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सदस्य-सचिव
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भारत सरकार

त्रिकूट-१, भीकाएजी कामा प्लेस, नई दिल्ली - ११००६६

Member - Secretary
National Commission for Backward Classes
Government of India
Trikoot-1, Bhikaiji Cama Place, New Delhi - 110066

NCBC Advice No. Delhi 6/98

25. 05. 1998

Dear Shri Manavalan,

I am sending herewith the Advice of the National Commission for Backward Classes under Section 9(1) of the NCBC Act, for inclusion of 'Kalwar' in the Central List of Backward Classes for the National Capital Territory of Delhi and for rejection of the Request for Inclusion of 'Jaiswal' as a synonym of 'Kalwar' in the Central List of Backward Classes for the National Capital Territory of Delhi, for necessary action by the Central Government under Section 9(2) of the Act.

2. With this, Advices on 245 castes/sub-castes/synonyms, etc. have been tendered to the Government by the NCBC, after its reconstitution^{in 1997}, of which 242 are still pending with Government.

With kind regards,

Yours sincerely

(Signature)
(P.S. KRISHNAN)

Encl: As stated.

Shri D.K. Manavalan
Secretary to Govt. of India
Ministry of Social Justice & Empowerment
Shastri Bhavan
NEW DELHI

NATIONAL COMMISSION FOR BACKWARD CLASSES

Delhi Bench

Findings

Per Shri P.S. Krishnan, Member-Secretary

Case: Request for Inclusion of 'Kalwar' and 'Jaiswal' in the Central List of Backward Classes for the National Capital Territory of Delhi.

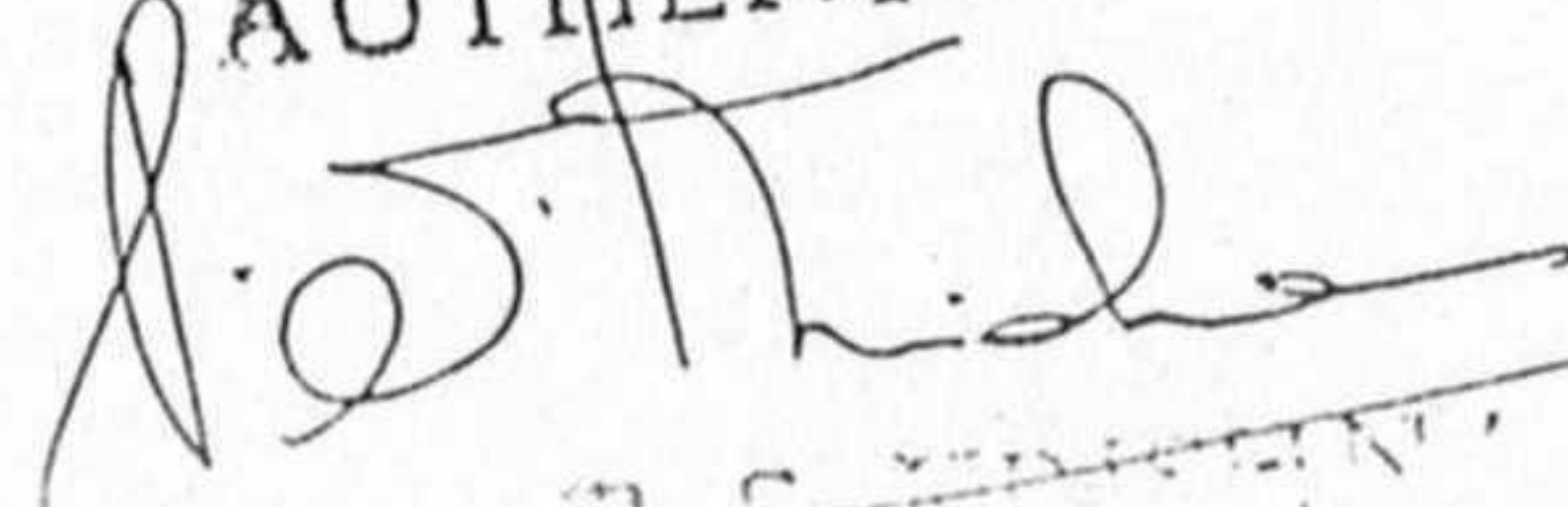
I. REQUEST

This case arises from the Request received in this commission from Chaudhary (Kalwar, Jaiswal) Samaj, B-369, D.D.A(MIG Flats) Poorvi Loni Road, Shahdara, Delhi-110 093, for the inclusion of 'Kalwar and Jaiswal' in the Central List of Backward Classes for NCT Delhi.

