

>

Title: The Minister of Law and Justice and Minister of Minority Affairs made a statement regarding creation of sub-quota of 4.5% for centrally notified minority communities within the reservation of 27% quota available to Other Backward Classes (OBCs) in government jobs and admission to Central Educational Institutions.

THE MINISTER OF LAW AND JUSTICE AND MINISTER OF MINORITY AFFAIRS (SHRI SALMAN KHURSHEED): Madam, with your permission, I may be allowed to read the entire text as it is a very important statement ...(*Interruptions*) Based on the Report of the Second Backward Classes Commission, popularly known as Mandal Commission, the Government of India had made a notification on 13th August, 1990 reserving 27% of the vacancies in civil posts and services under the Government of India for Other Backward Classes. ...(*Interruptions*) Although the backward sections of minority population were included in the Central List of OBC, there has been a growing demand over the last two decades that a separate quota need to be provided for the minorities given the fact that major sections of the minorities are most backward in the country.

In order to assess the status of minority communities, the Government of India had notified on 29th October, 2004 to constitute a National Commission for Religious and Linguistic Minorities (NCRLM) and the same was constituted on 15th March, 2005 under the Chairmanship of Justice Ranganath Mishra. NCRLM was specifically constituted to suggest criteria for the identification and to recommend measures for the welfare of the socially and economically backward sections among the religious and linguistic minorities, including reservation in education and government employment. ...(*Interruptions*) The Commission was also mandated to suggest necessary constitutional, legal and administrative modalities, as required for implementation of their recommendations. The Commission submitted its report to the Government on 10th May, 2007 which was placed in both Houses of Parliament on 18th December, 2009. The recommendations of the Commission, *inter alia* included the following with regard to reservation for minorities in education and Government employment:

NCRLM observed that since minorities – especially Muslims – are under-represented and sometimes wholly unrepresented, in Government employment, they recommended that they should be regarded as backward in this respect within the meaning of article 16(4) of the Constitution – notably without qualifying the word 'backward' with the words 'socially and educationally' – and that 15 per cent of posts in all cadres and grades under the Central and State Governments should be earmarked for them. Of the 15 per cent, NCRLM recommended that 10 per cent should be for Muslims and the remaining 5 per cent for other minorities.

NCRLM has further observed that the action recommended by them will have full sanction of article 16(4) of the Constitution. ...(*Interruptions*) Yet, should there be some insurmountable difficulty in implementing this recommendation, as an alternative they recommended that since according to the Mandal Commission Report, the minorities constitute 8.4 per cent of the total OBC population, in the 27 per cent OBC quota an 8.4 per cent sub-quota should be earmarked for the minorities with an internal break-up of 6 per cent for the Muslims (to commensurate with their 73 per cent share in the total minority population at the national level) and 2.4 per cent for the other minorities – with minor adjustments *inter se* in accordance with population of various minorities in various States and UTs. Going by this recommendation of NCRLM, percentage of reservation for Minorities on the basis of pro-rata population would have been 4.36 per cent from out of the 27 per cent of OBC quota.

With regard to reservation of seats for minorities in non-minority institutions, the Commission has further relied on Article 46 of the Constitution which mentions about "weaker sections of the people" – notably without subjecting them to the condition of backwardness – and mandates the State to "promote with special care" the educational and economic interests of such sections. The Commission is of the view that in line with Article 46, it is possible to classify the entire minority communities as weaker section and reserve for them by law seats in non-minority educational institutions.â€¦(*Interruptions*)

The Government had also constituted a High Level Committee under the Chairmanship of Justice Rajindar Sachar in 2005 (popularly known as Sachar Committee) for preparation of a report on social, economic and educational status of the Muslim community of India. The Committee was to consolidate, collate and analyse information with regard to Muslim community in India to identify areas of intervention by the Government to address relevant issues relating to social, economic and educational status of Muslim community. Sachar Committee submitted its report in November, 2006 which brought out the relative deprivation of the Muslims in India and emphasized the need for inclusive development of the community. The Sachar Committee made some specific recommendations regarding reservation....(*Interruptions*)

