problems related to OBCs."

1.18 On being asked whether the National Co-ordinator in NCSC is able to deal with the cases/grievances pertaining to OBCs in a proper and time bound manner and also whether the appointment of the National Co-ordinator has proved beneficial, the Ministry in their written reply stated:—

"The NCSC has informed that as no supportive staff could be given to assist the National Coordinator who was engaged on voluntary basis, no significant benefit has been noticed."

1.19 On a query regarding the number of complaints received by NCSC pertaining to OBCs in last 5 years and the disposal thereto, the Ministry stated:—

"The NCSC has informed that the Commission started taking cognizance of OBC complaints *w.e.f.* 9.2.11. Ever since, the Commission has received 172 complaints from OBC communities, out of which 13 cases have been dealt so far."

1.20 The Committee enquired as to whether the NCSC was facing any difficulty in dealing with the grievances of OBCs. In reply the Ministry of Social Justice and Empowerment stated as under:—

"The NCSC has informed that due to excess workload and inadequate staff NCSC is not in a position to cater to the work related to OBCs."

1.21 The Committee also desired to know whether the Ministry had received any proposal from the NCBC seeking additional powers as also the constitutional status to the Commission so that it may function more effectively. In reply the Ministry stated as under:—

"The Chairman of the NCBC *vide* his letter dated 21.12.2004 requested the Central Government to accord constitutional status to the NCBC. The matter was discussed with NCBC on a number of occasions. A detailed proposal in this regard was subsequently submitted by the Commission *vide* its letter

dated 12.07.2007. Certain clarifications have been sought from the NCBC *vide* this Ministry's letter dated 24.11.2008. The reply of the Commission has not been received thereafter, while reminders have been sent."

1.22 However, the Chairman, NCBC presented a different version while putting forward the Commission's stand during the sitting of the Committee held on 24th July, 2012. The Chairman, NCBC stated:—

"...the request for constitutional status dates back to 10th December, 2002... Then, the Ministry raised a doubt... Thereafter, when the clarification was sought by the Ministry from the National Commission, the Commission had sent a reply in specific terms at its meeting held on 22nd December, 2008... The Commission said like this:

*To clarify the Ministry that the NCBC may be entrusted with the status, powers and responsibilities at par with the SC and ST Commission except the powers and functions which are exclusively meant for SCs and STs.*

There are certain enactments which specifically deal with Scheduled Castes and Scheduled Tribes, for example, Prevention of Alienation Act, Atrocities against Scheduled Castes. Those are all legislative enactments which do not apply to backward classes. Except such matters, in other respects, what all powers and responsibilities are given to the National Commission for Scheduled Castes, the same thing should be given to the National Commission for Backward Classes. The specific reply was given by the NCBC on 22nd December, 2008. Thereafter, nothing had happened. The reply of the Commission has not been received is not factually correct."

1.23 The Committee were keen to know about the action taken by the Government on the proposals of the NCBC to review the mandate and functioning of NCBC in order to further strengthen and empower the Commission. The Ministry of Social Justice and Empowerment in a note stated:—

"We have received representations from National Commission for Backward Classes (NCBC) to confer on it additional powers. The Government is examining the question of conferring, *inter-alia*, the following powers on the NCBC:—

**(i) Power to Review Advice Tendered to the Central Government**

Numerous requests were received, from time to time, regarding inclusion of certain castes/communities, whose requests for inclusion were rejected by the NCBC and the advice of NCBC had been accepted by the Central Government. These representations were forwarded to NCBC as and when received. NCBC consistently held the view that once it had given its recommendation to the Central Government, it did not have the power to review it because the NCBC Act did not expressly confer this power on it. Accordingly, such power has been conferred to the NCBC through the NCBC (Power to Review Advice) Rules, 2011, notified on 3.5.2011 (**Annexure IV**). The NCBC has, however,

opined that it is advisable to amend the Act itself instead of making a rule for this purpose. This suggestion of the Commission is under consideration.

**(ii) Power to Redress Complaints of the Backward Classes**

At present, this power is exercised by the National Commission for Scheduled Castes (NCSC), by virtue of Clause 10 of Article 338 of the Constitution. On the request of both NCSC and NCBC, Government is examining this issue."

