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MEMBER-SECRETARY
NATIONAL COMMISSION
FOR BACKWARD CLASSES
GOVERNMENT OF INDIA
NEW DELHI - 110 066

DO NCBC Advice No. 28. Rajasthan/98

02. 09. 1998

Dear Shri Manavalan,

I am sending herewith the Advice of the National Commission for Backward Classes under Section 9(1) of the National Commission for Backward Classes Act, 1993 for deletion from the Central List of Backward Classes for Rajasthan of 'Damami, Nagarchi', duly authenticated, for necessary action by the Central Government under Section 9(2) of the Act.

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3/9/98

Yours sincerely

P.S. KRISHNAN)

Encl: As stated.

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

NATIONAL COMMISSION FOR BACKWARD CLASSES

RAJASTHAN BENCH

FINDINGS

Per Shri P.S. Krishnan, Member-Secretary

Case : Request for deletion of "Damami, Nagarchi" castes from the existing Central List of Backward Classes for Rajasthan.

I. REQUEST

This case arises from the Request received in this Commission from the President, Akhil Rajasthan Dholi (Damami) Mahasangh, Jaipur vide their letter No. nil dated the 31st May 1997 for the deletion of Damami, Nagarchi from existing entry No.10 of the Central List of Backward Classes for the State of Rajasthan.

II. PUBLIC HEARING

2. The two-Member Rajasthan Bench of the Commission, consisting of Shri P.S. Krishnan, Hon'ble Member-Secretary and Shri Navtej Puadhi, Hon'ble Member held a Public Hearing at Jaipur on the 9th June 1998 inter-alia to examine this Request. At the Public Hearing the State

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Government was represented by Shri S K Dalel, Joint Director and Shri Ramesh Chandra Sharma, Deputy Director in the Directorate of Social Welfare. Shri G D Garg, Joint Director represented the Rajasthan State Backward Classes Commission. The community was represented by Shri Shridhar Dangli, Request-maker and others as listed in the Annexure-I.

III. FACTS

3. Damami, Nagarchi castes have been included in the Central List of Backward Classes at Entry No.10 of the existing list based on the principle of commonality, i.e., Entries included in both the Mandal as well as the State Lists. It was on account of this automatic and mechanical process that Damami and Nagarchi castes have appeared in the Central List of Backward Classes for Rajasthan. The Akhil Rajasthan Dholi (Damami) Mahasangh, Jaipur has now requested the NCBC for deletion of Damami and Nagarchi from the Central List of Backward Classes on the ground that their main caste Dholi is already included in the List of Scheduled Castes for Rajasthan at Entry No.23 thereof.

4. During the Public Hearing, the present President of the Mahasangh, Shri Rameshwar Bhatti submitted a written Request to the Bench Members and the various representatives of the community impressing upon the Bench the necessity for the deletion of these entries of Damami and Nagarchi from the Central List of Backward Classes. In support of their request, they have given copies of the revenue records and other historical and literary records. They stated that their caste is mainly known by the name of Dholi in all the revenue records of Rajasthan and they are

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also getting Scheduled Caste Certificates and other benefits meant for the Scheduled Castes. The entry in the Mandal List as well as in the State List of Backward Classes has been made due to an oversight and for reasons not known to them. Therefore, they emphasised the need to delete the Entry of Damami and Nagarchi from the Central List of Backward Classes to avoid any confusion at a later date among the members of the community and the agencies connected with their welfare.

5. The Bench explained to the representative of the community the implications of the deletion. The representative said that there is no adverse implication for them because in any case those having the synonyms of Damami and Nagarchi have never sought certificates of Backward Classes and, being synonyms of Dholi which is the main caste, they have been seeking and getting certificates only as Dholi.

6. Neither the representatives and members of the various other castes/communities present at the Public Hearing nor the officers of the State Government and the State Backward Classes Commission had any objection to the deletion of Damami and Nagarchi from the List of Backward Classes.

IV

FINDINGS

7. Damami and Nagarchi have found place in the Central List of Backward Classes only by the automatic and mechanical process of preparation of common lists, that is, inclusion of those castes which are common to both the State List and the Mandal List for that State. On this principle of commonality the Ministry of Welfare prepared the first-

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phase Central List of Backward Classes for Rajasthan and notified it on 19.10.1994.

