

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
WRIT PETITION (CIVIL) NO. 961/2021

IN THE MATTER OF:

NEIL AURELIO NUNES AND ORS. ...PETITIONERS

VERSUS

UNION OF INDIA AND ORS. ...RESPONDENTS

INDEX OF DOCUMENTS

S.No.	Particulars	Page No.
1.	Additional/Supplementary Affidavit on Behalf of Respondent No.5	
2.	A true copy of the report of the Committee constituted for reviewing of the criteria for Economically Weaker Sections (EWS) reservation	

Date: 31.12.2021

FILED BY:

AMRISH KUMAR

AOR FOR RESPONDENT NO.5

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

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IN THE MATTER OF:

NEIL AURELIO NUNES AND ORS.

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...RESPONDENTS

COUNTER AFFIDAVIT ON BEHALF OF RESPONDENT

NO. 5 IN TERMS OF ORDER DATED 21.10.2021

I, R. Subrahmanyam S/o Late ReddiRamayya, aged about 59 years, working as the Secretary to Government of India, Department of Social Justice and Empowerment, do hereby solemnly affirm and state on oath as under:

1. That I am presently working as stated above and as such I am conversant with the relevant facts and circumstances of the present case. I am therefore competent to sign, swear and verify the present counter affidavit on behalf of Respondent No. 5 (hereinafter referred to as the **‘Answering Respondent’**).
2. I state and submit that on 25.11.2021 this Hon'ble Court was informed that the Union Government has taken a

considered decision to revisit the criteria for determining the economic weaker sections [EWS] in terms of the provisions of the explanation to Article 15 of the Constitution as inserted by the Constitution [103rd Amendment] Act, 2019.

3. In accordance with the commitment given to the Hon'ble Supreme Court in W.P. No. 961/2021 as above, to revisit the criteria for determining the economically weaker sections in terms of the provisions of the explanation to Article 15 of the Constitution, the Government had constituted the following Committee vide its Order dated 30th November 2021:-

- 1 Shri Ajay Bhushan Pandey- Former Finance Secretary, Gol
- 2 Prof. V K. Malhotra- Member Secretary, ICSSR
- 3 Shri Sanjeev Sanyal- Principal Economic Advisor to Gol (Member Convenor)

The Terms of Reference of the Committee were as follows:-

- a) To re-visit the criterion given in O.M. dated 17.01.2019 in determining EWS category keeping in view the observations of the Hon'ble Supreme Court in their Order dated 21.10.2021.
- b) To examine various approaches so far followed in the country for identifying economically weaker sections, and
- c) Recommend criteria that may be adopted for identifying EWS category in future.

4. The Committee has submitted its report to the Government on 31.12.2021. The report of the Committee is kept as

Annexure-I.

5. I respectfully submit that the Central Government has decided to accept the recommendations of the Committee including the recommendation of applying the new criteria prospectively.

VERIFICATION

Verified at New Delhi on this ____ day of _____, 2021 that the contents of the abovecounter affidavit from paragraphs 1 to 9 are true and correct to the best of my knowledge, information and belief as derived from the records and nothing material is concealed therefore.



DEPONENT

(आर. सुब्रह्मण्यम)
(R. SUBRAHMANYAM)
सचिव / Secretary
भारत सरकार / Govt of India
सामाजिक न्याय और अधिकारिता मंत्रालय
Ministry of Social Justice and Empowerment
नई दिल्ली / New Delhi



DEPONENT

(आर. सुब्रह्मण्यम)
(R. SUBRAHMANYAM)
सचिव / Secretary
भारत सरकार / Govt of India
सामाजिक न्याय और अधिकारिता मंत्रालय
Ministry of Social Justice and Empowerment
नई दिल्ली / New Delhi

Date- 31.12.2021

To,

Sri R.Subrahmanyam
Secretary, Ministry of Social Justice and Empowerment
Government of India
Shashtri Bhawan, New Delhi-110001

Sir,

In accordance with the commitment given to the Hon'ble Supreme Court in W.P.(Civil) No. 961/2021 on 25.11.2021 to revisit the criteria for determining the economically weaker sections in terms of the provisions of the explanation to Article 15 of the Constitution, the Government had constituted the following Committee, vide Order No.12018/39/2021-BC-II dated 30th November 2021: -

- | | | |
|---|--------------------------|---|
| 1 | Shri Ajay Bhushan Pandey | - Former Finance Secretary, GoI |
| 2 | Prof. V K. Malhotra | - Member Secretary, ICSSR |
| 3 | Shri Sanjeev Sanyal | - Principal Economic Advisor to GoI (Member Convenor) |

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- b) To examine various approaches so far followed in the country for identifying economically weaker sections, and
- c) Recommend criteria that may be adopted for identifying the EWS category in future.

3. After detail deliberations and examination of the relevant issues, the Committee has prepared its Report which is being submitted herewith (attached). The Committee would like to thank Government of India for this opportunity given to them.

With deep regards,

Yours sincerely,



(Dr Ajay Bhushan Pandey)



(Prof V.K.Malhotra)



(Sanjeev Sanyal)

Report on

2021

Ministry of Social Justice and Empowerment
New Delhi

GOVERNMENT OF INDIA



सत्यमेव जयते

**Report on
Review of the Criteria for
Economically Weaker Sections Reservation
2021**

Dr Ajay Bhushan Pandey
Former Union Finance Secretary, Government of India

Professor V. K. Malhotra
Member Secretary, ICSSR

Shri Sanjeev Sanyal (Member Convenor)
Principal Economic Advisor to Government of India

Date- 31.12.2021

To,

Sri R.Subrahmanyam
Secretary, Ministry of Social Justice and Empowerment
Government of India
Shashtri Bhawan, New Delhi-110001

Sir,

In accordance with the commitment given to the Hon'ble Supreme Court in W.P.(Civil) No. 961/2021 on 25.11.2021 to revisit the criteria for determining the economically weaker sections in terms of the provisions of the explanation to Article 15 of the Constitution, the Government had constituted the following Committee, vide Order No.12018/39/2021-BC-II dated 30th November 2021: -

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With deep regards,

Yours sincerely,



(Dr Ajay Bhushan Pandey)



(Prof V.K.Malhotra)



(Sanjeev Sanyal)

Acknowledgement

We express our gratitude to the Government of India for constituting the Committee for revisiting the criteria of the Economically Weaker Sections (EWS) reservations. The Committee after detail deliberation and examination of the relevant issues has prepared this report.

The members of the Committee wish to thank the following persons for their assistance to them in this task- Shri R. Subrahmanyam, Secretary, Department of Social Justice and Empowerment; Shri Rajesh Bhoot, Joint Secretary, Department of Revenue, Dr. Naveen Bali, Consultant to PEA; Shri N. K. C. Thang, Deputy Secretary, Department of Social Justice & Empowerment, Dr Nitin Kumar, Assistant Director, Indian Council of Social Science Research, and B M Gupta, Senior Consultant, National Testing Agency.

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Abbreviations

CEBC	Commission for Economically Backward Classes
BPL	Below Poverty Line
DoPT	Department of Personnel and Training
EBC	Economically Backward Classes
EWS	Economically Weaker Section
GC	General Category
GST	Goods and Services Tax
JEE	Joint Entrance Examination
MPI	Multi-dimensional Poverty Index
NEET	National Eligibility and Entrance Test
NFHS	National Family Health Survey
NSO	National Statistical Office
NSSO	National Sample Survey Organization
NTA	National Testing Agency
OBC	Other Backward Classes
OM	Office Memorandum
SAS	Situation Assessment Survey
SC	Scheduled Castes
SEBC	Socially and Educationally Backward Classes
SECC	Socio-Economic and Caste Census
SGDP	State Gross Domestic Product
ST	Scheduled Tribes
UPSC	Union Public Service Commission

Chapter 1

Introduction

- 1.1 Indian republic was formed with a fourfold objective of securing to its citizens justice, liberty, equality and fraternity. The citizens were guaranteed fundamental rights, through the Constitution, for a better quality of life. To uplift the under-privileged sections of the Indian society, as affirmative action, the Constitution provided reservations for Scheduled Castes (SC) and Scheduled Tribes (ST). Later, the reservation was extended to the Other Backward Classes (OBCs) by amending the Constitution and after the implementation of the Mandal Commission report in 1990.
- 1.2 On 25th September 1991 the Central Government made provision for 10 per cent reservation in jobs and other opportunities for “other economically backward sections” of the people who are not covered by any of the existing schemes. However, the said reservation was turned down by the Hon’ble Supreme Court in Indira Sawhney Vs. Union of India in 1992 and hence, the reservation for economically weaker or backward sections could not be implemented.
- 1.3 The same judgement also laid down the limits of the state's powers by upholding the ceiling of 50% reservations, emphasised the concept of "social backwardness", and prescribed 11 indicators to ascertain backwardness. The judgement also established the concept of qualitative exclusion, such as "creamy layer" which would apply only to the OBCs. The Supreme Court also directed the Government of India to specify the bases applying relevant and requisite socio-economic criteria to exclude socially advanced persons/sections (creamy layer) from ‘other backward classes’ within four months. Accordingly, a committee consisting of Justice Ram Nandan Prasad (Retd. From High Court Patna), Shri M.L. Sahare (Former Chairman U.P.S.C.), Shri P.S. Krishnan (Former Secretary Welfare) and Shri R.J. Majithia (Former Chairman Revenue Board, Govt. of Rajasthan) was constituted and the Committee gave the criteria for application of the “rule of exclusion” or “creamy layer”. The rule of exclusion implies “that when a person is able to shed off the attributes of social and educational backwardness and has secured

employment or has engaged himself in some trade/profession of high status, as categorised by us below, he, at that stage is normally no longer in need of reservation for himself.” Since then, the issue of reservation for “Other Backward Classes” got largely settled and “the rule of exclusion” or “creamy layer” among them also got defined which was well reflected in the memo issued in September 1993. The creamy layer criterion for family income with certain exclusions was initially introduced at Rs 1 lakh in 1993 which was later revised to Rs 2.5 lakh in 2004, ₹4.5 lakh in 2008 and ₹6 lakh in 2013 and Rs ₹8 lakh in September 2017.

- 1.4 So, while the reservation for SCs, STs and OBCs and issue of social backwardness got addressed, there existed no such reservation for “economically weak or backward section” and the demand for the same continued. In 2006, the Government of India reconstituted the Commission for Economically Backward Classes (CEBC) under Maj General Sinho to consider reservation in Government jobs and education for the Economically Backward Classes among the General Category, not covered under the existing reservation policy and to recommend welfare measures for them, while taking into consideration the constitutional, legal and administrative modalities that may come up in the way of providing reservation, if any. The Commission submitted its report in July 2010. The Commission recommended using the income tax exemption limit (which at that time, was Rs 1,60,000) as the family annual income limit for inclusion into Economically Weaker Section (EWS). The Commission also recommended that this limit should be reviewed from time to time. Finally, the Constitution was amended in 2019 through the Constitution (One Hundred and Third Amendment) Act, 2019 which provided for an additional reservation quota of 10% for economically weaker sections of the society for admission in educational institutions and government appointments. The explanation to Article 15(6) which was given as a result of the 103rd Constitutional Amendment in 2019, provided that for the purposes of Article 15(6) and Article 16(6), economically weaker sections shall be such as may be notified by the State from time to time on the basis of family income and other indicators of economic disadvantage. The Government accordingly notified the criteria for inclusion into EWS through office memorandum No. 36039/1/2019-Estt (Res) dated 31/01/2019 wherein the persons who are not covered under the scheme of reservation for SCs, STs and OBCs and whose family has a gross annual income below Rs 8 lakh (Rupees eight lakh only) shall be identified as EWSs. Income shall also include income

from all sources i.e., salary, agriculture, business, profession etc. for the financial year prior to the year of application. It was also provided that the persons whose family owns or possesses any of the following assets shall be excluded from being identified as EWS, irrespective of the family income: -

- i. 5 acres of agricultural land and above;
- ii. Residential flat at of 1000 sq. ft. and above;
- iii. Residential plot of 100 sq. yards and above in notified municipalities;
- iv. Residential plot of 200 sq. yards and above in areas other than the notified municipalities.

1.5 Challenge in Supreme Court

Soon after the 103rd Constitutional Amendment, a writ petition 55/2019 (**Janhit Abhiyan vs Union Of India**) and several other petitions were filed before the Hon'ble Supreme Court of India challenging the amendment on various constitutional grounds. The Supreme Court declined to give any stay. However, it referred the matter to a 5-judge Constitutional bench for further hearing and adjudication. This Committee is, however, not concerned with the constitutional issues in the said referred matter.

Meanwhile, another Writ petition no 961/2021 (Neil Aurelio Nunes and Others Vs Union of India and others) challenging the EWS reservation was filed in the Supreme Court. During the proceedings of this writ petition the Supreme Court on 21st October 2021 sought clarification from the Government on the following issues:

- (i) Whether the Union government undertook an exercise before arriving at the criteria for the determination of the EWS category;*
- (ii) If the answer to (i) above is in the affirmative, whether the criteria are based on the report submitted by Major General Sinho (2010). If the criteria are based on Major General Sinho's report, a copy of the report should be placed on the record of these proceedings;*
- (iii) Whether the EWS category is over inclusive;*
- (iv) The income limit in the criteria for the determination of the creamy layer of the OBC category and the EWS category is the same, namely, Rs 8 lakhs. While the creamy layer in the OBC category is identified for excluding a section of the community that has*

‘economically progressed’ to such an extent that the WP(C) 961/2021 for social backwardness of the community diminishes, the EWS category is identified to include the segment which is ‘poorer’ when compared to the rest of the community. Therefore (a) the income criterion in respect of the OBC category is aimed at exclusion from a class while in the case of the EWS category, it is aimed at inclusion; and (b) the OBC category is socially and educationally backward and, therefore, has additional impediments to overcome as compared to those belonging to the general category. In these circumstances, would it be arbitrary to provide the same income limit both for the OBC and EWS categories;

(v) Whether the differences in the GDP/per capita income of different States have been accounted for while arriving at Rs 8 lakhs income limit;

(vi) Whether the differences in the purchasing power between rural and urban areas have been accounted for while fixing the income limit; and

(vii) According to the notification of Union government (OM No. 36039/1/2019), families which have an income lower than Rs 8 lakhs would be excluded from the EWS category if the family holds assets of –

(a) five acres of agricultural land and above;

(b) a residential plot of 100 square yards and above in notified municipalities and 200 square yards and above in areas other than notified municipalities; and

(c) a residential flat of 1000 square feet and above.

In this context, a disclosure may be made on the following aspects:

(i) On what basis has the asset exception been arrived at and was any exercise undertaken for that purpose;

(ii) Whether municipalities as required under the exception have been notified;

(iii) The reason why the residential flat criterion does not differentiate between metropolitan and nonmetropolitan areas.

1.6 In November 2021, the Government informed the Hon’ble Supreme Court that it has taken a “considered decision” to revisit the criteria for determining Economically Weaker Sections (EWS) to provide them reservation and it sought four weeks’ time.

1.7 The Court also directed the Union Government to disclose the nature of exercise which was undertaken to categorise the economically weaker section as mandated by the provisions of the explanation to Article 15 and queried whether constitutional requirements have been duly complied with. It was informed by the Solicitor General of India that the Government was willing to revisit the criteria for EWS and form a committee to undertake this exercise. Accordingly, the Government constituted the following Committee (*vide* Office Memorandum 20013/01/2018 dated 30th November 2021)

1. Dr Ajay Bhushan Pandey, Former Finance Secretary, Government of India
2. Professor V.K.Malhotra, Member Secretary, ICSSR
3. Shri Sanjeev Sanyal, Principal Economic Advisor to Government of India (Member Convenor)

1.8 The terms of reference of the Committee are as follows –

- 1.8.1 To revisit the criteria in O.M. dated 17-01-2019 in determining the EWS category keeping in view the observations of the Hon’ble Supreme Court in their Order dated 21-10-2021.
- 1.8.2 To examine various approaches so far followed in the country for identifying economically weaker sections, and
- 1.8.3 Recommend criteria that may be adopted for identifying EWS category in future

1.9 The committee was given three weeks to submit its report. The Committee met 8 times in physical and virtual modes and held series of discussions. The Committee examined the group of petitions (Neil Aurelio (Supra) and orders passed by the Hon Supreme Court therein. The Committee was aware that in our country we do not have reliable income or asset data. This point was highlighted by the Sinho Commission too. The Sinho Commission was constituted on 10th July 2006 and gave its report on 22nd July 2010. In the absence of data, the Commission had to rely on other data, survey reports, feedbacks gathered in the meetings and base its recommendations on that basis. In fact, the said Commission had highlighted this aspect in its report:

“1.6.4 Non-Availability of Data on Economically Backward Classes:

Data on caste/communities other than the scheduled caste and scheduled tribes were not available as the Census of India did not protect the population of all caste/communities after 1931 census.

The States and UTs could also not make available the population figures or percentage of economically backward classes. Empirical research-based information on such classes was also not available.

1.7 Multi-Pronged Approach: Lack of authentic data and non-availability of sample surveys reflecting the status of those classes which could not be categorised as economically backward classes made the task of Commission rather difficult. Therefore, the Commission adopted a multi-pronged approach to compile the database from the available relevant sample surveys, books reports articles etc. Two national level seminars and work software organised and to specific studies were conducted through the institutions of repute on the terms and reference of the Commission...”

1.10 The committee deliberated on the data/details available and the appropriateness of use of income tax exemption limit for this purpose. Also the Committee analysed the income data available for the candidates who were selected under EWS category to see whether the current income threshold is resulting in bunching at the upper band of the threshold limit and depriving the lower income candidates from the benefit of EWS reservations. The details are given in Chapter 3 of this report.

1.11 The Committee deliberated upon criteria and methodologies recommended so far by various commissions, committees, and courts. The Committee also deliberated on difficulties in applying asset criteria. Based on the deliberations and questions posed by the Supreme Court in WP 961/2021, the Committee proceeded to frame issues and gave its response which has been described in Chapter 3 of the report.

1.12 The Summary of the report and recommendations have been given in the chapter 4.

Chapter 2.

Background of Reservation and Evolution of EWS

2.1 Historical development pertaining to SC/ST reservation, OBC reservation

The expression of 'Backward Classes' first appeared in the 1870s in the Madras Presidency, where the British Government had grouped the Scheduled Castes and Untouchable Castes under the label of 'Backward Classes'. Dr. Ambedkar explained, "We have left it to be determined by each local government. A backward community is a community which is backward in the opinion of the government." (Govt. of Maharashtra, 1994: 393).

- 2.1.1 While the question of identifying the Scheduled Castes and Scheduled Tribes was settled, before Independence, largely due to the efforts of Dr. B.R. Ambedkar, who composed them as a backward class in the Constitution, the question of 'other backward classes, as Pt. Jawaharlal Nehru said that was to be left for subsequent generations (to decide). The constitution of India, adopted on 26th January 1950 contained certain provisions for making a reservation for socially and educationally backward classes and thus country's affirmative programmes were launched with the adoption of the constitution.
- 2.1.2 The first attempt to identify backward classes other than the SCs and STs at the National level was made in 1953, when the First Backward Classes Commission was set up by a Presidential Order on 29th January 1953 under the Chairpersonship of Kaka Kalelkar. The Commission included 2399 castes or communities as backward and among them listed 837 as the 'most backward'.
- 2.1.3 First Backward Classes Commission indicated that caste was an important measure of backwardness, the then central government rejected the report on the grounds that the Commission had not applied more objective criteria, such as income, education and literacy, to determine backward status.
- 2.1.4 A significant development took place in 1979 when the Mandal Commission or the Socially and Educationally Backward Classes (SEBC) Commission was set up to assess the situation of the socially and educationally backward classes in India. The Commission did not have the exact OBC population figures and so, used the data from the 1931 Census, which estimated the OBC population at

52 per cent. In 1980, the Commission's report recommended that a reserved quota of 27% for OBCs should apply in respect of services and public sector bodies under the Union Government. It called for a similar reservation quota in admissions to institutes of higher education. It was not until 1990 that the recommendations were implemented in Union Government jobs. On 7th August 1990, the then Prime Minister announced the government's acceptance of the Mandal Commission Report in Parliament, reminding the nation that the Constitution envisaged identification of social, economic and educational backwardness, removal of their difficulties and improvement in their conditions in terms of Articles 340 (1) read with Article 15 (4) and 16 (4).

- 2.1.5 In 1991, the Government of India introduced a 10% reservation for the poor among the forward caste as they were considered economically weak. But the Hon'ble Supreme Court of India turned down this reservation for the poor. It also directed to exclude "creamy layer" of other backward classes from enjoying reservation benefits in WP of 930 of 1990, delivered on 16th November 1992. As it directed the GOI to specify the requisite socio-economic criteria to exclude the socially advanced persons/ sections called as "Creamy Layer" from other backward classes and made the OM dated 13th August 1990 subject to the exclusion of creamy layer. And accordingly, a committee under the chairmanship of Justice Ram Nandan Prasad was constituted which gave its report on 10th March 1993 which specified the criteria for identification of socially advanced persons among the socially and educationally backward classes. Which forms the basis of the creamy layer to be excluded from the benefit of reservation to other backward classes.
- 2.1.6 The committee which was constituted under Justice Ram Nandan Prasad (Retd. From High Court Patna), comprised of Shri M.L. Sahare (Former Chairman U.P.S.C.), Shri P.S. Krishnan (Former Secretary Welfare) and Shri R.J. Majithia (Former Chairman Revenue Board, Govt. of Rajasthan) as other members and it gave the criteria for application of the "rule of exclusion" or "creamy layer".

2.1.7 The rules of exclusion applied/apply to the categories listed below unless exceptions are specifically indicated –

(The principle of exclusion will apply on the basis of family comprising of husband, wife and children)

I. Constitutional Posts

President, Vice-President, Judges of the Supreme Court and High Courts, Chairman/members of the Union Public Service Commission and State Public Service Commissions, Chief Election Commissioner, Comptroller and Auditor General of India, and persons holding constitutional positions of like nature.

II. Service Category

A. Group A/Class I Officers of the All India, Central and State Services (Direct Recruits)

B. Group B/Class II – Central Services and State Services (Direct Recruitment)

C. Employment in Public Sector Undertakings etc. – For officers holding equivalent or comparable posts in public sector undertakings, banks, insurance organisations, universities, etc. and also comparable posts under private employment.

III. Armed Forces including Para Military Forces

Exclusion rule will apply at the level of Colonel and above in the Army and to equivalent posts in the Navy and the Air Force and the Para Military Forces.

IV. Professional Class and those engaged in Trade, Business and Industry

This will include persons, not in service employment either Government or private, but those who are engaged in professions as a doctor, lawyer, chartered accountant, income-tax consultant, financial or management consultant, dental surgeon, engineer, architect, computer specialist, film artiste, and other film professional, author, playwright, sports persons, sports professional, media professional or any other vocation of like status. All these persons for the purpose of

determining whether they will fall in the disentanglement category or not will be governed by the income/wealth criterion as noted in Item No. VI. Likewise, persons engaged in trade, business and industry will be governed by the income/wealth criterion.

V. Property Owners

A. Agricultural land Holdings

These changes suggested by the Justice Ram Nandan Prasad Committee (Appendix 8) finally got reflected in Office memorandum No. 36012/22/93-Estt. (SCT) dated 08/09/1993 and the whole list of the people/sections to be excluded from getting the benefit of reservation under the OBC category was specified which is as follows:

I. Constitutional Posts

Son(s) and daughter(s) of

- (a) President of India;
- (b) Vice President of India;
- (c) Judges of the Supreme court and of the High Courts;
- (d) Chairman & Members of UPSC and of the State Public Service Commission; Chief Election Commissioner; Comptroller & Auditor General of India;
- (e) Persons holding Constitutional positions of like nature.

II. Service Category

A. Group A/Class 1 officers of the All India Central and State Services (Direct Recruits).

Son(s) and daughter(s) of

- (a) parents, both of whom are Class I officers;
- (b) Parents, either of whom is a Class-I officers;
- (c) Parents, both of whom are a Class-I officers, but one of them dies or suffers permanent incapacitation.
- (d) Parents, either of whom is a Class-I officers and such parent dies

or suffers permanent incapacitation and before such death or such incapacitation has had the benefit of employment in any International Organisation like UN, IMF, World Bank, etc. for a period of not less than 5 years.

- (e) Parent, both of whom are class I officers die or suffer permanent incapacitation and before such death or such incapacitation of the both, either of them has had the benefit of employment in any International Organisation like UN, IMF, World Bank, etc. for a period of not less than 5 years.

Provided that the rule of exclusion shall not apply in the following cases:

- (a) Sons and daughters of parents either of whom or both of whom are Class- I officers and such parent(s) dies/die or suffer permanent incapacitation.
- (b) A lady belonging to OBC category has got married to a Class-I officer, and may herself like to apply for a job.

B. Group B/Class II officers of the Central & State Services (Direct Recruitment) Son(s) and daughter(s) of

- (a) Parents both of whom are Class II officers.
- (b) Parents of whom only the husband is a Class II officer and he gets into Class I at the age of 40 or earlier.
- (c) parents, both of whom are Class II officers and one of them dies or suffers permanent incapacitation and either one of them has had the benefit of employment in any International Organisation like UN, IMF, World Bank, etc. for a period of not less than 5 years before such death or permanent incapacitation:
- (d) parents of whom the husband is a Class I officer (Direct Recruit or pre-forty promoted) and the wife is a Class II officer and the wife dies; or suffers permanent incapacitation; and
- (e) parents, of whom the wife is a Class I officer (Direct Recruit or pre-forty promoted) and the husband is a Class II officer and the husband dies or suffers permanent incapacitation

Provided that the rule of exclusion shall not apply in the following cases:

Sons and daughters of

- (a) Parents both of whom are Class II officers and one of them dies or suffers permanent incapacitation.
- (b) Parents, both of whom are Class II officers and both of them die or suffer permanent incapacitation, even though either of them has had the benefit of employment in any International Organisation like UN, IMF, World Bank, etc. for a period of not less than 5 years before their death or permanent incapacitation:

C. Employees in Public Sector Undertakings etc.

The criteria enumerated in A&B above in this Category will apply mutatis mutandis to officers holding equivalent or comparable posts in PSUs, Banks, Insurance Organisations, Universities, etc. and also to equivalent or comparable posts and positions under private employment, Pending the evaluation of the posts on an equivalent or comparable basis in these institutions, the criteria specified in Category VI below will apply to the officers in these Institutions.

III. Armed Forces including Paramilitary Forces

(Persons holding civil posts are not included)

Son(s) and daughter(s) of parents either or both of whom is or are in the rank of Colonel and above in the Army and to equivalent posts in the Navy and the Air Force and the Para Military Forces;

Provided that: -

- (i) if the wife of an Armed Forces Officer is herself in the Armed Forces (i.e., the category under consideration) the rule of exclusion will apply only when she herself has reached the rank of Colonel;
- (ii) the service ranks below Colonel of husband and wife shall not be clubbed together;

- (iii) If the wife of an officer in the Armed Forces is in civil employment, this will not be taken into account for applying the rule of exclusion unless she falls in the service category under item No. II in which case the criteria and conditions enumerated therein will apply to her independently.

IV Professional Class and those engaged in Trade and Industry

- (i) Persons engaged in profession as a doctor, lawyer, chartered accountant, Income-Tax consultant, financial or management consultant, dental surgeon, engineer, architect, computer specialist, film artists and other film professional, author, playwright, sportsperson, sports professional, media professional or any other vocations of like status. (Criteria specified against Category VI will apply)
- (ii) Persons engaged in trade, business and industry. (Criteria specified against Category VI will apply)

Explanation:

- (i) Where the husband is in some profession and the wife is in a Class II or lower grade employment, the income/wealth test will apply on the basis of the husband's income.
- (ii) If the wife is in any profession and the husband is in employment in a Class II or lower rank post, then the income/ wealth criterion will apply only on the basis of the wife's income and the husband's income will not be clubbed with it.

V. Property Owners

A. Agricultural holdings

Son(s) and daughter(s) of persons belonging to a family (father, mother and minor children) which owns.

- (a) only irrigated land which is equal to or more than 85% of the statutory area, or
- (b) both irrigated and unirrigated land, as follows:
 - i. The rule of exclusion will apply where the pre-condition exists that the irrigated area (having been brought to a single

type under a common denominator) 40% or more of the statutory ceiling limit for irrigated land (this being calculated by excluding the unirrigated portion). If this pre-condition of not less than 40% exists, then only the area of unirrigated land will be taken into account. This will be done by converting the unirrigated land on the basis of the conversion formula existing, into the irrigated type. The irrigated area so computed from unirrigated land shall be added to the actual area of irrigated land and if after such clubbing together the total area in terms of irrigated land is 80% or more of the statutory ceiling limit for irrigated land, then the rule of exclusion will apply and disentitlement will occur.

- ii. The rule of exclusion will not apply if the land holding of a family is exclusively unirrigated.

B. Plantations

- (i) Coffee, tea, rubber, etc.

Criteria of income/wealth specified in Category VI below will apply.

- (ii) Mango, citrus, apple plantations etc.

Deemed as agricultural holding and hence criteria at A above under this Category will apply.

C. Vacant land and/or buildings in urban areas or urban agglomerations (Criteria specified in Category VI below will apply).

Explanation: Building may be used for residential, industrial or commercial purpose and the like two or more such purposes.

VI. Income/Wealth Test

Son(s) and daughter(s) of

- (i) Persons having gross annual income of Rs. 1 lakh or above or possessing wealth above the Wealth Tax Act for a period of three consecutive years.
- (ii) Persons in Categories I, II, III and V A who are not disentitled to the benefit of reservation but have income from other sources of wealth

which will bring them within the income/wealth criteria mentioned in (a) above.

Explanation:

- (i) Income from salaries or agricultural land shall not be clubbed;
- (ii) The income criteria in terms of rupee will be modified taking into account the change in its value every three years. If the situation, however, so demands, the interregnum may be less.

Explanation: Wherever the expression “permanent incapacitation” occurs in this schedule. It shall mean incapacitation which results in putting an officer out of service.

So, up to this stage the reservation had been provided to SC, ST and backward sections among other backward classes. And no such reservation existed for economically weak sections.

2.2 Sinho Committee: The Key Issues dealt

- 2.2.1 The Government of India reconstituted the Commission for Economically Backward Classes (CEBC) under the Ministry of Social Justice and Empowerment vide notification No. 20012/10/2003 dated 10-07-2006 to consider reservation in Government jobs and education for the Economically Backward Classes among the General Category, not covered under the existing reservation policy and to recommend welfare measures for them while taking into consideration the constitutional, legal and administrative modalities that may come up in the way of providing reservation if any.
- 2.2.2 The Commission comprised of Maj. General S.R. Sinho, Shri Narendra Kumar and Shri Mahendra Singh (I.A.S. Retd.). The Commission submitted its report in July 2010.
- 2.2.3 The Commission was mandated to consult the State Governments/ Union Territory administrations and field functionaries dealing with welfare measures, legal experts, voluntary organisations and social activists.

