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सदस्य-सचिव
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भारत सरकार
त्रिकूट-१, भीकाजी कामा प्लेस, नई दिल्ली - ११००६६

Member - Secretary
National Commission for Backward Classes
Government of India
Trikoot - 1, Bhikaiji Cama Place, New Delhi - 110 066

NCBC Advice No. Orissa 59-61/99

14.06.1999

Dear Smt. Das,

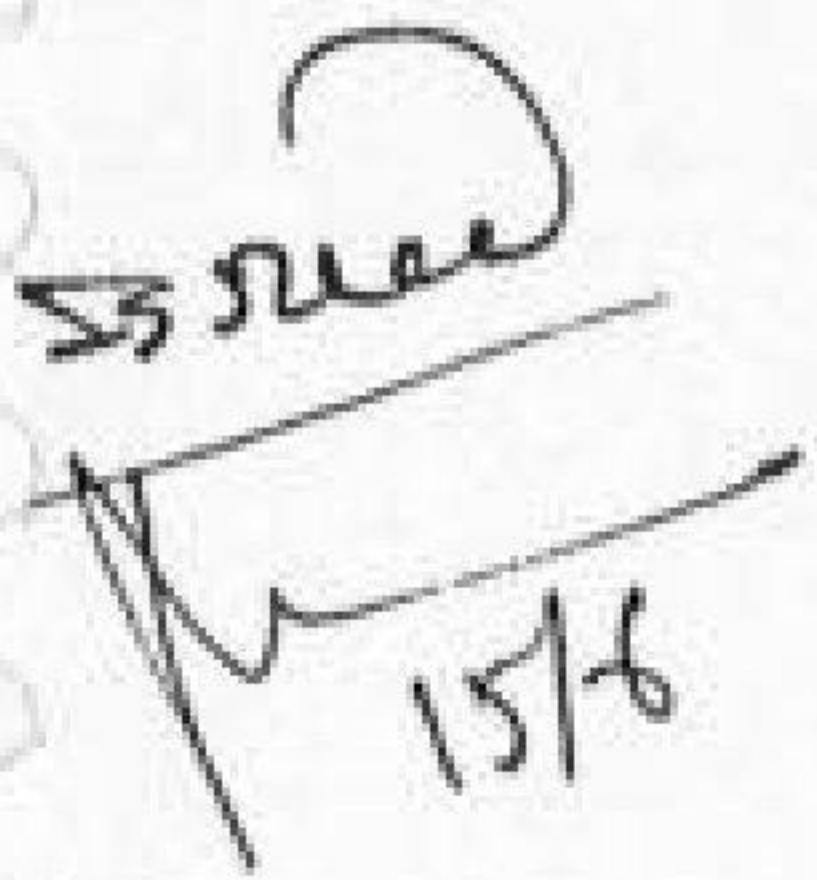
I am sending herewith the Advice of the National Commission for Backward Classes under Section 9(1) of the NCBC Act for the Inclusion of "Kalwar" and for the Rejection of the Request for Inclusion of "Jaiswal, Byahut Kalwar and Byahut Bania" as synonyms of Kalwar in the Central List of Backward Classes for Orissa, duly authenticated, for necessary action by the Central Government under Section 9(2) of the NCBC Act.

Yours sincerely


(P.S. KRISHNAN)

Encl: As stated.

Smt. Asha Das
Secretary to Govt. of India
Ministry of Social Justice & Empowerment
Shastri Bhavan
NEW DELHI


15/6

NCBC Advice No. ~~59~~ 62/Orissa/99

NATIONAL COMMISSION FOR BACKWARD CLASSES
ORISSA BENCH
FINDINGS

Case: Request for inclusion of Kalwar, Jaiswal, Byahut Kalwar and Byahut Bania in the Central List of Backward Classes for Orissa.

Per Shri U. P. Singh, Member

I. Request

1. This case arises from the request received in this Commission from Shri Abodh Bihari Prasad, Balli Bhagat Road, Buxi Bazar, Cuttack and others for inclusion of Kalwar, Jaiswal, Byahut Kalwar and Byahut Bania in the Central List of Backward Classes for Orissa.

