



DO NCBC Advice No. Rajasthan 10-13/97
18. 08. 1997

सदस्य-सचिव
राष्ट्रीय पिछड़ा वर्ग आयोग

भारत सरकार

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

पी. एस. कृष्णन्

P. S. KRISHNAN

TEL. : 6183190

Member - Secretary

National Commission for Backward Classes

Government of India

Trikoot-1, Bhikaiji Cama Place, New Delhi - 110066

Dear Shri Baksi,

I am sending herewith the 4 Advices of the National Commission for Backward Classes under Section 9(1) of the NCBC Act 1993 in respect of Request for Inclusion of

- (1) Kharadi
- (2) Manihar
- (3) Sakka-Bhishti, Saqqa Bhishti, Bhishti-Abbasi
- (4) Mochi (Other than those who are included in the List of Scheduled Castes for Rajasthan)

in the Central List of Backward Classes for ^{Rajasthan} Karnataka, for necessary action by the Central Government under Section 9(2) of the Act.

With today's batch of 10 Advices including these 4, a total of 41 Advices have been tendered up to 9(1) after the reconstitution of the NCBC (from the 32 cases of Advice tendered during the previous term of the Commission)

Yours sincerely

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

Shri K.K. Baksi
Secretary
Ministry of Welfare
Shastri Bhavan
NEW DELHI

National commission for Backward Classes
Rajasthan Bench

FINDINGS

Per Shri P.S.Krishnan, Member-Secretary

Case: Request for Inclusion of "Khairadi(Khati)" in the Central List of Backward Classes for Rajasthan.

I. Request

This case arises from the Request received in this Commission from the Kharadiyan Welfare Society, Mohalla Kharadiyan, Bikaner for the Inclusion of "Kharadi(Khati)" in the Central List of Backward Classes for Rajasthan. In its Request the Society states that theirs is a community linked with the traditional occupation/craft of working in wood as in the case of Badhai, Khati, Jhangid, Turkhan and Viswakarma. The community is Socially, Economically, Educationally as well as Politically very backward and therefore should be included in the Central List of Backward Classes as a synonym of Badhai, Jangid, Khati, Tarkhan etc. which have already been included 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

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P. S. KRISHNAN
Member-Secretary
National Commission
for Backward Classes

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. 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. The entry No. 6 of this list reads as follows:-

"6. Badai, Jangid, Khati, Suthar"

4. The corresponding entry in the Mandal List for Rajasthan is as follows:-

"11. Barai, Atwasa, Badhai, Baiwal, Dagesar, Dingar, Jangid-Brahman, Jhangra-Brahman, Kavigar, Khati, Khokar, Mayal, Suthar, Tarkhan, Viswakarma"

5. As "Khairadi" is not found included in both the State List and the Mandal List for Rajasthan, 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

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 P. S. MISHRA
 Secretary
 Rajasthan State Backward Classes Commission

Government of India on the 19th November, 1994. The entry No. 3 in the Central List of Backward Classes for Rajasthan reads as follows:-

"3. Badhai, Jangid, Khati, Suthar, Tarkhan"

6. From what is stated in the Request and the evidence adduced before the Bench by those present during the Public Hearing, the following facts/information emerge: The "Khairadi" is a caste or caste-like community the members of whom are largely Muslims. The traditional hereditary occupation of the community is making wooden toys, ornaments and instruments such as wooden cot legs, chakla & belan (rounded wooden plank and roller used in kitchen for making chapatis etc). They make these items with the use of a kharad (a lathe). Most of the members eke out a living by selling these items in town bazaars. Their means of livelihood were severely affected in the modern period by the introduction of factory-made articles such as plastic toys. With the introduction of forest conservation policy, the ban on felling certain specific trees, the wood of which is used by them for their products, deprived them of their raw materials, thereby forcing many of them to leave their traditional occupation. They constitute a distinct community which, though relatively small in numbers, is dispersed all over the State. Because of their educational backwardness, the community is not in a position to make use of various governmental schemes in favour of household industries.