- 2.2.4 The Commission consulted the State Governments/Union Territory administrations through the feedback of questionnaires and also visited 28 States/UTs and held discussions with H.E. Governors, Lt. Governors, administrators, Hon'ble Chief Ministers, Ministers concerned, Chief Secretaries and other senior officers, and also with representatives of social organisations, NGOs, social activists and political leaders etc. The Commission also consulted related Central and State Commissions. It, thus, suggested the criteria for identification of the Economically Backward Classes among the General Category and recommended a series of welfare measures for their development.
- 2.2.5 The Commission has put on record the details of the offices that it consulted and interacted with, which included some Chairmen of State Backward Classes Commission such as Rajasthan State Economically Backward Classes Commission, Madhya Pradesh Rajya Samanya Nirdhan Varg Kalyan Ayog, Most Backward Classes Commission, Bihar, State Backward Classes Commission, Karnataka, and Vice Chairman, State Backward Classes Commission, Uttar Pradesh etc. They also visited a few district headquarters to conduct discussions with the District Collectors and other officers. The Commission also met the Director, National Academy of Administration, Mussoorie, Director General, Dr. Babasaheb Ambedkar Institute of Social Sciences, Mhow and the summary of the discussions has been presented in Chapter Six of the Report.
- 2.2.6 A comprehensive questionnaire was designed and circulated to the States/UTs to collect information of the criteria for identification of economically backward classes among General Category, welfare measures and the extent of reservation in government employment and education. The desired information could not be received and so, the questionnaire was simplified and re-circulated. The desired information still could not be fully received and so, the Commission relied on the feedback received during its visits to States/UTs as the primary database, which was substantiated by specific studies conducted by institutes of repute.
- 2.2.7 The Commission also put on record that data on castes/communities other than the scheduled castes and the scheduled tribes were not available after the 1931

Census. So, the Commission applied a multi-pronged approach to compile the data from relevant sample surveys, books, reports, articles etc. The Commission also organised seminars/workshops, through organisations of repute, for identification of Economically Backward Classes.

2.2.8 The Commission also studied Reports of various State-level Commissions or Committees on policies and practices to identify the backward classes as well as the judgments of the Supreme Court and High Courts on issues concerning backwardness, backward classes, reservation and welfare measures, apart from relevant chapters in the Five-Year Plans of the Planning Commission of the Government of India and pertinent Lok Sabha debates.

2.2.9 The Commission also studied the Reports of the Commissions and Committees which included National Commission for Religious and Linguistic Minorities (Justice Ranganath Misra Commission, 2007); Social, Economic and Educational Status of the Muslim Community of India (Sachar Committee, November 2006); First Backward Classes Commission Report, 1953; Second Backward Classes Commission Report, 1980; Rajasthan Economically Backward Classes Commission, 2009; Rajya Samanya Nirdhan Varg Kalyan Ayog, Madhya Pradesh, 2009; Supreme Court Judgment in the Writ Petition No. 930 of 1990 (Indira Sawhney Vs Union of India and others); National Family Health Survey Reports 1998-99; National Sample Survey Organisation (NSSO) 55th and 61st Rounds to identify the Economically Backward Classes among General Category.

2.2.10 Major Recommendations of Sinho Commission

The key issues which were dealt with by the Sinho Commission while giving their recommendations included the answers of the following –

Who constitutes EWS and what can be the basis of their identification?

1. What criterion or criteria can be considered for measuring their backwardness?
2. Can there be state-wise differences to identify the EWS category
3. What income level can be considered for their inclusion in the EWS category

4. What can be the unit of applying income or assets for considering someone under the EWS category
5. What more measures should be taken for the welfare of the EWS category

2.2.10.1 Under their recommendation no. 8.0 (Page 96), “this Commission considered ‘General Category (GC)’ as comprising of that class of people who do not receive any reservation benefit under the existing policies. In other words, GC includes people of India belonging to all those castes, religions, communities, ethnicity, regions and classes excluding Scheduled Castes (SCs), Scheduled Tribes (STs) and Other Backward Classes (OBCs) that are already covered under the existing reservation. The common attribute of making GC as a class is ‘unreserved categories’. The Commission felt that though GC is a class of unreserved categories more or less equal in social status, their economic status is not equal. The Commission gathered the understanding that unlike socio-educational backwardness prevailing at caste or community level, economic backwardness was a phenomenon at the family level. Accordingly, this Commission recommends that family should be the unit of identification of economically backward classes among the general category.”

2.2.10.2 Under recommendation 81. (Page 96), the Commission said, “This Commission gathered an understanding from the review of the relevant reports of various commissions and committees that for identification of “backwardness”, the essential aspects include social status, health, education, employment, economic opportunities and overall standard of living. Families identified as living Below Poverty Line (BPL) are defined as poor. A view elicited by this Commission from its visits of States/UTs was that below poverty line (BPL) should be the basic criteria for identification of EBCs among GC. This Commission also felt that for identification of economic backwardness poverty could be considered as one of the basic criteria. This Commission also noted that in some states, the BPL percentage among GC was higher than the percentage of total BPL population in those states, e.g., in West Bengal GC BPL percentage was 23.3% against total state BPL percentage of 20.6% and in Assam GC BPL

percentage was 19.3% as compared to total State BPL percentage of 15%. It was also noted that though in the majority of states, the percentage of BPL among GC was less as compared to the respective total percentage among reserved categories, the average status of EBCs among GC was as 'backward' as that of those in similar footing in other reserved categories, particularly OBCs. EBCs within GC though not BPL, suffered from low paid occupation, malnutrition, illiteracy, poor health and hygiene, landlessness, poor housing conditions and low standard of living. This Commission recommends that besides BPL families, subject to an upper limit of income for their inclusion, families above the poverty line (APL) should be identified as economically backward classes.

2.2.10.3 The Commission formed the opinion that extending the existing criteria to identify 'Creamy Layer' among OBCs could well serve as to decide the upper limit or as a criterion for identifying EBC families among GC too. However, the concept of Creamy Layer among OBCs included economic backwardness compounded with their social and educational backwardness also while among EBCs economic backwardness is a major concern. The Commission also noted that economic needs of EBCs among GC differ and hence just one criterion of BPL or setting creamy layer as upper limit would not be effective to ensure intended benefits to EBCs. There is a need to follow the 'bottom-up' approach to ensure benefits reaching to the neediest one. Therefore, it was felt appropriate that instead of taking the income limit for the creamy layer, the current non-taxable limit up to Rs. 1,60,000/- (as may be revised from time to time) could be taken as the criterion to identify EBCs among GC. This income limit will include the combined income of husband and wife and will exclude the income of their parents and adult children. Since EBCs are to be identified at the family level, hence the upper-income tax limit should also be considered at the family level. The Commission also felt that criteria for identification of EBCs among GC should be simple and the existing criteria would be more effective. Thus, BPL families and non-income taxpaying families could be identified as EBCs among GC. Accordingly, this Commission recommends that all BPL families among GC as notified from

time to time and all those families among GC whose annual family income from all sources is below the taxable limit (currently Rs. 1,60,000/ per annum and as may be revised from time to time) should be identified as EBCs, As already indicated, this income limit will include the combined income of husband and wife and will exclude the income of their parents and adult children.”

2.2.10.4 Under recommendation 8.2 (Page 98), the Commission said, “A consensus emerged was that family-based state-wise socio-economic surveys of the Economically Backward Classes within the G.C. should be undertaken in the country so that suitable welfare measures could be provided to them.”

2.2.10.5 Under recommendation 8.2 (Page 99), the Commission said, Reservation in the Indian context is a form of affirmative action whereby a percentage of posts is reserved in the public sector units, Union and State Civil Services and educational institutions for socially and educationally backward classes of citizens. This Commission derived the constitutional and legal understanding that ‘Backward Classes’ cannot be identified for providing reservation in employment and admission in educational institutions on the basis of economic criteria alone and hence ‘Economically Backward Classes’ (EBCs) could not be identified by the State for extending reservation till necessary constitutional amendments are made.

2.2.10.6 Under recommendation 8.10 (Page 100), the Commission said, “This Commission recommends setting up of a National Commission for EBCs to suggest welfare measures and monitoring of their implementation.”

2.2.10.7 Under recommendation 8.12 (Page 101), the Commission said, “This Commission also recommends setting up State level Commissions for Economically Backward Classes in such States/ UTs, as have significant ‘General Category’ population to consider reservation and suggest state specific welfare measures for the EBCs, their implementation and monitoring. In this regard, the Govt. of Madhya Pradesh has already taken the initiative of setting up Rajya Samanya Nirdhan Varg Kalyan Ayog under the Social Welfare Department in January 2008 and the said

Commission has been implementing a series of welfare measures for the Economically Backward Classes.”

2.2.10.8 Under recommendation 8.13 (Page 101), the Commission said, “This Commission recommends that the Government of India may consider setting up a separate Division in the Planning Commission and a separate Division in the Ministry of Social Justice and Empowerment to look after the welfare of the EBCs.”

2.2.10.9 While writing the report and recommendations, they also clearly stated the problems that they had faced while looking at the population of EBCs as they said under Recommendation 8.2 (Page 98), “the population of EBCs could not be ascertained from the data available in the reports of Census of India. The other possibility was to work out the EBCs population from the Surveys conducted by Government agencies and other Commissions, such as the Backward Classes Commissions, National Sample Survey Organization (NSSO), National Family Health Survey (NFHS), which had reported an estimated population of Other Backward Classes and others (those not belonging to Scheduled Castes, Scheduled Tribes and Other Backward Classes). From such resources, the Commission came to the understanding that the Economically Backward Classes would emerge from unreserved categories, and if the latest survey (NSSO, 2004-05) was taken into consideration, then the EBCs could be identified out of 31.2 per cent population of the general category.”

2.3 Constitutional Amendment for EWS

In this background of Sinho Commission’s report, the Government of India, as per their suggestion, brought the Constitution (One Hundred and Third Amendment) Act, 2019 by amending Article 15 and 16 of the Constitution of India which is as follows –

In Article 15 of the Constitution, after clause (5), the following clause shall be inserted, namely: — ‘(6) Nothing in this article or sub-clause (g) of clause (1) of Article 19 or clause (2) of Article 29 shall prevent the State from making, —

- a) any special provision for the advancement of any economically weaker sections of citizens other than the classes mentioned in clauses (4) and (5); and (b) any special*

provision for the advancement of any economically weaker sections of citizens other than the classes mentioned in clauses (4) and (5) in so far as such special provisions relate to their admission to educational institutions including private educational institutions, whether aided or unaided by the State, other than the minority educational institutions referred to in clause (1) of Article 30, which in the case of reservation would be in addition to the existing reservations and subject to a maximum of ten per cent. of the total seats in each category.

Explanation. —For the purposes of this article and article 16, "economically weaker sections" shall be such as may be notified by the State from time to time on the basis of family income and other indicators of economic disadvantage.'

In Article 16 of the Constitution, after clause (5), the following clause shall be inserted, namely: —"(6) Nothing in this article shall prevent the State from making any provision for the reservation of appointments or posts in favour of any economically weaker sections of citizens other than the classes mentioned in clause (4), in addition to the existing reservation and subject to a maximum of ten per cent. of the posts in each category."

2.4 Notification on EWS criteria

2.4.1 Accordingly, office memorandum No. 36039/1/2019-Estt (Res) dated 31/01/2019 was issued by the GOI that persons who are not covered under the scheme of reservation for SCs, STs and OBCs and whose family has a gross annual income below Rs 8 lakh (Rupees eight lakh only) are to be identified as EWSs for benefit of reservation. Income shall also include income from all sources i.e., salary, agriculture, business, profession etc. for the financial year prior to the year of application.

2.4.2 EWS Asset criteria as per the OM

Also, persons whose family owns or possesses any of the following assets shall be excluded from being identified as EWS, irrespective of the family income: -

- i. 5 acres of agricultural land and above;
- ii. Residential flat at of 1000 sq. ft. and above;
- iii. Residential plot of 100 sq. yards and above in notified municipalities;
- iv. Residential, plot of 200 sq. yards and above in areas other than the notified municipalities.

Chapter 3

Issues related to EWS reservation criteria and Committee's response

Based on the discussions in the foregoing chapters, Supreme Court's observations, and terms of reference of the Committee, we framed the following issues for our consideration.

3.1 Issues:

- 3.1.1 Based on prevailing conditions and economic disparity in the country, what should be the principles for determining criteria that may be used for identifying economically weaker sections ('EWS').
- 3.1.2 If income criteria is to be used then what would be the threshold for income for identifying economically weaker sections?
- 3.1.3 Is there any justification for adopting a uniform income-based threshold across the country for the identification of EWS - especially in light of the disparity in purchasing power across the country?
- 3.1.4 Is the current limit of annual family income of Rs 8 lakhs over-inclusive?
- 3.1.5 Should there be other criteria to determine economic weakness, in addition to income? Should residential or other assets be considered for EWS?
- 3.1.6 In case, inclusion of asset in the criteria for EWS is justified, is the current asset limit adequate or does it require a review based on factors including differences in valuation due to location of the assets?

3.2 Short Answers

- 3.2.1 A feasible criterion for defining EWS can be based on income (family income).
- 3.2.2 A threshold of Rs 8 lakhs of annual family income, in the current situation, seems reasonable for determining EWS.
- 3.2.3 The desirability of a uniform income-based threshold has been upheld by the Supreme Court, and it can be adopted across the country as a matter of economic

and social policy, drawing authority from Article 254 and Article 73, read with Entry 20 of the Concurrent List.

- 3.2.4 The current limit of annual family income of Rs 8 lakhs does not seem to be over-inclusive as the available data on actual outcomes does not indicate over-inclusion. It should be noted that income includes salary and agriculture as well.
- 3.2.5 Response to issue no 5 and 6: It will be prudent to have only income criteria for EWS. Residential asset criteria may be omitted altogether. However, the families holding more than 5 acres of land or more may be excluded from EWS.

3.3 Detailed Discussions

3.3.1 Issues (1) and (2)

- 3.3.1.1 The long history of defining poverty and economic deprivation shows that it is a multi-dimensional problem that cannot be defined using any single variable. Any commonly used indicator including family income can lead to different outcomes, depending on the variation in prices (purchasing) at different locations, family sizes, volatility in income, inclusion/exclusion of farm income and so on. At the same time, an ever more detailed set of indicators may neither be administratively convenient nor necessarily better enough to capture all differences.
- 3.3.1.2 Article 15(6) and Article 16(6) of the Constitution are recent additions to the Constitution, introduced by the Constitution (One Hundred and Third Amendment) Act, 2019. The constitutional validity of this Act is currently under challenge and the question has been referred to a 5-judge bench.¹ Consequently, there has been no occasion for the Supreme Court to opine directly on what qualifies as an ‘indicator of economic disadvantage’ under the Explanation to Article 15.
- 3.3.1.3 However, in various cases in the past, the Supreme Court has had occasions to consider ‘economic backwardness’ as a possible indicator of social and educational backwardness. In doing so, the Court has made observations that elaborate what constitutes ‘economic backwardness’. A review of some of these cases and the opinions expressed therein allows us to glean certain

¹ *Janhit Abhiyan vs Union of India* 2020 SCCOnLine SC 624.

‘indicators of economic disadvantage’ that may be viable for the purpose of defining the criteria for the identification of EWS.

3.3.1.4 When reviewing these cases, it must be kept in mind that the Constitution (One Hundred and Third Amendment) Act, 2019 introduces a significant break from erstwhile jurisprudence. Before the introduction of this amendment, based on the text of Article 15 as it appeared then, it was a settled principle that in order to be entitled to the benefits of positive discrimination, the beneficiary group must be a socially and educationally backward class.² However, with the introduction of the 103rd Amendment, it is permissible (as things stand currently) to make reservations for individuals who have been identified as weak solely on the basis of economic factors, in comparison with or in place of social and educational factors.

3.3.1.5 In this context, we may bear in mind that the Supreme Court, in many of the cases, cited below rejects the contention that economic factors alone can be the basis for entitlement to reservations. This position, however, reflects a pre-2019 understanding of the text of the Constitution. In spite of these observations, the cases cited below serve present purposes, because they provide an indication of what the Supreme Court considers as a feasible indicator/s of economic disadvantage (even though such indicators were deemed to be inadequate for entitlement to reservations in light of the pre-2019 constitutional position).

3.3.1.6 In *Ashoka Kumar Thakur vs Union of India*³, a 5-judge bench of the Supreme Court was considering the question of reservations for OBCs. It held that the creamy layer principle applies only to OBCs and not to SCs and STs. In the course of his opinion, Bhandari J stressed that economic criteria are relevant to the determination of educational achievements. In doing so, he observed that occupation and property holdings are measures of economic power or position.

² *MR Balaji vs State of Mysore* 1963 AIR 649; *Indra Swahney vs Union of India* AIR 1993 SC 477

³ (2008) 6 SCC 1

- 3.3.1.7 In *Kumari KS Jayasree v. State of Kerala*⁴, the Supreme Court was considering whether economic criteria are adequate determinants of social and educational backwardness. The Court held that poverty is relevant in the context of determining social backwardness. Furthermore, it held that occupation and place of habitation (as economic indicators) may also be relevant for determining who are socially and educationally backward.
- 3.3.1.8 In *KC Vasanth Kumar v. the State of Karnataka*⁵, the Supreme Court observed that certain ‘dominant features’ amongst a class of people, indicators of their ‘class poverty’. The Court primarily focused upon the occupation of a group, as indicating their poverty. It also noted that the following factors may be looked at to identify whether a class of people are poor or not: their way of life, the standard of living and their residence.
- 3.3.1.9 In *State of Uttar Pradesh v. Pradip Tandon*⁶, the Supreme Court had occasion to consider whether individuals from rural areas and hill areas could be said to be ‘socially and educationally backward’, and thus entitled to reservations. The Court observed that a failure to make effective use of resources is an indicator of economic backwardness. Specifically, the Supreme Court noted that “classes of citizens are backward when they do not make effective use of resources. When large areas of land maintain a sparse, disorderly and illiterate population whose property is small and negligible the element of social backwardness is observed.” At the same time, the Supreme Court also noted that this should not be interpreted as authorising a blanket and unthinking distinction based on rural and urban settings. The Court noted that a grouping of people into urban and rural areas to identify economic disadvantage is not “supported by facts”, and that it is not true that people in urban settings are rich and those in rural settings are poor.

⁴ (1976) 3 SCC 730

⁵ AIR 1985 SC 1495

⁶ 1975 1 SCC 267

3.3.1.10 In *Indra Swahney v. Union of India*⁷, the Supreme Court gave credence to the ‘creamy layer’ exception of OBC entitlement to reservations. In the course of its opinion, the Court noted that the basis of exclusion of the creamy layer must not be merely economic, but rather, should be economic advancement of such a nature that it necessarily means social advancement. In noting so, the Court observed that ownership of a factory and the ability to give employment to others are indicators of economic advancement.

3.3.1.11 In *Kerala Swathanthra Malaya Thozhilali Federation v. Kerala Trawlnet Boat Operators' Association*⁸, the Supreme Court was considering the import of Article 46 of the Constitution - a Directive Principle of State Policy which places an obligation upon the State to promote the economic interest of the weaker sections of the society with special care. In this particular case, the Court noted that traditional fishermen belong to weaker sections of the society because they have been driven below the poverty line, on account of the introduction of mechanised fishing boats.

3.3.1.12 Supreme Court in *M/S. Shantistar Builders vs Narayan Khimalal Totame and Others* (AIR 1990 SC 630) directed for ‘Means test’ for identifying the weaker section of the society for allotment of house and use the income threshold of Rs 18,000 per annum for this purpose.

3.3.1.13 The Supreme Court held in *Shantistar case* (Supra)

“As a working guideline, we direct that a 'means test' for identifying 'weaker sections of the society shall be adopted and for the present income of the family of the applicant must not exceed Rs. 18,000/- (eighteen thousand) to come within the meaning of the term to qualify for allotment. The applicant shall be called upon to satisfy the Committee about the limit of income and the present prescription of Rs. 18,000/- may be varied from time to time by the State Government taking into consideration the fall in the value of the rupee, general improvement in the income of the people now within the annual income limit or Rs. 18,000/- and other relevant

⁷ AIR 1993 SC 477

⁸ (2021) 8 SCC 1

factors. It shall be open to the State Government to prescribe appropriate guidelines in the matter of identifying the 'weaker sections of the society'”

3.3.1.14 In addition, Over the decades, several efforts have also been made to identify the economically weaker sections of society by academics and policy-makers. From using a single indicator like a minimum calorie-intake or an income threshold to using a multi-dimensional approach, many different frameworks have been used. The suitability of a framework depends ultimately on what is the purpose of each identification effort as well as the operational ease of using the criteria.

3.3.1.15 **Early attempts to define EWS and poverty: 1950-2000:** The first attempt to define the poverty line was done by the “Perspective Planning Committee, 1961” which adopted the approach to estimating poverty in terms of income needed for basic survival. Therefore, the approach defined poverty as starvation and then put a monetary value to the minimum calorie requirement of a person per month. Perhaps this was suitable for a country that still feared famine. The committee defined the poverty line as Rs 20 per person per month for rural and Rs 25 per person in an urban area. The committee did not provide a rigorous rationale for calculating the amount but it was a starting point⁹. The same approach was taken forward by “Yoginder Alagh Committee, 1979¹⁰ adopted the minimum calorie from the Study by Dandekar and Rath, 1971 to provide a rationale for minimum calories for the rural and urban area on which the poverty line was developed. The committee did not include the expenditure on health and education since it was expected that the government will provide those free services free of cost. Further, the Lakadhwala committee, 1993 extend the concept by adjusting the poverty line on basis of the consumer price index for the agricultural labourer and industrial workers. Thus, as recently as the nineties, poverty was defined mostly by food intake even if a monetary value was put to it, and then making some adjustments.

⁹ Garg K. (2020). Redefining poverty line. International Journal of Policy Sciences and Law, Vol I, Issue 2. Pg 989

¹⁰ *Ibid.*

- 3.3.1.16 Approach to identifying EWS post-2000: There has been a drastic transformation in the definition of poverty. The Tendulkar Committee, 2009 was the first effort to delink the poverty from calorie intake and expanded the concept of poverty to non-nutritional requirements and the cost-of-living standard. It included the ability to spend on health and education under the domain of poverty.¹¹ This was a reflection of growing economic aspirations following the economic reforms of the nineties.
- 3.3.1.17 Rangarajan Committee, 2011 made the definition even more inclusive by firstly re-financing the concept of health expenditure in poverty by replacing the calories profile with the cost of proteins and fats per person per day. Further, it expanded the basket of four non-nutritional variables clothing, rent, conveyance and education for the calculation of the poverty line.¹² Importantly Rangarajan committee clearly indicated, the one measure of poverty is not an appropriate basis for determining entitlements under programmes. The idea was that each programme that focuses on a particular kind of deprivation may have to choose the criteria which are most appropriate for it. But to obtain a general picture of progress in the country, a suitable measure of poverty is useful. Hence, the approach is to delink the estimation of poverty from a fixed level of consumption. The Ministry of Rural Development did three Below Poverty Line (BPL) censuses i.e., 1992, 1997 and 2002 to make BPL estimates.
- 3.3.1.18 The idea of using a group of criteria was taken forward by Sabina Alkire and James Foster, 2011 who devised a more comprehensive measure to capture the standard of living popularly known as the Multidimensional Poverty Index (MPI). This methodology also has an influence in the two most comprehensive attempts made by India identifying the EWS namely, Socio-Economic and Caste Census (SECC), 2011 which was completed on 31.03.2016 and the Niti Aayog's "National Multidimensional poverty index, 2021, which is based on the National Family Health Survey-4 (2015-16). Both these studies have captured the concept of deprivation from

¹¹ *Ibid.* Pg 990.

¹² *Ibid.*

various aspects, hence making it not only the most comprehensive inclusive definition.

3.3.1.19 SECC, 2011: It was the first-ever census that generated comprehensive data covering households in both rural and urban areas capturing their socio-economic as well as caste-based census since 1931. It was also the first paperless census in India, conducted on handheld electronic devices, in 640 districts. The methodology for SECC-2011 was recommended by an Expert Group set up by the Ministry of Rural Development (MoRD) on August 12, 2008, under the chairmanship of Dr N.C. Saxena (former Secretary, Department of Rural Development). As per the approved methodology, the households were classified as (i) automatically excluded, (ii) automatically included and (iii) deprived based on a specified set of criteria (see Table 1).

Table I: SECC 2011 Categories

Automatically excluded	Automatically included	Deprived
1. Motorized 2/3/4 wheeler/fishing boat.	1. Households without shelter	1. Households with only one room, Kucha walls and Kucha roof;
2. Mechanized 3/4-wheeler agricultural equipment	2. Destitute/living on alms	2. No adult members between the ages of 16 and 59
3. Kisan Credit Card with credit limit Rs. 50,000 and above	3. Manual scavengers	3. Female-headed households with no adult male member between 16 and 59
4. Households with any member as a government employee	4. Primitive Tribal Groups	4. Households with disabled members and no able-bodied member
5. Households with non-agricultural enterprises registered with Government.	5. Legally released bonded labourers	5. SC/ST Households
6. Any member of a household earning more than INR 10,000 per month		
7. Paying Income Tax/ Paying Professional Tax		

8. Three or more rooms with pucca walls and roof. 9. Owns a refrigerator 10. Owns landline phone 11. Owns more than 2.5 acres of irrigated land with 1 irrigation equipment 12. Five acres or more of irrigated land for two or more crop seasons. 13. Owning at least 7.5 acres of land or more with at least one irrigation piece of equipment.		6. Households with no literate adult above 25 years 7. Landless households derive a major part of their income from manual casual labour.
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Source: Ministry of Rural Development.

3.3.1.20 The classification of households was done in three stages. The first step was to apply exclusion criteria. All households that satisfy at least one of the 14 exclusion criteria were considered automatically excluded. In the second step, inclusion criteria were applied and households that satisfy at least one of the 5 inclusion criteria were categorised as automatically included. To the remaining households, the third category (i.e., deprivation) was applied and households were given a deprivation score, ranging from a minimum of zero to a maximum of 7. The order of priority in this category is from households having the highest deprivation score to the lowest score. For the purpose of coverage under welfare schemes, the highest priority was given for automatically included households followed by households with the highest deprivation score. The outcome of SECC-2011 are presented in Table II below

Table II: Outcome of SECC-2011

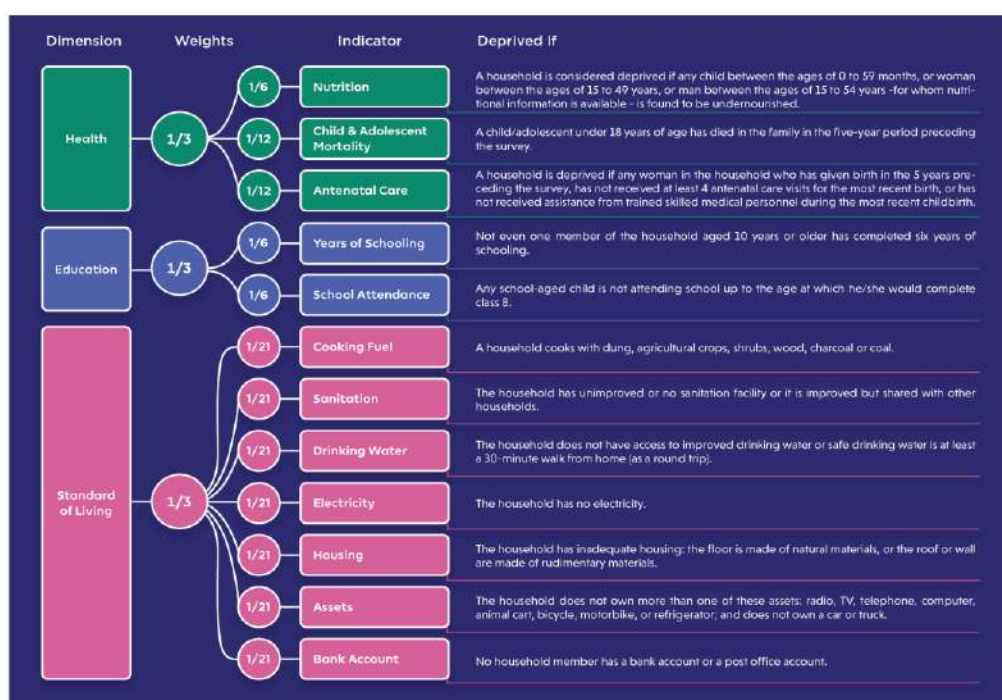
Parameters/ Particulars	Figures (in crores)
Total no. of households	24.49
Total no. of rural households	17.97 (73.3% of total household)
Automatically excluded households	7.07 (39.4% of rural households)
Automatically included households	0.16 (0.9% of rural households)
Households with at least one deprivation	8.7348.5% of rural households)

Source: Ministry of Rural Development

3.3.1.21 The outcome reveals that about 73% of the total household belongs to rural areas. Further, it states that's about 39% of rural households are automatically excluded from the beneficiary pool whereas about 0.9% of rural households qualify for automatic inclusion. It also depicts that nearly 48.5% of rural households suffer from at least one out of seven deprivations mentioned in the methodology. The government of India has used the SECC, 2011 data to identify beneficiaries for their flagship programs such as Pradhan Mantri Awaas Yojana Gramin (PMAY-G), Deendayal Antyodaya Yojana -National Rural Livelihoods Mission (DAY-NRLM), Deen Dayal Upadhyaya Grameen Kaushalya Yojana (DDU-GKY), Rural Self Employment Training Institutes (RSETIs), Mahatma Gandhi National Rural Employment Guarantee Act (MGNREGA) and many more.

3.3.1.22 National Multi-dimensional Poverty Index (MPI), 2021: The National MPI index as devised by Niti Aayog is another comprehensive index that is developed using the National Family Health Survey-4 (2015-16). The index is divided into three broad categories that capture different aspects of deprivation. These include Health, Education and Standard of Living. The broad also have subcategories¹³ which are explained with the help of Figure I below. An individual is considered as multidimensionally poor if he/ she is deprived of at least 1/3rd of the weighted indicators.

