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भारत सरकार

त्रिकुट-१, भीकाजी कामा प्लेस, नई दिल्ली-११००६६

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

NCBC Advice No. 9/Rajasthan/97
August 11, 1997

Dear Shri Baksi,

I am sending herewith the unanimous Advice of the National Commission for Backward Classes under Section 9(1) of the NCBC Act 1993 regarding requests for inclusion of "Dhobi (other than those who are included in the List of Scheduled Castes) of Rajasthan 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,

(Signature)
(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: Request for Inclusion of "Dhobi (Other than those who are included in the List of Scheduled Castes for Rajasthan)" in the Central List of Backward Classes for Rajasthan

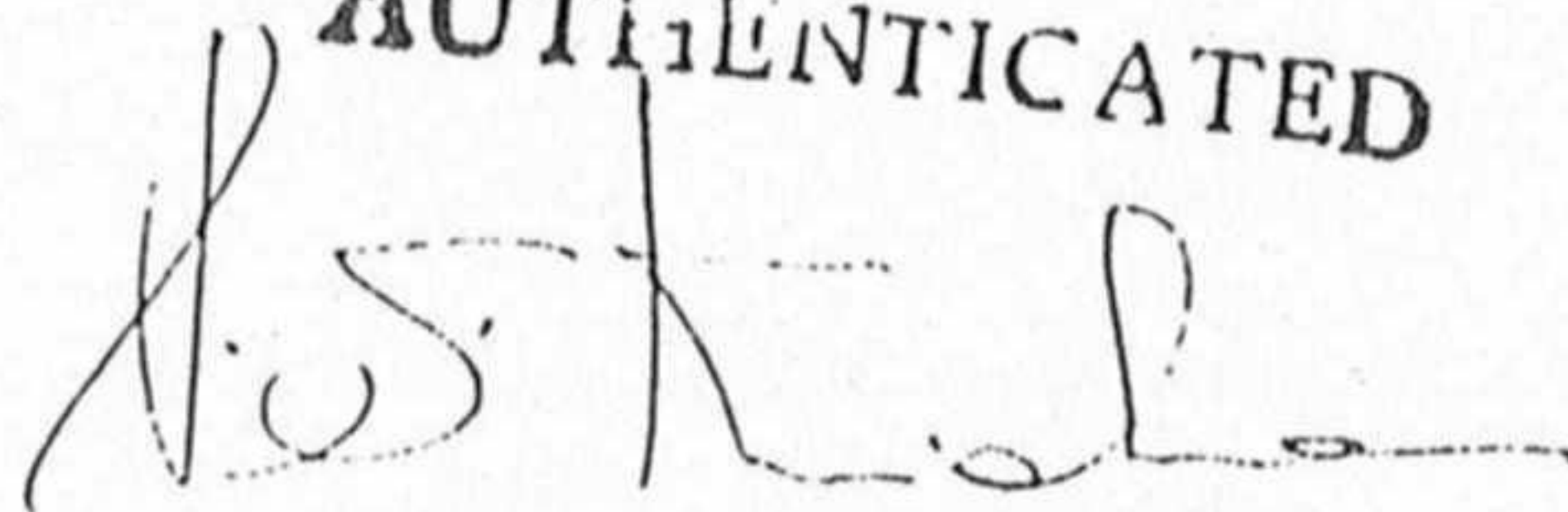
I. Request

This case arises from the Request received in this Commission from Shri Sharif Khan, s/o Shri Ismail Dhibobi, Bharatpur for Inclusion of "Dhobi (Muslim)" 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 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. The community was represented by Shri Umar Deen, Shri Liakat Ali, Shri Babu Lal, Shri Samsodeen, Shri Saleem, Shri Abdul Hamid and Shri Chandra Kumar Kumawat.

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[Signature]
 P. S. Mishra
 Member
 Mandal Commission
 for Backward Classes

III. Facts

3. "Dhobi" is included in the Mandal Commission's List for Rajasthan at entry no. 43, as follows:-

"43. Dhobi"

4. 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 the Mandal List for each State and the respective State Lists and when, on the basis of the Expert Committee's Report, the Government of India notified the first phase Central List in 1992, Rajasthan was one of the States which did not have a State List of its own and therefore no Central List of Backward Classes for Rajasthan was prepared at that stage. It was only after the Supreme Court's Judgement in the Mandal case that the State Government of Rajasthan undertook the preparation of a State List of Backward Classes which was notified by the State Government on 6.8.1994. "Dhobi" is not included in this State List and for this reason it is also not included in the Central List of Backward Classes for Rajasthan prepared on the basis of the principle of commonality and notified by the Government of India on the 19th October, 1994.

