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सदस्य-सचिव
राष्ट्रीय पिछड़ा वर्ग आयोग
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. Rajasthan 4-8/97
August 4, 1997

Dear Shri Baksi,

I am sending herewith the unanimous Advices of the National Commission for Backward Classes under Section 9(1) of the NCBC Act 1993 regarding requests for inclusion of (i) Gujar(Muslim), Lohar(Muslim), Nai (Muslim) , Mirasi (Muslim) and (ii) "Saini" and "Bagwan" as synonym of "Mali" in the Central List of Backward Classes for Rajasthan, for necessary action under Section 9(2) of the Act by the Central Government.

With Best Wishes,

Yours sincerely,

P. S. Krishnan
(P.S.KRISHNAN)

Encl: As Stated

Shri K.K.Baksi
Secretary
Ministry of Welfare
Shastri Bhavan
New Delhi-110001

NATIONAL COMMISSION FOR BACKWARD CLASSES
Rajasthan Bench

FINDINGS

Per Shri P.S.Krishnan, Member-Secretary

Case: Requests for Inclusion of Gujar(Muslim),
Lohar(Muslim), Nai(Muslim) and Mirasi(Muslim)
in the Central List of Backward Classes for
Rajasthan

I. Request

These cases arise from the Requests received in this
Commission from

(1) Shri Abdul Gaffoor Sadar,
Muslim Social Association,
Pritviganj, Ansawara(Rajasthan)
for the Inclusion inter alia of Gujar(Muslim) and
Lohar(Muslim),

(2) Shri M.D.Khan,
S/o Shri Ilahi Bux,
215-Bangiwara, Naion Ki Gali,
Pali-Marwarwar(Rajasthan)
for the Inclusion of Nai(Muslim), and

(3) Shri Birdhi Chandra Jain
Ex-Member of Parliament(Lok Sabha)
Barmer (Rajasthan)
for the inclusion of Mirasi(Muslim), in the Central List of
Backward Classes for Rajasthan.

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Member Secretary
National Commission
for Backward Classes

II. Public Hearing

2. The two-Member Rajasthan Bench of the Commission, consisting of Shri P.S.Krishnan, Hon'ble Member-Secretary, NCBC and Shri Navtej Puadhi, Hon'ble Member, NCBC held a Public Hearing inter alia to examine these Requests at Jaipur on 31.5.1997. Two other Hon'ble Members of NCBC Shri Sahu Akshaya Bhai and Prof. U.P.Singh also joined the Bench during the Public Hearing. At the Public Hearing the State Government was represented by Shri S.K. Dalel, Joint-Director and Shri Ramesh Chandra Sharma, Deputy Director in the Director in the Directorate of Social Welfare. Shri G.D. Garg, Joint-Director represented the Rajasthan State Backward Classes Commission. The Gujar(Muslim) and Lohar(Muslim) communities were represented by Shri Abdul Gaffoor Sadar and the Nai(Muslim)community was represented by Shri M.D. Khan.

III. Facts

3. The Bench observed that the entry Nos.
"19. Gujar,
Gurjar"
"33. Lohar, Panchal"
"37. Mirasi, Dhadi"
"39. Nai" in the Central List of Backward Classes for Rajasthan in fact covers not only those members of these castes/communities who follow Hindu religion but also Islam or any other religion. However, the Bench also observed that the Requests now made are the result of problems faced by members of these castes/communities, who follow Islam, on account of wrong interpretation by some of the certificate-issuing authorities who ought to have issued certificates to all members of the listed castes of Backward Classes irrespective

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Member Secretary
National Commission

4. During the Public Hearing the Bench was apprised by the representatives of the State Govt. that, in respect of the State List, the State Govt., vide Deptt. of Social Welfare's letter no. P.11(125) R&P/SWP/86895-931 dated 8.11.1994, has, in order to remedy this problem, issued a clarification, a copy of which was furnished to the Bench, to all Divisional Commissioners and all District Collectors that all those non-Hindu castes whose traditional hereditary occupations are same as those of those Hindu castes who are included in the list of Backward Classes, and whose caste names are the same as the caste names of such Hindu castes, will also be considered as Backward Classes.