¹³ National Multidimensional Poverty Index Baseline Report (Based on NFHS-4 (2015-16))

Figure I: Indicators of India's National MPI

Source: Niti Aayog, 2021

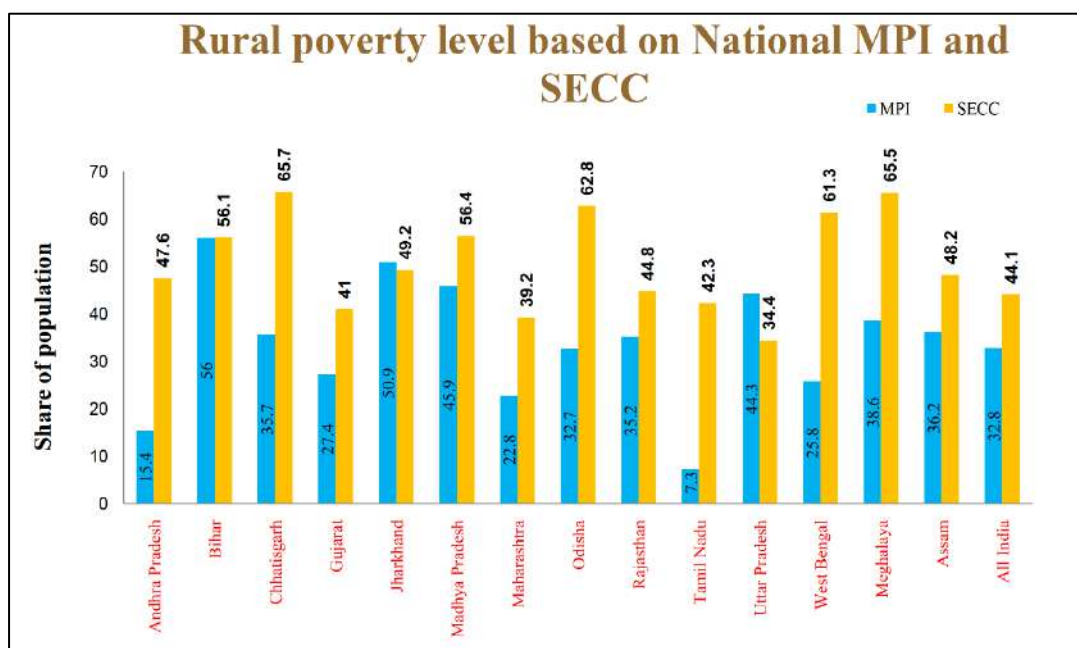
3.3.1.23 It is now accepted that capturing economic weakness is a complex issue with many dimensions. Once we go beyond basic calorific needs, no single indicator can easily capture the level of poverty. Annual family income, for example, can lead to very different poverty outcomes depending on the prevailing prices of a particular location, size of family, volatility of income, non-monetary entitlements, access to public facilities and so on. Therefore, a set of criteria have to be used for triangulation so that Type I and Type II errors can be minimized.

3.3.1.24 The problem with a multiple-criteria approach is that it requires complex, large-scale surveys. While it may be possible to periodically do such detailed socio-economic surveys, it should be noted that our idea of EWS keeps evolving. For example, using the refrigerator or a phone connection as one of the parameters may have been valid for exclusion in 2011 but may not be true today. Moreover, if we start to rely too heavily on certain consumption patterns to identify beneficiaries, we will end up with people gaming the system by hiding or avoiding certain goods and services.

Thus, what may work as a periodic survey of the aggregate, may not work for the frequent identification of the specific.

3.3.1.25 The multi-dimensional approach is strongly influenced by the set of criteria that are being used. Two sets of criteria, both intellectually valid, can give very different results. This is illustrated by Figure II that compares the results of SECC (using 2011 data) with NITI's MPI (using 2011-16 data). Even though both the methodologies are quite exhaustive, and use data just a few years apart, the results are significantly different at both national and state levels. This goes back to the point made by the Rangarajan Committee that deprivation is difficult to define, and the set of indicators depends on what/who the study is attempting to identify.

Figure II: Comparison of National MPI and SECC, 2011



Source: MoRD, 2021

3.3.1.26 In view of the above discussions, and looking at various options, the best approach, in the committee's view, is to use a simple indicator such as family income that minimizes Type I and Type II errors as well as lends themselves to administrative simplicity.

3.3.1.27 Now the next question is how to arrive at an income criterion for EWS. The use of the Rs 8 lakhs income cut-off for the EWS and the OBC creamy

layer has, not surprisingly, led to a debate about the appropriateness of using a similar limit for both exclusion and inclusion. In this context, it should be noted that the Sinho commission report 2010 had proposed using the concept of “Creamy layer” among OBCs to decide the upper limit or as a criterion for identifying Economically Backward Castes (EBC) among the General category (GC). The report states that:

...The Commission formed the opinion that extending the existing criteria to identify ‘Creamy Layer’ among OBCs could well serve as to decide the upper limit or as a criterion for identifying EBC families among GC too. However, the concept of Creamy Layer among OBCs included economic backwardness compounded with their social and educational backwardness also while among EBCs economic backwardness is the major concern. The Commission also noted that economic needs of EBCs among GC differ and hence just one criterion of BPL or setting creamy layer as upper limit would not be effective to ensure intended benefits to EBCs. There is a need to follow ‘bottom up’ approach to ensure benefits reaching to the neediest one. Therefore, it was felt appropriate that instead of taking the income limit for creamy layer, current non-taxable limit up to Rs. 1,60,000/- (as may be revised from time to time) could be taken as the criterion to identify EBCs among GC. This income limit will include the combined income of husband and wife and will exclude the income of their parents and adult children. Since EBCs are to be identified at family level, hence the upper income tax limit should also be considered at family level. The Commission also felt that criteria for identification of EBCs among GC should be simple and the existing criteria would be more effective.

Thus, BPL families and non-income tax paying families could be identified as EBCs among GC. Accordingly, this Commission recommends that all BPL families among GC as notified from time to time and all those families among GC whose annual family income from all sources is below the taxable limit (currently Rs. 1,60,000/ per annum and as may be revised from time to time) should be identified as EBCs. As already indicated, this income limit will

include the combined income of husband and wife and will exclude the income of their parents and adult children.¹⁴

3.3.1.28 Thus, there is indeed a link between the EWS and OBC creamy layer criteria but it relates to the history of how the debate on these two issues co-evolved. This history was discussed in the previous chapter. Nonetheless, the way in which the income criteria is actually defined is very different in the two contexts. Focusing solely on the Rs 8 lakhs number, therefore, is misleading. Here are some important differences in how income is defined for EWS and OBC creamy layer. To be qualified under the “creamy layer,” among OBC’s the household gross income should be above INR 8 lakh per annum for **three consecutive years**¹⁵, whereas to be eligible for EWS reservation, the beneficiary household income has to be below INR 8 lakh in the preceding financial year. This means that the EWS income criteria is much tighter, especially in the context of large sections of society with volatile non-salary incomes (shopkeepers, artists, farmers, micro-entrepreneurs etc). Merely one year of windfall income earned by the household by way of a mandatory MBBS internship or a good harvest etc. can push him/her over the income threshold. Thus, setting a lower income threshold for EWS can significantly increase the risk of Type II error by excluding many deserving candidates.

3.3.1.29 Para 2 c(ii) of OM No.36012/22/93-Estt. (SCT) dated 08.09.93 provides rules of **exclusion to the people working as artisans or engaged in hereditary occupations**, from qualifying “Creamy layer” among OBCs. It states:

2 c (ii) The rule of exclusion will not apply to persons working as artisans or engaged in hereditary occupations, callings. A list of such occupations, callings will be issued separately by the Ministry of Welfare.

¹⁴ Sinho Commission Report, 2010. Pg 97-98.

¹⁵ Rule VI of OM No.36012/22/93-Estt. (SCT) dated 08.09.93

3.3.1.30 However, there is no such exemption for the EWS. Therefore, the “Creamy Layer” among OBCs criteria is devised to provide cushion to the section of people who are from the backward class but has relatively higher volatile income from artisanal activities, whereas the EWS criteria do not provide any preferential treatment for these professions.

3.3.1.31 While determining the “Creamy layer” among OBC’s, Rule VI of OM No.36012/22/93-Estt. (SCT) dated 08.09.93 states that **“Income from salaries or agricultural land shall not be clubbed”**. The Department of Personnel and Training (DoPT) further clarified the issues in OM No.36033/5/2004-Estt. (Res.) dated 14.10.2004. It states

...The creamy layer status of the sons and daughters of employees of organizations where evaluation of the posts on equivalent or comparable basis has not been made is determined on the basis of ‘Income/Wealth Test’ given in the Schedule. The Income/Wealth Test prescribes that the sons and daughters of persons having gross annual income of Rs.2.5 lakh or above or possessing wealth above the exemption limit as prescribed in the Wealth Tax Act for a period of three consecutive years would be treated to fall in creamy layer. An explanation is given below the Income/Wealth Test which provides that ‘income from salaries or agricultural land shall not be clubbed.

3.3.1.32 In contrast, the DoPT OM No. F No: 12-4/2019-U1 dated 17.01.2019 on the **reservation for EWSs** for admission in Central Educational Institutions, **includes income from all sources including agricultural income and salary** for the household. Thus, the **EWS criteria are much tighter** since the INR 8 lakh income threshold is applied to total household income from all sources. The following table summarises the difference in EWS and OBC creamy layer criteria relating to RS 8 lakh cut-off.

Table III: Creamy Layer among OBCs vs EWS criteria

Parameters	Creamy Layer among OBCs	EWS
Annual Family Income and Eligibility in years	Annual Income above Rs 8 lakh for 3 consecutive years will be excluded	Annual income should be less than Rs 8 lakh in the preceding financial year will be included
Income from salaries or agricultural land	Excluded	Included
Person working as artists or engaged in hereditary occupations	Excluded	Included
Definition of Family	Candidate, parents, minor children	Candidate, parents, minor siblings, spouse, minor children

3.3.1.33 As discussed above, the definition of ‘family’ in EWS is different from that in Creamy layer for OBCs. In EWS, family includes the candidate, his/her parents, under-18 siblings, spouse, and his/her under -18 children, whereas for creamy the family includes the candidate and his parents and minor children.

3.3.1.34 The Committee, therefore, concludes that the two sets of criteria are significantly different despite both using the Rs 8 lakh cut-off and that the criteria for the EWS are much more stringent than those for the OBC creamy layer. Setting a much lower income threshold on the EWS could introduce the risk of Type II errors. This is particularly true when income is volatile as would be the case for most people dependent on non-salary income. Moreover, since we are dealing with overall family income, the inclusion of large categories like farm income puts the EWS candidate at a significant disadvantage relative to both income tax thresholds as well OBC creamy layer. It may be argued that a loose income limit could introduce Type I error by allowing in the undeserving. The committee feels that the easiest solution is to include a set of simple asset criteria in order to weed out/ minimize Type I error rather than lower the income limit.

3.3.1.35 Rs 8 lakh cut off also has a link with the income tax exemption limit. In the past, the Supreme Court, central government and state governments have also been specifying different income criteria for their various welfare schemes. Many times, income criteria from one scheme or income tax are used as a basis for determining the criteria for another scheme. The Supreme Court in *Shantistar Builder case* AIR (1990 SC 630) specified an income limit of Rs 18,000 which was the income tax exemption limit till the financial year 1989-90.

3.3.1.36 Income Tax is a relevant factor because income is considered to be an indicator of individual economic strength and income tax reflects each individual's ability to pay. In *The Wealth of Nations* (Book V, chapter 2), Adam Smith laid down four general canons:

- I. *The subjects of every state ought to contribute towards the support of the government, as nearly as possible, in proportion to their respective abilities; that is, in proportion to the revenue which they respectively enjoy under the protection of the state....*
- II. *The tax which each individual is bound to pay ought to be certain, and not arbitrary. The time of payment, the manner of payment, the quantity to be paid, ought all to be clear and plain to the contributor, and to every other person....*
- III. *Every tax ought to be levied at the time, or in the manner, in which it is most likely to be convenient for the contributor to pay it....*
- IV. *Every tax ought to be so contrived as both to take out and keep out of the pockets of the people as little as possible over and above what it brings into the public treasury of the state....*

3.3.1.37 Adam Smith's first canon is known as the ability-to-pay principle which has been the foundation for levying income tax all over the world. The income tax exemption limit is fixed worldwide on the basis of ability-to-pay, subsistence level, affordability etc. The ability to pay income tax could, therefore, act as a measure of economic strength or weakness as the case may be. It would, therefore, be logical to use the income tax exemption limit to determine the threshold for EWS.

3.3.1.38 In India, the income tax exemption limit is reviewed and determined from time to time through a series of executive exercises and parliamentary processes. The income tax exemption limit is proposed by the Union Government to the Parliament as a part of its annual budget every year. The Government while proposing the tax exemption limit takes into account factors such as ability-to-pay, sustenance level, etc. The exemption limit is then debated in Parliament. After the approval of the Parliament, the exemption limit is notified. Considering these facts, the committee is of the view that the exemption limit of income tax can be a good guiding factor while determining a feasible and objective criterion for EWS.

3.3.1.39 The current annual income tax exemption limit is Rs 2,50,000. However, in February 2019 the Government through Finance Act amended the Income Tax Act to provide relief to the low-income individuals wherein anyone having taxable income up to five lakhs of rupees per annum was exempt from paying income tax. Whatever tax that was calculated for the income exceeding Rs.2,50,000 was given back to the taxpayer by way of rebate which effectively meant that individuals having taxable income up to 5 lakhs of rupees had their entire income tax free. As a result, even persons having gross income up to Rs. 6.50 lakhs are not be required to pay any income tax if they make investments in provident funds, specified savings, insurance etc. In fact, with additional deductions such as interest on a home loan up to Rs 2 lakh, interest on education loans, National Pension Scheme contributions, medical insurance, medical expenditure on senior citizens etc, persons having even higher income do not have to pay any tax. In addition, salaried persons get an additional standard deduction of Rs 50,000. Income from capital gain on listed shares/units up to Rs 100,000 too is exempt from tax. Effectively, a person earning up to around Rs 8 lakhs are not be required to pay any income tax from the financial year 2019-2020 onwards, provided he makes some specified savings etc. Further, Income from agriculture too is not included for the purpose of income tax in this case.

3.3.1.40 The income limit of Rs 8 lakh for EWS was prescribed in January 2019. Around the same time in February 2019 as mentioned earlier, Income Tax

Act was amended for giving tax exemption to those earning up to Rs 5 lakh. It may be seen that the limit of Rs.8,00,00 for qualifying into the economic weaker section category is a gross income limit which includes the income from all sources, including agriculture income. Moreover, this income limit is for the household which means that the income of everyone, including the applicant, his parents and sibling/s in the household who is/are below 18 years of age. As per the current income tax limit, if both husband and wife have their income up to 5 -8 lakhs of rupees and they make some specified savings etc., the income of both parents would become tax-free. In addition, if they have any income from agriculture that also will be exempted from tax. The current income tax limit of five lakhs also is calculated after giving various deductions under section 80 C and others, which effectively means that the people having income up to Rs 7 to 8 lakhs of rupees will not have to pay any income tax. Thus ‘effective’ income tax exemption limit almost goes up to Rs 7 to 8 Lakhs. In this regard, the speech of the finance minister while presenting the interim budget in February 2019 may be referred to wherein, he said -

“Individual taxpayers having taxable annual income up to Rs 5 lakhs will get full tax rebate and therefore, will not be required to pay any income tax. As a result, even persons having gross income up to Rs 6.50 lakhs may not be required to pay any income tax if they make investments in provident funds, specified savings, insurance etc. In fact, with additional deductions such as interest on a home loan up to Rs 2 lakh, interest on education loans, National Pension Scheme contributions, medical insurance, medical expenditure on senior citizens etc, persons having an even higher income will not have to pay any tax.”

- 3.3.1.41 The committee is, therefore, of the view that the income limit for EWS should broadly be linked to the income tax limit with appropriate additions for agriculture income and other deductions. It felt that if the EWS limit is kept too low compared to the effective income tax exemption limit, there will be a large number of people, who though may be considered vulnerable and not required to pay income tax, may get excluded from the ambit of

EWS. We do not want this to happen. Similarly, if we keep the EWS limit too high, it may result in those who are not considered vulnerable from the income tax point of view may get the benefit of EWS. Therefore, a fine balance has to be struck between the two ends to arrive at a figure which will ensure that most low-income people who are not required to pay income tax are not excluded and are covered in EWS and at the same time it should not be so high that it becomes over-inclusive by including many incomes tax-paying middle- and high-income families into EWS. Though we may not completely eliminate yet we can try to minimise both exclusions as well as inclusion errors. Therefore, considering that the currently effective income tax exemption limit is around Rs 8 lakhs for individuals, the Committee is of the view that the gross annual income limit of Rs 8 lakh for the entire family would be reasonable for inclusion into EWS.

3.3.1.42 It should be noted that the Rs 8 lakh annual gross annual income limit for inclusion into EWS is

- is for the entire family as against the individual income tax exemption limit of Rs 5 lakh

- is without any deduction's available various provisions of income tax such as 80C, standard deductions etc.

- includes agricultural income. The individual income tax exemption limit does not include agricultural income.

3.3.1.43 As per current income tax norms, the effective income tax on individuals is zero for those with incomes up to INR 5 lakhs. As discussed in the foregoing paras after taking advantage of the various provisions for savings, insurance etc., the tax-payer may not need to pay any tax up to an annual income of INR 7-8 lakhs. Thus, the EWS cut-off, if applied to just an individual, is in the ballpark of income tax requirements for zero tax liability. Once applied to include family income and farm income, however, it becomes much more demanding. This is best understood with a simple illustration.

3.3.1.44 Let us say, we have a candidate in the final year of her MBBS in an institution in Delhi who is applying for a PG course. She has a father who works as a driver in Mumbai and earns INR 2.5 lakhs a year and sends back

INR 1 lakhs to the family. Her mother and younger siblings, back in the village in UP, also earn INR 2.5 lakhs by cultivating their agricultural land. Thus, they earn INR 5 lakhs as a family. The income supports the candidate in Delhi, the father in Mumbai, the mother, siblings and aged grandparents in the village. The illustrative example is commonplace and would apply to a large number of people. Most people will agree that this is a deserving EWS candidate. However, the candidate now enters her final year mandatory internship and gets paid INR 18,000 per month. This would push the annual income of the family to more than INR 7 lakhs for that year. The income tax provisions would not bother the candidate since farm income is exempt and the calculation would be done per earner, but an EWS family income cut-off lower than INR 8 lakhs would suddenly become binding. Should the candidate be disqualified from EWS because of the extra income from a mandatory internship?

3.3.1.45 The above commonplace example illustrates the practical implications of several EWS criteria such as (i) inclusion of family income (ii) inclusion of agricultural income (iii) the impact of income volatility. Moreover, the above candidate is also of marriageable age and the inclusion of the spouse's income would further complicate the matter. This is why the committee is of the opinion that a cut-off lower than INR 8 lakhs on family income would be unduly restrictive and lead to errors of exclusion of the deserving ones.

3.3.1.46 In view of the foregoing discussions, the Committee is of the view that the gross family annual income limit of Rs 8 lakh for inclusion into EWS seems just and fair in the present circumstances.

3.3.2 Issue 3 - Uniform criteria for EWS?

3.3.2.1 Hon'ble Supreme Court in its order dated 21.10.2021 in Writ Petition 961/2021 desired to know whether in fixing the eight-lakh limit, the difference in purchasing power parity in urban and rural areas and per capita income: State Gross Domestic Product (SGDP) was been taken into account. The Committee, however, is of the view that there should not be different income limits for different states or areas based on purchasing power or SGDP. In other words, the limit should not be based on where one

resides. Having different income limits for different geographies - rural, urban, metro or states will create complications, especially considering people have become more mobile and increasingly moving from one part of the country to another for jobs, studies business etc. Having different income limits for different areas will be an implementation nightmare both for government authorities and applicants. The different members of the household of the applicant may reside at different places at different times and applying differential geographical income criteria in such cases may become extremely complex. Also, there is no easy way or feasible methodology to arrive at different income limits for different geographies. We must understand that any system or criterion we adopt should be simple and easy to implement. A granular system of income based on different geography or SGDP etc. though may appear logical but would be difficult to implement. We must also keep in mind that the more complex system we try to create in pursuit of perfection, not only more difficult would be the implementation but also it will be more prone to disputes and manipulations. Precisely because of this reason the income tax limit under the Income Tax Act is kept the same for the entire country and is not related to purchasing power or SGDP of different states or regions though their per capita incomes and purchasing powers do differ.

3.3.2.2 Having different income and asset thresholds for the identification of EWS may be undesirable also because it may result in the unintended consequence of encouraging the mass migration of low-income groups. Article 19 of the constitution guarantees all citizens of the country the freedom of movement and settlement in any part of India. If different economic thresholds exist within India, it may encourage people to migrate to states with lower per capita income and lower EWS thresholds. This may prove to be an unwelcome burden to the relevant state's exchequer.

3.3.2.3 Having the same income limit for tax purposes for the entire country is a standard practice followed across the world. For example, in the USA, states impose their own income tax. However, so far as the federal income tax is concerned, it is the same for the entire country.

- 3.3.2.4 The Supreme Court in Jaishree Laxman Rao Patil Vs the Chief Minister and Others in Civil Appeal No 3123 of 2020 has indicated that a uniform criterion, in relation to the reservation, is desirable. The Supreme court stated that “uniformly evolved criteria” is desirable in respect of determining inclusion within categories of populations who are eligible for reservation, as that would not be ad-hoc but be determined scientifically, with the aid of experts.
- 3.3.2.5 In the present context of establishing a uniform income criterion across the country for determining EWS, this judgment draws focus on the need to have a uniform criterion for determining EWS across the country, as it relates to the practical implementation of such criterion. It was argued before the Supreme Court in Jaishree Laxman Rao Patil (Supra) that the establishment of such standards by the states may lead to vote-bank politics and that a national body that would be charged with establishing such uniform criteria would be able to objectively, “without being pressurised by the dust and din of electoral politics” be able to provide benefits.
- 3.3.2.6 Therefore, the Committee is of the view having different income limits for different geographies or areas is neither feasible nor desirable.

3.3.3 Issue 4 - Is Rs 8 lakh over-inclusive?

- 3.3.3.1 As we discussed, the income criteria of Rs 8 lakh is the gross annual family income which includes income of all family members (parents and minor children) and their agricultural income as well. This income limit is without any deduction etc. which applies to the individual income tax limit. Considering the effecting individual annual income tax exemption limit is in the range of Rs 8 lakhs, the gross family income limit of Rs 8 lakh cannot be considered as over-inclusive.
- 3.3.3.2 Since the EWS criteria have been in use for two years, the committee decided to have a look at the actual outcomes in both civil service recruitment as well as the data of country-wide entrance examination such as the National Eligibility Entrance Test (NEET) used for medical courses and the Joint Entrance Examination (JEE) Advanced for

engineering/science courses. The idea was to see how the existing criteria are faring in including the deserving and excluding the undeserving.

3.3.3.3 The data for EWS candidates from UPSC is available for income bands of Rs.0 to 2.5 lakhs, Rs. 2.5 to 5.0 lakhs, and Rs. 5.0 to 8.0 lakhs for the years 2019 and 2020. The data is shown in Table IV below. As can be seen, the successful candidates are evenly distributed across the income bands and there does not appear to be a bunching at the highest income bracket.

Table IV: Annual Household Income of selected EWS candidates in the UPSC examination

	Service	Total Number of Candidates		Income 0-2.5 Lakh		Income 2.5-5 Lakh		Income 5-8 Lakh		Income found to be more than 8 Lakh & excluded	
		2019	2020	2019	2020	2019	2020	2019	2020	2019	2020
1	Recommended	79	86	33	40	17	21	26	24	3	1
2	IAS	19	20	11	8	2	7	6	5	-	-
3	IFS	2	3	1	2	1	1	0	0	-	-
4	IPS	15	20	5	9	3	5	7	6	-	-
5	IRS (IT)	6	7	2	4	2	0	2	3	-	-

Source: Department of Personnel Training (2020)

3.3.3.4 The data for NEET was provided by the National Testing Agency (NTA) for 2020 (the 2019 data is not in useable format). Table V presents the household income distribution for the qualified candidates under the EWS category. As can be seen, that the qualified candidates are more skewed in the lower-income bracket. Only 9% of total qualified EWS are in the highest income bracket while the lowest brackets account for the bulk. Thus, there does not appear to be bunched in the highest income slab of INR 5-8 lakh per annum.

Table V: Annual Household Income of Qualified EWS Candidates in competitive examination.

Household Annual Income	NEET – UG (2020)	JEE Main (2021)
0-1 Lakhs	53.3%	40.1%
1-2 Lakhs	19.4%	31.4%
2-5 Lakhs	18.4%	20.4%
5-8 Lakhs	9.0%	8.2%

Source: National Testing Agency (NTA, 2020)

3.3.3.5 The latest data of household income distribution for qualified EWS in the Joint Entrance Examination (JEE- Main) also follows a similar pattern with 8.2% of the total qualified EWS falling in this income bandwidth of INR 5-8 lakh income bracket and the lowest brackets accounting for the bulk. Again, the data indicates there is no prevalence of bunching of EWS eligible candidates at the top income bracket.

3.3.3.6 After analysing the data of the three different entrance examinations. The committee is of the view that there is no evidence that the current cut-off of Rs 8 lakhs is leading to a major problem of the inclusion of undeserving candidates. Nonetheless, the committee observed that the distribution of the deserving candidates will have a long “tail” for various factors such as income volatility, size of family, the inclusion of agricultural income, high cost of living in certain locations and so on. Therefore, despite the fact that the bulk of the qualifying candidates is below Rs 5 lakhs, a somewhat higher threshold is needed which ensures that deserving beneficiaries in the tail of the distribution are not excluded.

3.3.3.7 Thus, the committee is of opinion that the income criteria of INR 8 lakh per annum performs well based on evidence and should be kept unchanged for identifying EWS.

3.3.4 Issue 5& 6- Review of asset criteria for EWS

3.3.4.1 One of the existing asset criteria is that families having agricultural land of 5 acres or more are excluded from EWS even if their gross income is less than Rs 8 lakh. In this context, it will be useful to refer to the definition

of small and marginal farmers. Marginal farmers are categorised as those having land holding up to 2.5 acres (one hectare) whereas small farmers have landholding up to 5 acres (from one to two hectares).

- 3.3.4.2 As per the latest information available from the Agriculture Census, the average size of operational holdings has decreased from 2.28 hectares in 1970-71 to 1.84 hectares in 1980-81, to 1.41 hectares in 1995-96 and to 1.08 hectares in 2015-16 for all social groups. Thus, it has come very close to the upper limit for marginal farmers.
- 3.3.4.3 The size of average operational holding for the SC group has also come down from 1.15 hectares in 1980-81 to 0.78 in 2015-16 and the trend of reducing holding has been consistent over the years as has been found for all social groups.
- 3.3.4.4 The average size of operational holding for the ST group has also witnessed a consistently falling trend as it has fallen from 2.44 hectares in 1980-81 to 1.40 in 2015-16.
- 3.3.4.5 Besides it, the average holding of the marginal farmers belonging to all social groups has ranged between 0.38 to 0.40 hectare for the period 1970-71 to 2015-16. For the SC category marginal farmers, it has ranged between 0.35 to 0.37 hectare. For the ST category marginal farmers, it has been in the range of 0.48 to 0.49 hectare for the period 1980-81 to 2015-16.
- 3.3.4.6 Similarly, the average operational holding for small farmers belonging to all social groups, it has been between 1.38 to 1.44 hectares for the period 1970-71 to 2015-16, while presently (2015-16) being at 1.40 hectares. For small farmers in the SC category, the farm holding has also been in the narrow range of 1.38 to 1.41 hectares for the period 1980-81 to 2015-16. The average ST small farmer operational holding has varied between 1.39 to 1.44 hectares during the period 1980-81 to 2015-16.
- 3.3.4.7 It clearly establishes that the average farm holding for all social groups, SC and ST have been nearly the same and small farmer is the category which is said to have more than one hectare or 2.5 acres and up to 2 hectares (5 acres) while marginal farmers hold up to one hectare or 2.5 acres of land. So, in the Indian context, over the long run somewhere around 45 years, i.e., from 1970-71 to 2015-16, the average sizes of all social group farmers, including

SC and ST category farmers, the average farm holdings have not differed much. In fact, in all three cases discussed above, the average farm holding in the marginal farmer category has remained at less than 50% of the upper ceiling for the category which indicates that in all three categories, there is the concentration of holdings towards much lesser than the ceiling of 2.5 acres or one hectare even.

3.3.4.8 The same is the case in respect of small farmers as well where landholding can range from 1 to 2 hectares (more than 2.5 acres to 5 acres) as on average it remains around 1.40 to 1.41 for all categories.

3.3.4.9 It implies that the economic condition of most of the farmers belonging to marginal and small categories remains more or less the same across all social categories.

3.3.4.10 It can be seen with the fact that marginal farmers constitute 67.10 % of total farm holdings and small farmers constitute 17.91 % of total holdings while semi-medium, medium and large holdings constitute respectively 10.04 %, 4.25 % and 0.70 % of total holdings (Agricultural Census 2015-16). So, the differences in income accelerate as they go up in land holdings, mainly large farm holdings and not up to the stage of marginal and small farm holdings (up to 5 acres). At marginal or small farm levels, the differences related to productivity as an outcome of larger doses of capital or technology are difficult to imagine.

3.3.4.11 Thus, the condition of 5 acres of land applies to marginal and small farmers only and their economic weakness can be considered cutting across all social groups.

3.3.4.12 The National Statistical Office's (NSO) recently released 'Situation Assessment of Agricultural Households and Land and Livestock Holdings of Households in Rural India (SAS), 2019.

3.3.4.13 The Agricultural Census begins with the status of the plot, whether it is owned by urban or rural, agricultural or non-agricultural households. The SAS begins with classifying rural households.

3.3.4.14 Given the expansive definition of "agricultural household" used by the SAS, it would follow that agricultural households are likely to have multiple sources of income. In this note, we seek to try to understand what this data

reveals in terms of the degree of dependence that agricultural households have on different sources of income, how this varies by land possessed and by state, and what the implications of this might be for agricultural, economic and social policy.

- 3.3.4.15 For this analysis, we consider net receipts (after deducting paid-out expenses) from crop production plus farming of animals as a percentage of the agricultural household's total income from all sources. The latter includes income from wages/salary and leasing out of land, net receipts from non-farm business, and earnings from pension/remittance. A ratio above 50 per cent can be construed as *significant* agricultural dependence.
- 3.3.4.16 According to the SAS, the average total monthly income of an agricultural household in India during 2018-19 was Rs 10,829. Out of that, the share of farm income – Rs 3,798 from crop and Rs 1,582 from animal agriculture – was 49.7%. For the average agricultural household, the largest single source of income was wages/salary (Rs 4,063). This has been cited by a number of analysts to conclude that the average Indian farmer is more of a labourer till the day.
- 3.3.4.17 The situation is quite vulnerable for the marginal (less <1 hectare) and small farmers (1-2 hectares of land) as their income is way behind that of the medium and large farmers. A finer categorisation of farmers as per the size of land holdings reveals that the marginal and small farmers' average monthly earning are barely Rs 9,099, and Rs 11,000 respectively.
- 3.3.4.18 Therefore, considering that the marginal and small farmers (having landholding up to 5 acres of land) are able to have monthly income only in the range of around Rs 10,000, the committee is of the view, there is no need to interfere in the criterion of 5 acres of agricultural land.
- 3.3.4.19 While having an residential asset criteria along with the income may appear to be a logical proposal it has many practical difficulties in Indian context particularly when we are talking of the economically weaker section population. Some of the difficulties are presented in the following paragraphs.
- 3.3.4.20 We all are aware that Indian families particularly of lower income group often do not conform to a simple nuclear format and mostly live in joint

families where the house may be in the name of one of the senior family members such as father or grand-father. This is especially true for inherited ancestral property. Even the grown up children, sons and daughters after the marriage continue to live under the same roof with their parents. This is true of rural as well as urban families. Common spaces, including those for parking or animal husbandry, are used jointly by the large extended family. There may not be formal documentation of shares or division of the house and common spaces among the families living under one roof. In such cases the difficulty would be how to apportion the share in the residential house for nuclear families for the purpose of EWS qualification criteria. We may also note that the category that we are talking about is economically weaker section. Thus, the committee was concerned that it could be onerous as an exclusion criteria as genuine EWS families may find it difficult to establish the facts.