7. Munshi Hardyal Singh in his book "The Castes of Marwar -- Being (Census Report of 1891)(Books Treasure, Jodhpur, first edition 1894) classifies "the Kharadi" under the occupational group of "carpenters and Turners" and writes about it as follows:- "In Marwar, the Kharadis and Churigars are Musalmans, and the Khatis, Hindus .. The Kharadis are turners,

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Secretary
Commission
Jodhpur

the word being derived from kharad, a turner's lathe. They work also as carpenters, and excel chiefly in manufacturing wooden toys. Some among them are very excellent artisans in Jodhpur, Nagore and Bagri... Their women observe parda, but nata is allowed among them. They work with their husbands and paint or colour the articles made by the latter. They also occupy themselves in binding scarves for the purpose of dyeing."

8. During the Public Hearing, those present who were from different sections of society not only did not object to the proposed inclusion of "Kharadi" in the Central List of Backward Classes for Rajasthan, but also supported it.

IV. Findings

9. From the above evidence, it is the Finding of the Bench that "Kharadi" is an artisanal caste or caste-like community linked with the traditional occupation of working in wood as in the case of Badhai, Jangid, Khati, Suthar, Tarkhan which are already included in the Central List of Backward Classes for Rajasthan. It falls under the Fast-Track category as it is covered by guideline 2(e) and of the NCBC's Guidelines for Consideration of Requests for Inclusion and Complaints of under-Inclusion in the Central List of Backward Classes and also by para 7 of the Procedural Clarification on Guidelines. Therefore, "Kharadi" should be included in the Central List of Backward Classes for Rajasthan as a synonym of the existing entry "Badhai, Jangid, Khati, Suthar, Tarkhan" at S.No. 3 in the Central List of Backward Classes for Rajasthan, so that the amended entry No. 3 in the Central List of Backward Classes for Rajasthan reads as follows:-

"3. Badhai, Jangid, Khati, Kharadi, Suthar, Tarkhan"

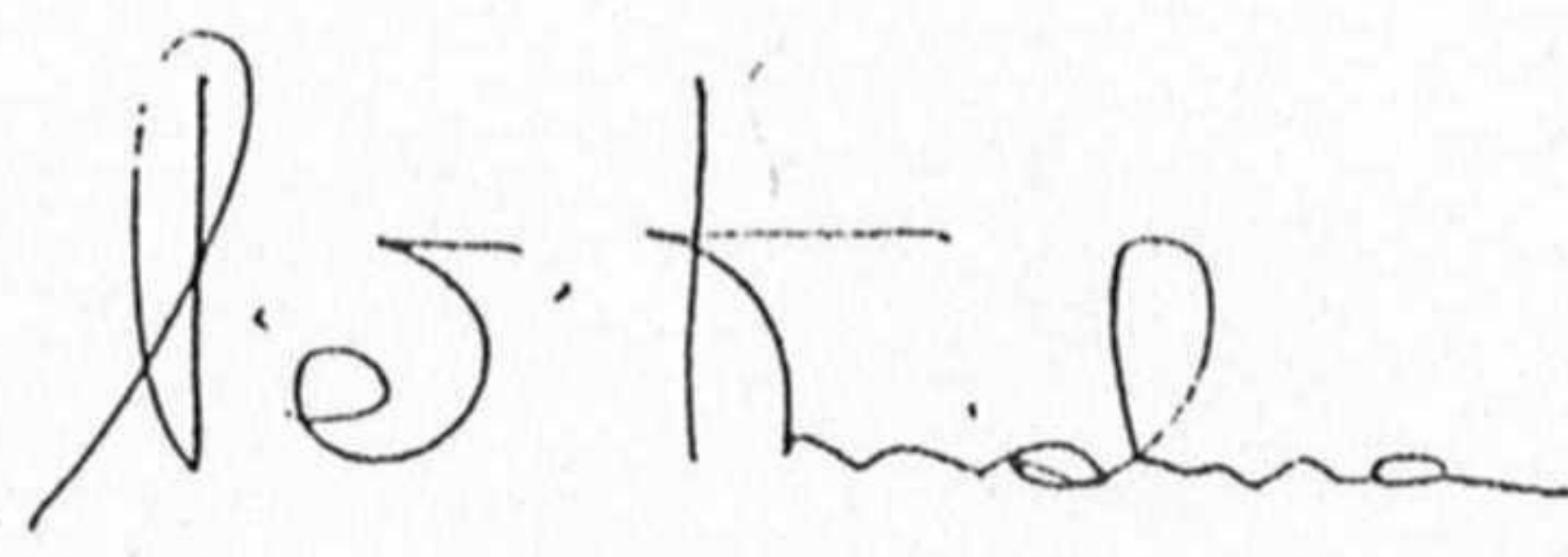
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Member Secretary
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for Backward Classes