I. Public Hearing

2. The 2-Member Bench of the Commission consisting of Hon'ble Members Shri U. P. Singh and Shri Sahu Akshaya Bhai held a Public Hearing to examine the request for inclusion of Kalwar, Jaiswal, Byahut Kalwar and Byahut Bania in the Central List of Backward Classes for Orissa on 07.01.99 at Bhubaneswar. The State Govt. was represented by Shri Gurucharan Patnaik, Joint Secretary and Shri D. C. Pradhan, Under Secretary, Welfare Department. Nobody appeared on behalf of the caste/community.

II. Facts

3. At the time when the Expert Committee on Backward classes prepared the first phase Central List of Backward Classes on the basis of the principle of commonality, i.e. by listing castes common to both Mandal List for each State and the respective State List and when, on the basis of the Expert Committee's Report, the Government of India notified the first-phase Central List in 1993, Orissa was one of the States which did not have a State List of its own. Therefore, no Central List of Backward Classes for Orissa was prepared at that stage. It was only after the Supreme Court's Judgement in the Mandal case that the State List of Orissa came into existence in 1994 on the basis of one

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man (Justice N. K. Das) Commission report. Thereafter the Central Government vide Ministry of Welfare's Resolution No. 12011/9/94-BCC dated 19.10.94 issued a "Common (Central) List" of Backward Classes for Orissa. Kalwar, Jaiswal, Byahut Kalwar, Byahut Bania were not included in the Central List of Backward Classes for Orissa because these were not included in the State List and only Kalwar was included in the Mandal List. Even now, these castes/communities/synonyms have not been included in the State List.

4. 'Kalwar' caste was included in the Mandal List at entry No. 79. Justice N. K. Das Commission about this entry while examining the List in the Report of Mandal Commission in respect of Orissa State noted as below :-

"Sl. No. 79. - Kalwar is equivalent to Kavar and there is nothing as Kalwar. It is Kavar."

5. In their request for inclusion of Kalwar, Jaiswal, Byahut Kalwar and Byahut Bania in the Central List of Backward Classes for Orissa, Shri Abodh Bihari Prasad and others have stated that the members of the Kalwar, Jaiswal, Byahut Kalwar and Byahut Bania castes have been living for generations as permanent residents of Orissa. It is not in their memory when their forefathers migrated to Orissa. A sizeable concentrations of people belonging to these castes can be found in Cuttack city and in its peripheries, Khurda, Jatinee, Puri, Sambalpur, Rourkela, Jharsuguda, Bolangir, Pamposh, and in many other parts of Orissa. Apart from their economic backwardness, they are socially backward and perpetually live in Orissa under social stigmas. Even today they are considered as low caste people without having the social rights equal to that of the higher castes. Because of economic and social backwardness for generations they have been educationally very backward. The number and percentage of the members of theses castes in Government services is microscopic.

Further they have stated that in Orissa, their corresponding caste is Sundhi/Sundi/Sunri. They are equivalent to Sundhi/Sundi/Sunris of Orissa. They have in the past and also at present having marriage relations with Sundhis of Orissa. They and the Orissan Sundhies follow the same traditions, practices and observations in their social functions like marriages etc. Since they are of North-Indian Origin, it has been

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completely overlooked to enlist them as OBCs in Orissa. They have claimed that Jaiswal, Kalwar, Byahut Kalwar and Byahut Baniyas are North-Indian counterparts of Orissan Sundhis and as such these castes are synonyms of Sundhis in Orissa.