3.3.4.21 The other question is how to calculate the area of the house for the purpose of EWS. In rural and many semi urban areas, many residential house plots include the place for cattle, storage of grains, and agricultural equipment. In such cases which area are to be considered – total house site area, plinth area for living, etc? Obviously it may not be very easy to demarcate these areas. Kerala Government raised concern on similar lines when the existing criterion of residential house was notified in 2019(Appendix 22).

3.3.4.22 Even in urban areas, there is lot of difference in carpet area, built-up area, super built up area. Again the same question arises- which area is to be considered for this purpose. The developers who sell houses can calculate these area on basis of prescribed guidelines because they have the services of architects etc available with them. The issue here is what burden it will cast upon the candidates and their families from the weaker section of the society to get these areas measured and calculated for their houses? For them to get a certificate from architect or designated public authority will be burdensome.

3.3.4.23 In India Wealth Tax was abolished in 2015. One of reasons for its abolition was practical difficulties in assessing quantum or value of wealth

for the purpose of wealth tax and compliance burden on people. The Government while introducing the Finance bill which included abolition of Wealth Tax stated in the Bill's Memorandum-

“The actual collection from the levy of wealth tax during the financial year 2011- 12 was ₹788.67 crores and during the financial year 2012-13 was 844 crore only. The number of wealth tax assesses was around 1.15 Lakhs in 2011-12. Although only a nominal amount of revenue is collected from the levy of wealth tax this levy creates a significant amount of compliance burden on the assesses as well as administrative burden on the department. This is because assesses are required to value the asset as per the provisions of wealth tax rules for computation of net wealth and for certain assets like jewellery they are required to obtain valuation report from the registered value of valuers. Further the assets which are specified foreign assets which are specified for levy of wealth tax being unproductive such as jewellery, luxury cars etc. are difficult to be tracked this gives an opportunity to assesses to under-report/ under-valued the assets which are liable for wealth tax. Due to this the collection of wealth tax over years has not shown any significant growth and has only resulted into disproportionate compliance burden on the assesses and administrative burden on the department. It is therefore proposed to abolish the levy of wealth tax under the Wealth Tax Act 1957 with effect from 1st April 2016.”

3.3.4.24 When computation of wealth and its valuation can be so burdensome for wealthy people to necessitate abolition of wealth tax, one can imagine the compliance burden that will be cast upon the lakhs of candidates and their families from EWS category in procuring the house measurement area certificates.

3.3.4.25 Another problem with the current residential house/plot area criteria is that it does not take care of the value of the land which can be vastly different depending upon where it is located. For example, value of a 100 sq meter house or plot in Metros may be order of magnitude higher than that in other areas. In fact even within a metro, the value can vastly vary. The Supreme Court too had flagged this issue in its order dated 21st Oct,

2021 in WP 961/2021. If we specify value limits, instead of measurement area limits on the residential house/plots for the EWS criteria, then lakhs of candidates and their families will be burdened with the task of getting the valuation done for their houses and plots from the valuers. Working out a valuation is a complicated exercise for a candidate of modest means. In fact, as discussed earlier, burden of getting valuation of assets by even wealthy tax payers was one of the reasons for abolition of the wealth tax.

3.3.4.26 We also found that local regulations such as building codes can get in the way of implementation. As a letter from the Government of Kerala, dated 0.6.09.2019 (Appendix 22), points out

“.... As per the Building Rules and Regulations in Kerala applicable in municipal area, a minimum of 3 cents of land is required in ownership for obtaining the construction license for a residential building. The specified exclusion threshold of 100 sq. yards ownership in municipal areas which is less than 2.1 cents of land makes this category of families non-existent and accordingly no purpose is served”.

The State government then requested that the threshold value for exclusion should 500 sq. yards in municipal areas and 1000 sq. yards in non-municipal areas. Obviously, these would be just too high for place like Mumbai. The example illustrates the complexity of coming up with a simple nation-wide asset threshold for urban areas, and the committee found that every simple formulation would fall foul of some problem in some part of the country.

3.3.4.27 If a family has a big house or plot, most likely it will have annual income more than the effective income tax exemption limit i.e. Rs 8 lakh. Similarly, if a family has multiple houses then also it is likely to have enough income to take the family out of EWS. Of course, there may be few exceptions. The question is whether the general policy should be guided by exceptions. We must note that every measure to deal with an exception results into an additional complexity and compliance burden. Therefore, one has to arrive at a balance.

3.3.4.28 We may also further note here that the current asset requirement only pertain to the residential house and plots. It does not include other assets such as jewellery, fixed deposits in banks, mutual funds, shares of

companies etc. Obviously, because of practical difficulties of valuation and verification, these assets were not included in the exclusion criterion for EWS.

3.3.4.29 In creamy layer exclusion criteria for OBC, families possessing wealth above the Tax limit are excluded. But now with Wealth tax abolished, this criterion has become defunct. Thus today for OBC creamy layer, there is no exclusion criteria based on assets.

3.3.4.30 The question one has to consider is how many high net worth families or families having big houses or residential plots will have annual income less than Rs 8 lakh. Though there would be general and broad correlation between individuals having high net worth and those having high income, there would be exceptions where persons having high income may have very low net-worth and vice – versa. Unfortunately there is no data on such exceptions. So the question is if there are only few such exceptions then how justified it is to impose asset requirement burden on everyone. Obviously administrative simplicity and ease of compliance are important factors in any system that we may bring. This was precisely the reason that when wealth tax was abolished in 2015, a surcharge was imposed on only on high income earning individuals earning more than Rs 1 crore per annum. It was stated in the Bills Memorandum-

“It is therefore proposed to abolish the level of wealth tax under the wealth Tax Act 1957 with effect from first April 2016. It is also proposed that the objective of taxing high net worth person shall be achieved by levying a surcharge on the taxpayers earning higher income as the levy of surcharge is easy to collect and monitor and also does not result into any compliance burden on the assesseees and administrative burden on the department.

3.3.4.31 We can also observe here that the broad principle of High Networth – High Income was the basis for levying the above surcharge only on high income individuals earning more than Rs 1 crore in a year and not on all income tax payees. One may argue that with this system of surcharge, a

person with very high net worth who would have been otherwise subjected to wealth tax may now be able to avoid the surcharge because his income was below Rs 1 crore. Yet the Government and the Parliament replaced the wealth tax with this surcharge for administrative simplicity and ease of compliance and did not allow the main policy to be guided by exceptions. The Committee is therefore of the view that a similar approach could be adopted for EWS wherein residential asset exclusion criterion may be omitted for simplicity, ease, and convenience. In short, an asset criterion on residential plot size or flat floor area should not be imposed unless there is clear evidence that the system is being widely gamed in practice. Even if there was evidence of misuse, the Committee is of the opinion that it may be easier to mine the wealth of digital information to establish real income rather than get caught in a complex debate about ownership and valuation.

3.3.4.32 The Committee is also cognizant of the fact that challenges posed by informal economy or suppression of real income in use of income limit for identification of EWS. As stated earlier, the use of assets along with income limit is likely to mitigate this problem to some good extent. Also, steps have been initiated by the government in recent years to bring more and more people into the formal sector and minimise the use of cash. More than 45 crore Jan Dhan banks accounts have been opened and more than 70 crore bank accounts have been linked to the Aadhaar numbers. The government has also taken measures to disburse all cash benefits, wages, and other payments through the banking channel. A series of amendments have been made in the recent years to Income Tax Act to minimise the use of cash (Appendix 11). The introduction of Goods and Services Tax (GST) is also helping in the formalisation of the economy. The business having an annual turnover of above Rs 40 lakhs is required to register under GST. GST invoice matching and input tax credit system which has been introduced recently makes suppliers and businesses to keep watch on each other and ensures that the sales and purchases are entered into the records and are not suppressed. We have started seeing the results through increased collection of GST during the recent months despite COVID impact on businesses and the economy. Further, the Government has embarked on data exchange

among GST, Income Tax, Customs, banks, mutual funds, stock depositories etc. These steps will help disclose the correct income of the individuals. The government's recent initiative of collecting taxpayers' major financial data such as salary, bank deposits and interest, dividend, equity and mutual fund holdings from the various sources and showing them at one place in the Annual Information Statement (AIS) is also a major step in the direction. (Appendix 10). Formalisation and use of data and technology would further help incorrect determination of income and thereby identification of EWS.

- 3.3.4.33 Once the government has comprehensive Annual Information Statement for everyone with details of bank account balance, Fixed deposits, Mutual funds, listed shares, earnings through interest, dividend, and capital gains, it would be possible to use this information to exclude high income and high net worth individuals from EWS. However, for the time being, it will be practical to go largely with the income criteria alone and consider high net worth criteria at the time of the next review.

Chapter 4

Summary and Recommendations

- 4.1 The Committee would first like to put on record that it conducted the study and prepared this report after detailed deliberations and examination of data and details available. Given that the identification of the EWS category is a complex issue, this was no easy task. Nonetheless, there was consensus among all members about the contours of the issue and what would be the most fair and workable solution be.
- 4.2 The long history of defining poverty and economic deprivation shows that it is a multi-dimensional problem that cannot be easily defined using any single variable. Even a commonly used indicator like family income can lead to different outcomes depending on the variation of prices at different locations, family size, volatility of income, inclusion/exclusion of farm income and so on. At the same time, an ever more detailed set of indicators may be neither very practical nor necessarily better. The best approach, in the Committee's view, is to use a simple set of indicators that minimize Type I (Minimizing the inclusion of the undeserving ones) and Type II errors (Minimizing the exclusion of deserving ones) as well lead us to the simplicity of the EWS identification process. After looking at various options, the approach of having an income cut-off was found to be reasonably efficient.
- 4.3 The Committee tried to answer the question as to whether an annual family income of Rs 8 lakhs is too high as a cut-off for identifying the EWS, and whether or not it was mechanically adopting a number because it was also used for the OBC creamy layer. The Committee found that though the specific number of Rs 8 lakhs appears to be the same as the OBC creamy layer cut-off, the application of the cut-off is very different in EWS and OBC as the two have different contexts. As discussed in **paras 3.3.1.27 to 3.3.1.33**, the income criterion for the EWS is much more stringent than the one for the OBC creamy layer. Firstly, the EWS's criteria relates to the financial year prior to the year of application whereas the income criterion for the creamy layer in OBC category is applicable to gross annual income for three consecutive years. Secondly, in case of deciding the OBC creamy layer, income from salaries, agriculture and traditional artisanal professions are excluded from the consideration whereas the Rs 8 lakh criteria for EWS includes that from all sources

including farming. So, despite being the same cut-off number, their composition is different and hence, the two cannot be equated.

- 4.4 The committee also compared the EWS cut-off to income-tax slabs and definitions. It should be noted at the onset that EWS criteria include all family income whereas the income tax slab limits refer only to individuals. Note that for EWS the definition of family income includes the incomes of the candidate, his/her parents, his/her under-18 siblings, his/her spouse, and children below the age of 18 years (Appendix 7). This in other word means that income of three generations are included in the family income for EWS purposes. The EWS income criteria also includes agricultural income that does not attract income tax. This must be kept in mind when comparing the EWS income criteria with income tax slabs.
- 4.5 As per current income tax norms, the effective income tax on individuals is zero for those with annual incomes up to Rs 5 lakhs. As discussed in **paras** 3.3.1.35 to 3.3.1.46, after taking advantage of the various provisions for deductions, savings, insurance etc., the taxpayer may not need to pay any tax up to an annual income of Rs 7-8 lakhs. Thus, the EWS cut-off of Rs 8 lakh, if applied to just an individual, is in the ballpark of income tax requirements for zero tax liability. Once applied to include family income and farm income, however, it becomes much more demanding as compared to the individual income tax exemption limit.
- 4.6 This is why the Committee is of the opinion that a cut-off lower than Rs 8 lakhs on family income would be unduly restrictive and lead to errors of exclusion of the deserving eligible persons. Of course, this may mean that there could be errors of inclusion of the undeserving candidates. In this regard, the committee looked at three options: (i) continue the existing approach of using a comprehensive set of asset criteria to weed out the undeserving (ii) use asset criteria only where family income was not easy to verify through other means (iii) a feed-back loop through active monitoring of actual outcomes.
- 4.7 The existing set of asset criteria were essentially developed to minimize the wrong inclusion problem. Farmers possessing up to 5 acres of land are generally termed as marginal and small farmers. It is recognized that there may be a wide variation in terms of quality of soil, irrigation and so on, but it is arguably best to avoid fine distinctions on grounds of simplicity in identification of EWS. Given the variability and the paucity of information on agricultural incomes (which is exempt from Income Tax and therefore not ascertainable) and therefore are not captured by income tax or other authorities, ownership of farmland could be used as an exclusion criterion. Based on the discussion given in **paras**

3.3.4.1 to 3.3.4.18 the committee is of the view that the existing exclusion criteria of family agricultural holding limit of 5 acres of agricultural land and above may be retained as it is.

4.8 The use of residential plot size and house floor area as an asset criterion for identification of EWS, however, is complex although this is what has been done in the existing set of conditions. Although these criteria also apply to the rural general category, this is more pertinent for those in urban areas. The Committee looked into the question of whether the house or plot area thresholds in EWS criteria should factor in the difference in their values based on geographical distributions. The committee recognizes that it is not easy to specify a general residential area threshold for the entire country. Current residential asset criteria based on measurement area is anomalous because residential houses of same square ft or yards can have vastly different values depending upon where they are located. Residential real estate values vary widely even within the same city. Even if we replace the area thresholds in EWS criteria with residential house or plot values, still it would not solve the problem because it would then require lakhs of candidates every year to get the valuation done of their houses and plots from the notified authorities.

4.9 Moreover, Indian households often do not live in a simple nuclear format and it can be very difficult to work out how much is “owned” by the family as defined by the EWS criteria. Common spaces, including those for parking or animal husbandry, are used jointly by large extended families. Although such rigidly defined criteria are used for income-tax purposes, the committee was concerned that it could be onerous as an exclusion criterion as genuine EWS families may find it difficult to establish the facts. Indian families often do not conform to a standard nuclear type, ownership is often complex, and there is a lot of potential for dispute. Even building codes can get problems in the way of implementation. As a letter from the Government of Kerala, dated 0.6.09.2019 (Appendix 22) points out

“.... As per the Building Rule a minimum of 3 cents of land is required in ownership for obtaining the construction license for a residential building. The specified exclusion threshold of 100 sq. yards ownership in municipal areas which is less than 2.1 cents of land makes this category of families non-existent and accordingly no purpose is served”.

The State government then requested the Government of India that the threshold value for exclusion should 500 sq. yards in municipal areas and 1000 sq. yards in non-municipal areas. The same approach would be just too high for place like Mumbai. If different area limits are prescribed for different towns or cities, then the question will arise as for how many cities and towns one would prescribe area thresholds. Secondly within a city too, also

rates would vary vastly depending upon the area in the same city. This illustrates the complexity of coming up with a simple nation-wide residential asset threshold criterion, and the committee found that every simple formulation would fall foul of some problem in some part of the country. In short, an asset criterion on residential plot size or flat floor area should only be imposed if there is clear evidence that the system is being widely misused in practice. At present there is no such data or evidence.

4.10 It is also found that merely holding/owning/to be in possession of residential house which may even be ancestral and may be used only as a dwelling unit and in absence of any possibility of sale may not correctly reflect the economic condition of the candidate or his family. If the residential house is used only for dwelling and not generating income, how fair it is to determine the economic status of the family only on the basis of hypothetical sale value of the asset. Any EWS exclusion criteria only based on owning a house may lead to unwanted exclusion of deserving candidates. Therefore the Committee is not in favour of having an exclusion criteria merely based on residential assets. It is the income of the family which matters and determines the economic conditions of the family and that should be the basis for inclusion or that matter exclusion into EWS.

4.11 In India Wealth Tax was abolished in 2015. One of reasons for its abolition was practical difficulties in assessing quantum or value of wealth for the purpose of wealth tax and compliance burden on people. It was stated in the Memorandum of the Bill presented to the Parliament-

“...this levy creates a significant amount of compliance burden on the assesses as well as administrative burden on the department. This is because assesses are required to value the asset as per the provisions of wealth tax rules for computation of net wealth and for certain assets like jewellery they are required to obtain valuation report from the registered value of valuers...”

4.12 As discussed in foregoing paras many EWS families would be living under one roof with extended family. They are currently required to get a certificate of the areas of their shares in the residential house or plots for getting benefit of EWS reservation. That process itself is onerous on ESW families. When computation of wealth and its valuation can be so burdensome for wealthy people that it necessitated abolition of wealth tax in 2015 how

fair is it now to impose such burden on lakhs of candidates and their families from EWS category?

- 4.13 The Committee is therefore of the view that on merit as well as for ease, convenience, and simplicity, the residential asset area criteria should altogether be omitted as it does not reflect true economic conditions and also poses serious complications and burden on EWS families without commensurate benefits.
- 4.14 The Committee decided to examine the background of those who have taken benefit of EWS reservations in practice till now. The proof of the pudding, as they say, is not in the recipe but in eating. Therefore, it is important to examine the actual outcome of the EWS income criteria as applied in the last two years. The committee found that for UPSC selections (2019 & 2020), there is no obvious bunching at the top of the income criteria that would suggest exclusion of deserving lower-income candidates. Further, the annual household income distribution of qualified EWS candidates for NEET-UG and JEE (Mains) for 2020 reveals that a mere 9% and 8.2% of EWS candidates were found to be in the income bracket Rs 5-8 lakhs respectively. In other words, most selected candidates who got the benefit of EWS reservation had annual family income lower than Rs 5 lakh. That is why the Committee has come to the conclusion that the existing annual income criteria of Rs 8 lakh is not over-inclusive.
- 4.15 Given that there is no evidence of the bunching of EWS candidates at the highest income bracket of Rs 5-8 lakh, the current cut-off of Rs 8 lakhs is not leading to a major problem of the inclusion of undeserving candidates. Despite the fact that the bulk of the qualifying candidates is below Rs 5 lakhs, a somewhat higher threshold is needed which ensures that deserving beneficiaries affected by various factors such as income volatility, size of family, high cost of living in certain locations are not excluded. The detailed analysis has been given in **paras 3.3.3.2 to 3.3.3.7**.
- 4.16 The Committee also deliberated how the process of review of EWS criteria can be managed in future. In this context, the Committee is of the view that the traditional approach of ever more detailed multi-dimensional surveys or studies at a frequent interval alone may not be especially useful for the operation of the EWS reservations. They are expensive, complicated, and irregular, and the use of certain consumer patterns for exclusion may just lead to gaming of the system and skew the outcomes. The better approach would be to use a feedback loop to examine the actual outcomes from implementation of the criteria, say, every three years. This is possible as the data for the

selected candidates, their income, assets etc would be available in the system (as discussed in paragraphs 3.3.4.32 to 3.3.4.33) and a limited sample can also be verified. Indeed, this feedback-loop approach should be more frequently used in other areas of government policy to iteratively improve the effectiveness of various schemes. Thus, the Committee is thus proposing an “Agile” approach over a “Waterfall” methodology.

4.17 A related suggestion is that information technology can be used extensively for better targeting. There is now a wealth of information about incomes, assets and spending patterns from GST, income-tax, digital payments, financial institutions, real estate registration and so on. These should make it possible to use it to tweak the criteria to reduce both Type I and Type II errors, improve compliance and make it administratively simple over time. In particular, the committee is of the view that the wealth of digital information that is becoming available on “flows” of income from virtually all sources should be utilized for targeting rather than getting needlessly caught in the complex debate about ownership and valuation of real estate assets. This has been discussed in detail in paragraphs 3.3.4.32 to 3.3.4.33.

4.18 The Committee also debated whether or not the retention of an asset criteria for agricultural land was unfair to rural candidates if the residential asset criteria were being removed. The committee concluded after detailed deliberations and after considering pros and cons that this was not the case due to the following reasons: (a) rural households, including farmers, also benefit from being released from the residential asset criteria, (b) Those owning up to five acres of land are considered marginal and small farmers. Removal of agricultural land limit criteria could result into anomalous situation of big land owners (who are not small or marginal farmers) being included in EWS because currently there is no income tax on agricultural income and agricultural income therefore may not be documented and may escape being included in the gross annual income.

4.19 In short, the Committee recommends that:

- (i) The current gross annual family income limit for EWS of Rs. 8.00 lakh or less may be retained. In other words only those families whose annual income is up to Rs 8 Lakh would be eligible to get the benefit of EWS reservation. The definition of ‘family’ and income would remain same as those in the OM dated 17th January 2019.
- (ii) EWS may, however exclude, irrespective of income, a person whose family has 5 acres of agricultural land and above.

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- (iii) The residential asset criteria may altogether be removed.
 - (iv) The Committee deliberated upon the vexed question as to from which year the criteria suggested in his Report should be used, adopted and made applicable. The Committee found that the existing criteria [the criteria applicable prior to this Report] is in use since 2019. The question of desirability of the existing criteria arose and a possibility of its being revisited arose only recently in *Neil Aurelio Nunes and ors. versus Union of India and ors.* and a batch of petitions towards the later part of 2021. By the time this Hon'ble Court started examining the said question and the Central Government decided to revisit the criteria by appointing this Committee, the process with respect to some appointments / admissions have taken place or must have been at an irreversible and advanced stage. The existing system which is going on since 2019, if disturbed at the end or fag-end of the process would create more complications than expected both for the beneficiaries as well as for the authorities.

In case of admissions to educational institutions, sudden adoption of a new criteria inevitably and necessarily would delay the process by several months which would have an inevitable cascading effect on all future admissions and educational activities / teaching / examination which are time bound under various statutory / judicial time prescriptions.

Under these circumstances, it is completely unadvisable and impractical to apply the new criteria (which are being recommended in this report) and change the goal post in the midst of the on-going processes resulting in inevitable delay and avoidable complications. When the existing system is ongoing since 2019, no serious prejudice would be caused if it continues for this year as well. Changing the criteria midway is also bound to result in spate of litigations in various courts across the country by the people/persons whose eligibility would change suddenly.

The Committee, therefore, after analysing the pros and cons on this issue and after giving serious consideration, recommends that the existing and on-going criteria in every on-going process where EWS reservation is available, be continued and the criteria recommended in this Report may be made applicable from next advertisement / admission cycle.

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- (v) Data exchange and information technology as discussed above should be used more actively to verify income and assets and to improve targeting for EWS reservations and also across government schemes.
 - (vi) A three-year feedback loop cycle may be used to monitor the actual outcomes of these criteria and then be used to adjust them in future.

Appendices

SI No	Appendix
1	103 rd Constitution Amendment Act
2	EWS - DOPT O.M. dated 08.09.1993
3	EWS - DOPT O.M. dated 14.10.2004
4	EWS - DOPT O.M. dated 25.09.1991
5	EWS - DOPT O.M. dated 19.01.2019
6	EWS - DOPT O.M. dated 31.01.2019
7	MSJE OM dated 17.01.2019 EWS
8	Justice Rama Nandan Committee Report
9	Sinho Commission Report Vol.1: Recommendation and Conclusion - Chapter 8 and 9
10	Annual Information Summary (Sample)
11	Recent Amendments to Income Tax Act for minimizing Cash Transactions
12	Income Tax slab from FY 1989-90 to FY 2021-22
13	Finance Bill, 2015 - Abolishing Wealth Tax
14	Minutes of EWS meeting on 7.12.2021
15	Minutes of EWS meeting on 9.12.2021
16	Minutes of EWS meeting on 13.12.2021
17	Minutes of EWS meeting on 15.12.2021
18	Minutes of EWS meeting on 16.12.2021
19	Minutes of EWS meeting on 17.12.2021
20	Minutes of EWS meeting on 22.12.2021
21	Minutes of EWS meeting on 31.12.2021
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रजिस्ट्री सं० डी० एल०—(एन)04/0007/2003—19

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असाधारण

EXTRAORDINARY

भाग II — खण्ड 1

PART II — Section 1

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW AND JUSTICE (Legislative Department)

New Delhi, the 12th January, 2019/Pausha 22, 1940 (Saka)

The following Act of Parliament received the assent of the President on the 12th January, 2019, and is hereby published for general information:—

THE CONSTITUTION (ONE HUNDRED AND THIRD AMENDMENT) ACT, 2019

[12th January, 2019.]

An Act further to amend the Constitution of India.

BE it enacted by Parliament in the Sixty-ninth Year of the Republic of India as follows:—

1. (1) This Act may be called the Constitution (One Hundred and Third Amendment) Act, 2019.

Short title and
commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In article 15 of the Constitution, after clause (5), the following clause shall be inserted, namely:—

Amendment of
article 15.

‘(6) Nothing in this article or sub-clause (g) of clause (1) of article 19 or clause (2) of article 29 shall prevent the State from making,—

(a) any special provision for the advancement of any economically weaker sections of citizens other than the classes mentioned in clauses (4) and (5); and

(b) any special provision for the advancement of any economically weaker sections of citizens other than the classes mentioned in clauses (4) and (5) in so

far as such special provisions relate to their admission to educational institutions including private educational institutions, whether aided or unaided by the State, other than the minority educational institutions referred to in clause (1) of article 30, which in the case of reservation would be in addition to the existing reservations and subject to a maximum of ten per cent. of the total seats in each category.

Explanation.—For the purposes of this article and article 16, "economically weaker sections" shall be such as may be notified by the State from time to time on the basis of family income and other indicators of economic disadvantage."

Amendment of
article 16.

3. In article 16 of the Constitution, after clause (5), the following clause shall be inserted, namely:—

"(6) Nothing in this article shall prevent the State from making any provision for the reservation of appointments or posts in favour of any economically weaker sections of citizens other than the classes mentioned in clause (4), in addition to the existing reservation and subject to a maximum of ten per cent. of the posts in each category."

DR. G. NARAYANA RAJU,
Secretary to the Govt. of India.

No.36012/22/93-Estt. (SCT)
Government of India
Ministry of Personnel, Public Grievances & Pensions
(Department of Personnel & Training)

New Delhi, the 8th September, 1993

OFFICE MEMORANDUM

Subject:- Reservation for Other Backward Classes in Civil Posts and Services under the Government of India – Regarding.

The undersigned is directed to refer to this Department's O.M. No. 36012/31/90-Estt. (SCT), dated the 13th August, 1990 and 25th September, 1991 regarding reservation for Socially and Educationally Backward Classes in Civil Posts and Services under the Government of India and to say that following the Supreme Court judgment in the India Sawhney and others Vs. Union of India and others case [Writ Petition (Civil) No. 930 of 1990] the Government of India appointed an Expert Committee to recommend the criteria for exclusion of the socially advanced persons/sections from the benefits of reservations for Other Backward Classes in civil posts and services under the Government of India.

2. Consequent to the consideration of the Expert Committee's recommendations this Department's Office Memorandum No. 36012/31/90-Estt. (SCT), dated 13.08.90 referred to in Para (1) above is hereby modified to provide as follows:

- (a) 27% (twenty seven percent) of the vacancies in civil posts and services under the Government of India, to be filled through direct recruitment, shall be reserved for the Other Backward Classes. Detailed instructions relating to the procedure to be followed for enforcing reservation will be issued separately.
- (b) Candidates belonging to OBCs recruited on the basis of merit in an open competition on the same standards prescribed for the general candidates shall not be adjusted against the reservation quota of 27%.
- (c) (i) The aforesaid reservation shall not apply to persons/sections mentioned in column 3 of the Schedule to this office memorandum.
 (ii) The rule of exclusion will not apply to persons working as artisans or engaged in hereditary occupations, callings. A list of such occupations, callings will be issued separately by the Ministry of Welfare.
- (d) The OBCs for the purpose of the aforesaid reservation would comprise, in the first phase, the castes and communities which are common to both the report of the Mandal Commission and the State Government's Lists. A list of such castes and communities is being issued separately by the Ministry of Welfare.
- (e) The aforesaid reservation shall take immediate effect. However, this will not apply to vacancies where the recruitment process has already been initiated prior to the issue of this order.

3. Similar instructions in respect of public sector undertaking and financial institutions including public sector banks will be issued by the Department of Public Enterprises and by the Ministry of Finance respectively effective from the date of this Office Memorandum.

Sd/-

(Smt. Sarita Prasad)

Joint Secretary to the Government of India.

To

All Ministries/Department of Government of India.

Copy:

1. Department of Public Enterprises, New Delhi. : It is requested that the said instructions may be issued in respect of PSUs, Public Sector Banks & Insurance Corporation.
2. Ministry of Finance (Banking & Insurance Divisions), New Delhi. :

SCHEDULE

1	Description of Category	To whom rule of exclusion will apply
1	2	3
	I. CONSTITUTIONAL POSTS	<p>Son(s) and daughter(s) of</p> <ul style="list-style-type: none"> (a) President of India; (b) Vice President of India; (c) Judges of the Supreme court and of the High Courts; (d) Chairman & Members of UPSC and of the State Public Service Commission; Chief Election Commissioner; Comptroller & Auditor General of India; (e) Persons holding Constitutional positions of like nature.
	II. SERVICE CATEGORY A. Group A/Class I officers of the All India Central and State Services (Direct Recruits).	<p>Son(s) and daughter(s) of</p> <ul style="list-style-type: none"> (a) parents, both of whom are Class I officers; (b) Parents, either of whom is a Class-I officers; (c) Parents, both of whom are a Class-I officers, but one of them dies or suffers permanent incapacitation. (d) Parents, either of whom is a Class-I officers and such parent dies or suffers permanent incapacitation and before such death or such incapacitation has had the benefit of employment in any International Organisation like UN, IMF, world Bank, etc. for a period of not less than 5 years. (e) Parent, both of whom are class I officers die or suffer permanent incapacitation and before such death or such incapacitation of the both, either of them has had the benefit of employment in any Inter-national Organisation like UN, IMF, World Bank, etc. for a period of not less than 5 years. <p>Provided that the rule of exclusion shall not apply in the following cases:</p> <ul style="list-style-type: none"> (a) Sons and daughters of parents either of whom or both of whom are Class-I officers and such parent(s) dies/die or suffer permanent incapacitation. (b) A lady belonging to OBC category has got married to a Class-I officer, and may herself like to apply for a job.