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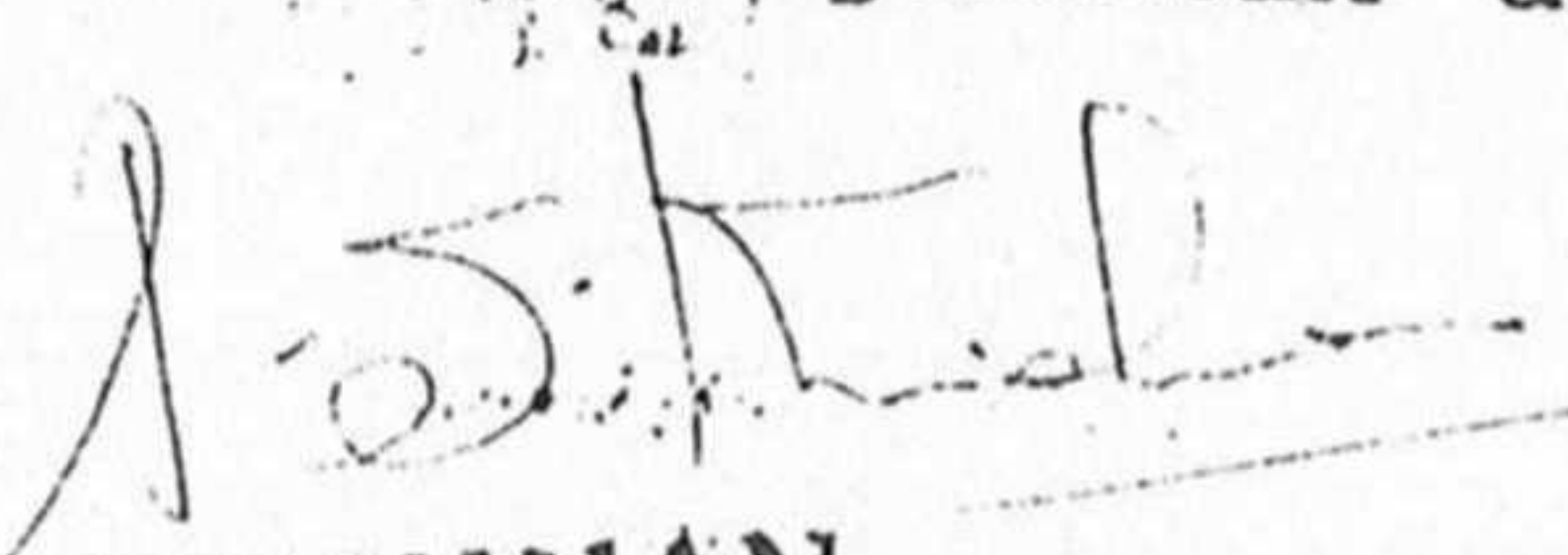
10. It is observed that in a number of cases, certificate issuing authorities do not issue Backward Class certificates in respect of the period prior to the Central Government's Notification. The process by which a caste/community/sub-caste became backward is centuries old. Its backwardness did not emerge suddenly on the date of the Notification. The relevance of the date of the Findings or the Advice 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.