6. The ethnographic Account of 'Kalwar' caste and Jaiswar as a sub-caste of Kalwar is given by H. H. Risley (The Tribes and Castes of Bengal, Ethnographic Glossary, Vol-I, Firma Mukhopadhyay, Calcutta 1981, First published 1991, pp. 385-387) as :- "Kalwar, a liquor-selling, distilling, and trading caste of Behar, probably a degraded offshoot of one of the numerous branches of Baniyas. ----- The caste is divided into six sub-castes- Banodhiya, Biyahut or Bhojpuri, Deswar, Jaiswar or Ajodhiabasi, Khalsa and Kharidaha. Mahomedan liquor-sellers are called Ranki or Kalal. ---- The Biyahut pretend that in former years they did not permit widow to marry again, though they admittedly to do so now. Another story is that they are descended from the Biyaki wife of the common ancestor of the caste while of the other sub-castes were the offspring of a Sagai wife. They will not drink or sell alcoholic liquor, and will not milk cows with their own hands or allow bullocks to be castrated. ----- The Jaiswar sub-caste are alleged to be the illegitimate descendants of a Kalwar by a mistress called Jaisia. They themselves derive their name from a village called Jaipur, the precise locality of which they are unable to State. -----

The social rank of Kalwar is low. Brahmans and members of the higher castes will on no account take water from their hands, and they are ordinarily classed with Telis, Tatwas, and Chains. On this point Mr. Nesfield remarks:- "The Kalwar ranks a little higher than the Teli because there is more skill and less dirt in the practice of his art. His trade as a private occupation has been destroyed by the British Government, which has taken the distilling and sale of liquors into its own hands. ----- The art of the Kalwar, like that of the Teli, has been known to almost all the backward races of the world, and cannot by any means be counted among the higher types of industry. Hence the status of the Kalwar has always been low-----"

7. Under the title 'Kalwar', W. Crooke (The Tribes and Castes of the North Western Inda', Cosmo Publications, Delhi, 1975, First published 1896) writes as follows:-

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 New Delhi

"Kalwar- The distilling, liquor-selling, and trading caste. The name of the caste is certainly derived from Sanskrit Kalyapala, 'a distiller, ----."

The caste is probably of occupational Origin, and may be an offshoot from the Banya or Vaisya tribes which has lost social position through its connection with the preparation and sale of intoxicating liquors. -----.

At the last Census the Kalwars were recorded in seven main endogamous sub-castes- Batham, who take their name from the old city of Sravasti; Golhare; Jaiswar or "residents of the town Jais;" Kanaujiya; "Those of Kanauj;" Mahur; Purabiya; and Sewara. The detailed Census list give no less than 619 sub-castes of the Hindu and 12 of the Musalman branch of the tribe. ----- To the east of the province the highest in rank are the Byahut, who rest their claims to respectability on their prohibition of window marriage and take none but virgin brides (byahta). The lowest of all are the Sunri, who take their name from the Sanskrit Shundaka, "a distiller" (shunda, "spirituous liquor") between these two are the Jaiswar, who, as already stated, take their name from the old town of Jias. It is curious to observe that the Bengal Kalwars have lost all recollection of their Original headquarters and have invented an eponymous ancestress, Jaisya, and a place called Jaipur, the exact, locality of which they are unable to state as their headquarters. -----"

8. Regarding the 'caste status' of the 'Kalwars of North India', Jogendra Nath Bhattacharya ('Hindu castes and sects', Munshiram Manoharlal Publishers Pvt. Ltd., 1995, First edition 1896) observes that, "on being first questioned they generally profess to be Beniayas, and they confess their real caste status only when sufficiently pressed." In his book Bhattacharya classifies "The Kalwars of North India" under the head 'The Manufacturing and Artisan Castes that are Regarded as Unclean Sundras.'

9. Under the title Jaiswar Risley states as, "Jaiswar, Jaiswara, Jessowara, Jashar, Jaswara, Jeswar, a name of a sub-caste or sept of Rajputs; of Telis, Baniyas, Barais, Kurmis, Tantis, Dhanuks, Kalwars, Chamars etc. Sir H. Elliot thinks the name may imply that the pople bearing it "came originally from Jais, a large manufacturing town in Oudh." The name is very widely diffused, and it is impossible to say for certain to what main caste we should refer persons who described themselves in the Census schedule as

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Jaiswars by caste. Chamars are particularly fond of assuming this designation, which appears to associate or identify them with the more respectable Kurmi."