1.24 On being asked whether granting constitutional status to the NCBC and mandate to look in the grievances of OBCs also formed part of such proposals, the Ministry stated that a proposal had been received from the NCBC in this regard, which was being examined.

## PART II

### OBSERVATIONS/RECOMMENDATIONS OF THE COMMITTEE

**2.1 The Other Backward Classes (OBCs) constitute an integral part of the society, their position is higher than the dalits and lower than the upper castes and they are highly heterogeneous and stratified with similar socio-economic backwardness. Due to the social imbalances, OBCs historically and presently continue to languish when compared to other sections of the society. Further, since they have also lagged behind in the pursuit of education, they are often poorly represented in Government jobs and white-collar occupations in general. The founding fathers of the Indian constitution were very well aware of the existence of such a backward section in diverse population of the country and therefore incorporated special provisions for their welfare. However, lack of proper implementation of the policies and provisions for OBCs has caused more damage than good to this section. Therefore, the immediate attention needs to be given to strengthen the existing safeguards and adopting new measures to promote the welfare of OBCs. Empowering the National Commission for Backward Classes (NCBC) is just one small step in that direction. In view of the importance of the subject, the Committee examined various facets of empowerment of the NCBC and taking initiative in this regard the Committee passed the following Resolution unanimously at their sitting held on 24th July, 2012:—**

**"Committee on welfare of Other Backward Classes is of firm view that immediate action should be initiated for amending Indian Constitution and NCBC Act appropriately for setting up NCBC with constitutional status and exercising identical powers as given to NCSC and NCST (in relation to SCs and STs). Nature and extent of powers concerning OBCs are already in Article 338(5). Those powers should be entrusted to NCBC in relation to OBCs and not to NCSC.**

**It is, therefore, necessary that Article 338(10) should be deleted and a new Article 338B should be inserted to establish NCBC. The Constitution amendment should also include existing powers of NCBC under prevailing NCBC Act *vis.*, powers to include in or exclude from list of OBCs and obligation on GoI to consult NCBC for list revision.**

**The Committee feel that NCSC has not been able to discharge its functions pertaining to OBCs due to its overwhelming preoccupation with the affairs of SCs. The Committee, therefore, strongly recommend that all issues pertaining to welfare of OBCs including complaints/grievances etc. should be dealt with by NCBC. This may be done only by amending the Constitution."**



The findings/recommendations of the Committee are detailed in succeeding paragraphs.

2.2 The Committee are given to understand that at the time of the Constitution of India coming into force, there was no list of Backward Classes, but there were lists of only Scheduled Castes and Scheduled Tribes. At the same time there were many States which were maintaining their own lists of Backward Classes. To provide sufficient safeguard for the backward sections of the people of the country, a special article *viz.* Article 340 was inserted in the Constitution of India which *inter-alia* contemplates appointment of a Commission by the President of India to investigate the conditions of these classes and suggest measures for their improvement. Kakasaheb Kelkar Commission and later on Mandal Commission were constituted by the Government under the provisions of Article 340 of the Constitution. The Committee note that on the directions of the Supreme Court of India in the Indra Sawhney (challenging the recommendations of Mandal Commission) *v/s* Union of India case, the National Commission for Backward Classes (NCBC) came into being in August, 1993 by the NCBC Act, 1993. The Commission was given the mandate to examine requests for inclusion of any class of citizens as a backward class in the Central list of backward classes and hear complaints of over-inclusion or under-inclusion of any backward class and tender such advice to the Central Government as it deems appropriate. However, the Committee understand that in the absence of a dedicated Commission for backward classes, a separate clause *viz.* Clause 10 was added to the Article 338 of the Constitution in the beginning, by virtue of which the power to look into the affairs of the backward classes was entrusted to the National Commission for Scheduled Castes (NCSC). Now that nearly two decades have passed since the inception of a separate dedicated Commission for backward classes *viz.* the NCBC, the Clause 10 of Article 338 of the Constitution has lost its relevance. Moreover, NCBC has limited function to advise the Government on inclusion and exclusion of the castes in the Central list of OBCs. Hence it is being reduced to the status of an ordinary institution with limited functions, powers and responsibilities. The Scrutiny of the functions and powers of NCBC *vis-a-vis* NCSC at the micro level reveals apparent disparities. The Committee feel that the nature, composition and problems faced by the backward section and scheduled castes population of the country is explicitly diverse. Hence giving the powers to deal with the affairs of backward classes to NCSC instead of NCBC is the basic inconsistency. Also, NCSC, already overloaded with work and crippled by inadequate manpower, has not been able to look into OBC-related complaints efficiently and in a time bound manner. The Committee also note that the NCBC has time and again requested the Government to empower it with more functions and responsibilities at par with the NCSC and NCST except on those matters which are exclusively meant for SCs and STs. The Committee therefore are of the firm view that immediate action should be initiated for amending Indian Constitution and the NCBC Act appropriately for granting NCBC the constitutional status and conferring it with identical powers as given to NCSC and NCST (in relation to SCs and STs) as enumerated in Article 338. Those powers should be entrusted to NCBC in relation to OBCs and not to NCSC. Against this