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V. Advice of the Commission

11. 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:-

"Kharadi" be included in the Central List of Backward Classes for Rajasthan as a synonym of "Badhai, Jangid, Khati,


P. S. KRISHNAN
Member Secretary
National Commission
Backward Classes

National commission for Backward Classes
Rajasthan Bench

FINDINGS

Per Shri P.S.Krishnan, Member-Secretary

Case: Request for Inclusion of "Manihar" in the Central List of Backward Classes for Rajasthan as a synonym of "Lakhera (Lakhara)"

I. Request

This case arises from the Request received in this Commission from Shri Jahoor Ahmed Mughal, President, Rajasthan Maniharan Lakhara Samaj, Mughal Medical Store, outside Fatehpuri Gate, Sikar for Inclusion of "Manihar" as a synonym of "Lakhera, Lakhara" 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. The community was represented by Shri Hussain Bux Manihar(Sikar), Mohd. Haneef(Jaipur) and Mohd. Jameel Manihar(Jaipur) and others.

III. Acts

At the time when the Expert Committee on Backward Classes

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P. S. KRISHNAN
Member-Secretary
National Commission
for 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. The entry No. 32 of this list reads as follows:-

"32. Lakhera (Lakhara)"

"Manihar" is not included in this List. "Manihar" is also not included in the Mandal Commission's List for Rajasthan, but "Lakhera" is found included in it at entry no. 86, as follows:-

"86. Lakhera"

4. Since "Manihar" has not been included in both the State List and the Mandal Commission's List of Backward Classes, 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 November, 1994. The entry No. 31 in the Central List of Backward Classes for Rajasthan reads as follows:-

"31. Lakhera (Lakhara)"

5. During the Public Hearing, the representatives of the community stated that Manihar is a distinct caste or caste-like community among Muslims whose traditional occupation is making bangles as in the case of Lakheras among Hindus. On a specific

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P. S. KUSHNAN
Member Secretary
National Commission
Backward Classes

question from the Bench, they said that "no Muslim is called Lakhera except in some villages". They also said that the name "Manihar" is in vogue from time immemorial. They are found all over the State. In fact, in Rajasthan their population of about 1 lakh outnumbers the population of Lakheras. In Jaipur city, there are only Manihars and no Lakheras. Their women wear white Tilaks on their foreheads. At present the members of the community are getting caste-certificates in the name of Lakhera.

6. Munshi Hardy Singh in his book "The castes of Marwar -- Being (Census Report of 1891)(Books Treasure, Jodhpur, first edition 1894) mentions about "Manihar" under the occupational group "Glass-Workers" and says that they "belong to the same stock and inter-marry with Lakheras... the Musalman Lakheras are also known by the name of Manihar or Shishgar." About "Lakhera", he writes as follows: "The Lakheras are the bangle-makers and dealers in lac or selling wax. They are Hindus as well as Musalmans... The Lakheras, as their name implies, work only in lac. Those working in glass are generally known by the name of Shishgar, Kachera or Manihar..."

7. "Manihar" has been included in the Central List of Backward Classes for Delhi, Haryana, Punjab and Uttar Pradesh, as follows:-

S.NO.	Name of the State	Relevant entry
1.	Delhi	"34. Lakhera, Manihar"
2.	Haryana	"39. Lakhera, Manihar"
3.	Punjab	"48. Lakhera Manihar"
	Uttar Pradesh	"40. Manihar"

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P. S. SINGH
Member
Commission
Backward Classes

8. During the Public Hearing, those present who were from different sections of Society not only did not object to the proposed inclusion of "Manihar" as a synonym of "Lakhera(Lakhara)" in the Central List of Backard Classes for Rajasthan, but also supported it.