8. It is now seen from the above evidence that Damami and Nagarchi, being, according to the community, really the synonyms of Dholi caste which is a Scheduled Caste, ought not to correctly remain in the list of Backward Classes. No caste can simultaneously be in both the Scheduled Caste List as well as in the Backward Class List of the same State/area of the State. Their inclusion in the List of Backward Classes is clearly and manifestly a case of over-inclusion mentioned in Section 9(1) of the NCBC Act, 1993 and in terms of the formulation of the Supreme Court Judgement in the Mandal Case in 1992 which was the basis on which the term "under-inclusion" or "over-inclusion" have been included in the Act. A complaint of over-inclusion is the same as a Request for Deletion.

9. The Commission is yet to undertake the exercise of examining complaints of over-inclusion or in other words Requests for Deletion from the Central List of Backward Classes. 22 complaints of this category have so far been received. The Commission gave first priority to the much larger number of Requests for Inclusion, from the beginning till now number about 969. Apart from the quantitative aspect, Requests for Inclusion also involve the rights and needs of a very large number of genuinely backward communities found on examination to be socially and educationally backward, to be included in the Central List. This exercise has made considerable progress and is scheduled to be completed in the next few months.

10. The Commission has to prepare the various criteria or guidelines for examination of complaints of over-

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inclusion or Requests for Deletion as it had prepared guidelines for Requests for Inclusion in 1993. But, there is no need to wait for the formulation of the criteria or guidelines for deletion because, whatever else be the criteria, the foremost criterion would be "communities which themselves want to be deleted from the List of Backward Classes" for any cogent reason like their having been already included in the list of Scheduled Castes or Scheduled Tribes or they themselves being of the view that they are not socially backward or they have ceased to be socially backward. Therefore, without waiting for the formulation of criteria and guidelines, this case can be considered on the basis of the most self-evident criterion of the community itself wanting to be deleted from the list of Backward Classes. It is necessary in the public interest to speed up a case like this because the longer the same name or one name is in the list of Scheduled Castes and synonyms/other names are in the List of Backward Classes, the more the confusion that will arise.

11. Accordingly, on the basis of the plea of the community that Damami and Nagarchi are synonyms of Dholi caste which is already included in the List of Scheduled Castes for Rajasthan (vide Entry No.23 of the List of Scheduled Castes for Rajasthan), Damami and Nagarchi should be deleted from the Central List of Backward Classes. However, it needs to be clarified that the Commission has not gone into the merits of the inclusion of Dholi in the List of Scheduled Castes nor has it undertaken a study whether Damami and Nagarchi are the same as Dholi. These are matters to be looked into by the appropriate authority concerned with the listing of Scheduled Castes. The present findings are, therefore, not a basis for adding Damami and Nagarchi in the List of Scheduled Castes along with Dholi.

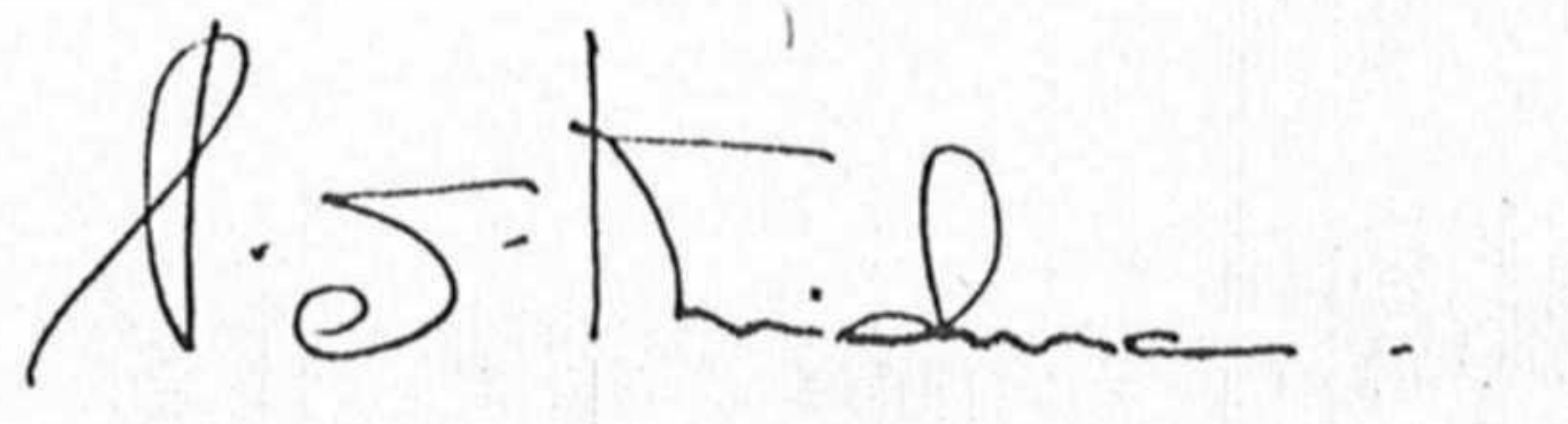
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Such addition, if sought, will have to be considered by the authorities concerned with modifications to the List of Scheduled Castes. So far as this Commission is concerned the fact that the members of the community want to be deleted from the List of Backward Classes on the ground that according to them they are Scheduled Castes is adequate for a finding in favour of the deletion of these two names from the List of Backward Classes.