backdrop, the Committee recommend that Article 338(10) should be deleted and a new Article 338B should be inserted to for NCBC. The Constitutional amendment should also include existing powers of NCBC under prevailing NCBC Act *viz.*, powers to include in or exclude from Central list of OBCs and obligation on Government of India to consult NCBC for list revision.

(Recommendation Sl. No. 1, Para No. 2.2)

2.3 The Committee feel that NCSC has not been able to discharge its functions pertaining to OBCs due to its overwhelming preoccupation with the affairs of SCs which is evident from the fact that NCSC started taking cognizance of OBC complaints *w.e.f.* 9.2.2011 only and during this period the Commission merely dealt with 13 cases out of 172. Even in these 13 cases, it is not clear whether these have been resolved finally. Also, the post of the National co-ordinator within NCSC which was meant to expedite the grievance redressal mechanism for OBCs, is reduced to a ceremonial post with no significant contribution. Hence, the Committee are of the strong view that in the light of the proposed deletion of Clause 10 of Article 338 of the Constitution, the office of the National co-ordinator under NCSC be dissolved. The Committee, therefore, strongly recommend that all issues pertaining to welfare of OBCs including complaints/grievances etc. should be dealt with by NCBC. This may be done only by amending the Constitution.

(Recommendation Sl. No. 2, Para No. 2.3)

NEW DELHI;  
24 August, 2012  

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2 Bhadrapada, 1934 (Saka)

BIJOY KRISHNA HANDIQUE  
Chairman,  
Committee on Welfare of  
Other Backward Classes.

## ANNEXURE I

(Vide para 1.1 of the Report)

### CONSTITUTIONAL SAFEGUARDS FOR SCHEDULED CASTES/ SCHEDULED TRIBES

#### **(A) Development and Protective Safeguards**

These safeguards are contained in the Directive Principles of State Policy of the Constitution and a specific provision in Article 46 which is a comprehensive provision comprising both the developmental and regulatory aspects. It reads as follows:—

#### **Article 46**

"The State shall promote with special care the educational and economic interests of the weaker sections of the people, and in particular, of the Scheduled Castes and the Scheduled Tribes, and shall protect them from social injustice and all forms of exploitation."

#### **(B) Social Safeguards**

#### **Article 17**

"Untouchability" is abolished and its practice in any form is forbidden. The enforcement of any disability arising out of 'Untouchability' shall be an offence punishable in accordance with law.

To give effect to this Article, Parliament made an enactment *viz.*, Untouchability (Offences) Act, 1955. To make the provisions of this Act more stringent, the Act was amended in 1976 and was also renamed as the Protection of Civil Rights Act, 1955. As provided under the Act, the Government of India also notified the Rules, *viz.*, the PCR Rules, 1977, to carry out the provisions of this Act. As cases of atrocities on SCs/STs were not covered under the provisions of PCR Act, 1955, Parliament passed another important Act in 1989 for taking specific measures to prevent the atrocities. This Act known as the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, became effective from 30.1.1990. For carrying out the provisions of this Act the Government of India have notified the SCs and STs (Prevention of Atrocities) Rules, 1995 on 31.3.1995. Copies of PCR Act, 1955, PCR Rules 1977, the SCs and the STs (POA) Act, 1989 and the SCs and STs (POA) Rules 1995 are placed at Annexures-V, VI, VII and VIII respectively.

