

SECOND REPORT

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

(FIFTEENTH LOK SABHA)

[Action taken by the Government on the recommendations contained in the First Report of the Committee on Welfare of Other Backward Classes (OBCs) on—“Measures for strengthening and giving constitutional status to the National Commission for Backward Classes (NCBC)”]

MINISTRY OF SOCIAL JUSTICE & EMPOWERMENT

*Presented to Lok Sabha on 26.04.2013*

*Laid in Rajya Sabha on 25.04.2013*



LOK SABHA SECRETARIAT  
NEW DELHI

*April, 2013/Vaisakha, 1935 (Saka)*

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## CONTENTS

|  | PAGE  |
|--|-------|
| COMPOSITION OF THE COMMITTEE (2012-13) .....   | (iii) |
| INTRODUCTION .....   | (v)   |
| CHAPTER I      Report .....  | 1     |
| CHAPTER II      Observations/Recommendations which have been accepted<br>by the Government .....   | 5     |
| CHAPTER III      Observations/Recommendations which the Committee do<br>not desire to pursue in the light of the replies received<br>from the Government .....               | 6     |
| CHAPTER IV      Observations/Recommendations in respect of which replies<br>of the Government have not been accepted by the<br>Committee and which require reiteration ..... | 7     |
| CHAPTER V      Observations/Recommendations in respect of which final<br>replies of the Government are still awaited .....   | 9     |
| APPENDICES   |       |
| I.    Minutes of the Tenth sitting of the Committee held<br>on 18.04.2013 .....  | 10    |
| II.   Analysis of Action Taken by the Government on the<br>recommendations contained in the First Report<br>(Fifteenth Lok Sabha) .....                                      | 12    |

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

Shri Bijoy Krishna Handique — *Chairman*

MEMBERS

*Lok Sabha*

2. Shri Hansraj Gangaram Ahir
3. Shri Sameer Bhujbal
4. Shri Dara Singh Chauhan
5. Dr. Charles Dias
6. Shri T.K.S. Elangovan
7. Shri Mukesh Kumar Bhairavdanji Gadhvi\*
8. Shri Anant Gangaram Geete
9. Shri P. Kumar
10. Dr. Kruparani Killi†
11. Shri P.C. Mohan
12. Shri Ponnamm Prabhakar
13. Shri Amarnath Pradhan
14. Shri Ramkishun
15. Advocate A. Sampath
16. Shri Ganesh Singh
17. Shri Manicka Tagore
18. Shri Arun Yadav
19. Shri Hukmadeo Narayan Yadav
20. Prof. (Dr.) Ranjan Prasad Yadav

*Rajya Sabha*

21. Shrimati Jharna Das Baidya
22. Shri Birendra Prasad Baishya
23. Shri Devender Goud T.
24. Shri Rama Chandra Khuntia
25. Dr. Ram Prakash
26. Shri V. Hanumantha Rao
27. Shri Arvind Kumar Singh

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\*Vacant due to demise of Shri Mukesh Kumar Bhairavdanji Gadhvi on 1st March, 2013.

†Vacant due to appointment of Dr. Kruparani Killi as MOS w.e.f. 28.10.2012

(iv)

28. Shri Ramchandra Prasad Singh
29. Shri Natuji Halaji Thakor
30. Shri Ashk Ali Tak

SECRETARIAT

- |                        |   |                            |
|------------------------|---|----------------------------|
| 1. Shri Devender Singh | — | <i>Joint Secretary</i>     |
| 2. Shri N.C. Gupta     | — | <i>Director</i>            |
| 3. Shri R.R. Kumar     | — | <i>Addl. Director</i>      |
| 4. Ms. Suvaiba Shaikh  | — | <i>Committee Assistant</i> |

## INTRODUCTION

I, the Chairman, Committee on Welfare of Other Backward Classes having been authorised by the Committee to present the Report on their behalf, present this Second Report (Fifteenth Lok Sabha) on action taken by the Government on the observations/recommendations contained in the First Report (Fifteenth Lok Sabha) of the Committee on Welfare of Other Backward Classes (OBCs) on "Measures for strengthening and giving constitutional status for National Commission for Backward Classes (NCBC)" pertaining to the Ministry of Social Justice and Empowerment.

2. The First Report was presented to Lok Sabha and laid in Rajya Sabha on 27.08.2012. The Ministry of Social Justice & Empowerment furnished their replies indicating action taken on the recommendations contained in that Report on 4th December, 2012. The Report was considered and adopted by the Committee on 18th April, 2013.

3. An analysis of the action taken by Government on the recommendations contained in First Report of the Committee on Welfare of Other Backward Classes (OBCs) is given in *Appendix-II*.

4. For facility of reference and convenience, the observations/recommendations of the Committee have been printed in bold letters in the body of the Report.

5. 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.

NEW DELHI;  
23 April, 2013  
3 Vaisakha, 1935 (Saka)

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

## CHAPTER I

### REPORT

This Report of the Committee on Welfare of Other Backward Classes deals with the action taken by the Government on the Observations/Recommendations contained in their First Report (Fifteenth Lok Sabha) on "Measures for strengthening and giving constitutional status to National Commission for Backward Classes (NCBC)" pertaining to the Ministry of Social Justice & Empowerment.