10. About Biyahut Risley ibid (Vol. I p. 140) writes as follows :-

"Biyahut, a sub-caste of Sunris in Bihar who do not allow widow marriage : they are grain dealers and shopkeepers; a sub-caste of Kurmis in Behar who do not permit widows to marry again. It is often used in contradistinction to Sagahut."

"Biyahuta, or Bhojpuri, a sub-caste of Kalwars in Behar."

"Biyahuta, a sub-caste of Baniyas who sell grain and do not allow widows to remarry."

According to Russel and Hiralal (The Tribes and castes of the Central Provinces of India, Asian Educational Services, New Delhi, Madras, 1993 Vol. I, Glossary, p. 353) Byahut- (married) is a sub-caste of Kalar.

11. As the request makers have stated that Sunri/Sundi/Sundhi caste is equivalent to their caste in social order and they have marriage relations with Sundhis in Orissa, it is relevant to discuss the status of Sunri caste in Orissa socially. Risley (ibid Vol. II. pp. 275-280) writes about the caste as :- "Sunri, Saundika, Sundaka, Shaha, a large and widely-diffused caste, found in most districts of Bengal and Behar, whose original profession is believed to be the manufacture and sale of spirituous liquors. ----- Dr. Wise gives the following account of the social status of Sunris in Eastern Bengal :- "The Sunri is a very degraded individual, indulging freely in intoxicating liquors. A Brahman may not utter his name before noon. The majority of the workmen in the Government Abkari, or Excise Department, are Sunri, and most of the ganja shops are owned by them. The Hindustani distiller (Kalar, Kalwar) has nothing in common with the Sunri, as he only manufactures spirit, and will not vend it - an occupation carried on by Kurmis, or Baniyas." The Census figures of the districts in Behar and Chota Nagpur for 1872 about Sunris included those of Kalwars and Kalals.

12. The book "People of India- Communities, Segments, Synonyms, Surnames and Titles" by K. S. Singh (Anthropological Survey of India, Oxford University Press, Delhi,

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1996, Appendix A, p. 470) shows the earlier distribution of "Kalwar" caste in Bengal, Behar and Orissa.

13. 'Kalwar' caste have been included in the Central List of Backward Classes for the following States:-

Sl. No.	State	Entry No.	Name of the caste/community
1.	Bihar	83	Kalwar
2.	Madhya Pradesh	38	Kalar Kalal
3.	Rajasthan	25.	Kalal (Tak)

The NCBC has tendered its Advices for inclusion of the Caste/Community in the Central List of Backward Classes for the following States :-

Sl. No.	Name of the State	Advice No. and Date	caste/community
1.	Bihar	Bihar 5-6/98 dt 15.04.98	124. (a) Kalwar 124 (b) Kalal, Eraqi
2.	Delhi	Delhi 6/98 dt. 25.05.98	52. Kalwar
3.	Gujarat	Gujarat 14/98 dt. 26.10.98	87. Kalal
4.	Uttar Pradesh	U. P. 64/99 dt. 25.01.99	71. Kalal/Kalwar/ Kalar
5.	West Bengal	W. B. 48-49/99 dt. 23.02.99	46. Kalwar

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14. On examination of the Mandal Commission's list of Backward Classes for Orissa entry No. 79 – 'Kalwar', Justice N. K. Das Commission concluded that "Kalwar is equivalent to Kavar and there is nothing as Kalwar. It is Kavar." The Commission has not mentioned any reason or ground on the basis of which the conclusion was arrived at. About 'Kavar' H. H. Risley (ibid Vol. I, p. 437) has stated as, "Kavar, a title of Chhatris in Nepal; a hypergamous group of Kaibarttas in Bakarganj." Russel and Hiralal (ibid. Vol. III, pp. 389-403) has described the 'Kavar' as, "Kavar, Kanwar, Kaur (honorific title, Sirdor). – A primitive tribe living in the hills of the chhatisgarh Districts north of the Mahanadi. The hill-country comprised in the northern zamindari estates of Bilaspur and the adjoining Fuedatory States of Jashpur, Udaipur, Sarguja, Chang Bhakar and korea is the home of the Kawars, and is some times known after them as the Kamran. Eight of the Bilaspur zamindars are of the Kavar tribe. ----- The tribe consider military service to be their traditional occupational occupation, but the bulk of them are now cultivational laboures. Many of them are now cultivators labours and labourers. Many of them are farmers of villages in the zamindaris. Rautias weave ropes and make to be-----"