5. Members of the "Dhobi" caste, who follow the Hindu, Sikh or Buddhist religions are included in the list of Scheduled Castes for Rajasthan. Members of the same caste, who follow Islam are excluded from the list of SCs, because, according to the proviso in the Presidential Order of 1950 listing Scheduled Castes, those, who profess any religion other than the religions specified in the Presidential Order (viz., Hindu, Sikh and Buddhist religions), are not recognised as Scheduled Castes. The present Request for inclusion of "Dhobi(Muslim)" is the result of this situation.

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6. During the Public Hearing, the representatives of the community apprised the Bench that the Muslim Dhobis constitute a caste or caste-like community among Muslims and the traditional occupation with which they are linked in terms of the caste-system is washing clothes as in the case of Hindu Dhobis. This was confirmed by the State Govt. representatives as well as those who were present from different sections of society.

7. During the Public Hearing, the Bench learnt that the State Backward Classes Commission has tendered its Advice to the State Government to include in the State list of Backward Classes those Dhobis who are not included in the list Scheduled Castes and that the State Government decided not to include them in the State List of Backward Classes for the reason that "Dhobi" is included in the list of Scheduled Castes for Rajasthan. The Bench felt that, in taking such a decision, the State Govt. has apparently lost sight of the fact that the entry in the list of Scheduled Castes specifically excludes members of the enumerated castes who profess a religion other than Hinduism, Sikhism or Buddhism and therefore the case made out by the State Commission in favour of the inclusion of Muslim Dhobis in the State List of Backward Classes is valid. The Bench asked the representatives of the State Government to reconsider the decision of the State Government in this regard.

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

"(i) All untouchables converted to any non-Hindu religion, and

(ii) such occupational communities which are known by the name of their traditional hereditary occupation and whose Hindu

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 Member of the
 National Commission
 for Backward Classes

counterparts have been included in the list of Hindu OBCs. (Examples: Dhobi, Teli, Dheemar, Nai, Gujar, Kumhar, Lohar, Darji, Badhai, etc.)"

The Bench is of the view that the Dhobi community of Rajasthan who are Muslims by religion come under the first of the above two criteria and categories.

9. Munshi Hardayal Singh in his book "The Castes of Marwar -- being Census Repoprt of 1891" (Book Treasure, Jodhpur, Second Edition 1990, p.175, first edition published in 1894) gives an account of "The Dhobi" under the occupational classification "Washermen". His account attests to the existence of Hindu Dhobis as well as Muslim Dhobis in Marwar in the following words:-

"The Dhobis are washermen. They are Hindus as well as Musalmans. The former are mostly found in Marwar, and their number was returned in the present Census as 177 males and 149 females. They form an inferior caste, and the uncleanness of their profession is proverbial... There are also a few Muslaman Dhobis in Marwar, who are reputed to be cleverer at their work than the Hindu Dhobis. They are Sunnis, and mostly follow the customs observed by the Dyers or Charohas, although they marry among their own community."

10. "Dhobi" is included in the Central List of Backward Classes for the following States/UTs:-

S.No.	State/UT	Relevant Entry
1.	Bihar	"57. Dhobi (Muslim)"
2.	Goa	"4. Dhobi, Rajak, Madval (including Christian Dhobies)"

- | | | |
|----|----------------|--|
| 3. | Gujarat | "18. Dhobi" |
| 4. | Haryana | "17. Dhobi" |
| 5. | Madhya Pradesh | "18. Dhobi (Excluding Bhopal Raisen and Sehore District) i.e. excluding the areas where they are listed as Scheduled Castes" |
| | | "59 Islamic Groups:-
.....
(6) Dhobi
....." |
| 6. | Punjab | "22. Dhobi" |
| 7. | Delhi | "19. Dhobi (excluding those in Scheduled Caste)" |
| 8. | Uttar Pradesh | "55. Dhobi (Other than those who are already in the list of Scheduled Caste for U.P.)" |
| 9. | Daman & Diu | "6. Dhobi" |

In some of the above States, viz., Bihar, Uttar Pradesh, Delhi and parts of Madhya Pradesh the Dhobi caste has been included in the list of Scheduled Castes as in the case of Rajasthan. The entry in the Central List of Backward Classes for Uttar Pradesh, viz., "55. Dhobi (Other than those who are included in the List of Scheduled Castes for U.P.)" was based on the NCBC's Advice tendered to the Central Government in respect of a similar Request received in this Commission.

11. During the Public Hearing, the representatives of the community, and also those present, who were from different

sections of society, expressed the view that an entry in respect of Central List of Backward Classes for Rajasthan similar to that made in the Central List for U.P. will be correct, fair and appropriate.