(Contd...2)

1	2	3
	<p data-bbox="272 264 820 327"><i>B. Group B/Class II officers of the Central & State Services (Direct Recruitment)</i></p> <p data-bbox="876 264 1455 1043"> Son(s) and daughter(s) of (a) Parents both of whom are Class II officers. (b) Parents of whom only the husband is a Class II officer and he gets into Class I at the age of 40 or earlier. (c) parents, both of whom are Class II officers and one of them dies or suffers permanent incapacitation and either one of them has had the benefit of employment in any International Organisation like UN, IMF, World Bank, etc. for a period of not less than 5 years before such death or permanent incapacitation: (d) parents of whom the husband is a Class I officer (Direct Recruit or pre-forty promoted) and the wife is a Class II officer and the wife dies; or suffers permanent incapacitation; and (e) parents, of whom the wife is a Class I officer (Direct Recruit or pre-forty promoted) and the husband is a Class II officer and the husband dies or suffers permanent incapacitation </p> <p data-bbox="933 1077 1455 1144">Provided that the rule of exclusion shall not apply in the following cases:</p> <p data-bbox="933 1178 1455 1624"> Sons and daughters of (a) Parents both of whom are Class II officers and one of them dies or suffers permanent incapacitation. (b) Parents, both of whom are Class II officers and both of them die or suffer permanent incapacitation, even through either of them has had the benefit of employment in any International Organisation like UN, IMF, World Bank, etc. for a period of not less than 5 years before their death or permanent incapacitation: </p>	
<p data-bbox="272 1646 798 1680"><i>C. Employees in Public Sector Undertakings etc.</i></p>	<p data-bbox="876 1646 1455 2016">The criteria enumerated in A&B above in this Category will apply mutatis mutandi to officers holding equivalent or comparable posts in PSUs, Banks, Insurance Organisations, Universities, etc. and also to equivalent or comparable posts and positions under private employment, Pending the evaluation of the posts on equivalent or comparable basis in these institutions, the criteria specified in Category VI below will apply to the officers in these Institutions.</p>	

1	2	3
III. ARMED FORCES INCLUDING PARAMILITARY FORCES (Persons holding civil posts are not included)		<p>Son(s) and daughter(s) of parents either or both of whom is or are in the rank of Colonel and above in the Army and to equivalent posts in the Navy and the Air Force and the Para Military Forces;</p> <p>Provided that:-</p> <p>(i) if the wife of an Armed Forces Officer is herself in the Armed Forces (i.e., the category under consideration) the rule of exclusion will apply only when she herself has reached the rank of Colonel;</p> <p>(ii) the service ranks below Colonel of husband and wife shall not be clubbed together;</p> <p>(iii) If the wife of an officer in the Armed Forces is in civil employment, this will not be taken into account for applying the rule of exclusion unless she falls in the service category under item No. II in which case the criteria and conditions enumerated therein will apply to her independently.</p>
IV PROFESSIONAL CLASS AND THOSE ENGAGED IN TRADE AND INDUSTRY		
<p>(I) <i>Persons engaged in profession as a doctor, lawyer, chartered accountant, Income-Tax consultant, financial or management consultant, dental surgeon, engineer, architect, computer specialist, film artists and other film professional, author, playwright, sports person, sports professional, media professional or any other vocations of like status.</i></p>		<p>Criteria specified against category VI will apply:-</p>
<p>(II) Persons engaged in trade, business and industry.</p>		<p>Criteria specified against Category VI will apply:</p> <p>Explanation :</p> <p>(i) Where the husband is in some profession and the wife is in a Class II or lower grade employment, the income/wealth test will apply on the basis of the husband's income.</p> <p>(ii) If the wife is in any profession and the husband is in employment in a Class II or lower rank post, then the income/ wealth criterion will apply only on the basis of the wife's income and the husband's of the wife's income and the husband's income will not be clubbed with it.</p>

(Contd..4)

1	2	3
V. PROPERTY OWNERS A. Agricultural holdings		<p>Son(s) and daughter(s) of persons belonging to a family (father, mother and minor children) which owns</p> <p>(a) only irrigated land which is equal to or more than 85% of the statutory area, or</p> <p>(b) both irrigated and un irrigated land, as follows:</p>
		<p>(i) The rule of exclusion will apply where the pre-condition exists that the irrigated area (having been brought to a single type under a common denominator) 40% or more of the statutory ceiling limit for irrigated land (this being calculated by excluding the un irrigated portion). If this pre-condition of not less than 40% exists, then only the area of un irrigated land will be taken into account. This will be done by converting the un irrigated land on the basis of the conversion formula existing, into the irrigated type. The irrigated area so computed from un irrigated land shall be added to the actual area of irrigated land and if after such clubbing together the total area in terms of irrigated land is 80% or more of the statutory ceiling limit for irrigated land, then the rule of exclusion will apply and disentitlement will occur.</p> <p>(ii) The rule of exclusion will not apply if the land holding of a family is exclusively un irrigated.</p>
B. Plantations		<p>Criteria of income/wealth specified in Category VI below will apply.</p>
<p>(i) Coffee, tea, rubber, etc.</p>		<p>Deemed as agricultural holding and hence criteria at A above under this Category will apply.</p>
<p>(ii) Mango, citrus, apply plantations etc.</p>		
C. Vacant land and/or buildings in urban areas or urban agglomerations		<p>Criteria specified in Category VI below will apply.</p> <p><i>Explanation:</i> Building may be used for residential, industrial or commercial purpose and the like two or more such purposes.</p>
VI. INCOME/WEALTH TEST		<p>Son(s) and daughter(s) of</p> <p>(a) Persons having gross annual income of Rs. 1 lakh or above or possessing wealth above the Wealth Tax Act for a period of three consecutive years.</p>

(Contd...5)

1	2	3
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- (b) Persons in Categories I, II, III and V A who are not disentitled to the benefit of reservation but have income from other sources of wealth which will bring them within the income/wealth criteria mentioned in (a) above.

Explanation:

- (i) Income from salaries or agricultural land shall not be clubbed;
- (ii) The income criteria in terms of rupee will be modified taking into account the change in its value every three years. If the situation, however, so demands, the interregnum may be less.

Explanation: Wherever the expression "permanent incapacitation" occurs in this schedule. It shall mean incapacitation which results in putting an officer out of service.

No.36033/5/2004-Estt.(Res.)
Government of India
Ministry of Personnel, Public Grievances & Pensions
Department of Personnel & Training

.....
New Delhi ,dated :the 14th October,2004

To

The Chief Secretaries of all the States/Union Territories.

Subject: Clarifications regarding creamy layer amongst OBCs.

Sir,

I am directed to invite your attention to the Schedule to this Department's OM No.36012/22/93-(SCT) dated 8th September, 1993 which contains the criteria to determine the creamy layer amongst the OBCs. In regard to the children of the persons in civil services of the Central and the State Governments, it provides that son(s) and daughter(s) of:

- (a) parents, both of whom are directly recruited Class I/Group A officers;
- (b) parents, either of whom is a directly recruited Class I/Group A officer;
- (c) parents, both of whom are directly recruited Class I/Group A officers, but one of them dies or suffers permanent incapacitation;
- (d) parents, either of whom is a directly recruited Class I/ Group A officer and such parent dies or suffers permanent in - capacitation and before such death or such incapacitation has had the benefit of employment in any International Organisation like UN, IMF, World Bank, etc. for a period of not less than 5 years;
- (e) parents, both of whom are directly recruited Class I/Group A officers and both of them die or suffer permanent incapacitation and before such death or such incapacitation of the both, either of them has had the benefit of employment International Organisation like UN, IMF, World Bank, etc. for a period of not less than 5 years;
- (f) parents both of whom are directly recruited Class II/Group B officer;
- (g) parents of whom only the husband is a directly recruited Class II/Group B officer and he gets into Class I/Group A at the age of 40 or earlier;
- (h) parents, both of whom are directly recruited Class II/ Group B officers and one of them dies or suffers permanent incapacitation and either of them has had the benefit of employment is any International Organisation like UN, IMF, World Bank, etc. for a period of not less than 5 year;
- (i) parents of whom the husband is a Class I/Group A officer (direct recruit or pre-forty promoted) and the wife is a directly recruited Class II/Group B officer and the wife dies; or suffers permanent incapacitation; and
- (j) parents, of whom wife is a Class I/Group A officer (Direct Recruit or pre-forty promoted) and the husband is a directly recruited Class II/Group B officer and the husband dies or suffers permanent incapacitation shall be treated as falling in creamy layer.

2. The Schedule further provides that sons and daughters of:

(i) parents either of whom or both of whom are directly recruited Class I/Group A officer(s) and such parents(s) dies/die or suffers/suffer permanent incapacitation;

(ii) parents both of whom are directly recruited Class II/Group B officers and one of them dies or suffers permanent incapacitation;

(iii) parents both of whom are directly recruited Class II/Group B officers and both of them die or suffer permanent incapacitation, even though either of them has had the benefit of employment in any International Organisation like UN, IMF, World Bank, etc. for a period of not less than 5 years before their death or permanent incapacitation shall not be treated to be falling in creamy layer.

3. The criteria prescribed for determining creamy layer status of sons and daughters of persons in Government service mutatis mutandis applies to the sons and daughters of persons holding equivalent or comparable posts in PSUs, Banks, Insurance Organisations, Universities, etc. and also holding equivalent or comparable posts and positions under private employment. The creamy layer status of the sons and daughters of employees of organizations where evaluation of the posts on equivalent or comparable basis has not been made is determined on the basis of 'Income/Wealth Test' given in the Schedule. The Income/Wealth Test prescribes that the sons and daughters of persons having gross annual income of Rs.2.5 lakh or above or possessing wealth above the exemption limit as prescribed in the Wealth Tax Act for a period of three consecutive years would be treated to fall in creamy layer. An explanation is given below the Income/Wealth Test which provides that 'income from salaries or agricultural land shall not be clubbed.

4. Following questions have been raised from time to time about the application of the above provisions to determine creamy layer:

(i) Will the sons and daughters of parents either of whom or both of whom are directly recruited Class I/Group A officer(s) and such parent(s) dies/die or suffers/suffer permanent incapacitation after retirement be treated to be excluded from the creamy layer?

(ii) Will the sons and daughters of parents both of whom are directly recruited Class II/Group B officers and one of them dies or suffer permanent incapacitation after retirement be treated to be excluded from the creamy layer?

(iii) Will the sons and daughters of parents both of whom are directly recruited Class II/Group B officers and both of them die or suffer permanent incapacitation after retirement even though either of them has had got the benefit of employment in any International Organisation like UN, IMF, World Bank, etc. for a period of not less than 5 years before their death or permanent incapacitation be treated to be excluded from the purview of creamy layer?

(iv) Will the sons and daughters of parent(s) who retire from the service on the basis of which their sons and daughters fall in creamy layer, continue to fall in creamy layer after retirement of the parent(s)?

(v) Will the sons and daughters of parents of whom husband is directly recruited Class III/Group C or Class IV/ Group D employee and he gets into Class I/Group A at the age of 40 or earlier be treated to be falling in creamy layer?

(vi) Will a candidate who himself is a directly recruited Class I/Group A officer or a directly recruited Class II/Group B officer who got into Class I/Group A at the age of 40 or earlier be treated to be falling in creamy layer on the basis of his service status?

(vii) Will a candidate who has gross annual income of Rs.2.5 lakh or above or possesses wealth above the Exemption limit as prescribed in the Wealth Tax Act for a period of three consecutive years be treated to fall in creamy layer?

(viii) The instructions provide that a lady belonging to OBC category who has got married to a directly recruited Class I/Group A officer shall not be treated as falling in creamy layer on the basis of her marriage. Will a man

belonging to OBC category who is married to a directly recruited Class I/Group 'A' officer be treated as falling in creamy layer on the basis of his marriage?

(ix) How will be the Income/Wealth Test apply in case of Sons and daughters of parent(s) employed in PSUs etc. in which equivalence or comparability of posts has not been established vis-à-vis posts in the Government?

(x) What is the scope of the explanation, 'Income salaries or agricultural land shall not be clubbed', given below the Income/ Wealth Test?

5. It is clarified in regard to clauses (i), (ii) and (iii) of para 4 that the sons and daughters of

(a) parents either of whom or both of whom are directly recruited Class I/Group A officers and such parent(s) dies/die or suffers/suffer permanent incapacitation while in service;

(b) parents both of whom are directly recruited Class II/Group B officers and one of them dies or suffers permanent incapacitation while in service; and

(c) parents both of whom are directly recruited Class II/Group B officers and both of them die or suffer permanent incapacitation while in service, even though either of them has benefit of employment in any International Organization like UN, IMF, World Bank, etc. for a period of not less than 5 years before their death or permanent incapacitation are not treated to be falling in creamy layer. But if the parent(s) dies/die or suffers/suffer permanent incapacitation in such cases after retirement from service, his/their sons and daughters would be treated to be falling in creamy layer and would not get the benefit of reservation.

6. In regard to clause (iv) of para 4, it is clarified that sons and daughters of parents who are included in the creamy layer on the basis of service status of their parents shall continue to be treated in creamy layer even if their parents have retired or have died after retirement.

7. In regard to clause (v) of para 4, it is clarified that the sons and daughters of parents of whom only the husband is a directly recruited Class II/Group B officer who gets into Class I/Group A at the age of 40 or earlier are treated to be in creamy layer. If the father is directly recruited Class III/Group C or Class IV/Group D employee and he gets into Class I/Group A at the age of 40 or earlier, his sons and daughters shall not be treated to be falling in creamy layer.

8. In regard to clauses (vi), (vii) and (viii) of para 4, it is clarified that the creamy layer status of a candidate is determined on the basis of the status of his parents and not on the basis of his own status or income or on the basis of status or income or on the basis of status or income of his/her spouse. Therefore, while determining the creamy layer status of a person the status or the income of the candidate himself or of his/her spouse shall not be taken into account.

9. In regard to clause (ix) of para 4, it is clarified that the creamy layer status of sons and daughters of persons employed in organizations where equivalence or comparability of posts vis-à-vis posts in Government has not been evaluated is determined as follows:

Income of the parents from the salaries and from the other Sources [other than salaries and agricultural land] is determined separately. If either the income of the parents from the salaries or the income of the parents from other sources [other than salaries and agricultural land] exceeds the limit of Rs.2.5 lakh per annum for a period of three consecutive years, the sons and daughters of such persons shall be treated to fall in creamy layer. But the sons and daughters of parents whose income from other sources is also less than Rs.2.5 lakh per annum and income from other sources is also less than Rs.2.5 lakh per annum will not be treated as falling in creamy layer even if sum of the income from salaries and the income from the other sources is more than Rs.2.5 lakh per annum for period of three consecutive years. It may be noted that income from agricultural land is not taken into account while applying the Test.

10. In regard to clause (x) of para 4, it is clarified that while applying the Income/Wealth Test to determine creamy layer status of any candidate as given in Category-VI of the Schedule to the OM, income from the salaries and income from the agricultural land shall not be taken into account. It means that if income from salaries of the

parents of any candidate is more than Rs.2.5 lakh per annum, income from agricultural land is more than Rs.2.5 lakh per annum, but income from other sources is less than Rs.2.5 lakh per annum, the candidate shall not be treated to be falling in creamy layer on the basis of Income/Wealth Test provided his parent(s) do not possess wealth above the exemption limit as prescribed in the Wealth Tax Act for a period of three consecutive years.

11. You are requested to bring the contents of this letter to all concerned in the State.

Yours faithfully,

(K.G. Verma)
Deputy Secretary to the Govt. of India.

Copy to:

1. All Ministries/Departments of Govt. of India.
2. Department of Economic Affairs (Banking Division), New Delhi.
3. Department of Economic Affairs (Insurances Division), New Delhi
4. Department of Public Enterprises, New Delhi.
5. Railway Board,
6. Union Public Service Commission/Supreme Court of India/ Election Commission/Lok Sabha Secretariat/Rajya Sabha Secretariat/Cabinet Secretariat/Central Vigilance Commission/ President's Secretariat/Prime Minister's Office/Planning Commission/National Commission for Backward Classes.
7. Staff Selection Commission ,CGO Complex, Lodi Road, New Delhi.
8. Office of the Comptroller & Auditor General of India, 10, Bahadur Shah Zafar Marg, New Delhi.

With the request to bring the contents of this letter to the notice of all concerned.

No. 36012/31/90-Estt. (SCT)

Government of India

Ministry of Personnel, Public Grievances and Pensions
(Department of Personnel & Training)

New Delhi, the 25th September, 1991

OFFICE MEMORANDUM

Subject: Recommendations of Second Backward Classes Commission (Mandal Report)—Reservation for Socially and Educationally Backward Classes in services under the Government of India

The undersigned is directed to invite the attention to O. M. of even number dated the 13th August, 1990, on the above mentioned subject and to say that in order to enable the poorer sections of the SEBCs to receive the benefits of reservation on a preferential basis and to provide reservation for other economically backward sections of the people not covered by any of the existing schemes of reservation, Government have decided to amend the said Memorandum with immediate effect as follows:--

2.(i) Within the 27% of the vacancies in civil posts and services under the Government of India reserved for SEBCs, preference shall be given to candidates belonging to the poorer sections of the SEBCs. In case sufficient number of such candidates are not available, unfilled vacancies shall be filled by the other SEBC candidates.

(ii) 10% of the vacancies in civil posts and services under the Government of India shall be reserved for other economically backward sections of the people who are not covered by any of the existing schemes of reservation.

(iii) The criteria for determining the poorer sections of the SEBCs or the other economically backward sections of the people who are not covered by any the existing schemes of reservation are being issued separately.

3. the O. M. of even number dated the 13th August, 1990, shall be deemed to have been amended to the extent specified above.

Sd/

(A. K. HARIT)

Deputy Secretary to the Government of India

F. No.36039/1/2019-Estt.(Res.)
Government of India
Ministry of Personnel, Public Grievances and Pensions
Department of Personnel and Training

North Block, New Delhi
19th January, 2019

OFFICE MEMORANDUM

Subject: Reservation for Economically Weaker Sections (EWSs) in civil posts and services in the Government of India

Reference is invited to Ministry of Social Justice and Empowerment O.M. No. F.No.20013/01/2018-BC-II dated 17.1.2019 on the above mentioned subject, which, inter-alia, reads as under:-

"1. In pursuance of insertion of clauses 15(6) and 16(6) in the Constitution vide the Constitution (One Hundred and Third Amendment) Act, 2019 and in order to enable the Economically Weaker Sections (EWSs) who are not covered under the existing scheme of reservations for the Scheduled Castes, the Scheduled Tribes and the Socially and Educationally Backward Classes, to receive the benefits of reservation on a preferential basis in civil posts and services in the Government of India and admission in Educational Institutions, it has been decided by the Government to provide 10% reservation to EWSs in civil posts and services in Government of India and admission in Educational Institutions.

2. Persons who are not covered under the existing scheme of reservations for the Scheduled Castes, the Scheduled Tribes and the Socially and Educationally Backward Classes and whose family has gross annual income below Rs. 8.00 lakh are to be identified as EWSs for the benefit of reservation. Family for this purpose will include the person who seeks benefit of reservation, his/her parents and siblings below the age of 18 years as also his/her spouse and children below the age of 18 years. The income shall include income from all sources i.e. salary, agriculture, business, profession etc. and it will be income for the financial year prior to the year of application. Also persons whose family owns or possesses any of the following assets shall be excluded from being identified as EWSs, irrespective of the family income:

- i. 5 acres of Agricultural Land and above;
- ii. Residential flat of 1000 sq. ft. and above;
- iii. Residential plot of 100 sq. yards and above in notified municipalities;
- iv. Residential plot of 200 sq. yards and above in areas other than the notified municipalities.

3. The income and assets of the families as mentioned in para 2 would be required to be certified by an officer not below the rank of Tehsildar in the States/UTs. The officer who issues the certificate would do the same after

Gyanendra Tripathi
19/1/2019

carefully verifying all relevant documents following due process as prescribed by the respective State/ UT.

5. *Instructions regarding reservation in employment and admission to educational institutions will be issued by DOPT and Ministry of HRD respectively."*

2. In pursuance of the above Office Memorandum, it is hereby notified that 10% reservation would be provided for Economically Weaker Sections (EWSs) in central government posts and services and would be effective in respect of all Direct Recruitment vacancies to be notified on or after 01.02.2019.

3. Detailed Instructions regarding operation of roster and procedure for implementation of EWS reservation will be issued separately.

Gyanendra Tripathi
(Gyanendra Dev Tripathi) 19/01/2019

Joint Secretary to the Government of India

To

1. The Secretaries of all Ministries/Departments of the Government of India.
2. Department of Financial Services, New Delhi
3. Department of Public Enterprises, New Delhi
4. Railway Board, Ministry of Railways, Rail Bhavan, New Delhi
5. Secretary, Ministry of Human Resources Development, Shastri Bhavan, New Delhi.
6. Supreme Court of India/Election Commission of India/ Lok Sabha Secretariat/ Rajya Sabha Secretariat/ Cabinet Secretariat/ Central Vigilance Commission/ President's Secretariat/ Vice President's Secretariat /Prime Minister's Office/ NITI Aayog
7. Union Public Service Commission / Staff Selection Commission
8. Secretary, Ministry of Social Justice and Empowerment, Shastri Bhawan, New Delhi
9. National Commission for Scheduled Castes, Lok Nayak Bhawan, New Delhi
10. National Commission for Scheduled Tribes, Lok Nayak Bhawan, New Delhi
11. National Commission for Backward Classes, Trikot-1, Bhikaji Cama Place, R.K. Puram, New Delhi
12. Office of the Comptroller and Auditor General of India
13. Information and Facilitation Center, DoPT, North Block, New Delhi.
14. Director, ISTM, Old JNU Campus, Olof Palme Marg, New Delhi 110067
15. **NIC, DoPT – to upload the same on DoPT website.**
16. Hindi Section for providing a Hindi translation

No.36039/1/2019-Estt (Res)
Government of India
Ministry of Personnel, Public Grievances & Pensions
Department of Personnel & Training

North Block, New Delhi
dated the 31st January, 2019

OFFICE MEMORANDUM

Subject: Reservation for Economically Weaker Sections (EWSs) in direct recruitment in civil posts and services in the Government of India.

In continuation of this Department's Office Memorandum of even number dated 19.01.2019, the following instructions are issued in consultation with Ministry of Social Justice and Empowerment and Department of Legal Affairs regarding reservation for EWSs not covered under the reservation scheme for SCs/STs/OBCs in respect of direct recruitment in civil posts and services in the Government of India.

2. QUANTUM OF RESERVATION

The persons belonging to EWSs who are not covered under the scheme of reservation for SCs, STs and OBCs shall get 10% reservation in direct recruitment in civil posts and services in the Government of India.

3. EXEMPTION FROM RESERVATION:

3.1 "Scientific and Technical" posts which satisfy all the following conditions can be exempted from the purview of the reservation orders by the Ministries/ Departments:

(i) The posts should be in grades above the lowest grade in Group A of the service concerned.

(ii) They should be classified as "scientific or technical" in terms of Cabinet Secretariat [OM No. 85/11/CF-61(1) dated 28.12.1961], according to which scientific and technical posts for which qualifications in the natural sciences or exact sciences or applied sciences or in technology are prescribed and the incumbents of which have to use that knowledge in the discharge of their duties.

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(iii) The posts should be 'for conducting research' or 'for organizing, guiding and directing research'.

3.2 Orders of the Minister concerned should be obtained before exempting any posts satisfying the above condition from the purview of the scheme of reservation.

4. CRITERIA OF INCOME & ASSETS:

4.1 Persons who are not covered under the scheme of reservation for SCs, STs and OBCs and whose family has gross annual income below **Rs. 8.00 lakh (Rupees eight lakh only)** are to be identified as EWSs for benefit of reservation. Income shall also include income from all sources i.e. salary, agriculture, business, profession, etc. for the financial year prior to the year of application.

Also persons whose family owns or possesses any of the following assets shall be excluded from being identified as EWS, irrespective of the family income:-

- i. 5 acres of agricultural land and above;
- ii. Residential flat of 1000 sq. ft. and above;
- iii. Residential plot of 100 sq. yards and above in notified municipalities;
- iv. Residential plot of 200 sq. yards and above in areas other than the notified municipalities.

4.2. The property held by a "Family" in different locations or different places/cities would be clubbed while applying the land or property holding test to determine EWS status.

4.3 The term "**Family**" for this purpose will include the person who seeks benefit of reservation, his/her parents and siblings below the age of 18 years as also his/her spouse and children below the age of 18 years.

5. INCOME AND ASSET CERTIFICATE ISSUING AUTHORITY AND VERIFICATION OF CERTIFICATE:

5.1 The benefit of reservation under EWS can be availed upon production of an Income and Asset Certificate issued by a Competent Authority. The Income and Asset Certificate issued by any one of the following authorities in the prescribed format as given in **Annexure-I** shall only be accepted as proof of candidate's claim as belonging to EWS: -

- (i) District Magistrate/Additional District Magistrate/ Collector/ Deputy Commissioner/Additional Deputy Commissioner/1st Class Stipendary

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- Magistrate/ Sub-Divisional Magistrate/ Taluka Magistrate/ Executive Magistrate/ Extra Assistant Commissioner
- (ii) Chief Presidency Magistrate/Additional Chief Presidency Magistrate/ Presidency Magistrate
 - (iii) Revenue Officer not below the rank of Tehsildar and
 - (iv) Sub-Divisional Officer or the area where the candidate and/or his family normally resides.

5.2 The Officer who issues the certificate would do the same after carefully verifying all relevant documents following due process as prescribed by the respective State/UT.

5.3 The crucial date for submitting income and asset certificate by the candidate may be treated as the closing date for receipt of application for the post, except in cases where crucial date is fixed otherwise.

5.4 The appointing authorities should, in the offer of appointment to the candidates claiming to be belonging to EWS, include the following clause :-

"The appointment is provisional and is subject to the Income and asset certificate being verified through the proper channels and if the verification reveals that the claim to belong to EWS is fake/false the services will be terminated forthwith without assigning any further reasons and without prejudice to such further action as may be taken under the provisions of the Indian Penal Code for production of fake/false certificate."

The appointing authority should verify the veracity of the Income and asset certificate submitted by the candidate through the certificate issuing authority.

5.5 Instructions referred to above should be strictly followed so that it may not be possible for an unscrupulous person to secure employment on the basis of a false claim and if any person gets an appointment on the basis of such false claim, her/his services shall be terminated invoking the conditions contained in the offer of appointment.

6. EFFECTING RESERVATION - MAINTENANCE OF ROSTERS:

6.1 Department of Personnel and Training had circulated Office Memorandum No.36012/2/96-Estt(Res) dated July 2, 1997 regarding implementation of post based reservation roster. The general principles for making and operating post

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based reservation roster would be as per the principles laid down in the said Office Memorandum.

6.2 Every Government establishment shall now recast group-wise post-based reservation roster register for direct recruitment in accordance with format given in **Annexure II, III, IV and V**, as the case may be, for effecting 10% reservation for EWSs interpolating them with the SCs, STs and OBCs. While fixing roster point, if the EWS roster point coincides with the roster points of SCs/STs/OBCs the next available UR roster point has been allotted to the EWSs and also the principle of "squeezing" has been kept in view. While drawing up the rosters, the cadre controlling authorities may similarly "squeeze" the last points of the roster so as to meet prescribed 10% reservation.

6.3 Where in any recruitment year any vacancy earmarked for EWS cannot be filled up due to non availability of a suitable candidate belonging to EWS, such vacancies for that particular recruitment year shall not be carried forward to the next recruitment year as backlog.

6.4 Persons belonging to EWS selected against the quota for persons with benchmark disabilities/ex-servicemen shall be placed against the roster points earmarked for EWS.

7. ADJUSTMENT AGAINST UNRESERVED VACANCIES:

A person belonging to EWS cannot be denied the right to compete for appointment against an unreserved vacancy. Persons belonging to EWS who are selected on the basis of merit and not on account of reservation are not to be counted towards the quota meant for reservation.

8. FORTNIGHTLY/ANNUAL REPORTS REGARDING REPRESENTATION OF EWS:

The Ministries/Departments shall send single consolidated fortnightly report including their attached/subordinate offices beginning from 15.2.2019 as per format at **Annexure-VI**.

From 01.01.2020, the Ministries/Departments shall upload data on representation of EWSs in respect of posts/services under the Central Government on the URL i.e. www.rrcps.nic.in as on 1st January of every year. All Ministries/Departments have already been provided respective usercode and password with guidelines for operating the URL.

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9. MAINTENANCE OF REGISTER OF COMPLAINTS BY THE GOVERNMENT ESTABLISHMENT:

9.1 Every Government establishment shall appoint a senior officer of the Department as the Grievance Redressal Officer.

9.2 Any person aggrieved with any matter relating to discrimination in employment against any EWS may file a complaint with the Grievance Redressal Officer of the respective Government establishment. The name, designation and contact details of the Grievance Redressal Officer may be displayed prominently on the website and in the office of the concerned establishment.

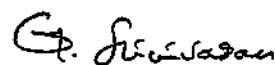
10. LIAISON OFFICER:

Ministries/Departments/Attached and Subordinate Offices shall appoint Liaison Officer to monitor the implementation of reservation for EWSs.

11. The above scheme of reservation will be effective in respect of all direct recruitment vacancies to be notified on or after 01.02.2019.

12. All the Ministries/Departments are requested to bring the above instructions to the notice of all appointing authorities under their control. In case of any difficulty with regard to implementation of the provisions of this OM, the concerned authorities may consult DOP&T through their administrative Ministry/Department.

Encl.: As above.



(G. Srinivasan)

Director

Ph.No.011-23093074

To

- (i) The Secretaries of all Ministries/Departments of the Govt. of India
- (ii) Department of Financial Services, Ministry of Finance, Jeevan Deep Building, Parliament Street, New Delhi
- (iii) Department of Public Enterprises, CGO Complex, Lodhi Road, New Delhi
- (iv) Railway Board, Rail Bhavan, Delhi.

- (v) Supreme Court of India/ Election Commission of India/ Lok Sabha Secretariat/ Rajya Sabha Secretariat/Cabinet Secretariat/Central Vigilance Commission/President's Secretariat/ Prime Minister's Office/NITI Aayog
- (vi) Union Public Service Commission, Dholpur House, Shahjahan Road, New Delhi
- (vii) Staff Selection Commission, CGO Complex, Lodi Road, New Delhi
- (viii) The Secretary, Department of Social Justice and Empowerment, Shastri Bhavan, New Delhi
- (ix) National Commission for Scheduled Castes, Lok Nayak Bhavan, New Delhi
- (x) National Commission for Scheduled Tribes, Lok Nayak Bhavan, New Delhi.
- (xi) National Commission for Backward Classes, Trikot, Bhikaji Cama Place, R.K. Puram, New Delhi.
- (xii) Office of the Comptroller & Auditor General of India, 10, Bahadur Shah Zafar Marg, New Delhi.
- (xiii) Information and Facilitation Centre, DOPT, North Block, New Delhi.
- (xiv) Director, ISTM, Old JNU Campus, Olof Palme Marg, New Delhi-110067.
- (xv) All Officers and Sections in the Ministry of Personnel, Public Grievances and Pensions and all attached/subordinate offices of this Ministry.

Copy to: Director, NIC, DOPT - with the request to immediately place this OM on the website of this Department (what's new tab) for information of all concerned.

G. Sivasankar

Annexure-I

Government of
(Name & Address of the authority issuing the certificate)

INCOME & ASSEST CERTIFICATE TO BE PRODUCED BY ECONOMICALLY WEAKER SECTIONS

Certificate No. _____

Date: _____

VALID FOR THE YEAR _____

This is to certify that Shri/Smt./Kumari _____ son/daughter/wife of _____ permanent resident of _____ Village/Street _____ Post Office _____ District _____ in the State/Union Territory _____ Pin Code _____ whose photograph is attested below belongs to Economically Weaker Sections, since the gross annual income* of his/her 'family'*** is below Rs. 8 lakh (Rupees Eight Lakh only) for the financial year _____. His/her family does not own or possess any of the following assets*** :

- I. 5 acres of agricultural land and above;
- II. Residential flat of 1000 sq. ft. and above;
- III. Residential plot of 100 sq. yards and above in notified municipalities;
- IV. Residential plot of 200 sq. yards and above in areas other than the notified municipalities.

2. Shri/Smt./Kumari _____ belongs to the _____ caste which is not recognized as a Scheduled Caste, Scheduled Tribe and Other Backward Classes (Central List)

Signature with seal of Office _____

Name _____

Designation _____

Recent Passport size
attested photograph of
the applicant

*Note1: Income covered all sources i.e. salary, agriculture, business, profession, etc.