1.2 The First Report was presented to Lok Sabha on 27th August, 2012 and was laid on the Table of Rajya Sabha on the same day. The Report contained 2 Observations/Recommendations. Action Taken Notes in respect of all the Observations/Recommendations contained in the Report have been received from the Government. These have been examined and categorised as under:—

- (i) Observations/Recommendations which have been accepted by the Government:

Recommendation Sl. No. 2 (Para 2.3)

Total-1  
Chapter-II

- (ii) Observations/Recommendations which the Committee do not desire to pursue in the light of the replies received from the Government:

Nil

Total-0  
Chapter-III

- (iii) Observations/Recommendations in respect of which replies of the Government have not been accepted by the Committee and which require reiteration:

Recommendation Sl. No. 1 (Para 2.2)

Total-1  
Chapter-IV

- (iv) Observations/Recommendations in respect of which final replies of the Government are still awaited:

Nil

Total-0  
Chapter-V

**1.3 The Committee desire that Action Taken Notes on the Observations/ Recommendations contained in Chapter-I of the Report may be furnished to the Committee within three months of the presentation of this Report.**

1.4 The Committee will now deal with the action taken by the Government on the Observations/Recommendations which need reiteration or comments.

**Giving Constitutional status to NCBC through Constitutional amendment**

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

1.5 In their First Report, the Committee had noted that the National Commission for Backward Classes (NCBC) was established 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. The Committee had observed 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). The Committee was of the opinion that after nearly two decades of the inception of a separate dedicated Commission for backward classes viz. the NCBC, the clause 10 of Article 338 of the Constitution had lost its relevance. Moreover, 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 had therefore recommended that immediate action should be initiated for amending Indian Constitution and the NCBC Act appropriately by 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 by deleting Article 338(10) of the Constitution and by inserting a new Article 338B in the Constitution for NCBC.

1.6 The Ministry of Social Justice and Empowerment in their action taken reply has stated that the recommendations of the Committee in this regard are being examined by the Government.

**1.7 The Committee are deeply concerned that the Ministry of Social Justice and Empowerment has been far from serious to give effect to their recommendation as seven long months have already elapsed since the presentation of the First Report. No concrete action has been taken as yet to initiate the process of amendment to the Constitution for giving constitutional status to the National Commission for Backward Classes (NCBC) on the pattern of National Commission for Scheduled Castes (NCSC) [Article 338] and National Commission for Scheduled Tribes (NCST) [Article 338A]. It is anachronistic that even after almost two decades since the inception of the NCBC in 1993, the NCSC continues to be directly responsible for reviewing the measures for the welfare and development of backward classes, an arrangement**



which is not only inappropriate but has, evidently, proved ineffective. Considering the dire need for accelerating the socio-economic advancement of the OBCs in the country, the Committee are of the considered view that the NCBC ought to be vested with same powers as given to the NCSC and the NCST. The Committee therefore reiterate that the Ministry should take immediate steps to bring in necessary Constitutional Amendment to delete Clause 10 of Article 338 and add a new Article 338B for according Constitutional status to the NCBC, without any further loss of time. The Committee would like to be apprised of the concrete action taken by the Government in this regard within three months of the presentation of this Report.

#### **Grievance Redressal Mechanism for OBCs**

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

1.8 The Committee in their First Report had noted that NCSC was not able to discharge its functions pertaining to OBCs due to its overwhelming preoccupation with the affairs of SCs and also due to inadequate manpower. It was noticed by the Committee that NCSC started taking cognizance of the complaints of OBCs *w.e.f.* 9th February, 2011 only and could deal with merely 13 cases out of 172. The Committee were doubtful about the final settlement of even these few cases. The Committee had also observed that the post of the National co-ordinator within NCSC which was meant to expedite the grievance redressal mechanism for OBCs had been reduced to a ceremonial post with no significant contribution. The Committee had therefore recommended 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 and all the issues pertaining to welfare of OBCs including complaints/grievances etc. should be dealt with by NCBC exclusively.

1.9 The Ministry of Social Justice and Empowerment in their action taken reply has stated as under:—

"Government is examining a proposal to vest on the National Commission for Backward Classes the power to hear complaints/grievances of citizens belonging to OBCs."