IV. Findings

9. From the above evidence, it is the Finding of the Bench that "Manihar" is a caste or caste-like community among Muslims linked with the traditional occupation of making glass bangles and is synonymous with "Lakhera". It is a Socially and Educationally Backward Class and comes under the Fast-Track category as it is covered by the guideline 2(e) of the NCBC's Guidelines for Consideration of Requests for Inclusion and Complaints of under-Inclusion in the Central List of Backward Classes and also by para 7 of the Procedural Clarification on Guidelines. Therefore, "Manihar" should be included in the Central List of Backward Classes as a synonym of "Lakhera(Lakhara)" in the the Central List of Backward Classes for Rajasthan at entry no. 31, so that the amended entry no. 31 in the Central List of Backward Classes for Rajasthan reads as follows:-

"31. Lakhera(Lakhara), Manihar"

10. 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 Advice 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.

V. S. Kishore

13.8.1997

V. Advice of the Commission

11. 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:-

"Manihar" be included in the Central List of Backward Classes for Rajasthan as a synonym of "Lakhera(Lakhara)" at entry No.31, so that the amended entry No. 31 reads as follows:-

"31. Lakhera(Lakhara), Manihar"

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Commission
for Backward Classes

12. 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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13.8.1997

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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.

APPROVED

P. S. Kishore
Commission

National commission for Backward Classes

Rajasthan Bench

FINDINGS

Per Shri P.S.Krishnan, Member-Secretary

Case: Request for Inclusion of "Bhishti(Sakka)" in the Central List of Backward Classes for Rajasthan.

I. Request

This case arises from the Request received in this Commission from Shri Amir Khan Bhishti, PO Javali, Tehsil Laxman Garh, District Alwar (Rajasthan) for the Inclusion of "Bhishti(Sakka)" 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. The community was represented by S/Shri Hazi Noor Mohd., Fazuldeen, Abdul Sakoor Patel, Bundu Patel, Jumma Ustad, Mohd. Saiyeed Manav, Haneef, Bundhkhan, Sardar Khan, Majid, Saifq Ahmed.

III. 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 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. "Bhishti" caste/community is not included in this State List. It was also not included in the Mandal Commission's List of Backward Classes for Rajasthan. For this reason, this caste is also not included in the Central List of Backward Classes for Rajasthan which was prepared on the basis of the principle of commonality and notified by the Government on the 19th October, 1994.

4. "Sakka" is included in the List of Depressed Backward Classes prepared by one of Members of the Mandal Commission Shri L.R. Naik in his Minute of Dissent, as follows:-

"77. Sakka"

5. Shri Amin Khan in his Request has stated that the traditional occupation of the caste is "Carrying water in leather bags" and "supplying water to houses in rural areas". The members of the community are also engaged in agricultural manual labour, cattle-rearing etc. The Request also states that the community is known by the names Bhishti, Sakka and Abbasi. During the Public Hearing, the representatives of the community said that all these names denote a single community among Muslims and that they constitute a Socially and Educationally Backward Class and therefore should be included in the Central List of Backward Classes for Rajasthan.

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P. S. ...
Member
Mandal Commission
Backward Classes

6. Munshi Hardy Singh in his book "The Castes of Marwar -- being (Census Report of 1891)" (Books Treasure, Jodhpur, 1990, First Edn. 1894) classifies "the Bhishti" under the occupational head "Palki-Bearers, Cooks and Watermen" and writes about it as follows:-

"The Bhishtis carry water in goat-skins... They are also called Pakhalias, and in the Panjab they are generally known as Mashkias.

In Marwar the word Bhishti is applied to Hindus as well as to Musalmans, the latter being distinguished by the term Sakka. They are also styled Mian and Jamadar.

The Hindu Bhishtis are for the most part Malis and Kumhars, who retain their respective castes. The Musalman Bhishtis form a distinct class, and include Chohans, Parihars, Bhatias and other clans. They may be divided in Desis and Pardesis, who do not intermarry. The Desis exclusively belong to Marwar...