These writings clearly indicate that 'Kavar' is a tribe habitating in chhattisgarh region of Madhya Pradesh and adjoining areas of Orissa. The Tribe is included in the List of Scheduled tribes of Orissa is different from Kalwar and Kalwar caste has nothing common with Kavar Tribe.

15. There were similar requests for inclusion of Jaiswal as a synonyms of 'Kalwar' in Delhi, Uttar Pradesh and West Bengal. During the Public Hearing in these States fact emerged from the statements of the representatives of the caste and other people that Jaiswal is a title adopted by the caste people in order to gain some sort of respectability. The title is also used by the members of many other castes, including some higher castes.

The findings of the Delhi Bench of the commission regarding Jaiswal, while considering the request for inclusion of Kalwar and Jaiswal in the Central List of Backward Classes for Delhi were as below :-

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"Regarding 'Jaiswal', the Bench felt the need for caution as ethnographic account of Risley at para 6 above suggests 'Jaiswal' or 'Jaiswar' to be a sub-caste or sept of a number of other castes/communities such as Rajputs, Telis, Baniyas, Barais, Kurmis, Tantis, Dhanuks, Chamars etc. It also appears that there area number of forward castes including some of the most advanced sections of Baniya Community, apart from Rajputs, who have the surname 'Jaiswal.'----" The commission rejected the requests for inclusion of 'Jaiswal' as a synonyms of Kalwar for the States of Delhi, Uttar Pradesh and West Bengal.

III. Findings

16. From the above facts and evidence, the Bench finds that the 'Kalwar' caste/community, traditionally associated with the occupation of distilling and selling of liquor, is covered under the "Fast-Track" category in terms of Item A. Social - 2 (e) of the "Guidelines for Consideration of Requests for Inclusion and Complaints of Under-Inclusion in the Central List of other Backward Classes" and Para 7 of Procedural clarification on Guidelines" as an artisanal caste. The Bench does not agree with the conclusion of Justice N. K. Das Commission, that 'Kalwar is equivalent to Kavar and there is nothing as Kalwar," for which conclusion no ground is mentioned by that Commission and which conclusion has apparently been arrived by an error arising apparently from superficial similarity of names/spellings. The ethnographic account on of Russel and Hiralal at para 14 above, describes 'Kavar' as a primitive tribe living in Chhattisgarh region, some parts of which have gone to the state of Orissa due to reorganisation of States and the Tribe has been included in the List of Scheduled Trbes in Madhya Pradesh and Orissa, whereas, 'Kalwar' caste, whose traditional occupation is distilling and selling liquor, has been included in the Central List of Backward Classes in Bihar, Maydhya Pradesh and Rajasthan and the commission has already tendered its advices to the Central Government for inclusion of the caste in Delhi, Gujarat, Uttar Pradesh and West Bengal. The request itself states that a long time ago the members of this caste migrated in Orissa from other states and the occupation of the members of the Kalwar caste is distilling and selling of liquor. The members of this caste consider themselves equivalent to Sundhi/Sundi/Sunri caste of Orissa and according to them they


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have marriage relations with the members of Sundi/Sunri caste. These facts and statements clearly indicate that Kalwar caste has no connection with 'Kawar' tribe. The Bench thus concludes that the 'Kalwar' caste/community should be included in the Central List of Backward Classes for Orissa as a new entry at Sl. No. 188 as follows :-

"188. Kalwar"