6. In this context, the criteria evolved by the Mandal Commission for identifying non-Hindu Backward Classes are worth noting:-

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- (ii) such occupational communities which are known by the name of their traditional hereditary occupation and whose Hindu counterparts have been included in the list of Hindu OBCs. (Examples: Dhobi, Teli, Dheemar, Nai, Gujar, Kumhar, Lohar, Darji, Badhai, etc.)"

IV. Findings

7. From the above facts, it is the common Finding of the Bench, in all these four cases, that while there should be no difficulty for those members of the listed castes, who follow Islam, in getting the benefits of belonging to Backward Classes, such problems arise from time to time because of the wrong interpretation by or wrong understanding of some of the certificate-issuing authorities causing great difficulties in getting certificates and other consequential benefits for the members of these castes who follow Islam; and therefore a clarification should be added as a foot-note under the Central List itself so as to preclude the possibility of any misunderstanding or mis-interpretation on the part of any of the certificate-issuing authorities. The clarification may be worded as follows:-

"Explanation: -- In the above list, castes, which are known by the name of their respective traditional hereditary occupations and whose members follow different religions, include all members of those castes, irrespective of whether they follow the Hindu religion or Islam or any other religion."

This will resolve the difficulty experienced not only by the four communities which have made the present Requests but also by other similarly placed communities, even though they have

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not yet made Requests in this regard. The Bench suggested to the State Government representatives to consider adopting a similar wording and format.

A. S. Kishan

Hardeep

V. Advice of the Commission

8. 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:-

The following explanation be incorporated as a foot-note under the Central List itself so as to preclude the possibility of any misunderstanding or misinterpretation on the part of any of the certificate-issuing authorities:-

"Explanation: -- In the above list, castes, which are known by the name of their respective traditional hereditary occupations and whose members follow different religions, include all members of those castes, irrespective of whether they follow the Hindu religion or Islam or any other religion."

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A. S. Kishan

NCBC Advice No. 8/97 Rajasthan
National commission for Backward Classes
Rajasthan Bench

FINDINGS

Per Shri P.S.Krishnan, Member-Secretary

Case: Request for Inclusion of "Saini" and
"Bagwan" in the Central List of Backward
Classes for Rajasthan as synonyms of "Mali"

I. Request

This case arises from the Requests received in this
Commission from

- (1) Shri Chuni Lal Parmar
General Secretary
District Mali(Saini) Samaj Sansthan
Jaisalmer
- (2) Shri Someshwar Singh Solanki
Senior Vice-President
Rajasthan Pradesh Mali-Saini Mahasabha
Deepak Marg, Sri Pema Jamadar Ki Bagichi
Adarsh Nagar
Jaipur
- (3) Shri Kishen Lal Gehlot
Executive Member
Rajasthan Pradesh Mali-Saini Mahasabha
c/o Hotel Manish (Bajrang Bhojnalaya)
Ajmer Road, Madanganj Kishangar
Distt. Ajmer

for the Inclusion of "Saini" and "Bagwan" as synonyms of "Mali"
in the Central List of Backward Classes for Rajasthan.

II. Public Hearing

2. The two-Member Rajasthan Bench of the Commission,

consisting of Shri P.S.Krishnan, Hon'ble Member-Secretary, NCBC and Shri Navtej Puadhi, Hon'ble Member, NCBC held a Public Hearing at Jaipur on 31.5.1997 inter alia to examine this Request. At the Public Hearing the State 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.

III. Facts

3. The relevant entries in different lists of Backward Classes for Rajasthan are as follows:-

(i) State List

"36. Mali, Saini, Bagwan"

(ii) Mandal List

"93. Mali"

(iii) Central List

"35. Mali"

4. Since "Saini" and "Bagwan" were included only in the State List and not in the Mandal List, they have also not been included in the first-phase Central List of Backward Classes for Rajasthan which was prepared by the Central Govt. on the basis of the principle of commonality and notified by the Ministry of Welfare's Resolution No. 12011/9/94-BCC dated 19.10.1994.