#### **Article 23**

Prohibits traffic in human beings and beggar and other similar forms of forced labour and provides that any contravention of this provision shall be an offence punishable in accordance with law. It does not specifically mention SCs but since

majority of bonded labour belong to SCs this Article has a special significance for these communities. In pursuance of this Article, Parliament has enacted the Bonded Labour System (Abolition) Act, 1976. For effective implementation of this Act, the Ministry of Labour is running a Centrally Sponsored Scheme for identification, liberation and rehabilitation of bonded labour.

**Article 24**

Provides, that no child below the age of 14 years shall be employed to work in any factory or mine or engaged in any other hazardous employment. There are Central and State laws to prevent child labour. This Article is also significant for SCs as a substantial portion of child labour engaged in hazardous jobs belong to these groups.

**Article 25(2)(b)**

Provides that Hindu religious institutions of a public character shall be thrown open to all classes and sections of Hindus. This provision is relevant as some sects of Hindus used to claim that only members of the concerned sects had a right to enter their temples. This was only a subterfuge to prevent entry of SC persons in such temples. For the purpose of this provision the term Hindu includes Sikh, Jain and Buddhist.

**(C) Economic Safeguards**

The provisions of Articles 23, 24 and 46 mentioned above also form part of the economic safeguards for Scheduled Castes.

**(D) Educational and Cultural Safeguards**

**Article 15(4)**

Empowers the State to make any special provision for the advancement of any socially and educationally backward classes of citizens or for SCs and STs. This provision was added to the Constitution through the Constitution (First Amendment) Act, 1951, which amended several Articles. This provision has enabled the State to reserve seats for SCs and STs in educational institutions including technical, engineering and medical colleges and in Scientific & Specialized Courses. In this Article as well as in Article 16(4) the term 'backward classes' is used as a generic term and comprises various categories of backward classes, viz., Scheduled Castes, Scheduled Tribes, Other Backward Classes, De-notified Communities (Vimukta Jatiyan) and Nomadic/Semi-nomadic communities.

**(E) Political Safeguards**

**Article 164(I)**

Provides that in the States of Bihar, Madhya Pradesh and Orissa there shall be a Minister in charge of tribal welfare who may in addition be in charge of the welfare of the Scheduled Castes and backward classes or any other work.

**Article 330**

Provides for reservation of seats for SCs and STs in the Lok Sabha.

**Article 332**

Provides for reservation of seats for SCs/STs in the State Vidhan Sabhas (Legislative Assemblies).

**Article 334**

Originally laid down that the provisions relating to the reservation of seats for SCs/STs in the Lok Sabha and State Vidhan Sabhas ( and the representation of the Anglo-Indian community in the Lok Sabha and the State Vidhan Sabhas by nomination) would cease to have effect on the expiration of a period of ten years from the commencement of the Constitution. This Article has been amended five times, extending the said period by ten years on each occasion. This provision will now expire in January, 2010.

**Article 371A**

Contains special provisions with respect to Nagaland.

**Article 371B**

Contains special provisions with respect to Assam.

**Article 371C**

Contains special provisions with respect to Manipur.

**Article 371F**

Contains special provisions with respect to Sikkim.

**(F) Service Safeguard**

**Article 16(4)**

Empowers the State to make "any provision for the reservation in appointments or posts in favour of any backward class of citizens which, in the opinion of the State, is not adequately represented in the services, under the State".

**Article 16(4A)**

"Specifies that nothing in this Article shall prevent the State from making any provision for reservation in matters of promotion, "with consequent seniority" to any class or classes of posts in the services under the State in favour of the Scheduled Castes and the Scheduled Tribes which, in the opinion of the State, are not adequately represented in the services under the State."