17. Regarding 'Jaiswal' the ethnographic accounts suggests 'Jaiswar' to be a sub-caste or sept of number of other castes/communities and the statements made by other representatives of the caste and other people during the Public Hearing in different states such as Delhi, U. P., Bihar, West Bengal that Jaiswal as a title is used by the members of Kalwar caste and also by the members of a number of castes/communities including higher castes. The Bench feels that inclusion of 'Jaiswal' with Kalwar even in a hyphenated form after Kalwar, will make room for some members of certain forward castes/communities to claim and even obtain Backward classes certificates which is not intended for them. To avoid or reduced the scope for such misuse, it is the finding of the Bench that 'Jaiswal' should not be allowed as a synonyms of Kalwar caste.

18. Regarding 'Byahut Kalwar' the ethnographic account as given by Risley suggests that Biyahut/Biyahuta is a sub-castes of Hajjams, Sunris, Kalwars and Baniyas in Bihar who do not allow widows to remarry. Under the title 'Kalwar' Risley has discussed Biyahut as one of the six sub-castes of 'Kalwar' and it is also mentioned that they do not drink or sell alcoholic liquor. In view of the fact that the 'Kalwar' in Orissa are migrated from other states probably from Bihar and the fact that Byahut 'Kalwar' has not been including as synonyms/sub-caste of 'Kalwar' in any other state including Bihar, the Bench feels that there is no need for inclusion of Byahut Kalwar alongwith the main caste 'Kalwar', which will adequately cover all genuine sub-castes of Kalwar.

19. Regarding Byahut Bania the ethnographic literature clearly shows that Byahut Bania is a sub-caste of Bania. According to Risley Biyahuta is a sub-caste of Baniyas who sell grains. The association of Bania or Vaishya castes/communities with trade, commerce, money lending, banking etc. and the respectable and prestigious position

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consequently enjoyed by the members of these castes/communities from the early historical times have been attested to in socio-historical Ethnographic and other literature by many scholars. A review of such literature and socio-historical analysis on that basis have been made in the Findings/Advice regarding Request for inclusion of 12 such Vaishya/Bania castes in the Central List of Backward Classes for Bihar tendered to the Government vide NCBC Advice No. 7-18 dated 13.08.98 and for 14 such castes of Orissa vide NCBC Advice No. 28-43 Orissa/98 dated 05.04.99. The finding of the Bench that 'Byahut Bania' is not socially backward and therefore, the request for inclusion of Byahut-Bania as synonyms of 'Kalwar' be rejected.

U. P. Singh
(U. P. Singh) 11.6.99

Sahu Akshaya Bhai
(Sahu Akshaya Bhai) 11.06.99

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IV. Advice of the Commission

20. The Commission considered and agreed in full with the findings of the Bench for Orissa and decided to tender the following advice to the Central Government under Section 9(1) of the NCBC Act, 1993 for action by the Central Government under Section 9(2) of the Act :-

'Kalwar' be included in the Central List of Backward Classes for Orissa as a new entry at Sl. No. 188 as under :-

"188. Kalwar"

and the request for inclusion of 'Jaiswal', Byahut-Kalwar and Byahut Bania as synonyms of Kalwar be rejected. As 'Jaiswal' is only a title/Surname adopted by the members of Kalwar caste and many other castes/communities, its inclusion will give scope for misuse of the entry by some members of certain forward castes/communities for obtaining false caste certificates. Byahut Kalwar is a sub-caste of Kalwar and inclusion of the main caste 'Kalwar' will adequately cover all genuine sub-castes of Kalwar. Byahut Bania is not a sub-caste/synonym of Kalwar but a sub-caste of Baniya caste and socially not Backward.

On account of the unfortunate demise of one of the Members Shri Navtej Puadhi on 16.08.98, this unanimous Advice of the commission does not bear the signature of that Member. The validity of the Advice notwithstanding the vacancy caused by the demise of the aforesaid Member, is protected by Section 7 of the NCBC Act, 1993.

Navtej Puadhi
11.6.99

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11.06.99

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ATTESTED
P. S. S. S.
Member Secretary
National Commission
Backward Classes