The Musalman Bhishtis supply water to Hindus freely. They entertain a high regard for their Mashaks or goat-skins, and with a view to keep them clean and unpolluted, usually wear a red cloth as a waistband, but when they take off their Mushaks and the waistband, they are looked upon with caste prejudice, and no Hindu would drink water from their hands, or allow his vessel to be touched by them."

7. W. Crooke ("The Tribes and Castes of the North Western India", Cosmo Publications, Delhi, 1974, originally published under the title "The Tribes and Castes of the North Western Province & Oudh", Calcutta, 1896) refers to Bhishti as the Musalman water-carrier class, also known as Saqqa, from the Arabic saqqi, "to give to drink." "They worship their leathern water bag (mashk) as a sort of fetish, and burn incense (uban) before it on Fridays... Their occupation is acting as domestic servants and supplying water on payment to Muhammadans and Christians, -- a duty which for Hindus is performed by the Kahar..."

8. "People of India, National Series", Vol.IV, 1993 by the Anthropological Survey of India (under print) refers to Bhishti as "Water-carriers". The book notes that the Bhishtis are mainly landless and that there is rise in the number of daily wage casual labourers and child labour does exist among them.

9. The traditional occupation of "carrying water in leather bags" with which this community is, in terms of the caste system, identified is generally considered as "lowly and undignified" and is covered by guideline 2(e) of the NCBC's Guidelines for Consideration of Requests for Inclusion and Complaints of under-Inclusion and also by para 7 of the Procedural Clarifications on the same Guidelines. In the distorted value system of Caste, leather is considered to be unclean and those who handle it are also dubbed as unclean and stigmatised -- bringing this caste under guideline 2(f) of the Guidelines. The community is also covered by guideline 2(b) of the Guidelines as their main occupation also comes under the category of "manual labour for wage".

10. During the Public Hearing, those present who were from different sections of society not only did not object to the proposed inclusion of this community in the Central List of Backward Classes for Rajasthan, but also supported it.

11. "Bhishti" caste/community has been included in the Central List of Backward Classes for the following States:-

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[illegible] [illegible]
[illegible] [illegible]
for Backward Classes

S.No.	Name of the State	Relevant entry
1.	Delhi	"1. Abbasi Bhishti Sakka"
2.	Madhya Pradesh	"59. Islamic Groups: ----- (2) Bhishti -----"
3.	Maharashtra	"10. Bhishti or Pakhali"

In the case of Uttar Pradesh, the NCBC, after considering a similar Request from Uttar Pradesh, has tendered its Advice to the Central Government for inclusion of "Sagga-Bhishti, Bhisti-Abbasi" in the Central List of Backward Classes for Uttar Pradesh which is pending with the Central Govt. for notification.

IV. Findings

12. From the above evidence it is the Finding of the Bench that "Bhishti", also known as "Sakka" and "Abbasi", is a Socially and Educationally Backward Class linked with the traditional occupation of carrying water in leather bags, and comes under the Fast-Track category as it is covered by guideline 2(b), 2(e) and 2(f) of the NCBC's Guidelines for Consideration of Requests for Inclusion and Complaints of under-Inclusion in the Central List of Backward Classes and also by para 7 of the Procedural Clarification on Guidelines. In order to prevent any possible misuse by unintended non-backward sections, it is necessary to designate this community suitably as done in the case of Uttar Pradesh by the UP State Commission for Backward Classes as well as the NCBC.

Therefore, "Bhishti" caste/community should be included in the Central List of Backward Classes for Rajasthan at entry no. 53, as follows:-

"53. Sakka-Bhishti, Saqqa-Bhishti, Bhishti-Abbasi"

"53 सका-भिशती, मिशती-अबबासी."

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 Advice 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.

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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:-

"Bhishti" caste/community be included in the Central List of Backward Classes for Rajasthan at entry No. 53, as follows:-

"53. Sakka-Bhishti, Saqqa-Bhishti, Bhishti-Abbasi"

"53 सकका-भिशती, मिशती-अबबासी"

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.