**Article 16(4B)**

"Specifies that nothing in this article shall prevent the State from considering any unfilled vacancies of a year which are reserved for being filled up in that year in accordance with any provision for reservation made under clause (4) or clause (4A) as a separate class of vacancies to be filled up in any succeeding year or years and

such class of vacancies shall not be considered together with the vacancies of the year in which they are being filled up for determining the ceiling of fifty per cent reservation on total number of vacancies of that year."

**Article 320 (4)**

Provides that nothing in clause (3) shall require a Public Service Commission to be consulted as respects the manner in which any provision under Article 16(4A) may be made or the manner in which effect may be given to the provisions of Article 335.

**Article 335**

Mentions that the "claims of the members of the Scheduled Castes and the Scheduled Tribes shall be taken into consideration, consistently with the maintenance of efficiency of administration, in the making of appointments to services and posts in connection with the affairs of the Union or of a State".

"Provided that nothing in this Article shall prevent in making of any provision in favour of Member of SCs & STs for relaxation in qualifying marks in any examination or lowering the standards of evaluation, for reservation in matters of promotion to any class or classes of services or posts in connection with affairs of Union or of a State." (Constitutional 82nd Amendment, Act, 2000)

**(G.) Crimes/Atrocities against STs and Protection to STs by Law**

There are a number of laws, both Central and State, which provide for safeguards to SCs. Some of these emanate from the various Constitutional provisions. An illustrative list of such laws is given below:—

- The Protection of Civil Rights Act, 1955 (in respect of Scheduled Castes) + Rules 1977.
- The Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 + Rule 1995.
- The Bonded Labour System (Abolition) Act, 1976 (in respect of Scheduled Castes).
- The Child Labour (Prohibition and Regulation) Act, 1986 (in respect of Scheduled Castes).
- The Minimum Wages Act, 1948 (in respect of Scheduled Castes).
- Acts and regulations in force in different States to prevent alienation of land belonging to SCs. In some States such provision exists in the Land Revenue Code.

*ANNEXURE II*

(*Vide* para 1.6 of the Report)

CONSTITUTIONAL PROVISIONS UNDER ARTICLE 338 AND ARTICLE 338A

**338. National Commission for Scheduled Castes**

1. There shall be a Commission for the Scheduled Castes to be known as the National Commission for the Scheduled Castes.
2. Subject to the provisions of any law made in this behalf by Parliament, the Commission shall consist of a Chairperson, Vice-Chairperson and three other Members and the conditions of service and tenure of office of the Chairperson, Vice-Chairperson and other Members so appointed shall be such as the President may by rule determine.
3. The Chairperson, Vice-Chairperson and other Members of the Commission shall be appointed by the President by warrant under his hand and seal.
4. The Commission shall have the power to regulate its own procedure.
5. It shall be the duty of the Commission:—
  - (a) to investigate and monitor all matters relating to the safeguards provided for the Scheduled Castes under this Constitution or under any other law for the time being in force or under any order of the Government and to evaluate the working of such safeguards;
  - (b) to inquire into specific complaints with respect to the deprivation of rights and safeguards of the Scheduled Castes;
  - (c) to participate and advise on the planning process of socio-economic development of the Scheduled Castes and to evaluate the progress of their development under the Union and any State;
  - (d) to present to the President, annually and at such other times as the Commission may deem fit, reports upon the working of those safeguards;
  - (e) to make in such reports recommendations as to the measures that should be taken by the Union or any State for the effective implementation of those safeguards and other measures for the protection, welfare and socio-economic development of the Scheduled Castes; and
  - (f) to discharge such other functions in relation to the protection, welfare and development and advancement of Scheduled Castes as the President may, subject to the provisions of any law made by Parliament, by the rule specify.