II. PUBLIC HEARING

2. The two-Member Delhi Bench of the Commission consisting of Hon'ble Justice P.K. Shyamsundar, Chairperson, NCBC and Shri P.S. Krishnan, Hon'ble Member-Secretary, NCBC held a Public Hearing in respect of this Request at Delhi on 24.02.1998. At the Public Hearing, the State Government was represented by Shri F.Pahnuna, Principal Secretary(SC/ST/OBC) and Shri Brahmanand, Deputy Director, Directorate for the Welfare of Scheduled Castes and Scheduled Tribes and other officers. The community was represented by Shri Mahendra Prasad Chaudhary, Secretary, Chaudhary (Kalwar, Jaiswal) Samaj, Delhi and others.

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III. FACTS

3. The NCT of Delhi had no list of Backward Classes at the time of the Supreme Court Judgement in the Mandal case, delivered on 16th November 1992 and till 1995. For this reason, the Expert Committee on Backward Classes could not, on the basis of the principle of commonality, recommend a Central List of Backward Classes for the NCT of Delhi as it could do for 14 other States, which already had their respective lists of Backward Classes, and therefore the Central Government also could not issue a Central List of Backward Classes for the NCT of Delhi in 1993. The Government of the NCT of Delhi issued its list of Backward Classes by its Notification No.F.28(93)/91-92/SCST/P&S dated 7.1.1995. Thereafter, the Central Government vide Ministry of Welfare's Resolution No.12011/7/95-BCC dated 24.5.1995 issued a "common (Central) List of Backward Classes" for the NCT of Delhi. Neither Kalwar nor Jaiswal are included in the State List of Delhi and therefore they are also not included in the Central List prepared on the basis of the Principle of Commonality.

4. 'Kalwar' is included in the Mandal Commission's List of Backward Classes for Delhi at entry No.46, as follows:-

Mandal List

46. Kalal, Kalwar

5. The NCBC's Questionnaire filled up and furnished by Chaudhary (Kalwar, Jaiswal) Samaj, states that the traditional occupation of the community was manufacturing (distilling) of wine and selling thereof and as being workers in the same, but presently people of this community have been compelled to be out of this profession due to Govt. policy, entry of other powerful sections of

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the Society in this profession. The Questionnaire further states that members of the community are now engaged "generally in petty business" of different types such as "Pan Tobacco shop, Tea shop, Small Restaurants, Vegetable and Fruit shops, Fruit juice shops" and also as unskilled labourers. The women of the community, as a general practice, are, for their own or for their family's livelihood, engaged in non-agricultural labour. The children of the community, as a general practice, for their family's livelihood or for supplementing their family's low income, are engaged in manual labour, as helpers in petty shops and factories. Approximately 80% of the families of the community live in Kaccha houses.

6. During the Public Hearing, the representatives of the community stated that 'Kalwar' is the main name of their community and 'Jaiswal' is a title/ surname used by many of the members of the community and, therefore, alongwith 'Kalwar', 'Jaiswal' also should be included in the Central List of Backward Classes as a synonym of 'Kalwar'. The members of the community are traditionally associated with the occupation of "distilling of liquor" and due to this association they are regarded as out-castes in the society. They also stated that most of the members of their community are now labourers or engaged in "small business" as their traditional occupation of distilling of liquor has almost disappeared in the modern times. About 2-3% of the members of the community are still engaged in their traditional occupation of 'distilling of liquor'. When the Bench, by pointing to the inclusion of 'Kalwar' in the State List of Bihar under the head 'Banias', specifically asked the representatives whether the caste actually belonged to the Bania or Vaishya category, they apprised that though their caste is often referred to as belonging to Bania or Vaisya category both by others as well as by many of the caste members themselves, the caste