12. Consequent upon this deletion Sl. No.10 will remain blank with the entry "Deleted" until such time as the entire serial numbering is revised.

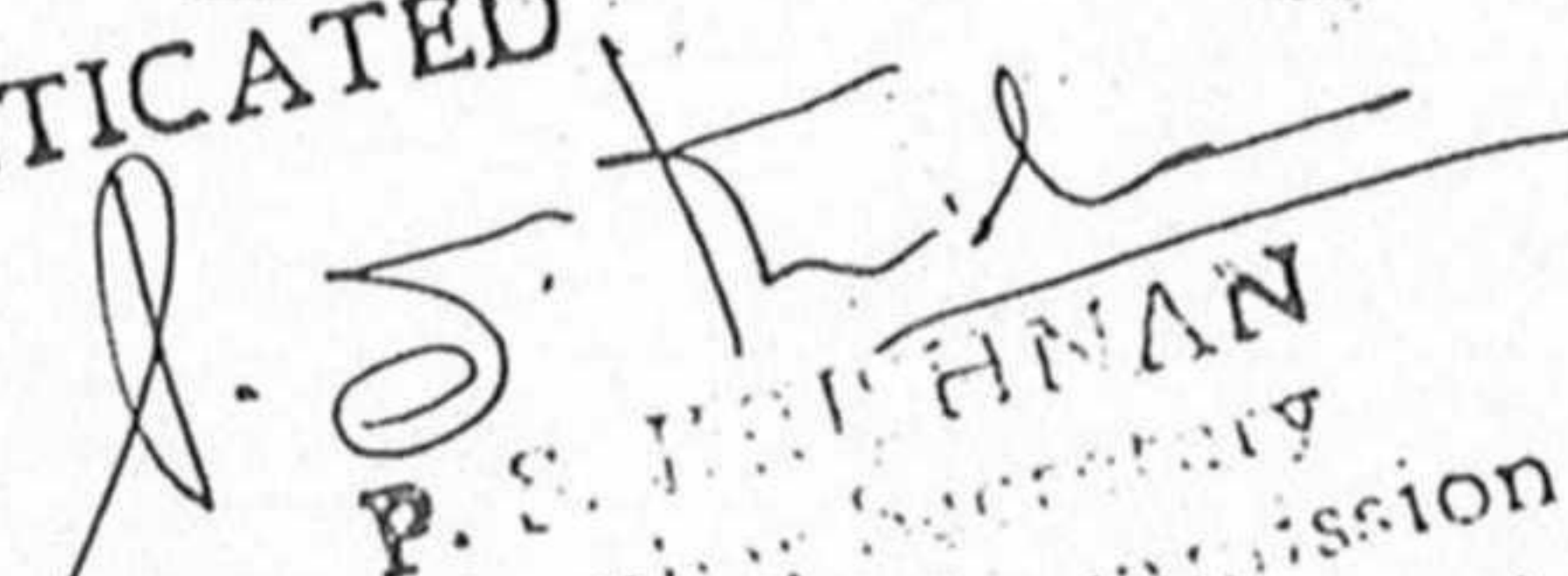
13. As one of the Members of the Bench, Shri Navtej Puadhi unfortunately passed away on 16.8.1998, subsequent to the public hearing, the Findings are signed only by one Member, who is also the co-ordinating Member of the Bench, but the findings represent the conclusion jointly arrived at by both the Members.


27.8.98

V. ADVICE OF THE COMMISSION

14. The Commission considered and agreed in full with the above Findings of the Rajasthan Bench and decided to tender the following Advice to the Central Government in terms of Section 9(1) of the NCBC Act, 1993 for action under Section 9(2) of the Act :-

15. "Damami, Nagarchi" at Entry No.10 in the

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Member Secretary
National Commission
for Backward Classes

Central List of Backward Classes for Rajasthan be deleted from the Central List of Backward Classes for Rajasthan. Consequently the word "Deleted" may be shown against Sl. No.10.

16. On account of the unfortunate demise of one of the Members, Shri Navtej Puadhi on 16.8.1998, 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.

P. U. & C. Secretary
27/8/98

P. S. Krishnan
27.8.98

K. Shyam
01.09.98

K. Shyam
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