5. Ibbetson in his "The Punjab Castes" (Low Price Publications, Delhi, 1993, first published in 1916), which he wrote based on the Census of the Panjab Province, 1881 carried out under his supervision, classifies "Saini" along with "Mali" under the "Minor Agricultural and Pastoral Tribes" and says

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 for Backward Classes

that "Sainis would appear to be only a sub-division of the Malis.... The Mali, the Malakara or florist of the Puranas, is generally a market or nursery gardener...". The description by W.Crooke (The Tribes and Castes of the North-Western India, Vol. IV, Cosmo Publications, Delhi, 1975, originally published under the title "The Tribes and Castes of the North-Western Province & Oudh", Calcutta, 1896) and H.A.Rose (A Glossary of the Tribes and Castes of the Punjab and North-West Frontier Province, Vol. III, Asian Educational Services, New Delhi, 1990, first published in 1919) are similar. Citing the account of Mali by Ibbetson, Munshi Hardy Singh, Census Superintendent of Marwar, in his book based on the Census Report of 1891 ("The Castes of Marwar", Book Treasure, Jodhpur, 1990, first Edn. 1894) writes about Malis as follows:- "The Mali.... is found under the name of Mali only in the Jamna Zone.... his place being taken by the Saini in the eastern sub-mountain districts and by the Arain or Baghban in the remainder of the province...."

6. "Saini" as a synonym of "Mali" has already been included in the Central Lists of Backward Classes for Uttar Pradesh, Madhya Pradesh and NCT of Delhi. In respect of Haryana, Saini has been included as the only entry and Mali does not find place in the State List or the Central List of Backward Classes for Haryana.

7. During the Public Hearing, those present who were from different sections of society confirmed that "Saini" and "Bagwan" are synonyms of "Mali". They also supported the proposed inclusion of these synonyms of "Mali" in the Central List of Backward Classes for Rajasthan. The representatives of the State Government expressed the support of the State Government for the addition of these two synonyms in the Central List as in the State List.

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P. S. KRISHNAN
Member
National Commission
for Backward Classes

IV. Findings

8. From the above evidence, it is the Finding of the Bench that "Saini" and "Bagwan" are synonyms of "Mali", which is included in the Central List of Backward Classes for Rajasthan at entry No. 35 and they together constitute a Socially and Educationally Backward Class. Synonyms of an existing entry in the Central List are covered by para 9 of the Procedural Clarification on the NCBC's "Guidelines for Consideration of Requests for Inclusion and Complaints of under-Inclusion in the Central List of Backward Classes". Therefore, these synonyms should be included at entry No. 35 of the Central List of Backward Classes for Rajasthan, and the amended entry after the inclusion of these synonyms be read as follows:-

"35. Mali, Saini, Bagwan"

"35. माली, सैनी, बागवान"

9. It is observed that in a number of cases, certificate issuing authorities do not issue Backward Class certificates in respect of the period prior to the Central Government's Notification. The process by which a caste/community became backward is centuries old. Its backwardness did not emerge suddenly on the date of the Notification. The relevance of the date of the Findings or the Advice of the Government's Notification is only that the backwardness of the caste/community, which was already a social reality, and its synonyms, which have come into vogue from different points of time, were, after enquiry, officially noted and recognised on that particular date. But the benefit of this recognition should be available from the date from which the reservation for Backward Classes came into effect, i.e., 8.9.1993. Therefore, it is necessary to specify that the Notifications takes effect from the date from which reservation for Backward Classes came into effect and the members of the caste/community, using these synonyms, are eligible for reservation from that date.

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V. Advice of the Commission

10. 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:-

"Saini" and "Bagwan" be included in the Central List of Backward Classes for Rajasthan as synonyms of "Mali" at entry No. 35 and after the inclusion of these synonyms the amended entry No. 35 be read as follows:-

"35. Mali, Saini, Bagwan"

"35. माली, सैनी, बागवान"

11. In view of the difficulties faced by the members of Backward Classes in getting Backward Class certificates for the period prior to the Notification, a proviso should be included in the Notification to be issued that "the Notification will take effect from 8.9.1993" the date from which reservation for Backward Classes in the Central Services came into effect.

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P. S. ...
Member ...
for ...
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