6. The President shall cause all such reports to be laid before each House of Parliament along with a memorandum explaining the action taken or proposed to be taken on the recommendations relating to the Union and the reasons for the non-acceptance, if any, of any of such recommendations.
7. Where any such report, or any part thereof, relates to any matter with which any State Government is concerned, a copy of such report shall be forwarded to the Governor of the State who shall cause it to be laid before the Legislature of the State along with a memorandum explaining the action taken or proposed to be taken on the recommendations relating to the State and the reasons for the non-acceptance, if any, of any of such recommendations.
8. The Commission shall, while investigating any matter referred to in sub-clause (a) or inquiring into any complaint referred to in sub-clause (b) of clause (5), 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 documents;
  - (c) receiving evidence on affidavits;
  - (d) requisitioning any public or copy thereof from any court or office;
  - (e) issuing commissions for the examination of witnesses and documents; and
  - (f) any other matter which the President may by rule, determine.
9. The Union and every State Government shall consult the Commission on all major matters affecting Scheduled Castes.
10. In this article, reference to the Scheduled Castes shall be construed as including references to such other backward classes as the President may, on receipt of the report of a Commission appointed under clause (1) of article 340 by order specify and also to the Anglo-Indian community.

**338A. National Commission for Scheduled Tribes**

1. There shall be a Commission for the Scheduled Tribes to be known as the National Commission for the Scheduled Tribes.
2. Subject to the provisions of any law made in this behalf by Parliament, the Commission shall consist of a Chairperson, Vice-Chairperson and three other Members and the conditions of service and tenure of office of the Chairperson, Vice-Chairperson and other Members so appointed shall be such as the President may by rule determine.
3. The Chairperson, Vice-Chairperson and other Members of the Commission shall be appointed by the President by warrant under his hand and seal.



4. The Commission shall have the power to regulate its own procedure.
5. It shall be the duty of the Commission:—
  - (a) to investigate and monitor all matters relating to the safeguards provided for the Scheduled Tribes under this Constitution or under any other law for the time being in force or under any order of the Government and to evaluate the working of such safeguards;
  - (b) to inquire into specific complaints with respect to the deprivation of rights and safeguards of the Scheduled Tribes;
  - (c) to participate and advise on the planning process of socio-economic development of the Scheduled Tribes and to evaluate the progress of their development under the Union and any State;
  - (d) to present to the President, annually and at such other times as the Commission may deem fit, reports upon the working of those safeguards;
  - (e) to make in such reports recommendations as to the measures that should be taken by the Union or any State for the effective implementation of those safeguards and other measures for the protection, welfare and socio-economic development of the Scheduled Tribes; and
  - (f) to discharge such other functions in relation to the protection, welfare and development and advancement of the Scheduled Tribes as the President may, subject to the provisions of any law made by Parliament, by rule specify.
6. The President shall cause all such reports to be laid before each House of Parliament along with a memorandum explaining the action taken or proposed to be taken on the recommendations relating to the Union and the reasons for the non-acceptance, if any, of any of such recommendations.
7. Where any such report, or any part thereof, relates to any matter with which any State Government is concerned, a copy of such report shall be forwarded to the Governor of the State who shall cause it to be laid before the Legislature of the State along with a memorandum explaining the action taken or proposed to be taken on the recommendations relating to the State and the reasons for the non-acceptance, if any, of any such recommendations.
8. The Commission shall, while investigating any matter referred to in sub-clause (a) or inquiring into any complaint referred to in sub-clause (b) or clause (5), 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 or office;
- (e) issuing commissions for the examination of witnesses and documents;  
and
- (f) any other matter which the President may, by rule, determine.

9. The Union and every State Government shall consult the Commission on all major policy matters affecting Scheduled Tribes.

*ANNEXURE III*

*(Vide para 1.11 of the Report)*

## **NATIONAL COMMISSION FOR BACKWARD CLASSES**

**NCBC Act, Rules & Composition**



**Trikoot-I, Bhikaji Cama Place,  
New Delhi-110 066**

**MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS**

(Legislative Department)

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

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

**THE NATIONAL COMMISSION FOR BACKWARD CLASSES  
ACT, 1993**

**No. 27 of 1993**

[2nd April, 1993]

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

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

**CHAPTER I**

**PRELIMINARY**

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

(2) It extends to the whole of India except the State of Jammu & 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; and
- (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 authorized 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 utilized 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 successive 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 Gazettee, 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,  
*Secretary to the Government of India.*