**Note 2: The term "Family" for this purpose include the person, who seeks benefit of reservation, his/her parents and siblings below the age of 18 years as also his/her spouse and children below the age of 18 years

***Note 3: The property held by a "Family" in different locations or different places/cities have been clubbed while applying the land or property holding test to determine EWS status.

G. Prasad

Annexure-II**FOR DIRECT RECRUITMENT**

Model Roster of Reservation with reference to posts for Direct recruitment on All India Basis by Open Competition

Sl. No. of Post	Share of Entitlement				Category for which the posts should be earmarked
	SC @15%	ST @7.5%	OBC @27%	EWS @10%	
1	0.15	0.08	0.27	0.10	UR
2	0.30	0.15	0.54	0.20	UR
3	0.45	0.23	0.81	0.30	UR
4	0.60	0.30	1.08	0.40	OBC-1
5	0.75	0.38	1.35	0.50	UR
6	0.90	0.45	1.62	0.60	UR
7	1.05	0.53	1.89	0.70	SC-1
8	1.20	0.60	2.16	0.80	OBC-2
9	1.35	0.68	2.43	0.90	UR
10	1.50	0.75	2.70	1.00	EWS-1
11	1.65	0.83	2.97	1.10	UR
12	1.80	0.90	3.24	1.20	OBC-3
13	1.95	0.98	3.51	1.30	UR
14	2.10	1.05	3.78	1.40	ST-1
15	2.25	1.13	4.05	1.50	SC-2
16	2.40	1.20	4.32	1.60	OBC-4
17	2.55	1.28	4.59	1.70	UR
18	2.70	1.35	4.86	1.80	UR
19	2.85	1.43	5.13	1.90	OBC-5
20	3.00	1.50	5.40	2.00	SC-3
21	3.15	1.58	5.67	2.10	EWS-2
22	3.30	1.65	5.94	2.20	UR
23	3.45	1.73	6.21	2.30	OBC-6
24	3.60	1.80	6.48	2.40	UR
25	3.75	1.88	6.75	2.50	UR
26	3.90	1.95	7.02	2.60	OBC-7
27	4.05	2.03	7.29	2.70	SC-4
28	4.20	2.10	7.56	2.80	ST-2
29	4.35	2.18	7.83	2.90	UR
30	4.50	2.25	8.10	3.00	OBC-8
31	4.65	2.33	8.37	3.10	EWS-3
32	4.80	2.40	8.64	3.20	UR
33	4.95	2.48	8.91	3.30	UR
34	5.10	2.55	9.18	3.40	OBC-9

G. Kishan

35	5.25	2.63	9.45	3.50	SC-5
36	5.40	2.70	9.72	3.60	UR
37	5.55	2.78	9.99	3.70	UR
38	5.70	2.85	10.26	3.80	OBC-10
39	5.85	2.93	10.53	3.90	UR
40	6.00	3.00	10.80	4.00	ST-3
41	6.15	3.08	11.07	4.10	SC-6
42	6.30	3.15	11.34	4.20	OBC-11
43	6.45	3.23	11.61	4.30	EWS-4
44	6.60	3.30	11.88	4.40	UR
45	6.75	3.38	12.15	4.50	OBC-12
46	6.90	3.45	12.42	4.60	UR
47	7.05	3.53	12.69	4.70	SC-7
48	7.20	3.60	12.96	4.80	UR
49	7.35	3.68	13.23	4.90	OBC-13
50	7.50	3.75	13.50	5.00	EWS-5
51	7.65	3.83	13.77	5.10	UR
52	7.80	3.90	14.04	5.20	OBC-14
53	7.95	3.98	14.31	5.30	UR
54	8.10	4.05	14.58	5.40	SC-8
55	8.25	4.13	14.85	5.50	ST-4
56	8.40	4.20	15.12	5.60	OBC-15
57	8.55	4.28	15.39	5.70	UR
58	8.70	4.35	15.66	5.80	UR
59	8.85	4.43	15.93	5.90	UR
60	9.00	4.50	16.20	6.00	OBC-16
61	9.15	4.58	16.47	6.10	SC-9
62	9.30	4.65	16.74	6.20	EWS-6
63	9.45	4.73	17.01	6.30	OBC-17
64	9.60	4.80	17.28	6.40	UR
65	9.75	4.88	17.55	6.50	UR
66	9.90	4.95	17.82	6.60	UR
67	10.05	5.03	18.09	6.70	OBC-18
68	10.20	5.10	18.36	6.80	SC-10
69	10.35	5.18	18.63	6.90	ST-5
70	10.50	5.25	18.90	7.00	EWS-7
71	10.65	5.33	19.17	7.10	OBC-19
72	10.80	5.40	19.44	7.20	UR
73	10.95	5.48	19.71	7.30	UR
74	11.10	5.55	19.98	7.40	SC-11
75	11.25	5.63	20.25	7.50	OBC-20
76	11.40	5.70	20.52	7.60	UR
77	11.55	5.78	20.79	7.70	UR
78	11.70	5.85	21.06	7.80	OBC-21

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79	11.85	5.93	21.33	7.90	UR
80	12.00	6.00	21.60	8.00	ST-6
81	12.15	6.08	21.87	8.10	SC-12
82	12.30	6.15	22.14	8.20	OBC-22
83	12.45	6.23	22.41	8.30	EWS-8
84	12.60	6.30	22.68	8.40	UR
85	12.75	6.38	22.95	8.50	UR
86	12.90	6.45	23.22	8.60	OBC-23
87	13.05	6.53	23.49	8.70	SC-13
88	13.20	6.60	23.76	8.80	UR
89	13.35	6.68	24.03	8.90	OBC-24
90	13.50	6.75	24.30	9.00	EWS-9
91	13.65	6.83	24.57	9.10	UR
92	13.80	6.90	24.84	9.20	UR
93	13.95	6.98	25.11	9.30	OBC-25
94	14.10	7.05	25.38	9.40	SC-14
95	14.25	7.13	25.65	9.50	ST-7
96	14.40	7.20	25.92	9.60	UR
97	14.55	7.28	26.19	9.70	OBC-26
98	14.70	7.35	26.46	9.80	EWS-10**
99	14.85	7.43	26.73	9.90	SC-15*
100	15.00	7.50	27.00	10.00	OBC-27*
101	15.15	7.58	27.27	10.10	UR
102	15.30	7.65	27.54	10.20	UR
103	15.45	7.73	27.81	10.30	UR
104	15.60	7.80	28.08	10.40	OBC-28
105	15.75	7.88	28.35	10.50	UR
106	15.90	7.95	28.62	10.60	UR
107	16.05	8.03	28.89	10.70	SC-16
108	16.20	8.10	29.16	10.80	ST-8
109	16.35	8.18	29.43	10.90	OBC-29
110	16.50	8.25	29.70	11.00	EWS-11
111	16.65	8.33	29.97	11.10	UR
112	16.80	8.40	30.24	11.20	OBC-30
113	16.95	8.48	30.51	11.30	UR
114	17.10	8.55	30.78	11.40	SC-17
115	17.25	8.63	31.05	11.50	OBC-31
116	17.40	8.70	31.32	11.60	UR
117	17.55	8.78	31.59	11.70	UR
118	17.70	8.85	31.86	11.80	UR
119	17.85	8.93	32.13	11.90	OBC-32
120	18.00	9.00	32.40	12.00	ST-9
121	18.15	9.08	32.67	12.10	SC-18
122	18.30	9.15	32.94	12.20	EWS-12

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123	18.45	9.23	33.21	12.30	OBC-33
124	18.60	9.30	33.48	12.40	UR
125	18.75	9.38	33.75	12.50	UR
126	18.90	9.45	34.02	12.60	OBC-34
127	19.05	9.53	34.29	12.70	SC-19
128	19.20	9.60	34.56	12.80	UR
129	19.35	9.68	34.83	12.90	UR
130	19.50	9.75	35.10	13.00	OBC-35
131	19.65	9.83	35.37	13.10	EWS-13
132	19.80	9.90	35.64	13.20	UR
133	19.95	9.98	35.91	13.30	UR
134	20.10	10.05	36.18	13.40	OBC-36
135	20.25	10.13	36.45	13.50	SC-20
136	20.40	10.20	36.72	13.60	ST-10
137	20.55	10.28	36.99	13.70	UR
138	20.70	10.35	37.26	13.80	OBC-37
139	20.85	10.43	37.53	13.90	UR
140	21.00	10.50	37.80	14.00	SC--21
141	21.15	10.58	38.07	14.10	OBC-38
142	21.30	10.65	38.34	14.20	EWS-14
143	21.45	10.73	38.61	14.30	UR
144	21.60	10.80	38.88	14.40	UR
145	21.75	10.88	39.15	14.50	OBC-39
146	21.90	10.95	39.42	14.60	UR
147	22.05	11.03	39.69	14.70	SC-22
148	22.20	11.10	39.96	14.80	ST-11
149	22.35	11.18	40.23	14.90	OBC-40
150	22.50	11.25	40.50	15.00	EWS-15
151	22.65	11.33	40.77	15.10	UR
152	22.80	11.40	41.04	15.20	OBC-41
153	22.95	11.48	41.31	15.30	UR
154	23.10	11.55	41.58	15.40	SC-23
155	23.25	11.63	41.85	15.50	UR
156	23.40	11.70	42.12	15.60	OBC-42
157	23.55	11.78	42.39	15.70	UR
158	23.70	11.85	42.66	15.80	UR
159	23.85	11.93	42.93	15.90	UR
160	24.00	12.00	43.20	16.00	ST-12
161	24.15	12.08	43.47	16.10	OBC-43
162	24.30	12.15	43.74	16.20	SC-24
163	24.45	12.23	44.01	16.30	OBC-44
164	24.60	12.30	44.28	16.40	EWS-16
165	24.75	12.38	44.55	16.50	UR
166	24.90	12.45	44.82	16.60	UR

G. P. Sivasankar

167	25.05	12.53	45.09	16.70	OBC-45
168	25.20	12.60	45.36	16.80	SC-25
169	25.35	12.68	45.63	16.90	UR
170	25.50	12.75	45.90	17.00	EWS-17
171	25.65	12.83	46.17	17.10	OBC-46
172	25.80	12.90	46.44	17.20	UR
173	25.95	12.98	46.71	17.30	UR
174	26.10	13.05	46.98	17.40	SC-26
175	26.25	13.13	47.25	17.50	ST-13
176	26.40	13.20	47.52	17.60	OBC-47
177	26.55	13.28	47.79	17.70	UR
178	26.70	13.35	48.06	17.80	OBC-48
179	26.85	13.43	48.33	17.90	UR
180	27.00	13.50	48.60	18.00	SC-27
181	27.15	13.58	48.87	18.10	EWS-18
182	27.30	13.65	49.14	18.20	OBC-49
183	27.45	13.73	49.41	18.30	UR
184	27.60	13.80	49.68	18.40	UR
185	27.75	13.88	49.95	18.50	UR
186	27.90	13.95	50.22	18.60	OBC-50
187	28.05	14.03	50.49	18.70	SC-28
188	28.20	14.10	50.76	18.80	ST-14
189	28.35	14.18	51.03	18.90	OBC-51
190	28.50	14.25	51.30	19.00	EWS-19
191	28.65	14.33	51.57	19.10	UR
192	28.80	14.40	51.84	19.20	UR
193	28.95	14.48	52.11	19.30	OBC-52
194	29.10	14.55	52.38	19.40	SC-29
195	29.25	14.63	52.65	19.50	UR
196	29.40	14.70	52.92	19.60	EWS-20*
197	29.55	14.78	53.19	19.70	OBC-53
198	29.70	14.85	53.46	19.80	ST-15*
199	29.85	14.93	53.73	19.90	SC-30*
200	30.00	15.00	54.00	20.00	OBC-54*

*/** Squeezing resorted with a view to maintain the prescribed percentage of reservation

G. J. Suman

Annexure-III**FOR DIRECT RECRUITMENT ON ALL INDIA BASIS BY OPEN COMPETITION****Model Roster for cadre strength upto 13 posts**

Cadre Strength	Initial Recruitment	Replacement No.												
		1st	2nd	3rd	4th	5th	6th	7th	8th	9th	10th	11th	12th	13th
1	UR	UR	UR	OBC	UR	UR	SC	OBC	UR	EWS	UR	OBC	UR	ST
2	UR	UR	OBC	UR	UR	SC	OBC	UR	EWS	UR	OBC	UR	ST	
3	UR	OBC	UR	UR	SC	OBC	UR	EWS	UR	OBC	UR	ST		
4	OBC	UR	UR	SC	OBC	UR	EWS	UR	OBC	UR	ST			
5	UR	UR	SC	OBC	UR	EWS	UR	OBC	UR	ST				
6	UR	SC	OBC	UR	EWS	UR	OBC	UR	ST					
7	SC	OBC	UR	EWS	UR	OBC	UR	ST						
8	OBC	UR	EWS	UR	OBC	UR	ST							
9	UR	EWS	UR	OBC	UR	ST								
10	EWS	UR	OBC	UR	ST									
11	UR	OBC	UR	ST										
12	OBC	UR	ST											
13	UR	ST												

Note:

1. For cadres of 2 to 13 posts the roster is to be read from entry 1 under column Cadre Strength till the last post and then horizontally till the last entry in the horizontal row i.e. like "L"
2. All the posts of a cadre are to be earmarked for the categories shown under column initial recruitment. While initial filling up will be by the earmarked category, the replacement against any of the post in the cadre shall be by rotation as shown horizontally against the last post of the cadre.

G. Sreenivas

Annexure-IV**FOR DIRECT RECRUITMENT**

Model Roster of Reservation with reference to posts for Direct recruitment on All India Basis Otherwise than by Open Competition

Sl. No. of Post	Share of Entitlement				Category for which the posts should be earmarked
	SC @16.66%	ST @7.5%	OBC @25.84%	EWS @10%	
1	0.166	0.075	0.258	0.100	UR
2	0.332	0.150	0.516	0.200	UR
3	0.498	0.225	0.774	0.300	UR
4	0.664	0.300	1.032	0.400	OBC-1
5	0.830	0.375	1.290	0.500	UR
6	0.996	0.450	1.548	0.600	UR
7	1.162	0.525	1.806	0.700	SC-1
8	1.328	0.600	2.064	0.800	OBC-2
9	1.494	0.675	2.322	0.900	UR
10	1.660	0.750	2.580	1.000	EWS-1
11	1.826	0.825	2.838	1.100	UR
12	1.992	0.900	3.096	1.200	OBC-3
13	2.158	0.975	3.354	1.300	SC-2
14	2.324	1.050	3.612	1.400	ST-1
15	2.490	1.125	3.870	1.500	UR
16	2.656	1.200	4.128	1.600	OBC-4
17	2.822	1.275	4.386	1.700	UR
18	2.988	1.350	4.644	1.800	UR
19	3.154	1.425	4.902	1.900	SC-3
20	3.320	1.500	5.160	2.000	OBC-5
21	3.486	1.575	5.418	2.100	EWS-2
22	3.652	1.650	5.676	2.200	UR
23	3.818	1.725	5.934	2.300	UR
24	3.984	1.800	6.192	2.400	OBC-6
25	4.150	1.875	6.450	2.500	SC-4
26	4.316	1.950	6.708	2.600	UR
27	4.482	2.025	6.966	2.700	ST-2
28	4.648	2.100	7.224	2.800	OBC-7
29	4.814	2.175	7.482	2.900	UR
30	4.980	2.250	7.740	3.000	EWS-3

G. Jivasan

31	5.146	2.325	7.998	3.100	SC-5
32	5.312	2.400	8.256	3.200	OBC-8
33	5.478	2.475	8.514	3.300	UR
34	5.644	2.550	8.772	3.400	UR
35	5.810	2.625	9.030	3.500	OBC-9
36	5.976	2.700	9.288	3.600	UR
37	6.142	2.775	9.546	3.700	SC-6
38	6.308	2.850	9.804	3.800	UR
39	6.474	2.925	10.062	3.900	OBC-10
40	6.640	3.000	10.320	4.000	ST-3
41	6.806	3.075	10.578	4.100	EWS-4
42	6.972	3.150	10.836	4.200	UR
43	7.138	3.225	11.094	4.300	SC-7
44	7.304	3.300	11.352	4.400	OBC-11
45	7.470	3.375	11.610	4.500	UR
46	7.636	3.450	11.868	4.600	UR
47	7.802	3.525	12.126	4.700	OBC-12
48	7.968	3.600	12.384	4.800	UR
49	8.134	3.675	12.642	4.900	SC-8
50	8.300	3.750	12.900	5.000	EWS-5
51	8.466	3.825	13.158	5.100	OBC-13
52	8.632	3.900	13.416	5.200	UR
53	8.798	3.975	13.674	5.300	UR
54	8.964	4.050	13.932	5.400	ST-4
55	9.130	4.125	14.190	5.500	OBC-14
56	9.296	4.200	14.448	5.600	SC-9
57	9.462	4.275	14.706	5.700	UR
58	9.628	4.350	14.964	5.800	UR
59	9.794	4.425	15.222	5.900	OBC-15
60	9.960	4.500	15.480	6.000	EWS-6
61	10.126	4.575	15.738	6.100	SC-10
62	10.292	4.650	15.996	6.200	UR
63	10.458	4.725	16.254	6.300	OBC-16
64	10.624	4.800	16.512	6.400	UR
65	10.790	4.875	16.770	6.500	UR
66	10.956	4.950	17.028	6.600	OBC-17
67	11.122	5.025	17.286	6.700	SC-11
68	11.288	5.100	17.544	6.800	ST-5
69	11.454	5.175	17.802	6.900	UR
70	11.620	5.250	18.060	7.000	OBC-18
71	11.786	5.325	18.318	7.100	EWS-7

G. Srinivasan

72	11.952	5.400	18.576	7.200	UR
73	12.118	5.475	18.834	7.300	SC-12
74	12.284	5.550	19.092	7.400	OBC-19
75	12.450	5.625	19.350	7.500	UR
76	12.616	5.700	19.608	7.600	UR
77	12.782	5.775	19.866	7.700	UR
78	12.948	5.850	20.124	7.800	OBC-20
79	13.114	5.925	20.382	7.900	SC-13
80	13.280	6.000	20.640	8.000	ST-6
81	13.446	6.075	20.898	8.100	EWS-8
82	13.612	6.150	21.156	8.200	OBC-21
83	13.778	6.225	21.414	8.300	UR
84	13.944	6.300	21.672	8.400	UR
85	14.110	6.375	21.930	8.500	SC-14
86	14.276	6.450	22.188	8.600	OBC-22
87	14.442	6.525	22.446	8.700	UR
88	14.608	6.600	22.704	8.800	UR
89	14.774	6.675	22.962	8.900	UR
90	14.940	6.750	23.220	9.000	OBC-23
91	15.106	6.825	23.478	9.100	SC-15
92	15.272	6.900	23.736	9.200	EWS-9
93	15.438	6.975	23.994	9.300	UR
94	15.604	7.050	24.252	9.400	OBC-24
95	15.770	7.125	24.510	9.500	ST-7
96	15.936	7.200	24.768	9.600	UR
97	16.102	7.275	25.026	9.700	SC-16
98	16.268	7.350	25.284	9.800	OBC-25
99	16.434	7.425	25.542	9.900	UR
100	16.600	7.500	25.800	10.000	EWS-10
101	16.766	7.575	26.058	10.100	OBC-26
102	16.932	7.650	26.316	10.200	UR
103	17.098	7.725	26.574	10.300	SC-17
104	17.264	7.800	26.832	10.400	UR
105	17.430	7.875	27.090	10.500	OBC-27
106	17.596	7.950	27.348	10.600	UR
107	17.762	8.025	27.606	10.700	ST-8
108	17.928	8.100	27.864	10.800	UR
109	18.094	8.175	28.122	10.900	OBC-28
110	18.260	8.250	28.380	11.000	SC-18
111	18.426	8.325	28.638	11.100	EWS-11
112	18.592	8.400	28.896	11.200	UR

G. Sivasan

113	18.758	8.475	29.154	11.300	OBC-29
114	18.924	8.550	29.412	11.400	UR
115	19.090	8.625	29.670	11.500	SC-19
116	19.256	8.700	29.928	11.600	EWS-12**
117	19.422	8.775	30.186	11.700	OBC-30
118	19.588	8.850	30.444	11.800	ST-9
119	19.754	8.925	30.702	11.900	SC--20*
120	19.920	9.000	30.960	12.000	OBC-31*

*/** Squeezing resorted with a view to maintain the prescribed percentage of reservation

G. Jaiswal

Annexure-V**FOR DIRECT RECRUITMENT****Roster for Direct Recruitment otherwise than through Open Competition for cadre strength upto 13 posts**

Cadre Strength	Initial Recruitment	Replacement No.												
		1st	2nd	3rd	4th	5th	6th	7th	8th	9th	10th	11th	12th	13th
1	UR	UR	UR	OBC	UR	UR	SC	OBC	UR	EWS	UR	OBC	SC	ST
2	UR	UR	OBC	UR	UR	SC	OBC	UR	EWS	UR	OBC	SC	ST	
3	UR	OBC	UR	UR	SC	OBC	UR	EWS	UR	OBC	SC	ST		
4	OBC	UR	UR	SC	OBC	UR	EWS	UR	OBC	SC	ST			
5	UR	UR	SC	OBC	UR	EWS	UR	OBC	SC	ST				
6	UR	SC	OBC	UR	EWS	UR	OBC	SC	ST					
7	SC	OBC	UR	EWS	UR	OBC	SC	ST						
8	OBC	UR	EWS	UR	OBC	SC	ST							
9	UR	EWS	UR	OBC	SC	ST								
10	EWS	UR	OBC	SC	ST									
11	UR	OBC	SC	ST										
12	OBC	SC	ST											
13	SC	ST												

Note:

1. For cadres of 2 to 13 posts the roster is to be read from entry 1 under column Cadre Strength till the last post and then horizontally till the last entry in the horizontal row i.e. like "L"
2. All the posts of a cadre are to be earmarked for the categories shown under column initial recruitment. While initial filling up will be by the earmarked category, the replacement against any of the post in the cadre shall be by rotation as shown horizontally against the last post of the cadre.

G. Srinivasan

Annexure-VI**Name of the Ministry/Department:**

Report for the fortnight ending	Unfilled vacancies as on 01.02.2019					Vacancies filled up during the fortnight ending					Total vacancies filled up since 01.02.2019				
	SC	ST	OBC	EWS	UR	SC	ST	OBC	EWS	UR	SC	ST	OBC	EWS	UR

Note 1: Single consolidated fortnightly report may be sent in respect of the Ministry/Department and its attached and sub-ordinate offices

Note 2: The first report should begin from 15.02.2019

Note 3: Filled up fortnightly report may be emailed at jsest@nic.in and g.sreenivasan@nic.in

G. Sreenivasan

(For internal circulation only)

F. No.20013/01/2018-BC-II

Government of India

Ministry of Social Justice and Empowerment

Department of Social Justice and Empowerment

17 January, 2019

Shastri Bhawan, New Delhi

OFFICE MEMORANDUM

Subject: Reservation for Economically Weaker Sections (EWSs) in civil posts and services in the Government of India and admission in Educational Institutions.

In pursuance of insertion of clauses 15(6) and 16(6) in the Constitution vide the Constitution (One Hundred and Third Amendment) Act, 2019 and in order to enable the Economically Weaker Sections (EWSs) who are not covered under the existing scheme of reservations for the Scheduled Castes, the Scheduled Tribes and the Socially and Educationally Backward Classes, to receive the benefits of reservation on a preferential basis in civil posts and services in the Government of India and admission in Educational Institutions, it has been decided by the Government to provide 10% reservation to EWSs in civil posts and services in Government of India and admission in Educational Institutions.

2. Persons who are not covered under the existing scheme of reservations for the Scheduled Castes, the Scheduled Tribes and the Socially and Educationally Backward Classes and whose family has gross annual income below Rs. 8.00 lakh are to be identified as EWSs for the benefit of reservation. Family for this purpose will include the person who seeks benefit of reservation, his/her parents and siblings below the age of 18 years as also his/her spouse and children below the age of 18 years. The income shall include income from all sources i.e. salary, agriculture, business, profession etc. and it will be income for the financial year prior to the year of application. Also persons whose family owns or possesses any of the following assets shall be excluded from being identified as EWSs, irrespective of the family income:

- i. 5 acres of Agricultural Land and above;
- ii. Residential flat of 1000 sq. ft. and above;
- iii. Residential plot of 100 sq. yards and above in notified municipalities;

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iv. Residential plot of 200 sq. yards and above in areas other than the notified municipalities.

3. The income and assets of the families as mentioned in para 2 would be required to be certified by an officer not below the rank of Tehsildar in the States/UTs. The officer who issues the certificate would do the same after carefully verifying all relevant documents following due process as prescribed by the respective State/ UT.

4. Every Educational Institution shall, with the prior approval of the appropriate authority, increase the number of seats over and above its annual permitted strength in each branch of study or faculty so that the number of seats available, excluding those reserved for the persons belonging to the EWSs, are not less than the total seats available in the academic session immediately preceding the date of the coming into force of this O.M.

5. Instructions regarding reservation in employment and admission to educational institutions will be issued by DoPT and Ministry of HRD respectively.


(B.L. Meena)

Joint Secretary to the Government of India

To

1. The Secretary, Department of Personnel and Training, North Block, New Delhi
2. The Secretary, Department of Higher Education, Shastri Bhawan, New Delhi

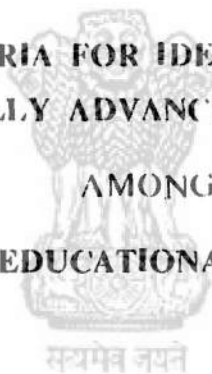
**REPORT
OF
THE EXPERT COMMITTEE**

FOR SPECIFYING

**THE CRITERIA FOR IDENTIFICATION OF
SOCIALLY ADVANCED PERSONS**

AMONG

THE SOCIALLY AND EDUCATIONALLY BACKWARD CLASSES



The 10th March, 1993

MINISTRY OF WELFARE

Justice Ram Nandan Prasad
Former Judge,
Patna High Court,
CHAIRMAN

Expert Committee on
Socially & Educationally
Backward Classes

New Delhi-110 001,
Dated 10th March, 1993

Dear Hon'ble Minister,

I have the privilege of presenting the Report of the Expert Committee constituted under Resolution No. 12011/16/93-BCC(C), dated 22nd February, 1993 of the Ministry of Welfare, Government of India. I and the other Members of the Committee, namely, Dr M.L. Shahare, Shri P.S. Krishnan and Shri R.J. Majithia, assumed charge on 23rd February, 1993 and from day one, we got down to serious work. As all of us were fully conscious that the Report has to be completed and presented by the 10th March, 1993.

2. Needless to say, all of us had to work very hard to complete the Report and in this difficult and daunting task, we received full cooperation from you as well as all the officers and staff of the Ministry of Welfare. We justifiably feel happy that we have completed the work within the targeted time.

3. We hope that our labour will serve the purpose and our Report will enable the Government to commence implementation of the policy of reservation for Socially & Educationally Backward Classes at the earliest, fulfilling the directions of the Supreme Court.

With regards,



Yours sincerely,
Sd/-
(Ram Nandan Prasad)

Shri Sitaram Kesari,
Minister of Welfare,
Government of India,
New Delhi-110 001

No. 12011/16/93-BCC(C)
GOVERNMENT OF INDIA
MINISTRY OF WELFARE
New Delhi, the 22nd February, 1993

RESOLUTION

The Supreme Court, in its Majority Judgement in Writ Petition (Civil) No. 930 of 1990, Indra Sawhney and Others etc. Vs. Union of India and Others etc., delivered on 16th November, 1992 has, inter alia, directed that "within four months from today the Government of India shall specify the bases, applying the relevant and requisite socio-economic criteria to exclude socially advanced persons/sections ('creamy layer') from 'Other Backward Classes' and further that the implementation of the impugned O.M. dated 13th August, 1990 shall be subject to exclusion of such socially advanced persons ('creamy layer')".

2. Having regard to the fact that a lot of specialised inputs would be needed to determine the bases viz., socio-economic criteria for identification of the 'creamy layer', it has been decided to set up an Expert Committee consisting of:

- | | |
|---|------------------|
| 1. Justice Ram Nandan Prasad (Retd.)
High Court Patna | Chairman |
| 2. Shri M.L. Sahare (Social Scientist)
Former Chairman, U.P.S.C. | Member |
| 3. Shri P.S. Krishnan,
Former Secretary (Welfare)
Govt. of India | Member |
| 4. Shri R.J. Majithia, former Chairman
Revenue Board,
Government of Rajasthan | Member-Secretary |

to make recommendations to the Govt. of India, in regard to the said socio-economic criteria. The Committee will also give recommendations on such other matters relating to the implementation of the judgement of the Supreme Court, as the Government of India may consider necessary.

3. The Headquarters of the Committee will be located at Delhi.
4. The Committee will devise its own procedures in the discharge of its functions. All the Ministries and Departments of the Government of India will furnish such information and documents and provide such assistance as may be required by the Committee. It is hoped that the State Governments and Union Territory Administrations and others concerned will extend their fullest cooperation and assistance to the Committee.
5. The Committee shall submit its Report on the socio-economic criteria for exclusion of the 'creamy layer' from Other Backward Classes latest by 10th March, 1993.

Sd/-
(M.S. PANDIT)
Jt. Secy. (M&BC)

ORDER

ORDERED that a copy of the resolution be communicated to all Ministries/Departments of the Government of India/State Governments and U.T. Administrations.

ORDERED also that the resolution be published in the Gazette of India for general information.

Sd/-
(M.S. PANDIT) Jt. Secy. (M&BC)

Report of the Expert Committee for specifying the criteria for identification of socially advanced persons among the socially and educationally backward classes.

The 9-Member Constitution Bench of the Supreme Court of India delivered its historic judgement in the Reservation case relating to Socially and Educationally Backward Classes (Indra Sawhney and Others vs. the Union of India and Others) on the 16th of November, 1992. The case arose out of several Writ Petitions filed to challenge the Office Memorandum dated 13th August, 1990 and the office Memorandum dated 25th September, 1991 issued by the Government of India for implementing, according to the respective modes prescribed in the two office Memoranda, the recommendations for reservation for Socially and Educationally Backward Classes (SEBCs) in public employment, made by the Second Backward Classes Commission appointed under Article 340 of the Constitution, popularly known as the Mandal Commission.

2. The Supreme Court while upholding by majority the basic principle of reservation for the SEBCs have at the same time, directed that the socially advanced persons of the SEBCs category ought not to be given the benefit of reservation. In order to carry out this directive and specifying and determining as to who from amongst the SEBCs would be liable to be excluded from the benefit of reservation, the Government has appointed the Expert Committee as per Resolution No. 12011/16/93-BCC(C), dated the 22nd February, 1993 of the Ministry of Welfare, Government of India. The Court has also directed that the reservation shall not become operative till the criteria to exclude the socially advanced persons are ascertained and specified.