IV. Findings

12. From the above evidence, it is the finding of the Bench that Dhobis who are Muslims by religion constitute a caste or caste-like community, linked with the traditional hereditary occupation of washing clothes as in the case of Hindu Dhobis, who are included in the List of Scheduled Castes for Rajasthan. Muslim Dhobis constitute a Socially and Educationally Backward Class. This case falls under the Fast-Track category as it is covered by guideline 2(e) and (f) of the NCBC's Guidelines for Consideration of Requests for Inclusion and Complaints of under-Inclusion and also by para 7 of the Procedural Clarification on the same guidelines. The non-inclusion of Muslim Dhobis and similarly placed castes or caste-like communities among Muslims in the List of Scheduled Castes is on account of the specific proviso to that effect in the relevant Presidential Order and, therefore, it is the considered view of the Bench that, such castes or caste-like communities among Muslims who are linked with traditional hereditary occupations and whose counterparts follow the Hindu or Sikh or Buddhist religions are included in the List of Scheduled Castes, in this case "Dhobi", should be included in the Central List of Backward Classes with the remarks in brackets after the entry -- "(Other than those who are included in the List of Scheduled Castes)". Therefore, "Dhobi" should be included in the Central List of Backward Classes for

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Rajasthan at entry no. 55, as follows:-

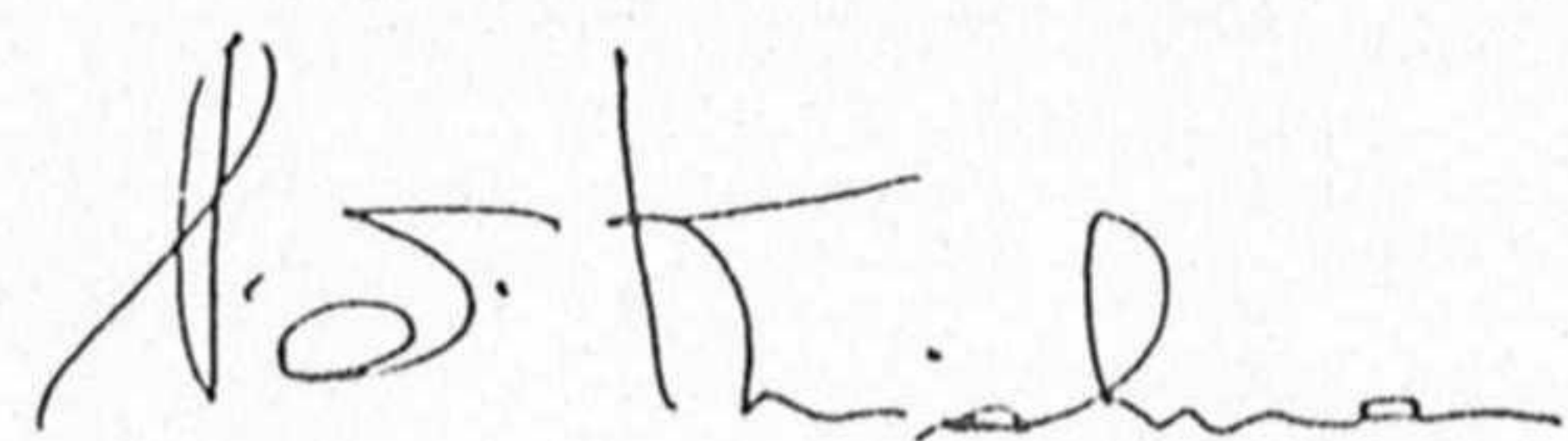
"55. Dhobi (Other than those who are included in the List of Scheduled Castes for Rajasthan)"

13. 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/sub-caste 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 Advcie or the Government's Notification is only that the backwardness of the caste/community/sub-caste, 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 reservation for Backward Classes in the Central Services 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/sub-caste using these synonyms, are eligible for reservation from that date.

AUTHENTICATED



P. S. KULKARNI
Member
National Commission
for Backward Classes



7.8.1997

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 necessary action by the Central Government under Section 9(2) of the Act:-

"Dhobi" should be included in the Central List of Backward Classes for Rajasthan at entry no. 55, as follows:-

15. 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.

P. K. Singh

P. S. Khanna
7.8.1997

Madan Singh
11.8.97

Ashayam
11.08.97

Note: The above Findings and Advice have been subscribed to by all members of the Commission except Shri N.S. Puadhi, Member, who is presently abroad on leave. Under the circumstances, in accordance with the general decision of the Commission, the omission in this behalf of Shri Puadhi's signature being attributable to his physical absence from the country, will otherwise also not vitiate the Findings of the Bench or the Advice of the Commission in view of Section 7 of the NCBC Act.

AU...

P. S. Khanna