रजिस्ट्री सं० डी० एल०-33004/99



भारत का राजपत्र

The Gazette of India

असाधारण

EXTRAORDINARY

भाग II—खण्ड 3—उप-खण्ड (i)

PART II—Section 3—Sub-section (i)

प्राधिकार से प्रकाशित

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No. 233]

NEW DELHI, TUESDAY, MAY 3, 2011/VAISAKHA 13, 1933

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**MINISTRY OF SOCIAL JUSTICE AND EMPOWERMENT**

**NOTIFICATION**

New Delhi, the 3rd May, 2011

**G.S.R. 360(E).**—In exercise of the powers conferred by Clause (f) of Section 10, read with Section 17 of the National Commission for Backward Classes Act, 1993 (27 of 1993), the Central Government hereby makes the following rules, namely:—

**1. Short title and commencement**— (1) These rules may be called the National Commission for Backward Classes (Power to Review Advice) Rules 2011.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. **Definitions.**—In these rules, unless the context otherwise requires—

(a) “Act” means the National Commission for Backward Classes Act, 1993 (27 of 1993);

(b) “Commission” means the National Commission for Backward Classes;

(c) “review” means a review undertaken in pursuance of rule 3 of these rules;

(d) words and expressions used herein but not defined shall have the meaning assigned to them in the Act.

3. **Power to review advice tendered to the Central Government.**— Without prejudice to the generality of the provision of Section 10, the Commission shall also have the power to review an advice tendered to the Central Government under subsection (1) of Section 9.

4. **Applicability of certain provisions of the Code of Civil Procedure, 1908, to review.**— Provisions of Section 114 and Order XLVII of the Code of Civil Procedure, 1908 (5 of 1908), shall, *mutatis mutandis*, apply to a review undertaken by the Commission.

[F.No. 12011/9/2007-BCC]

P. P. MITRA,  
Joint Secretary.

## APPENDIX

COMMITTEE ON WELFARE OF OTHER BACKWARD CLASSES (OBCs)  
MINUTES OF THE THIRD SITTING OF THE COMMITTEE ON WELFARE OF  
OTHER BACKWARD CLASSES (OBCs) (2012-13) HELD ON 24TH JULY, 2012  
IN COMMITTEE ROOM, 'D', PARLIAMENT HOUSE ANNEXE, NEW DELHI

The Committee sat from 1130 hrs. to 1300 hrs.

### PRESENT

Shri B.K. Handique—*In the Chair*

### MEMBERS

#### *Lok Sabha*

2. Shri Hansraj Gangaram Ahir
3. Dr. Charles Dias
4. Shri Mukeshkumar Bheravdanji Gadhvi
5. Shri Anant Gangaram Geete
6. Dr. Kruparani Killi
7. Shri P. Kumar
8. Shri Ponnam Prabhakar
9. Shri Ramkishun
10. Advocate A. Sampath
11. Shri Manicka Tagore
12. Shri Hukmadeo Narayan Yadav

#### *Rajya Sabha*

13. Shri Birendra Prasad Baishya
14. Shri Rama Chandra Khuntia
15. Dr. Ram Prakash
16. Shri V. Hanumantha Rao
17. Shri Arvind Kumar Singh
18. Shri Ramchandra Prasad Singh
19. Shri Natuji Halaji Thakor

## SECRETARIAT

1. Shri N.C. Gupta — *Director*
2. Shri R.R. Kumar — *Additional Director*

## INVITEES

**I. National Commission for Backward Classes (NCBC)**

1. Dr. M.N. Rao — *Chairman*
2. Shri S.K. Kharvethan — *Member*
3. Dr. Shakeel-uz-Zaman Ansari — *Member*

## WITNESSES

**II. Ministry of Social Justice and Empowerment**

1. Shri Anil Goswami — *Secretary*
2. Shri Anoop Kumar Srivastava — *Additional Secretary*
3. Smt. Ghazala Meenai — *Joint Secretary (BC)*
4. Smt. Surekha Sahu — *Director*

**III. Statutory Bodies**

1. Shri A.A. Naqvi — *Managing Director (NBCFDC)*
2. Shri S.S. Agarwal — *Secretary (NCBC)*

2. At the outset the Chairman extended warm welcome to the Chairman and members of the National Commission for Backward Classes (NCBC) and briefed them about the decision taken by the Committee to take up the subject 'Measures for strengthening and giving constitutional status to the NCBC' for detailed examination. The Chairman emphasized on the need to give constitutional status to NCBC and redefine the powers and functions of NCBC to enable them to look into all the issues including grievances of OBCs.