3. Four Hon'ble Judges who were members of the Special Bench, namely, the then Hon'ble Chief Justice Shri M.H. Kania, Hon'ble Justice M.N. Venkatachaliah (now Chief Justice), Hon'ble Justice A.M. Ahmadi and Hon'ble Justice B.P. Jeevan Reddy, delivered a common Judgement written out by Hon'ble Justice B.P. Jeevan Reddy and this is known as the majority judgement and we shall refer to it as such in our report. Hon'ble Justice S.R. Pandian and Hon'ble Justice P.B. Sawant have, no doubt, written out separate judgements of their own, but they have in substance supported most of the conclusions of the majority judgement and we will refer to the judgements of these two Hon'ble Judges by their respective names. The dissenting judgements separately written out by Hon'ble Justice T.K. Thommen, Hon'ble Justice Kuldeep Singh and Hon'ble Justice R.M. Sahai have a common operative order and this is known as the dissenting judgement and we shall refer, if need be, to the same in the above terminology. When we refer to the ratio decidendi of the entire judgement we will be referring to it as the judgement of the Court.

4. It is necessary to bear in mind that the Court has accepted the principle of reservation on the reasoning that the SEBCs on account of their social and educational backwardness are truly in need of reservation. In other words, the dominant consideration for upholding the reservation is the social and educational backwardness and not the income test, although in actual life it mostly happens that economic backwardness is a natural consequence of the social and educational backwardness. It logically follows, therefore, that for determining who from amongst the SEBCs shall be denied the benefit of reservation, the basics again would be the social and educational factors and only when the advancement in this regard is such as to put that person at par with the forward classes that he may be placed in the excluded category. In the majority judgement, it has been observed that only when a person's social and educational advancement is such that it totally snaps the connecting link of backwardness between him and other members of his community, he can then be said to be a misfit in his own class and so ought to be taken out from there and placed in the "Creamy Layer" category. The following passage in the judgement of Hon'ble Justice Sawant (paragraph 522 Judgements Today Vol. VI No. 9 30th November, 1992) elaborates the point more succinctly:—

"The correct criterion for judging the forwardness of the forwards among the Backward classes is to measure their capacity not in terms of the capacity of others in their class, but in terms

of the capacity of the members of the Forward Classes, as stated earlier. If they cross the Rubicon of backwardness, they should be taken out from the Backward Classes and should be made disentitled to the provisions meant for the said classes".

Hence while determining the criteria of exclusion we have kept in mind the guiding principle laid down by the Hon'ble Court as mentioned above. However, if economic betterment flows from social and educational advancement, then this also has to be taken note of.

5. Before specification of the actual determinants is taken up, it will be useful, nay necessary, to indicate and explain what exactly the term 'Creamy Layer' or the Rule of Exclusion in actual application would imply. When a person has been able to shed off the attributes of social and educational backwardness and has secured employment or has engaged himself in some trade/profession of high status, as categorised by us below, he, at that stage is normally no longer in need of reservation for himself. For example, if a person gets appointed as a Class I Officer either on open competition basis or reservation basis, the question of excluding him on the ground that he forms part of the 'Creamy Layer' does not at all arise. But since he himself has come into the socially advanced category he will be in a position to provide the means, the equipment and the opportunities which are necessary for the uplift of his offspring from the level of social and educational backwardness. As such, the question of applying the Rule of Exclusion will arise only in the case of his offspring. In the present social set-up, when the joint family system, particularly among the upper strata of society, has been breaking up, we are regarding the family to constitute husband, wife and children and on that basis applying the exclusion principle. In other words, even if a person, say Mr. "X", has become a Class I Officer, this will not deprive his brother and sister of the benefit of reservation on the basis that Mr. "X" has become a Class I Officer. The question as to whether the brother or sister of Mr. "X" will or will not get the benefit of reservation shall depend upon the status of their parents.

6. Now we proceed to indicate and define the criteria for application of the Rule of Exclusion. The rise in social and educational status may result from different kinds of positions and placements in life and we shall deal with them one by one as noted below. To the categories listed below, the Rule of Exclusion will apply unless exceptions are specifically indicated.

I. CONSTITUTIONAL POSTS

7. President, Vice-President, Judges of the Supreme Court and High Courts, Chairman/Members of the Union Public Service Commission and State Public Service Commissions, Chief Election Commissioner, Comptroller and Auditor General of India and persons holding Constitutional positions of like nature.

The Constitutional posts of Governor, Minister, and Membership of Legislatures, are, in the very nature of things, temporary and often transitory. Further, in most cases such persons would be covered in one or the other categories which have been enumerated in this report. Hence such persons have not been separately categorised.

II. SERVICE CATEGORY

A. Group A/Class I Officers of the All-India, Central and State Services (Direct Recruits)

8. If either of the spouses is a Class I Officer rule of exclusion will apply. Where both spouses are Class I Officers and one of them dies the situation remains unchanged and the rule of exclusion will apply. However, if both of them die then obviously, the offspring are not only left to suffer mental agony and hardships in different ways but they are also denied the benefits and status resulting from the posts of their parents, and due to this disadvantage thrust upon them, the children shall not be denied the benefits of reservation, i.e., the rule of exclusion will not apply to them. It may be noted that if permanent incapacitation occurs which results in putting an officer out of service, then it shall be treated as equivalent to death so far as the application of rule of exclusion to the offspring is concerned. Hereafter, wherever death has been mentioned it shall include permanent incapacitation as stated above.

To the unfortunate situation of death or permanent incapacitation of the only spouse who is in this category of service, or of both spouses who are in this category of service, an exception has to be recorded. If before the unfortunate event of death of either of or both such spouses occurs, either of the spouses has had the benefit of employment in any international organisation like the UN, IMF, World Bank etc., for a period of not less than five years then exclusion from the benefit of reservation will continued to apply to the offspring.

9. It sometimes may happen that a lady who has got married to a Class I Officer may herself like to apply for a job. If she belongs to SEBC category, she will not be disentitled by the rule of exclusion. The reason for saying so is that originally having been a member of SEBC, she carries with her the attributes of backwardness even after she is married to a Class I Officer and though she may economically be in a better position, the initial attributes of social backwardness continue to linger on and will not get shaken off during the short period (in view of the age limit) which will be available to her for getting into any service employment. Therefore, we consider that such a person, more so because she is a lady (which in our society may be generally regarded as a weaker class) should not be denied the benefit of reservation. Therefore, to such a lady rule of exclusion will not apply.

B. Group B/Class II—Central Services and State Services (Direct Recruitment)

10. If both spouses are Class II Officers then rule of exclusion will apply to their offspring. If only one of the spouses is a Class II Officer it will not apply, but if a male officer from Class II category gets into Class I category at the age of forty or earlier, then the rule of exclusion will apply to his offspring. Where both spouses are Class II Officers and one of them dies, it is better to let the children have the benefit of reservation which means rule of exclusion will not apply; however, if either of the spouses has had the benefit of employment in any international organisation, as indicated above, for a period of not less than five years, then even in the event of death the application of the rule of exclusion will not be taken away. But if by great misfortune both the spouses die, then the rule of exclusion will not apply to the offspring even if one of the spouses has had the benefit of employment in an international organisation.

11. Where the husband is a Class I Officer (Direct Recruit or pre-forty promoted) and the wife is a Class II Officer and the husband dies, the rule of exclusion will not apply. Also when the wife is a Class I Officer (i.e., Direct Recruit or pre-forty promoted) and the husband is a Class II Officer and the wife dies the rule of exclusion will not apply but if the husband dies the rule of exclusion will apply on the principle that one of the parents, namely, the mother continues to be a Class I Officer.

C. Employment in Public Sector Undertakings etc.

12. The service category is not confined to employment under the Government only, whether at the Union or at the State level. The criteria enumerated above will apply mutatis mutandis to officers holding equivalent or comparable posts in public sector undertakings, banks, insurance organisations, universities, etc. and also to equivalent or comparable posts and positions under private employment.

13. The evaluation of the posts on equivalent or comparable basis is bound to take some time. In order that this may not become a ground for postponing the implementation of reservation in respect of persons under this category, it is made clear that so long as the evaluation process is not completed and made operative, the income/wealth test under Item VI will govern the persons under this category. In other words, even during the interim period, the employees under this category will get the benefit of reservation, and if any exclusion is to be made it shall be on the basis of the criterion under Item VI.

III. ARMED FORCES INCLUDING PARA MILITARY FORCES (this will not include persons holding civil posts)

14. The exclusion rule will apply at the level of Colonel and above in the Army and to equivalent posts in the Navy and the Air Force and the Para Military Forces. If the wife of an Armed Forces

Officer is herself in the Armed Forces (i.e., the category under consideration) the rule of exclusion will apply only when she herself has reached the rank of Colonel; the service ranks below Colonel of husband and wife shall not be clubbed together. Even if the wife of an officer in the Armed Forces is in civil employment, this will not be taken into account for applying the rule of exclusion, unless she falls in the service category under Item No. II in which case the criteria and conditions enumerated therein will apply to her independently. In making these recommendations, we have borne in mind the peculiar nature of the service and hardships faced by the members of the Armed Forces and the Para Military Forces. It has also to be remembered that there is no reservation in recruitment to the Armed Forces, which means that a person at the stage of recruitment in these services is denied the benefit of reservation even though he may otherwise be entitled to it.

IV. PROFESSIONAL CLASS AND THOSE ENGAGED IN TRADE, BUSINESS AND INDUSTRY

15. This will include persons not in service employment either Government or private, but those who are engaged in professions as a doctor, lawyer, chartered accountant, income-tax consultant, financial or management consultant, dental surgeon, engineer, architect, computer specialist, film artiste and other film professional, author, playwright, sports person, sports professional, media professional, or any other vocations of like status. All these persons for the purpose of determining whether they will fall in the disqualification category or not will be governed by the income/wealth criterion as noted in Item No. VI. Likewise, persons engaged in trade, business and industry will be governed by the income/wealth criterion.

16. In a situation where the husband is in some profession and the wife is in a Class II or lower grade employment, the income/wealth test will apply only on the basis of the husband's income; in other words, the wife's employment will not be taken into account. If the wife is in any profession and the husband is in employment in a Class II or a lower rank post, then the income/wealth criterion will apply only on the basis of the wife's income and the husband's income will not be clubbed with it. The rationale is to avoid discouragement of women entering service or professions in a gender-discriminating society such as ours.

V. PROPERTY OWNERS

A. Agricultural Land Holdings

17. It may not only be difficult but hazardous to prescribe any criteria on the basis of income from agricultural land holdings and this is borne out by the following observations in paragraph 809 of the majority judgement (Judgements Today) :—

“Further, income from agriculture may be difficult to assess and, therefore, in the case of agriculturists, the line may have to be drawn with reference to the extent of holding. While the income of a person can be taken as a measure of his social advancement, the limit to be prescribed should not be such as to result in taking away with one hand what is given with the other.”

So we proceed to indicate the criteria on the basis of the extent of land holding.

18. If a person belongs to a family (father, mother and minor children) which owns only irrigated land, and the extent of irrigated land is equal to or more than 65% of the statutory ceiling area, then the disqualification will occur. It generally happens that a person holds different types of irrigated land. In such a situation, the different types of lands should, on the basis of the conversion formula existing, be brought into a single type of irrigated land as a common denominator and on the basis of such denominator, the above cut-off point of 65% will have to be determined.

19. The rule of exclusion will not disentitle persons belonging to families owning only unirrigated land irrespective of the area of such land. This is on account of the constraints imposed on and implicit in unirrigated cultivation.

20. In the case of members of a family owning both irrigated and unirrigated land, the exclusion rule will apply where the pre-condition exists that the irrigated area (having been brought to a single type under a common denominator) is 40% or more of the statutory ceiling limit for irrigated land (this being calculated by excluding the unirrigated portion). If this pre-condition of not less than 40% exists, then only the area of unirrigated land will be taken into account. This will be done by converting the unirrigated land on the basis of the conversion formula existing, into the irrigated type. The irrigated area so computed from unirrigated land shall be added to the actual area of irrigated land, and if after such clubbing together the total area in terms of irrigated land is 65% or more of the statutory ceiling limit for irrigated land, then the rule of exclusion will apply and disentitlement will occur.

21. On the basis of data supplied to us, we find that there is no Ceiling Law in the States of Nagaland, Mizoram, Meghalaya, Arunachal Pradesh and Goa and in the Union Territories of Andaman & Nicobar Islands, Lakshadweep, Daman & Diu. Apparently this is on account of the peculiar situation prevailing in these areas including topography, climatic conditions, etc. Under the circumstances the exclusion rule on the basis of land holding will not be applicable here. However, if at a future date Ceiling Law is enacted for any of such States or Union Territories, it would then have to be considered and determined if the rule of exclusion on the basis of land holding criterion will be made applicable or not and if so, in what manner.

B. Plantations

22. The plantations like coffee, tea, rubber, etc. which are not regarded as agricultural holdings will come under this category. Since they are not regarded as agricultural holdings, they are not covered by ceiling laws. Therefore, the criterion at 'A' above cannot apply to them and there is no alternative but to apply the criterion of income/wealth under Item No. VI.

23. From the data supplied to us, it appears that mango, citrus, apple plantations, etc., are regarded as agricultural holdings and they will be covered by the criterion at 'A' above.

C. Vacant land and/or buildings in urban areas or urban agglomeration

24. To identify those who come under this category the criterion of income/wealth under Item No. VI will apply. When we refer to a building it is made clear that the building may be used for residential, industrial or commercial purposes and the like, or two or more such purposes.

VI. INCOME/WEALTH TEST

25. This criterion is on the basis of income or wealth. We are conscious of the fact that in the majority judgement and the judgements of Pandian and Sawant, JJ it has been clearly emphasised that when placing a person in the excluded category, it should be unmistakably evident that social backwardness has come to an end. Their Lordships have emphasized that unless there is social advancement to such a degree as to bring a member of the SEBC more or less at par with the members of the forward classes, he should not be denied the benefit of reservation.

26. Since the people of this country are engaged in innumerable types of vocations and callings, it is simply not possible to assess the degree of social backwardness or advancement by specifying each one of such vocations or callings and under these circumstances, we have to take recourse to the only

discernible criterion available, namely the criterion of income or wealth. As such, this category may be said to be the residuary category. However, while prescribing the limit for this category, it has been kept in view that improvement in economic condition is so marked as to necessarily imply social advancement. Thus, here the rise in social status is presumption based indicating that it has followed necessarily from the economic betterment. This aspect of treating social advancement on the basis of presumption has been kept in mind in prescribing the limit of gross income. In this connection, the following passage occurring in paragraph 809 of the majority judgement may be usefully quoted:

“The basis of exclusion should not merely be economic, unless of course the economic advancement is so high that it necessarily means social advancement.”

(Vide Judgement Today Vol. VI, No. 9, Nov. 30, 1992)

Hence, persons having gross annual income of Rs. 1 lakh or above or possessing wealth above the exemption limit as prescribed in the Wealth Tax Act will be excluded from the benefit of reservation. Only when such level of income or wealth has a consistency for a reasonable period will it be justifiable to regard a person as socially advanced on the basis of income. We consider a period of three consecutive years to be a reasonable period for the purpose of the application of the criteria under consideration.

27. In addition to the above, we have to say that the income/wealth test governs categories IV, VB and VC as stated earlier. For the remaining categories, namely, I, II, III and VA, specific criteria have been laid down; however, if in these categories, any person, who is not disentitled to the benefit of reservation, has income from other sources or wealth, which will bring him within the criterion under Item No. VI, then he shall be disentitled to reservation, in case his income—without clubbing his income from salaries or agricultural land—or his wealth is in excess of cut-off point prescribed under the income/wealth criteria.

28. Since the rupee value is bound to undergo change the income criterion in terms of the rupee as stated above will accordingly stand modified with change in the value. The modification exercise may, normally speaking, be undertaken every three years but if the situation so demands the interregnum may be less.

29. Persons working as artisans or engaged in the hereditary occupations, callings, etc., like potters, washermen, barbers, etc., are exempted from application of the rule of exclusion.

30. The Supreme Court Judgement indicates that classifying the socially and educationally backward classes into two or more categories (backward, more backward, most backward and if necessary, further sub-categorisation) is not only desirable but perhaps actually necessary. As and when such categorisation is done we feel that for those fall in the two lowest strata at the bottom, i.e., the strata having the maximum backwardness, the application of the rule of exclusion may be kept in abeyance on the reasoning that the process of “creamy layer” formation will take more time in their case. While doing so the Government may examine its legal permissibility in terms of the Supreme Court Judgement.

31. We are aware of the strain imposed on candidates who seek certificates of caste, etc. The strain for them and the existing administrative machinery will be all the more where certification is required not only of caste but that the candidate is or is not affected by any of the criteria of exclusion. In order that SEBC candidates are not put to any harassment in this regard, we recommend that Government may make smooth and satisfactory arrangements for the issue of such certificates without delay and without any difficulty. Government have created a single window system for entrepreneurs applying for certificates and facilities for setting up new industries. Similarly, an appropriate single window system needs to be created at State/District level and necessary guidelines to be issued to see that correct certificates are issued promptly, and without harassment to the applicants.

32. We are also aware of the fact that in some cases false certificates of caste are issued to candidates who do not belong to the reserved categories. In order to prevent this and to ensure that certificates of caste as well as exclusion/non-exclusion criteria are factually correct, innovative arrangements such as transparency through steps like publication in the village/mohalla/panchayat raj offices, etc., may be considered.

CONCLUSION

33. In specifying the determinants and prescribing the different formulations therein, we have adopted a pragmatic approach and we have considered it prudent as well as desirable to err on the right side. In other words, where it appeared while defining the criteria that a more strict formulation would have the possible effect of excluding more than it ought to, we have chosen not to adopt such a course. And for this approach of ours we find support from observations in different judgements of the Special Bench as well as from other sources.

34. Reservation has been adopted as a remedy for curing the historical discrimination and its continuing ill-effects in public employment. That being the object in view, the denial of reservation to any member of a socially and educationally backward class is, and has to be, treated as an exception. In identifying such an exception, i.e., applying the rule of exclusion, it has to be ensured that the ill-effects have been fully and finally eliminated and no grey zone is discernible. The nature of such an exercise itself makes the rule of caution inherent.

35. Hon'ble Mr. Justice Pandian does not subscribe to the "creamy layer" theory. Dealing with the oft-repeated criticism that the reserved posts are lapped up by the socially advanced ("creamy layer") among the socially and educationally backward classes, Pandian J. has quoted with approval the observation of Chinnappa Reddy J. in the case of Vasant Kumar. The relevant passage is given below :—

“..... That a few of the seats and posts reserved for backward classes are snatched away by the more fortunate among them is not to say that reservation is not necessary. This is bound to happen in a competitive society such as ours. Are not the unreserved seats and posts snatched away, in the same way, by the top creamy layers amongst them on the same principle of merit on which the non-reserved seats are taken away by the top layers of society. How can it be bad if reserved seats and posts are snatched away by the creamy layer of backward classes, if such snatching away unreserved posts by the top creamy layer of society itself is not bad?”

Pandian J. says “The above observation, in my view, is an apt reply to such a criticism with which I am in full agreement.”

(Paragraph 229 and 230 Judgements Today)

36. Another passage from the judgement of Hon'ble Mr. Justice Pandian justifies the rule of caution and of erring on the right side adopted by us. The passage is as below :

“It is after 42 years since the advent of our Constitution, the Government is taking the first step to implement this scheme of reservation for OBCs under Article 16(4). In fact, some of the States have not even introduced policy of reservation in the matters of public employment in favour of OBCs.”

(Paragraph 225 Judgements Today)

37. In the above context would it not be proper, nay desirable to let there be acceleration and let some distance be covered before we apply the brakes ?

38. What the Supreme Court has directed is identification of the "creamy layer". This obviously means that we have not to take note of sprinklings of cream or the mere appearance of cream at the surface. Only when the "creamy layer" is substantial and stable, formed after crossing the Rubicon of social backwardness, then and then alone can it be made the basis for disentitlement. In such a situation, can it be said that adopting a rule of caution and erring on the right side is not justified? Apprehension has been expressed, and rightly, that applying the rule of exclusion on the ground of social advancement may be counter-productive, inasmuch as by excluding those who have become capable of facing the fierce competition for appointment in the services what will remain are those of the socially backward who are simply not equipped and ready to face the competition and this will have the effect of many of the reserved seats being left vacant. The well-known writer and columnist, Mr. S. Sahay is one among many who have expressed such an apprehension. In an article entitled "A Moment of Truth" published in the Hindustan Times, Patna Edition dated 26-11-1992, this is what he has to say

"...Approval in principle of the concept of backward and more backward is rational and so is the exclusion of the creamy layer. However, the consequences in the immediate future of the exclusion of the creamy layer, even though desirable and necessary, are not going to be happy. The poor remain both poor and uneducated. Count the cost of education today and realise for yourself whether the boy or girl from the chaupal has ever the chance of getting a higher appointment under the Central Government. Even now the reserved jobs for the Scheduled Castes and Tribes are not fully filled. Would the lot of the OBCs be any better, especially after excluding the creamy layer?"

39. We can cite many more such quotations and also give more reasons in support of the approach which we have adopted, but in our opinion what we have said above is sufficient to highlight the point under consideration.

40. We are happy to say that all the Members of this Expert Committee have worked day and night in a spirit of cooperation and understanding with each other. There has been free and frank exchange of views on almost every point dealt with in this Report and thereafter the Committee has arrived at a consensus on the basis of which the criteria have been laid down.

41. For its deliberations, the Committee had to gather and examine a large volume of literature and documents including the judgement under consideration (Indra Sawhney & Others), various other related judgements on the subjects, report of the Mandal Commission, report of the Chinnappa Reddy Commission, reports of the various State Commissions on OBCs/SEBCs. We have had also to look into a large amount of data furnished by the Ministry of Welfare itself or by other Ministries/Departments through the Ministry of Welfare which had relevance to or threw light on the points under consideration.

42. It is not out of place to mention that formulation of the criteria for ascertainment of the socially advanced among the SEBC (termed Creamy Layer by the Supreme Court) in the manner it required to be done for practical application, is unique in the sense that to our knowledge, such an exercise has been taken up in this country for the first time. Though we find that in the Report of the Third Backward Classes Commission for Karnataka, 1990, there is mention at page 174 Vol. I, of categories among socially and educationally backward classes who should not be entitled to reservation, but we have undertaken an elaborate exercise to make the formulations as far-reaching and comprehensive as possible. Of course, it may be desirable, perhaps even necessary at a future date, to give a second look to the criteria evolved by us and make suitable changes on the basis of experience of implementation and other relevant factors.

43. We are happy to place on record our gratitude for the unstinted cooperation extended to the Committee in the discharge of its work by the Hon'ble Minister of Welfare, Government of India, Shri Sitaram Kesari and by the Secretary and all other officers and staff of the Ministry of Welfare, and it is because of this, we have been able to complete this difficult task within the allotted short time.

Sd/-
(RAM NANDAN PRASAD)
Chairman
10-3-1993

Sd/-
(M.L. SHAHARE)
Member
10-3-1993

Sd/-
(P.S. KRISHNAN)
Member
10-3-1993

Sd/-
(R.J. MAJITHIA)
Member
10-3-1993



*Chapter Eight***Recommendations**

- 8.0 This Commission considered 'General Category (GC)' as comprising of that class of people who **do not receive any reservation benefit** under the existing policies. In other words, GC includes people of India belonging to all those castes, religions, communities, ethnicity, regions and classes excluding Scheduled Castes (SCs), Scheduled Tribes (STs) and Other Backward Classes (OBCs) that are already covered under the existing reservation. The common attribute of making GC as a class is 'unreserved categories'. The Commission felt that though GC is a class of unreserved categories more or less equal in social status, but their economic status is not equal. The Commission gathered the understanding that unlike socio-educational backwardness prevailing at caste or community level, economic backwardness was a phenomenon at family level. Accordingly, this Commission recommends that **family should be the unit of identification of economically backward classes among general category.**
- 8.1 This Commission gathered an understanding from the review of the relevant reports of various commissions and committees that for identification of "backwardness", the essential aspects include social status, health, education, employment, economic opportunities and overall standard of living. Families identified as living Below Poverty Line (BPL) are defined as poor. A view elicited by this Commission from its visits of States/UTs was that below poverty line (BPL) should be the basic criteria for identification of EBCs among GC. This Commission also felt that for identification of economic backwardness poverty could be considered as one of the basic criterion. This Commission also noted that in some states, the BPL percentage among GC was higher than the percentage of total BPL population in those states, e.g., in West Bengal GC BPL percentage was 23.3% against total state BPL percentage of 20.6% and in

Assam GC BPL percentage was 19.3% as compared to total State BPL percentage of 15%. It was also noted that though in majority of states, the percentage of BPL among GC was less as compared to the respective total percentage among reserved categories, but the average status of EBCs among GC was as 'backward' as that of those in similar footing in other reserved categories particularly OBCs. EBCs within GC though not BPL, suffered from low paid occupation, malnutrition, illiteracy, poor health and hygiene, landlessness, poor housing conditions and low standard of living. This Commission recommends that besides BPL families, subject to an upper limit of income for their inclusion, families above poverty line (APL) should be identified as economically backward classes.

The Commission formed the opinion that extending the existing criteria to identify 'Creamy Layer' among OBCs could well serve as to decide the upper limit or as a criterion for identifying EBC families among GC too. However, the concept of Creamy Layer among OBCs included economic backwardness compounded with their social and educational backwardness also while among EBCs economic backwardness is the major concern. The Commission also noted that economic needs of EBCs among GC differ and hence just one criterion of BPL or setting creamy layer as upper limit would not be effective to ensure intended benefits to EBCs. There is a need to follow 'bottom up' approach to ensure benefits reaching to the neediest one. Therefore, it was felt appropriate that instead of taking the income limit for creamy layer, current non-taxable limit upto Rs. 1,60,000/- (as may be revised from time to time) could be taken as the criterion to identify EBCs among GC. This income limit will include the combined income of husband and wife and will exclude the income of their parents and adult children. Since EBCs are to be identified at family level, hence the upper income tax limit should also be considered at family level. The Commission also felt that criteria for identification of EBCs among GC should be simple and the existing criteria would be more effective. Thus, BPL families and non-income tax paying families could be identified as

EBCs among GC. Accordingly, this Commission recommends that all BPL families among GC as notified from time to time and all those families among GC whose annual family income from all sources is below the taxable limit (currently Rs. 1,60,000/ per annum and as may be revised from time to time) should be identified as EBCs. As already indicated, this income limit will include the combined income of husband and wife and will exclude the income of their parents and adult children.

- 8.2 The population of EBCs could not be ascertained from the data available in the reports of Census of India. The other possibility was to work out the EBCs population from the Surveys conducted by Government agencies and other Commissions, such as the Backward Classes Commissions, National Sample Survey Organization (NSSO), National Family Health Survey (NFHS), which had reported estimated population of Other Backward Classes and others (those not belonging to Scheduled Castes, Scheduled Tribes and Other Backward Classes). From such resources, the Commission came to the understanding that the Economically Backward Classes would emerge from unreserved categories, and if the latest survey (NSSO, 2004-05) was taken into consideration, then the EBCs could be identified out of 31.2 per cent population of the general category.

According to the survey undertaken by the NSSO (61st Round, 2004-05), it was estimated that nearly 5.85 crore persons belonged to the GC in our country were poor. Nearly 28 % of them were illiterate and it was also reported that rate of illiteracy among GC was very high (36.7 %) in rural areas. It was also reported that OBCs had higher landholding as compared to GC and 35 % of GC were landless. **A consensus emerged was that family based state wise socio-economic surveys of the Economically Backward Classes within the G.C. should be undertaken in the country so that suitable welfare measures could be provided to them.**

- 8.3 Reservation in Indian context is a form of affirmative action whereby a percentage of posts is reserved in the public sector units, Union and State Civil Services and in educational institutions for socially and educationally backward classes of citizens. This Commission derived the constitutional and legal understanding that 'Backward Classes' cannot be identified for providing reservation in employment and admission in educational institutions on the basis of economic criteria alone and hence 'Economically Backward Classes' (EBCs) could not be identified by the State for extending reservation till necessary constitutional amendments are made or until a different direction is given by the Supreme Court so as to raise the 50 per cent upper limit for reservation.
- 8.4 The Commission obtained views of states/ UTs on quantum of reservation and with the single exception of Rajasthan, most of the states have not framed any conclusive opinion about reservation to EBCs among GC. While during visits of States/ UTs the Commission was assured that the subject matter being of political nature, would be discussed in the cabinet meetings and the decision taken thereto would be conveyed to the Commission in due course. However, views of the States/UTs are still awaited. This Commission recommends that for the purpose of deciding any quantum of reservation to the EBCs, the Government of India may consider organizing a conference of the Chief Ministers, Lt. Governors, Administrators of all States/UTs and all concerned and on the basis of the resolutions further administrative and legislative action could be taken.
- 8.5 Out of the estimated General Category population of 32.09 crores in the country, nearly 72% inhabit nine States, namely, West Bengal, Maharashtra, Uttar Pradesh, Andhra Pradesh, Karnataka, Gujarat, Assam, Bihar and Madhya Pradesh. On analyzing the state-wise data of General Category population, it is gathered that their concentration is more than all India average (31%) in 15 States / UTs, namely, A & N Islands, Goa, J&K, Delhi, West Bengal,

Uttarakhand, Himachal Pradesh, Assam, Haryana, Dadar & Nagar Haveli, Maharashtra, Punjab, Karnataka, Gujarat and Tripura. Without exception, all the States/ UTs were in favour of augmenting welfare measures to the EBCs particularly, in the areas of education, healthcare, housing and rural/urban development as per the nature, extent and magnitude of their economic needs. **This Commission, therefore, recommends that such States / UTs as have predominant population of EBC among GC should receive focused attention for welfare measures.**

- 8.6 Existing schemes for OBCs development should be extended suitably for development of EBCs among the GCs.
- 8.7 This Commission recommends that special economic package should be considered for EBCs living within 5 kms of Line of Control (LOC), areas affected by natural disasters like Tsumani, earthquakes, floods and famine etc., inhabitants of disturbed areas, difficult hill terrains and pockets of extreme poverty etc.
- 8.8 The Mahatma Gandhi National Rural Employment Guarantee Act, which aims at enhancing the livelihood security of people in rural areas by guaranteeing hundred days of wage-employment in a financial year to a rural household whose adult members volunteer to do unskilled manual work, should be suitably extended to include semi-skilled work for EBCs, particularly the women among the GCs.
- 8.9 This Commission recommends that some special health insurance packages for EBC families should be designed for families supporting/ maintaining chronically ill persons to meet the expenses of their long duration treatment.
- 8.10 This Commission recommends setting up of a National Commission for EBCs to suggest welfare measures and monitoring of their implementation.

