

Government of India
Ministry of Human Resource Development
Department of Higher Education

RESOLUTION

No. F.1-1/2005 – U.1 A/846

New Delhi, the 20th April 2008

Whereas, the Central Educational Institutions (Reservation in Admission) Act, 2006 [No.5 of 2007] (hereinafter referred to as the ‘CEI Act’) provides for the reservation in admission of the students belonging to the Scheduled Castes (SC), the Scheduled Tribes (ST) and the Other Backward Classes (OBC) of citizens to Central Educational Institutions established, maintained or aided by the Central Government.

And whereas, the CEI Act defines the “Other Backward Classes” as the class or classes of citizens who are socially and educationally backward, and are so determined by the Central Government;

And whereas, the Government of India had, recognizing that in our society marked by gross inequalities, early achievement of the objective of social justice as enshrined in the Constitution is a must, and established the Second Backward Classes Commission or the Mandal Commission as a measure pursuant to this purpose;

And whereas, the terms of the reference of the said Mandal Commission included the determination of the criteria for defining the socially and educationally backward classes (SEBC) and recommendation of steps to be taken for the advancement of the socially and educationally backward classes of citizens so identified and examination of the desirability or otherwise of making provision for the reservation of appointments or posts in favour of such backward classes of citizens which are not adequately represented in public services and posts in connection with the affairs of the Union or of any State;

And whereas, the Government carefully considered the Report and the recommendations of the Commission regarding the benefits that shall be extended to the socially and educationally backward classes, which comprehensively included various measures of social justice and social equalisation, including reservation in posts and vacancies under the State and public sector undertakings as well as reservation in educational institutions and, thereafter, came to the view that at the outset certain weightage has to be provided to such classes in the services of the Union and its Public Undertakings;

And whereas, therefore, orders were passed in its O.M. No. 36012/31/90-Estt. (SCT) dated 13.8.1990 of the Ministry of Personnel, Public Grievances & Pensions (Department of Personnel & Training) providing reservation of 27% in civil posts and services under the Government of India for socially and educationally backward classes, and that the SEBC would comprise in the first Phase, the castes and communities which are common to both the State-wise lists prepared by the Commission and the State Governments' lists;

And whereas, pursuant to the aforesaid O.M. and considering the judgment of the Supreme Court dated 15.11.1992 in its Mandal case (Indra Sawhney and Others vs. Union of India and Others) which upheld the aforesaid O.M. and the principle of commonality laid down in the aforesaid O.M. whereby the SEBC would comprise the castes and communities which are common to both the State-wise lists in the Report of the Mandal Commission and the State Governments' lists;

And whereas, it is clear from the Report and recommendations of the Mandal Commission and from the O.M. referred to above that the identification and listing of SEBC was for all purposes, of Articles including those under Articles 15(4) 16(4) of the Constitution and purposes of all other social justice measures which emerge from the Constitutional mandate of equality as well as the removal of inequality, including social inequality; and that this was always the intention of the Government of India, and it was only as an initial step ("at the outset"), in the situation and context then existing, that reservation under Article 16(4) was taken up, and this should not be misconstrued or

misinterpreted to mean that the Central Lists of SEBCs were intended for the purpose of only Article 16(4);

And whereas, it is not the practice of the Government of India or the State Governments, nor is it practical to identify and list SEBC/OBC or any other category in need of social justice for each purpose separately, and in the case of SC and ST also such has been the principle and practice all along, and in the case of SEBC this is the position in respect of State Lists as noted by the aforesaid Supreme Court judgment which specifically mentions that the State lists of SEBC/OBC were prepared both for the purposes of Article 16(4) as well as 15(4), and in the Indian social reality every genuine socially backward class is also an educationally backward class and it has been pointed out by the Supreme Court in the aforesaid judgment that in the Indian Context social backwardness leads to educational backwardness;

And whereas, no public purpose is served by identifying and listing SEBC for each purpose each time separately thereby losing time;

And whereas, the mention of the purpose of reservation in Government posts and services in the Resolution of the Ministry of Welfare No. 12011/68/93-BCC (C) dated 10.9.1993 notifying the first Central list of SEBC/OBC was not intended to mean that the identification and listing of SEBC/OBC was only for the purpose of Article 16(4) and was in fact for all purposes including for the purposes of Article 16(4) as well as Article 15(4) of the Constitution of India as elucidated above and the same is the position with the subsequent resolutions notifying Central list of SEBC/OBC issued from time to time, both on the basis of common listing and on the basis of Advices of the National Commission for Backward Classes (NCBC), and this is also the position in respect of the definition of Lists in Section 2 (c) of the NCBC Act of 1993 (No. 27 of 1993);

And whereas, the Central Government is satisfied that the Central Lists of the SEBC/OBCs, was prepared with due care;

And further whereas, the lists of SEBCs/OBCs of different States referred to for arriving at the Central (Common) Lists of SEBCs/OBCs were and are being used by States for extending the benefit of reservation for employment as well as for other measures of advancement such as admission to educational institutions and scholarships and so on;

And whereas, it is clear from the above that the SEBC/OBC referred to in the CEI Act have already been determined for each and every purpose currently in operation as well as those that may be undertaken from time to time in future, including for the purposes of the CEI Act;

And whereas, the Central Lists of SEBCs/OBCs, as modified from time to time on the advice of NCBC adequately reflect the various classes of population comprising the SEBC/OBC for the purpose of public policy decisions as to their welfare by the Central Government for the purposes of reservation of appointments or posts in favour of any backward classes of citizens under clause (4) of Article 16 of the Constitution of India, as well as for the purpose of advancement of socially and educationally backward classes as provided under clause (4) of Article 15 thereof in several States which have similar State Lists as mentioned above, as provided under clause (4) of Article 15 thereof and have already been and are being applied to various development schemes of the Central Government including the grant of scholarships, hostel facilities, coaching for the backward classes of citizens and more such developmental schemes will be taken up from time to time as required;

Now therefore, the Government of India, by way of clarification, reconfirms that the above mentioned Central Lists of SEBCs/OBCs are and have always been for all purposes including reservation in admission to educational institutions as elucidated above, and hereby notifies and adopts the Central Lists of SEBCs/OBCs notified State-wise from time to time by the Ministry of Welfare/Social Justice & Empowerment, subject to such modifications as may be made therein from time to time by that Ministry, excluding, in compliance with the directions of the Supreme Court of India dated

10.4.2008 in W.P (Civil) No. 265 and other related Writ Petitions, the Socially Advanced Persons/sections (commonly referred to as the “creamy layer”) in accordance with O.M. No. 36012/22/93-Estt.[SCT], dated 8.9.1993 of the Ministry of Personnel, Public Grievances & Pensions (Department of Personnel & Training) as amended by O.M. No. 36033/3/2004 – Estt. (Res) dated 9th March, 2004 and as may be modified by that Ministry from time to time, as applicable for the purposes of implementing reservation in admission to Central Educational Institutions as defined in the CEI Act 2006.

For and On Behalf of the President of India,

(Sunil Kumar)

Joint Secretary to the Government of India

ORDER

Ordered that a copy of the resolution be communicated to all State Governments, Union Territory Administrations, Ministries/ Departments of the Government of India, Statutory Bodies responsible for the maintenance or determination of standards of education, and all central educational institutions under the purview of the Central Educational Institutions (Reservation in Admissions) Act, 2006 [No.5 of 2007].

(Sunil Kumar)