3. Thereafter, the Chairman of the NCBC shared his views and experiences with the Members of the Committee on the subject under considerations as well as on other issues like provisions of Creamy Layer in OBC reservation and sub-categorization within the central list of backward classes. He also elaborated on the efforts so far made by the Commission to demand same powers as National Commissions of Scheduled Castes and Scheduled Tribes. In the course of the informal discussion the Chairman of NCBC also responded to the queries of the Members of the Committee.

*The Invitees then withdrew.*

4. Thereafter, the representatives of the Ministry of Social Justice and Empowerment, National Commission for Backward Classes (NCBC) and National Backward Classes Financial Development Corporation (NBCFDC) were called in. The

Chairman welcomed them and briefed them about the subject under consideration. The Chairman asked the representatives to express their views and comments on granting constitutional status to the NCBC and its empowerment.

5. The Secretary of Ministry of Social Justice and Empowerment then informed the Committee about the status of the proposals given by the NCBC in this regard. The Members sought clarifications and raised queries relating to the subject. The representatives of the Ministries responded to the same. The Committee directed the representatives of the Ministry to furnish written replies to the queries which could not be readily replied by them during the sitting.

6. In the end, the Committee unanimously passed a resolution regarding strengthening and giving constitutional status to NCBC.

7. A verbatim record of the proceedings of the sitting of the Committee has been kept.

*The Witnesses then withdrew.*

*The Committee then adjourned.*

COMMITTEE ON WELFARE OF OTHER BACKWARD CLASSES (OBCs)  
MINUTES OF THE FOURTH SITTING OF THE COMMITTEE ON WELFARE  
OF OTHER BACKWARD CLASSES (OBCs) (2012-13) HELD ON  
23RD AUGUST, 2012 IN COMMITTEE ROOM 'E',  
PARLIAMENT HOUSE ANNEXE, NEW DELHI  
The Committee sat from 1500 hrs. to 1600 hrs.

PRESENT

Shri B.K. Handique—*In the Chair*

MEMBERS

*Lok Sabha*

2. Shri Hansraj Gangaram Ahir
3. Shri Sameer Magan Bhujbal
4. Shri Dara Singh Chauhan
5. Dr. Charles Dias
6. Shri Anant Gangaram Geete
7. Dr. Kruparani Killi
8. Shri Ponnamm Prabhakar
9. Advocate A. Sampath
10. Shri Ganesh Singh
11. Shri Manicka Tagore
12. Shri Arun Yadav
13. Shri Hukmadeo Narayan Yadav
14. Prof. (Dr.) Ranjan Prasad Yadav

*Rajya Sabha*

15. Smt. Jharna Das Baidya
16. Shri Devender Goud T.
17. Shri Rama Chandra Khuntia
18. Dr. Ram Prakash
19. Shri V. Hanumantha Rao
20. Shri Arvind Kumar Singh
21. Shri Natuji Halaji Thakor

## SECRETARIAT

1. Shri R. K. Chadha — *Joint Secretary*
2. Shri N. C. Gupta — *Director*
3. Shri R. R. Kumar — *Additional Director*

2. At the outset, the Chairman welcomed the Members of the Committee on Welfare of Other Backward Classes (OBCs). The Committee thereafter discussed in detail the draft Report on the subject 'Measures for strengthening and giving Constitutional Status to National Commission for Backward Classes (NCBCs)' and adopted the same with minor modifications.

3. The Committee then authorised the Chairman to finalise the Report and present the same to the Parliament.

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