

**NATIONAL COMMISSION FOR BACKWARD CLASSES**

Hon'ble Shri Justice M.N.Rao, Chairperson

Hon'ble Shri S.K.Kharventhan, Member

Hon'ble Shri Deepak Katole, Member

Hon'ble Dr. Shakeel uz-Zaman Ansari, Member

**Case: Request for Inclusion 'SANYASI, GUJRATI, VYAS' Castes in the Central List of Other Backward Classes for the State of Himachal Pradesh.**

**I. Request:**

1. This case arises from the requests received in the National Commission for Backward Classes from the State Government of Himachal Pradesh for inclusion of the '**SANYASI, GUJRATI, VYAS, traditionally connected with the death rituals**' caste in the Central List of Other Backward Classes for the State of Himachal Pradesh.

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## II. PUBLIC HEARING

2. The Commission consisting of Justice Shri M. N. Rao, Hon'ble Chairperson, Shri S. K. Kharventhan, Hon'ble Member, Shri Deepak Katole, Hon'ble Member and Dr. Shakeel uz-Zaman Ansari, Hon'ble Member, held a Public Hearing in respect of the request of the State Government for inclusion in the Central List of OBCs for the State of Himanchal Pradesh on 17<sup>th</sup> August, 2011. At the Public Hearing, the State Government was represented by Shri S. K. Das, I.A.S., Principal Secretary, Social Justice & Empowerment, Shri P. C. Dhiman, I.A.S., Principal Secretary, Health Department; Shri S. K. B. S. Negi, I.A.S., Principal Secretary, Rural Development Department, Shri T. G. Negi, I.A.S., Principal Secretary, Administrative Reforms Department, Ms. Madhu Bala, Special Secretary, Social Justice & Empowerment Department, Shri Manish Garg, Director, Social Justice & Empowerment; and Shri Vinod Goyal, Member Secretary, Himachal Pradesh Commission for Backward Classes.

## III Findings

3. The State Government of Himachal Pradesh has requested the NCBC for inclusion of 'SANYASI, GUJRATI, VYAS, traditionally connected with the death rituals' in the Central List of OBCs for the State of Himachal Pradesh.

4. The aforesaid community has already been included in the State List at Sl.No.40 on the basis of the Advice tendered by the State Commission for Backward Classes.

5. At the time of public hearing by the NCBC held at Shimla on 17<sup>th</sup> August, 2011, one Mr. Bam Dev appeared before us and requested that the community

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be included in the Central List of OBCs for the State of Himachal Pradesh. As per the written representation given by him, there is no representation for the community in the Central services, in the State Legislature and Union Parliament and that economically this community is poor.

6. Although the State Government has included this community at Sl.No.40 in the State List of OBCs, after going through the Advice of the State Commission and the Ethnographic Account concerning these communities, we are not inclined to accept the request of the State Government. What should be the primary consideration for inclusion of a caste for the benefits under Article 15(4) and 16(4) of the Constitution is well known. We only wish to quote from the majority judgment (Justice P. B. Sawant) in Indra Sawhney case (reported in (1992) Supp. 3 SCC 215):-

"482. Economic backwardness is the bane of the majority of the people in this country. There are poor sections in all the castes and communities. Poverty runs across all barriers. The nature and degree of economic backwardness and its causes and effects, however, vary from section to section of the populace. Even the poor among the higher castes are socially as superior to the lower castes as the rich among the higher castes. Their economic backwardness is not on account of social backwardness. The educational backwardness of some individuals among them may be on account of their poverty in which case economic props alone may enable them to gain an equal capacity to compete with others. On the other hand, those who are socially backward such as the lower castes or occupational groups are also educationally backward on account of their social backwardness, their economic backwardness being the consequence of both their social and educational backwardness. Their educational backwardness is not on account of their economic backwardness alone....."

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492. While discussing Question No.1, it has been pointed out that so far as "backward classes" are concerned, clause (4) of Article 16 is exhaustive of reservations meant for them. It has further been pointed out under Question No. II that the only "backward class" for which reservations are provided under the said clause is the socially backward class whose educational and economic backwardness is on account of the social backwardness. A class which is not socially and educationally backward though economically or even educationally backward is not a backward class for the purposes of the said clause. What follows from these two conclusions is that reservations in posts cannot be made in favour of any other class under the said clause. Further, the purpose of keeping reservations even in favour of the socially and educationally backward classes under clause (4) is not to alleviate poverty but to give it an adequate share in power".

7. The State Commission refers to the profession of this community as rendering ceremonies as priests in connection with death rituals called masik. They belong to Brahman community. The social backwardness of this community, in our view, cannot be inferred from the profession practiced by the members of this community and their alleged relative backwardness in the educational field. Brahmans whatever be the profession they are following can never be treated as socially backward. If a Brahman is employed in a shoe company, his social status will not be adversely affected and this is a social reality which cannot be disputed. Brahmans being at the highest level in the social hierarchy, it is difficult to accept that to some of the sub castes of Brahmans any type of social backwardness is attached.

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8. Incidentally we may also refer to the evidence adduced by one of the witnesses before the State Commission about which the State Commission mentions in its advice on page 21 that "one Vyas who is an Assistant Engineer belonging to this community gave evidence stating that the community is doing work of 'purohit' but it may be an isolated example".

9. For the aforesaid reasons, we are not inclined to accept the request of the State Government and accordingly the same is rejected.

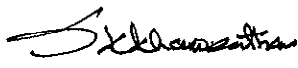
#### IV. ADVICE OF THE COMMISSION

10. The Commission in view of the above findings has decided to tender the following Advice to the Central Government under Section 9(1) of the NCBC Act for necessary action under Section 9(2) of the NCBC Act:-

Request for inclusion of "**SANYASI, GUJRATI, VYAS**" traditionally connected with the death rituals be rejected as they are not socially and educationally backward communities.

  
(Justice M. N. Rao)

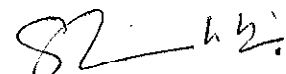
Chairperson

  
(S. K. Kharventhan)

Member

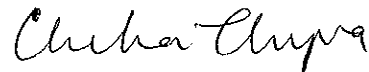
  
(Deepak Katole)

Member

  
(Dr. Shakeel-uz-Zaman Ansari)

Member

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