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P. S. Krishnan

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P. S. Krishnan
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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.

AUTH
P. S. KRISHNAN
Secretary

National commission for Backward Classes
Rajasthan Bench

FINDINGS

Per Shri P.S.Krishnan, Member-Secretary

Case: Request for Inclusion of "Mochi (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 the Mochi (Musalman) Samaj, Udaipur for Inclusion of "Mochi (Musalman)" 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.

III. 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 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. "Mochi" is not included in this State List. It was also not included in the Mandal Commission's List of Backward Classes for Rajasthan. Therefore, 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.

4. Members of the "Mochi" 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 "Mochi(Musalman)" is the result of this situation.

5. From what is stated in the Request and the evidence adduced before the Bench during the Public Hearing, the Bench learns that the Muslim Mochis constitute a caste or caste-like community among Muslims and the traditional occupation with

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which they are linked in terms of the caste-system is working in leather like shoe making as in the case of Hindu Mochis. This was confirmed by those who were present from different sections of society.

6. During the Public Hearing, the Bench learnt that the State Backward Classes Commission had tendered its Advice to the State Government to include in the State list of Backward Classes those Mochis 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 "Mochi" 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 Mochis 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.

7. 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 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 Mochi community of Rajasthan

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who are Muslims by religion come under the first of the above two criteria and categories.

8. According to Munshi Hardyial Singh ["The Castes of Marwar - Being (Census Report of 1891)" (Book Treasure, Jodhpur, Second Edition 1990, first edition published in 1894)] "the Mochis are properly shoe makers and workers in leather. They are Hindus and Musalmans..." He quotes Ibbetson as saying that the term Mochi is the name of an occupation, "signifying a worker in tanned leather as distinguished from a tanner".

9. "Mochi" is included in the Central List of Backward Classes for Delhi, Haryana, Madhya Pradesh and Punjab, as follows:-

S.No.	State/UT	Relevant Entry
1.	Delhi	"42. Mochi (Excluding Scheduled Castes)"
2.	Haryana	"42. Mochi (excluding those who are included in Scheduled Castes)"
3.	Madhya Pradesh	"59. Islamic Groups: (19) Mochi"
4.	Punjab	"52. Mochi (Other than Scheduled Castes)"

In the above States, the Mochi caste and/or other synonyms of the caste linked with leather-related occupations have been included in the list of Scheduled Castes as in the case of Rajasthan. In this context, it is worth noting the following words of Denzil Ibbetson ("Punjab Castes", Low Price Publications, Delhi, 1993, first published 1916) under the head "the Chamar": "The Chamar is the tanner and leather-worker of

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North-Western India, and in the western parts of the Panjab he is called Mochi whenever he is, as he generally is, a Musalman, the caste being one and the same." In the Scheduled Caste List for Punjab, the relevant entry is "9. Chamar, Jatia Chamar, Rehgar, Raigar, Ramdasi, Ravidasi", though not "Mochi". During the Public Hearing, 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 in the Central List for the above States will be correct, fair and appropriate.

IV. Findings

10. From the above evidence, it is the the Finding of the Bench that Mochis who are Muslims by religion constitute a caste or caste-like community, linked with the traditional hereditary occupation of working in leather as in the case of Hindu Mochis, who are included in the List of Scheduled Castes for Rajasthan. Muslim Mochis 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 Mochis 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 "Mochi", 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, "Mochi" should

be included in the Central List of Backward Classes for Rajasthan at entry no.54 , as follows:-

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

11. 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 Advice 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.

P. S. Krishna

13.8.97

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V. Advice of the Commission

12. 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:-

"Mochi" should be included in the Central List of Backward Classes for Rajasthan at etnry no. 54, as follows:-

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

13. 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.

B. Shayan
13.08.97

J. J. Kishan
13.8.97
W. G. Kishan

P. U. Sengupta

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.

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