1.10 The Committee note that the Ministry of Social Justice and Empowerment has accepted the recommendation of the Committee in principle. However, the Committee are not satisfied with the routine assurance that the matter is being examined since no firm timeline has been indicated to implement the decision. The Committee wish to remind the Ministry of their own admission that the NCSC is preoccupied with the affairs of SCs and is facing shortage of manpower and hence was not able to discharge properly its additional functions with regard to safeguards, welfare and developments of the OBCs. Notably, even the office of National Coordinator under NCSC which was meant to expedite the grievance redressal mechanism for OBCs is finding itself helpless in addressing a large number of grievances/complaints of the OBCs. The Committee also feel that many people belonging to OBC communities might

**not be aware of the present arrangement of the NCSC dealing with the grievances of OBCs and hence they might not be submitting their grievances to the NCSC at all out of their sheer ignorance. The Committee, therefore, reiterate that without wasting any time further, the Ministry should immediately pass an order to dissolve the office of the National Coordinator for OBCs under NCSC and vest the powers of grievance redressal in respect to OBCs in the NCBC. The Committee would like to be apprised of the updated status in this regard within three months of the presentation of this Report.**

## **CHAPTER II**

### **OBSERVATIONS/RECOMMENDATIONS WHICH HAVE BEEN ACCEPTED BY THE GOVERNMENT**

#### **Recommendation (Sl. No. 2, Para 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.

#### **Reply of the Government**

2.2 Government is examining a proposal to vest on the National Commission for Backward Classes the power to hear complaints/grievances of citizens belonging to OBCs.

[O.M. No. 12013/11/2012-BC-I/II, dated 4th Dec., 2012]

#### **Comments of the Committee**

2.3 Please *see* Para No. 1.10 of Chapter-I.

### **CHAPTER III**

OBSERVATIONS/RECOMMENDATIONS WHICH THE COMMITTEE DO  
NOT DESIRE TO PURSUE IN THE LIGHT OF THE REPLIES  
RECEIVED FROM THE GOVERNMENT

—Nil—

## CHAPTER IV

### OBSERVATIONS/RECOMMENDATIONS IN RESPECT OF WHICH REPLIES OF THE GOVERNMENT HAVE NOT BEEN ACCEPTED BY THE COMMITTEE AND WHICH REQUIRE REITERATION

#### **Recommendation (Sl. No. 1, Para 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 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.

#### **Reply of the Government**

4.2 The Ministry of Social Justice and Empowerment in their action taken reply has stated that the recommendations of the Committee in this regard are being examined by the Government.

[O.M. No. 12013/11/2012-BC-I/II, dated 4th Dec., 2012]

#### **Comments of the Committee**

4.3 Please *see* Para No. 1.7 of Chapter-I.

## CHAPTER V

OBSERVATIONS/RECOMMENDATIONS IN RESPECT OF WHICH FINAL  
REPLIES OF THE GOVERNMENT ARE STILL AWAITED

—Nil—

NEW DELHI;  
23 April, 2013  

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3 Vaisakha, 1935 (*Saka*)

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

## APPENDIX I

COMMITTEE ON WELFARE OF OTHER BACKWARD CLASSES (OBCs)

MINUTES OF THE TENTH SITTING OF THE COMMITTEE ON WELFARE  
OF OTHER BACKWARD CLASSES (OBCs) (2012-13) HELD ON  
18TH APRIL, 2013 IN ROOM NO. 415, PARLIAMENT  
HOUSE ANNEXE, NEW DELHI

The Committee sat from 1100 hrs. to 1200 hrs.

### PRESENT

Shri B.K. Handique — *In the Chair*

### MEMBERS

#### *Lok Sabha*

2. Dr. Charles Dias
3. Shri P. Kumar
4. Advocate A. Sampath
5. Shri Ramkishun
6. Shri Arun Yadav
7. Shri Hukmadeo Narayan Yadav
8. Prof. (Dr.) Ranjan Prasad Yadav

#### *Rajya Sabha*

9. Smt. Jharna Das Baidya
10. Shri Rama Chandra Khuntia
11. Shri Arvind Kumar Singh
12. Shri Ashk Ali Tak

### SECRETARIAT

- |                        |   |                            |
|------------------------|---|----------------------------|
| 1. Shri Devender Singh | — | <i>Joint Secretary</i>     |
| 2. Shri N.C. Gupta     | — | <i>Director</i>            |
| 3. Shri R.R. Kumar     | — | <i>Additional Director</i> |
| 4. Shri R.L. Yadav     | — | <i>Deputy Secretary</i>    |



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 action taken by the Government on the recommendations contained in the First Report of the Committee on the subject 'Measures for strengthening and giving constitutional status to the National Commission for Backward Classes (NCBC)' and adopted the same without any amendment.

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

*The Committee then adjourned.*

## APPENDIX II

### ANALYSIS OF ACTION TAKEN BY THE GOVERNMENT ON THE RECOMMENDATIONS CONTAINED IN THE FIRST REPORT (15TH LOK SABHA) OF THE COMMITTEE ON WELFARE OF OTHER BACKWARD CLASSES (OBCs)

|    |   |     |
|----|---|-----|
| 1. | Total number of recommendations:  | 2   |
| 2. | Observations/Recommendations which have been accepted<br>by the Government:   |     |
|    | Number  | 1   |
|    | Percentage to the total   | 50% |
| 3. | Observations/Recommendations which the Committee do not<br>desire to pursue in the light of the replies received from the<br>Government.                | Nil |
| 4. | Observations/Recommendations in respect of which replies<br>of the Government have not been accepted by the Committee<br>and which require reiteration: |     |
|    | Number  | 1   |
|    | Percentage to the total   | 50% |
| 5. | Observations/Recommendations in respect of which final replies<br>of the Government are still awaited.  | Nil |