They observed that by clubbing the arzals and the ajlafs among Muslims in an all encompassing OBC category, the Mandal Commission overlooked the disparity in the nature of deprivations that they faced. Being at the bottom of the social hierarchy, the arzals are the worst off and need to be handled separately. Sachar Committee mentioned that it would be most appropriate if they were absorbed in the SC list, or at least in a separate category, Most Backward Classes (MBCs) carved out of the OBCs....(*Interruptions*)

Sachar Committee also added that Muslims in India, in terms of their social structure, consist of three groups – ashrafs, ajlafs and arzals. The three groups require different types of affirmative action. The second group, ajlafs/OBCs, need additional attention which could be similar to that of Hindu –OBCs. The third group, those with similar traditional occupation as that of the SCs, may be designated as Most Backward Classes (MBCs) as they need multifarious measures, including reservation, as they are 'cumulatively oppressed'. Thus, Sachar Committee also had recommended for affirmative action for Muslims in India through separate reservation....(*Interruptions*)

For several years, members of other backward classes belonging to religious minorities have been demanding that a separate quota should be earmarked for them out of the 27 per cent reserved for OBCs. The Sachar Committee has conclusively established that the Muslim community in India as one of the most backward communities in the country and thus deserve special attention....(*Interruptions*) NCRLM in its report had recommended that within the reservation of 27 per cent for OBCs, a separate quota should be earmarked for religious minorities who are included in the list of OBCs currently in force. The Mandal Commission had estimated that the deprived population of OBCs was about 52 per cent of the total population consisting of Hindu castes/communities of about 43.7 per cent and non-Hindu castes and communities of about 8.4 per cent. Thus, the proportion of non-Hindu to Hindu caste/castes/communities among OBC is approximately 1:5. ...(*Interruptions*) The final figures of census of 2011 are not yet available. Moreover, there have been no updated caste census figures available. Therefore, the estimates of Mandal Commission extrapolated from the 1931 caste census data were still considered....(*Interruptions*)

The Supreme Court in its judgement in Indira Sawhney and others Vs. Union of India and others had mentioned:

"We are of the opinion that there is no constitutional or legal bar to a State categorising backward classes as backward and more backward. We are not saying that it ought to be done. We are concerned with the question if a State makes such a categorisation, whether it would be invalid? We think not." ...(*Interruptions*)

Thus, it is apparent from the judgement of the Supreme Court in Indira Sawhney case that the Government is within its legitimate rights to make sub-categorisation amongst the OBCs which would lead to more equitable distribution of benefits of reservation amongst the castes/communities included in the broad category of the OBC. ...(*Interruptions*) While thirty States/Union Territories have their own list of OBCs, as per information available, nine States have sub-categories of castes/communities in the State list of OBCs. They include Andhra Pradesh, Bihar, Karnataka, Maharashtra, Tamil Nadu, West Bengal, Jammu and Kashmir, Kerala and Sikkim. ...(*Interruptions*)

The last caste census in India was held in 1931. The Mandal Commission has extrapolated the figures of 1931 caste census over four decades to state that the OBC population is approximately 52 per cent of which 43.60 per cent are Hindu OBCs and 8.40 per cent are non-Hindus. ...(*Interruptions*) The proportion between the two is currently approximately 1:5 because of the decadal growth of Muslims has been higher compared to Hindus. Therefore, the Government has fixed the sub-quota at 4.5 per cent. ...(*Interruptions*)

It may be clarified here that only backward sections of the minority communities can avail of the 4.5 per cent sub-quota. ...(*Interruptions*) Therefore, inclusion or exclusion in the Central OBC list will be strictly on the basis of backwardness of minorities which include Muslims, Sikhs, Christians, Bhddhists and Zoroastrians (Parsis), as has been provided under Section 2 (c) of the National Commission for Minorities (NCM) Act, 1992. ...(*Interruptions*) The reservation will be applicable to the Central Government jobs and services as per the Ministry of Personnel, Public Grievances & Pensions (DoPT) O.M. No. 41018/2/2011-Estt.(Res), dated 22nd December, 2011 and also to admissions to the Central Government educational institutions as per the Notification of the Ministry of Human Resource Development (DHE) No. F1-1/2005-U.1A/846 dated 22nd December, 2011.. ...(*Interruptions*)

(Placed in Library, See No. LT 6105/15/11)

* Not recorded

* Not recorded

* Not recorded

* Not recorded

* Not recorded