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in fact does not in fact belong to the Bania or Vaisya category. The representatives of the community asserted that the name 'Jaiswal' is used only by the members of the 'Kalwar' community, the Bench noted that ethnographic accounts suggest 'Jaiswal' or 'Jaiswar' to be a sub-caste or sept of a number of other castes/communities. For example, H.H.Risley(The Tribes and Castes of Bengal', Firma Mukhopadhyay, Calcutta, 1981, first edition 1891) describes 'Jaiswar' as a name of a sub-caste or sept not only of Kalwars, but also of Rajputs, Telis, Baniyas, Barais, Kurmis, Tantis, Dhanuks, Chamars etc. Regarding the origin of this name, Risley quotes Sir H.Elliot, who "thinks the name may imply that the people bearing it came originally from Jais, a large manufacturing town in Oudh."

7. 'Jaiswar' as a synonym of 'Kalwar' has been attested to by ethnographic accounts. Under the head 'Kalwar', Risley(op.cit.) writes as follows:-

"Kalwar, a liquor-selling, distilling, and trading caste of Behar, probably a degraded offshoot of one of the numerous branches of the Banias.....

The caste is divided into six sub-castes -- Banodhia, Biyahut or Bhojpuri, Deswar, Jaiswar or Ajodhiabasi, Khalsa, and Kharidaha. Mahomedan liquor-sellers are called Ranki or Kalal..... 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 Kalwars 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

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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 entirely 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.'...."

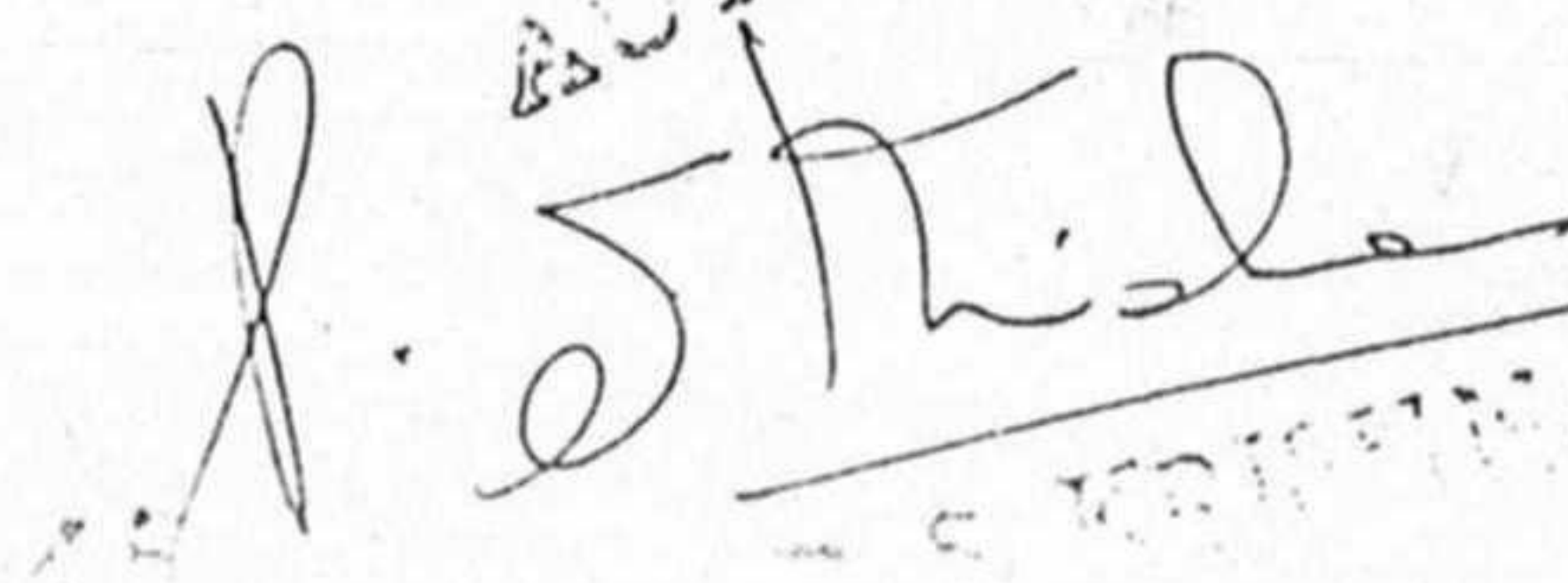
8. Under the head 'Kalwar', W. Crooke ('The Tribes and Castes of the North Western India', Cosmos Publications, Delhi, 1975, first published 1896) writes as follows:

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

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

9. 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 Beniyas, 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 Sudras'.

ATTESTED


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10. There was no objection raised during the Public Hearing from those present who were from different sections of society as well as from the representatives of the State Government to the proposed inclusion of 'Kalwar' in the Central List of Backward Classes for NCT of Delhi.

IV. FINDINGS

11. From the statement of the representatives of 'Kalwar, Jaiswal' caste/community during the Public Hearing that the community is not in fact a Bania/Vaishya caste or sub-caste and the name 'Jaiswal' is only a dignified name /title/surname adopted by some of the members of the community, Bhattacharya's above observation regarding the 'caste status' of the community seems, in the view of the Bench, more correct than the observation by W.Crooke that Kalwar is probably an offshoot from the Banya or other Vaisya tribes which has lost social position through its connection with the preparation and sale of intoxicating liquors.

12. On this basis and the above material, it is the Finding of the Bench that 'Kalwar' is a community traditionally, in terms of the caste system, associated with the occupation of distilling of liquor and is Socially Backward. Therefore, 'Kalwar' should be included in the Central List of Backward Classes for NCT of Delhi at entry No.52 as follows:

"52. Kalwar"

13. 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

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of a number of other castes/communities such as Rajputs, Telis, Baniyas, Barais, Kurmis, Tantis, Dhanuks, Chamars etc. It also appears that there are a number of forward castes including some of the most advanced sections of Bania community, apart from Rajputs, who have the surname 'Jaiswal'. In view of this, inclusion of 'Jaiswal', even in a hyphenated form after Kalwar, will make room for some members of certain forward castes/communities to claim and even obtain Backward Class certificates which is not intended for them. There are so many instances of false claims and issuing and securing of BC certificates by some members of non-Backward castes/communities, taking advantage of similarities of names, in different parts of the country, that it is not desirable to provide fresh scope for such misuse. Facilitation, though unintentionally, of false caste certificates to unintended castes/communities is not only unfair to the genuine Backward Classes but also confers on the holders of false certificates an unconscionable advantage over other members of Advanced castes/communities who are correctly not included in the list of Backward Classes and who honestly desist from securing false certificates and with whom the former ought to compete on equal terms. Therefore, it is the Finding of the Bench that 'Jaiswal' should not be allowed as a synonym of 'Kalwar' caste even in the hyphenated form with Kalwar.

P. S. Krishnan

15.5.98

(P.S KRISHNAN).

M. P. K. Shyamsundar
15/5/98
(Justice P.K. SHYAMSUNDAR)

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P. S. Krishnan

ADVISE OF THE COMMISSION

14. The Commission considered and agreed in full with the above findings of the Delhi Bench 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 NCT of Delhi at entry No.52 as under:-

"52. Kalwar "

and the Request for Inclusion of 'Jaiswal' as a synonym of 'Kalwar' be rejected as 'Jaiswal' is only a title/surname adopted by some members of 'Kalwar' caste/community and as its inclusion will give scope for misuse of the entry by some members of certain forward castes/communities for obtaining false caste certificates.

D. L. Sena *Secretary*
15/5/98

La. Delhi
20.5.98

P. S. Krishna
15.5.98

R. Sherga
20.5.98

Mad. Secy
21.5.98

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P. S. Krishna
P. S. KRISHNAN
Member, Commission
for