- 8.11 This Commission also recommends setting up a separate National Finance and Development Corporation for the EBCs to foster their rapid economic development.
- 8.12 This Commission also recommends setting up State level Commissions for Economically Backward Classes in such States/ UTs, as have significant 'General Category' population to consider reservation and suggest state specific welfare measures for the EBCs, their implementation and monitoring. In this regard, the Govt. of Madhya Pradesh has already taken the initiative of setting up *Rajya Samanya Nirdhan Varg Kalyan Ayog* under the Social Welfare Department in the January, 2008 and the said Commission has been implementing a series of welfare measures for the Economically Backward Classes.
- 8.13 This Commission recommends that the Government of India may consider setting up a separate Division in the Planning Commission and a separate Division in the Ministry of Social Justice and Empowerment to look after the welfare of the EBCs.
- 8.14 This Commission also recommends that with a view to providing immediate relief and taking care of 5.85 crore population (Approx. one crore families as per NSSO 2004-05 data) of EBCs in General category, the Govt. of India may show a benevolent gesture by announcing an initial package of relief of Rs.10,000/- crore @ of Rs.10,000/- per EBC family for the purpose of identification of EBC families by the States /UTs and listing out their requirements / giving relief in the fields of education, health, housing and skill upgradation, till such time as formal budgetary mechanism is created to launch the requisite welfare measure through appropriate schemes for the economic and educational upliftment of the EBC families.

Chapter Nine

Summary

9.0 About the Commission:

- (i) The Government of India had re-constituted the Commission for Economically Backward Classes (CEBC) by the Ministry of Social Justice and Empowerment *vide* notification no.20012/10/2003 BCC dated 10.07.2006 to consider reservation in Government jobs and education for the Economically Backward Classes, not covered under the existing reservation policy and to recommend the welfare measures for them, apart from looking into the constitutional, legal and administrative modalities that may come up in the way of providing reservation, if any.
- (ii) The Commission was mandated to consult the State Governments / Union Territory administrations and field functionaries dealing with welfare measures, legal experts, voluntary organizations and social activists on the issue of providing reservation and welfare measures to the Economically Backward Classes (EBCs).
- (iii) Major Gen. (Retd.) S.R. Sinho, Shri Narendra Kumar and Shri Mahendra Singh, I.A.S. (Retd.) were appointed as Chairperson, Member and Member Secretary respectively of the Commission.
- (iv) The Commission adopted multi-pronged approach to compile data base from available relevant sample surveys; books, reports and articles *etc.* The Commission organized two national level seminars on the issues concerning reservation and the criteria for identification of the Economically Backward Classes at the International Management Institute (IMI), New Delhi and Dr. B. R. Ambedkar National Institute of Social Sciences (BANISS), Mhow, (M.P.) and also conducted two specific studies on the terms of reference of the Commission through these institutions of repute.

- (v) The Commission had consulted the State Govts./ Union Territory administrations through feed back of questionnaires and also visited 28 States/UTs and had discussions with H.E. Governors, Lt. Governors, Administrators, Hon'ble Chief Ministers, Ministers concerned, Chief Secretaries and other senior officers and also with the representatives of social organizations, NGOs, social activists and political leaders *etc.* The Commission had also consulted various related Central and State Commissions.
- (vi) The Report is being presented in two volumes. Volume I contains nine chapters. Chapter 1 is Introductory. Chapter 2 reviews different approaches and criteria adopted for identification of the backward classes. Chapter 3 reviews the past initiatives to grant reservations to the Economically Backward Classes. Chapter 4 discusses Constitutional Status and Demographic profile of Reserved and General Categories. Chapter 5 assesses the economic and educational backwardness and status of health, nutrition and housing among different categories. Chapter 6 contains the views of States, UTs and other Commissions. Chapter 7 suggests welfare measures for the Economically Backward Classes. The Recommendations and Summary of the Report are contained in Chapters 8 and 9 respectively. The Volume II of the report contains reference material and annexures.

9.1 Government's initiatives for providing reservation and welfare measures to the Economically Backward Classes:

- (i) The idea on the part of the government to provide 10% reservation to the poor among GC was not a new one. It was in 1980-81 when the Government of India was processing Mandal Commission's report for placing before the Parliament when it was maintained that the benefits of affirmative action should also reach the poor irrespective of the caste and religion.
- (ii) In September, 1990 while Shri V P Singh, then Prime Minister was about to implement the recommendations of Mandal Commission, Shri Rajiv Gandhi, Member of Parliament speaking in the Lok Sabha on

September 6, 1990 had explained his party's stand and emphasized that within a class assistance should go to the poorest and benefits must reach those who were really poor. The thinking of congress party as articulated in the 1990 speech of Shri Rajiv Gandhi in Parliament was materialized by the Central Government under the then Prime Minister Shri P V Narasimha Rao through issue of a memorandum dated September, 25 1991 giving 10% reservation in jobs and other opportunities to the economically backward sections of the people who were not covered by any of the existing reservation schemes.

- (iii) In 1992, the Supreme Court had struck down the above notification as unconstitutional while adjudicating in the case *Indira Sawhney vs. Union of India*. The Court's observation was "A backward class of citizens can not be exclusively identified by the economic criterion. It is of course possible for the government or any other authority to identify a class based on the occupation cum education without reference to caste if it is so advised. There is no constitutional barrier to define more backward and less backward".
- (iv) Among the States, Madhya Pradesh and Rajasthan States had appointed State Commissions for Economically Backward Classes of general category. The Government of Rajasthan, Department of Personnel had issued a notification dated 18.9.2009 to provide for 14 % reservation in Educational Institutions in the State and Appointments and Posts in Services under the State for the Economically Backward Classes. As total reservation in Rajasthan had exceeded 50 per cent limit and the reservations had gone upto 68 %, the Rajasthan High Court has set aside the said notification. Madhya Pradesh *Rajya Samanya Nirdhan Varg Kalyan Ayog* suggested launching of the welfare measures only to the poor among the general category.

9.2 Criteria for Identification of the Economically Backward Classes:

- (i) From the review of the relevant reports of various commissions and committees, this Commission gathered an understanding that for identification of "backwardness", the essential aspects include social status, health, education, employment, economic opportunities and overall standard of living.
- (ii) This Commission felt that poverty could be considered as one of the basic criterion for identification of economic backwardness and also noted that in some states, the BPL percentage among GC was higher than the percentage of BPL population in those states. A majority of States/ UTs were of the opinion that BPL could be taken as the basic criteria for identification of economically backward classes. Caste based survey was suggested by many. Emphasis was given on conducting a socio-economic survey of the General Category families/person to understand the demographic profile of the Economically Backward Classes. General consensus revolved around adoption of the criteria of "Below Poverty Line" determined by the Govt of India / States / UTs from time to time. There is a need to follow 'bottom up' approach to ensure that benefits reached the most needy.
- (iii) The Commission gathered the understanding that unlike socio-educational backwardness prevailing at caste or community level, economic backwardness was a phenomenon significant at the family level. Accordingly, this Commission recommends that family should be the unit of identification of economically backward classes among General Category. It is felt appropriate that instead of taking the income limit for creamy layer, current non-taxable limit upto Rs. 1,60,000/- (as may be revised from time to time) could be taken as the criterion to identify EBCs among GC. Since EBCs are to be identified at family level, hence the upper income tax limit should also be considered at family level. Accordingly, income limit in the context

will include the combined income of husband and wife and will exclude the income of their parents and adult children.

- (iv) The Commission considered 'General Category (GC)' as comprising of that class of people who do not receive any reservation benefit under the existing policies. In other words, GC includes people of India belonging to all those castes, religions, communities, ethnicity, regions and classes who are not included among Scheduled Castes (SCs), Scheduled Tribes (STs) and Other Backward Classes (OBCs). The common attribute of making GC as a class is belonging to 'unreserved categories'. The Commission felt that though GC is a class of unreserved categories having more or less equal social status, but their economic status is not equal.
- (v) It was also noted that though in majority of states, the percentage of BPL among GC was less as compared to the respective percentage among reserved categories, but the average status of EBCs among GC was as 'backward' as that of those in similar footing in other reserved categories particularly OBCs. It was also noted that some sections within GC though not belonging to BPL but suffered from malnutrition, poor health and hygiene, landlessness, poor housing conditions, low standard of living, illiteracy, and were engaged in low paid occupations. This Commission recommends that besides BPL families, subject to an upper limit of income for their inclusion, families Above Poverty Line (APL) should be identified as economically backward classes.
- (vi) The Commission formed the opinion that extending the existing criteria to identify 'Creamy Layer' among OBCs could well serve as to decide the upper limit or as a criterion for identifying EBC families among GC too. However, OBCs suffer from economic backwardness which is compounded with their social and educational backwardness also while among EBCs economic backwardness is the major concern. The Commission also noted that economic needs of EBCs among GC

differ and hence just one criterion of BPL or setting creamy layer as upper limit would not be effective to ensure intended benefits to EBCs.

- (vii) The population of EBCs could not be ascertained from the data available in the reports of Census of India. The other possibility was to work out the EBCs population from the surveys conducted by Government agencies and other Commissions, such as the Backward Classes Commissions, National Sample Survey Organization (NSSO), National Family Health Survey (NFHS), which had reported estimated population of Other Backward Classes and others (those not belonging to Scheduled Castes, Scheduled Tribes and Other Backward Classes). From such resources, the Commission came to the understanding that the Economically Backward Classes would emerge from unreserved categories, and if the latest survey (NSSO, 2004-05) was taken into consideration, the EBCs could be identified out of 31.2 per cent population of the general category.
- (viii) According to the survey undertaken by the NSSO (61st Round, 2004-05), it was estimated that nearly 5.85 crore persons belonging to the GC were poor. Nearly 28 % of them were illiterate and it was also reported that rate of illiteracy among GC was very high (36.7 %) in rural areas. It was also reported that OBCs had higher landholding as compared to GC and 35 % of GC were landless. A consensus emerged was that family based state wise socio-economic surveys of the Economically Backward Classes within the G.C. should be undertaken in the country so that suitable welfare measures could be provided to them.

9.3 Quantum of Reservation to EBCs in Government Jobs and Educational Institutions:

- (i) Reservation in Indian context is a form of affirmative action whereby a percentage of posts is reserved in the public sector units, Union and State Civil Services and in educational institutions for socially and educationally backward classes of citizens. This Commission derived the constitutional and legal understanding that 'Backward Classes'

cannot be identified for providing reservation in employment and admission in educational institutions on the basis of economic criteria alone and hence 'Economically Backward Classes' (EBCs) could not be identified by the State for extending reservation till necessary constitutional amendments are made or until a different direction is given by the Supreme Court so as to raise the 50 per cent upper limit for reservation. Reservation in employment and admission in educational institutions to EBCs was not considered by many due to absence of provision in the Constitution of India and upper cap of 50% reservations laid down by the Supreme Court.

- (ii) A few states had communicated their views in writing to the Commission. Bihar State communicated that the State was not in favour of providing reservation on the basis of economic backwardness for which there was no constitutional provision. Further, it was also seen as a departure from the policy of reservation based on social and educational backwardness.
- (iii) Tamil Nadu Government was providing a total of 69% reservation and categorically disagreed to consider reservation on the basis of economic backwardness. During the course of discussions, it was mentioned that 31% unreserved posts have been left for 12% of the general category population and hence there was no need for considering reservation for the economically backward classes of the general category. West Bengal Government opined that if at all reservation was to be considered on the basis of economic backwardness, then the BPL criteria was ideal for which adequate data was also available.
- (iv) The Commission obtained views of states/ UTs on quantum of reservation and with the single exception of Rajasthan, most of the states have not communicated any conclusive opinion about reservation to the EBCs among GC. While during visits of States/ UTs, the Commission was assured that the subject matter being of political nature, would be discussed in the cabinet meetings and the decision

taken thereto would be conveyed to the Commission in due course, the views of the States/UTs are still awaited.

9.4 Welfare Measures:

- (i) Representatives of various Social organizations and Non-Governmental Organizations approached the Commission giving justification in favour as well as against providing reservation and welfare measures to the economically backward classes. All the States / UTs and people at large were in favour of augmenting Welfare measures for the development and betterment of EBCs, in particular, in areas like : soft loans for business and small scale industry upto Rs 5 lakhs; woman headed household should receive attention; improved health care, sanitation, drinking water; a separate Finance & Development Corporation for EBCs to provide for small credit; improved facilities in educational institutions (mid day meals, scholarships); opening of Navodaya Vidyalays at Block level; emphasis on vocational training to improve skills; allotment of land for house construction and allotment of surplus and for agriculture to the poorest among the poor; all the welfare measures provided for OBC be extended to EBCs. Some special health insurance packages for EBC families should be designed for families supporting/ maintaining chronically ill persons to meet the expenses of their long duration treatment.
- (ii) Focus on skill upgradation is considered vital for development of EBCs. Emphasis should be laid on the opening of skill upgradation centres and tool kits made available to the trainees. They should also be given stipend during the period of training in lieu of the wages to meet the family's requirements. Training could be imparted in apparel making, security guard's jobs, construction work, plumbing, salesmanship in shopping malls, hotel and tourism industry, handloom and handicraft, dance, music and art troupes, etc. "Rojgar Melas" could be organized to facilitate them in getting placements. The children of EBCs needed support for improvement of educational levels at par

with OBCs upto class XII standard. Other welfare measures suggested, include free education at all levels; scholarships and soft loans at zero percent interest; free coaching; model schools and hostels; trained teachers to guide EBC students; priority for regular health checkup once a year and medical aid provided for undergoing treatment; financial assistance for treatment of kidney and heart ailments; health insurance; life insurance; pension to widows, senior citizens, and handicapped person; assistance to girls for marriage, assistance to farmers and others affected by unforeseen circumstances/ natural calamities and orphans may be liberally granted financial assistance for purchasing construction materials for construction of 1 room set / 2 room set for meeting basic requirement of accommodation and raising their standard of living.

- (iii) Out of the estimated General Category population of 32.09 crores in the country, nearly 72% inhabit nine States, namely, West Bengal, Maharashtra, Uttar Pradesh, Andhra Pradesh, Karnataka, Gujarat, Assam, Bihar and Madhya Pradesh. On analyzing the state-wise data of General Category population, it is gathered that their concentration is more than all India average (31%) in 15 States / UTs, namely, A & N Islands, Goa, J&K, Delhi, West Bengal, Uttarakhand, Himachal Pradesh, Assam, Haryana, Dadra & Nagar Haveli, Maharashtra, Punjab, Karnataka, Gujarat and Tripura. Without exception, all the States/ UTs were in favour of augmenting welfare measures to the EBCs particularly, in the areas of education, healthcare, housing and rural/urban development as per the nature, extent and magnitude of their economic needs. Such States / UTs as have predominant population of EBC among GC should receive focused attention for welfare measures. Existing schemes for OBCs development should be extended suitably for development of EBCs in the GC.
- (iv) The Mahatma Gandhi National Rural Employment Guarantee Act, which aims at enhancing the livelihood security of people in rural areas by guaranteeing hundred days of wage-employment in a financial year

to a rural household whose adult members volunteer to do unskilled manual work, should be suitably extended to include semi-skilled work for EBCs, particularly the women among the GC.


- (v) Special economic package should be considered for EBCs living within 5 kms. of Line of Control (LOC), areas affected by natural disasters like Tsunami, earthquakes, floods and famine *etc.*, inhabitants of disturbed areas, difficult hill terrains and pockets of extreme poverty *etc.*
- (v) This Commission has suggested the need of setting up of a National Commission for EBCs to suggest welfare measures and monitoring of their implementation and setting up a separate National Finance and Development Corporation for the EBCs to foster their rapid economic development. This Commission also recommends setting up State level Commissions for Economically Backward Classes to suggest state specific welfare measures for the EBCs, their implementation and monitoring.
- (vi) This Commission is of the view that the Government of India may consider setting up a separate Division in the Planning Commission and a separate Division in the Ministry of Social Justice and Empowerment to look after the welfare of the EBCs. This Commission also recommends that with a view to providing immediate relief and taking care of 5.85 crore population (Approx. one crore families as per NSSO 2004-05 data) of EBCs in General category, the Govt. of India may show a benevolent gesture by announcing an initial package of relief of Rs.10,000/- crore @ of Rs.10,000/- per EBC family for the purpose of identification of EBC families by the States /UTs and listing out their requirements / giving relief in the fields of education, health, housing and skill upgradation, till such time as formal budgetary mechanism is created to launch the requisite welfare measure through appropriate schemes for the economic and educational upliftment of the EBC families.

9.5 Constitutional, legal and administrative modalities as required for the implementation of their recommendations:


The Commission has suggested holding of a conference of the Chief Ministers, Lt. Governors, Administrators of all States/UTs and all concerned to decide the quantum of reservation for Economically Backward Classes in the government jobs and education *vis- a- vis* the constitutional modalities for putting the same in place. This is necessary because the various Chief Ministers and Chief Secretaries had proposed during the visit of the Commission to the respective States / UTs to send their advise after taking up this matter in the Cabinet meetings but they did not send it till today.

ANNEXURE-

A Sample AIS



Income Tax Department
 Government of India



Taxpayer Information Summary (TIS)

Financial Year 2020-21
 Assessment Year 2021-22

General Information

Permanent Account Number (PAN)

Aadhaar Number

Name of Assessee

Date of Birth
 1/

Mobile Number

E-mail Address

Address
 CEN

Taxpayer Information Summary (TIS)

(All amount values are in INR)

SR. NO.	INFORMATION CATEGORY	PROCESSED VALUE	DERIVED VALUE
1	Salary	27,21,744	27,21,744
2	Dividend	12,844	12,844
3	Interest from savings bank	2,480	2,480
4	Interest from deposit	21,828	21,828
5	Sale of securities and units of mutual fund	18,912	18,912
6	Purchase of securities and units of mutual funds	2,47,991	2,47,991
7	Purchase of securities and units of mutual funds	1,68,994	1,68,994

The information details under each information category is provided on next page.

- Reported Value** - Value as reported by the information source
- Processed Value** - Value after processing (including deduplication of information) based on pre-defined rules
- Derived Value** - Value derived after considering the taxpayer's feedback (if any) and processed value

Disclaimer

Taxpayer Information Summary (TIS) includes information presently available with Income Tax Department. There may be other transactions relating to the taxpayer which are not presently displayed in Taxpayer Information Summary (TIS). Taxpayer is expected to check all related information and report complete and accurate information in the Income Tax Return.

Download ID : 2112091544
 Download Date : 09/12/2021, 15:44:49

IP Address : 164.100.177.145

Page 1 of 4

Annexure to Taxpayer Information Summary (TIS)

SR. NO.	INFORMATION CATEGORY				PROCESSED VALUE		DERIVED VALUE
1	Salary				27,21,744		27,21,744
SR. NO.	PART	INFORMATION DESCRIPTION	INFORMATION SOURCE	AMOUNT DESCRIPTION	REPORTED VALUE	PROCESSED VALUE	DERIVED VALUE
1	Other	Salary (TDS Annexure II)		Gross Salary Received	27,21,744	27,21,744	27,21,744
2	TDS/TCS	Salary received (Section 192)		Amount paid/credited	27,21,744	-	-

SR. NO.	INFORMATION CATEGORY				PROCESSED VALUE		DERIVED VALUE
1	Dividend				12,844		12,844
SR. NO.	PART	INFORMATION DESCRIPTION	INFORMATION SOURCE	AMOUNT DESCRIPTION	REPORTED VALUE	PROCESSED VALUE	DERIVED VALUE
1	SFT	Dividend income (SFT-015)	Petronet LNG Limited (AAACR8148D.AZ147)	Total Dividend amount	5,250	5,250	5,250
2	TDS/TCS	Dividend received (Section 194)	PETRONET LNG LIMITED (DELP32774A)	Amount paid/credited	5,250	-	-
3	SFT	Dividend income (SFT-015)	TATA CONSULTANCY SERVICES LIMITED (AAACR4849R.AZ803)	Total Dividend amount	1,624	1,624	1,624
4	SFT	Dividend income (SFT-015)	LIC HOUSING FINANCE LIMITED (AAACL1799C.AZ887)	Total Dividend amount	1,120	1,120	1,120
5	TDS/TCS	Dividend received (Section 194)	LIC HOUSING FINANCE LTD (MUMLD05003F)	Amount paid/credited	1,120	-	-
6	SFT	Dividend income (SFT-015)	TECH MAHINDRA LIMITED (AAACM3484F.AZ777)	Total Dividend amount	1,120	1,120	1,120
7	SFT	Dividend income (SFT-015)	HINDUSTAN UNILEVER LIMITED (AAACH1004N.AZ828)	Total Dividend amount	938	938	938
8	SFT	Dividend income (SFT-015)	RELIANCE INDUSTRIES LIMITED (AAACR5055K.AZ423)	Total Dividend amount	555	555	555
9	SFT	Dividend income (SFT-015)	PTC INDIA FINANCIAL SERVICES LIMITED (AAECP0501C.AN340)	Total Dividend amount	540	540	540
10	SFT	Dividend income (SFT-015)	LARSEN & TOUBRO LIMITED (AAACL0140PAZ859)	Total Dividend amount	520	520	520
11	SFT	Dividend income (SFT-015)	GIC HOUSING FINANCE LIMITED (AAACG2755R.AZ898)	Total Dividend amount	400	400	400
12	SFT	Dividend income (SFT-015)	HDFC ASSET MANAGEMENT COMPANY LIMITED (AAACH7614L.AZ977)	Total Dividend amount	364	364	364
13	SFT	Dividend income (SFT-015)	LUPIN LIMITED (AAACL1069K.AZ572)	Total Dividend amount	240	240	240
14	SFT	Dividend income (SFT-015)	GLENMARK PHARMACEUTICALS LTD (AAACG2207L.AZ603)	Total Dividend amount	100	100	100
15	SFT	Dividend income (SFT-015)	NBCC (India) Limited (AAACN3053B.AZ092)	Total Dividend amount	54	54	54
16	SFT	Dividend income (SFT-015)	SBI CARDS AND PAYMENT SERVICES PRIVATE LIMITED (AAECS5981K.AB165)	Total Dividend amount	19	19	19

SR. NO.	INFORMATION CATEGORY				PROCESSED VALUE		DERIVED VALUE
1	Interest from savings bank				2,480		2,480

SR. NO.	PART	INFORMATION DESCRIPTION	INFORMATION SOURCE	AMOUNT DESCRIPTION	REPORTED VALUE	PROCESSED VALUE	DERIVED VALUE
1	SFT	Interest income (SFT-016) - Savings	STATE BANK OF INDIA (AAACS8577K.AB703)	Interest	2,480	2,480	2,480

SR. NO.	INFORMATION CATEGORY				PROCESSED VALUE		DERIVED VALUE
1	Interest from deposit				21,828		21,828
SR. NO.	PART	INFORMATION DESCRIPTION	INFORMATION SOURCE	AMOUNT DESCRIPTION	REPORTED VALUE	PROCESSED VALUE	DERIVED VALUE
1	SFT	Interest income (SFT-016) - Term Deposit	STATE BANK OF INDIA (AAACS8577K.AB703)	Interest	21,828	21,828	21,828

SR. NO.	INFORMATION CATEGORY				PROCESSED VALUE		DERIVED VALUE
1	Sale of securities and units of mutual fund				18,912		18,912
SR. NO.	PART	INFORMATION DESCRIPTION	INFORMATION SOURCE	AMOUNT DESCRIPTION	REPORTED VALUE	PROCESSED VALUE	DERIVED VALUE
1	SFT	Sale of listed equity share (Depository)	National Securities Depository Limited (AADCN9802FAD582)	Value of consideration	18,912	18,912	18,912

SR. NO.	INFORMATION CATEGORY				PROCESSED VALUE		DERIVED VALUE
1	Purchase of securities and units of mutual funds				2,47,991		2,47,991
SR. NO.	PART	INFORMATION DESCRIPTION	INFORMATION SOURCE	AMOUNT DESCRIPTION	REPORTED VALUE	PROCESSED VALUE	DERIVED VALUE
1	SFT	Purchase of mutual funds (SFT - 018)	KFin Technologies Pvt. Ltd - Mirae Asset Mutual Fund(117) (AAGCK6303B)	Total purchase amount	59,998	59,998	59,998
2	SFT	Purchase of mutual funds (SFT - 018)	Computer Age Management Services Limited - L&T Investment Management Limited(F) (AAACC3035G.AZ670)	Total purchase amount	54,998	54,998	54,998
3	SFT	Purchase of mutual funds (SFT - 018)	Computer Age Management Services Limited - L&T Investment Management Limited(F) (AAACC3035G.AZ670)	Total purchase amount	54,998	54,998	54,998
4	SFT	Purchase of mutual funds (SFT - 018)	Computer Age Management Services Limited - HDFC Asset Management Company Limited(H) (AAACC3035G.AZ670)	Total purchase amount	29,999	29,999	29,999
5	SFT	Purchase of mutual funds (SFT - 018)	Computer Age Management Services Limited - DSP Investment Managers Private Limited(D) (AAACC3035G.AZ670)	Total purchase amount	23,999	23,999	23,999
6	SFT	Purchase of mutual funds (SFT - 018)	Computer Age Management Services Limited - DSP Investment Managers Private Limited(D) (AAACC3035G.AZ670)	Total purchase amount	23,999	23,999	23,999

SR. NO.	INFORMATION CATEGORY				PROCESSED VALUE		DERIVED VALUE
1	Purchase of securities and units of mutual funds				1,68,994		1,68,994
SR. NO.	PART	INFORMATION DESCRIPTION	INFORMATION SOURCE	AMOUNT DESCRIPTION	REPORTED VALUE	PROCESSED VALUE	DERIVED VALUE
1	SFT	Purchase of mutual funds (SFT - 018)	KFin Technologies Pvt. Ltd - Mirae Asset Mutual Fund(117) (AAGCK6303B)	Total purchase amount	59,998	59,998	59,998

SR. NO.	PART	INFORMATION DESCRIPTION	INFORMATION SOURCE	AMOUNT DESCRIPTION	REPORTED VALUE	PROCESSED VALUE	DERIVED VALUE
2	SFT	Purchase of mutual funds (SFT - 018)	Computer Age Management Services Limited - L&T Investment Management Limited(F) (AAACC3035G.AZ670)	Total purchase amount	54,998	54,998	54,998
3	SFT	Purchase of mutual funds (SFT - 018)	Computer Age Management Services Limited - L&T Investment Management Limited(F) (AAACC3035G.AZ670)	Total purchase amount	54,998	54,998	54,998
4	SFT	Purchase of mutual funds (SFT - 018)	Computer Age Management Services Limited - HDFC Asset Management Company Limited(H) (AAACC3035G.AZ670)	Total purchase amount	29,999	29,999	29,999
5	SFT	Purchase of mutual funds (SFT - 018)	Computer Age Management Services Limited - DSP Investment Managers Private Limited(D) (AAACC3035G.AZ670)	Total purchase amount	23,999	23,999	23,999
6	SFT	Purchase of mutual funds (SFT - 018)	Computer Age Management Services Limited - DSP Investment Managers Private Limited(D) (AAACC3035G.AZ670)	Total purchase amount	23,999	23,999	23,999

Recent Amendments to Income Tax Act for minimising Cash Transactions

Introduction of TDS on certain cash withdrawals- The Finance (No.2) Act, 2019 has inserted section 194N in the Income-tax Act to provide for levy of TDS @ 2% on cash withdrawal exceeding Rs. 1 crore from a Bank/Post Office account. To ensure filing of return and to keep track on cash withdrawals by the non-filers, the Finance Act, 2020 lowered the threshold of cash withdrawal to Rs. 20 Lakh and also mandated TDS at the higher rate of 5% on cash withdrawal exceeding Rs. 1 crore by these non-filers.

Promotion of Digital transactions- The existing rate of deemed profit under presumptive scheme for small businesses has been reduced from 8% to 6% in respect of digital turnover. The limit for tax audit for persons who are undertaking 95% of their transactions digitally has been increased to Rs. 10 crore.

Mandatory facility for prescribed electronic mode of payment- It has been provided that every business entity having turnover exceeding Rs.50 crore shall provide facility for accepting payment through the prescribed electronic modes on which no MDR shall be charged.

Prohibition of cash transactions- Cash receipt of rupees two lakh or more has been prohibited. The limit of cash donation to charitable organisation has been reduced from Rs. 10,000/- to Rs. 2,000/-. Acceptance of cash donations exceeding Rs. 2,000/- has been prohibited for political parties. The limit for cash business expenditure has been reduced from Rs. 20,000/- to Rs. 10,000/. Accepting loans or deposits or a sum of more than Rs.20,000 in cash is also prohibited.

Income Tax slab from FY 1989-90 to FY 2021-22

Financial Year	Income Tax Slab (INR)
1989-90	18,000
1990-91	22,000
1991-92	22,000
1992-93	28,000
1993-94	30000
1994-95	35000
1995-96	40000
1996-97	40000
1997-98	40000
1998-99	50000
1999-00	50000
2000-01	50000
2001-02	50000
2002-03	50000
2003-04	50000
2004-05	50000
2005-06	100000
2006-07	100000
2007-08	110000
2008-09	150000
2009-10	160000
2010-11	160000
2011-12	180000
2012-13	200000
2013-14	200000
2014-15	250000
2015-16	250000
2016-17	250000
2017-18	250000
2018-19	250000
2019-20	250000*
2020-21	250000*
2021-22	250000*

*(Limit has indirectly been raised to Rs. 5 Lakh for individual taxpayer having taxable income up to Rs. 5 Lakh by providing 100% rebate for tax payable up to Rs. 5 lakh)

Extract of Memorandum to the Finance Bill, 2015 - Abolishing Wealth Tax

Abolition of levy of wealth-tax under Wealth-tax Act, 1957

Wealth-tax Act, 1957 ('the WT Act') was introduced w.e.f. 01.04.1957 on the recommendation of Prof. Nicholas Kaldor for achieving twin major objectives of reducing inequalities and helping the enforcement of Income-tax Act through cross checks. Accordingly, all the assets of the assessee were taken into account for computation of net-wealth. The levy of wealth-tax was thoroughly revised on the recommendation of Tax Reform Committee headed by Raja J. Chelliah vide Finance Act, 1992 with effect from 01.04.1993. The Chelliah Committee had recommended abolition of wealth-tax in respect of all items of wealth other than those which can be regarded as unproductive forms of wealth or other items whose possession could legitimately be discouraged in the social interest.

Currently, wealth-tax is levied on an individual or HUF or company, if the net wealth of such person exceeds Rs.30 lakh on the valuation date, i.e. last date of the previous year. For the purpose of computation of taxable net wealth, only few specified assets are taken into account.

The actual collection from the levy of wealth-tax during the financial year 2011-12 was Rs.788.67 crore and during the financial year 2012-13 was Rs.844.12 crore only. The number of wealth-tax assessee was around 1.15 lakh in 2011-12. Although only a nominal amount of revenue is collected from the levy of wealth-tax, this levy creates a significant amount of compliance burden on the assessee as well as administrative burden on the department. This is because the assessee is required to value the assets as per the provisions of Wealth-tax Rules for computation of net wealth and for certain assets like jewellery, they are required to obtain valuation report from the registered valuer. Further, the assets which are specified for levy of wealth-tax, being unproductive, such as jewellery, luxury cars, etc. are difficult to be tracked and this gives an opportunity to the assessee to under report/under value the assets which are liable for wealth-tax. Due to this, the collection of wealth-tax over the years has not shown any significant growth and has only resulted into disproportionate compliance burden on the assessee and administrative burden on the department. It is, therefore, proposed to abolish the levy of wealth tax under the Wealth-tax Act, 1957 with effect from the 1st April, 2016. It is also proposed that the objective of taxing high net worth persons shall be achieved by levying a surcharge on tax payer earning higher income as levy of surcharge is easy to collect & monitor and also does not result into any compliance burden on the assessee and administrative burden on the department. The details regarding levy of enhanced surcharge on this account are given under the heading "Rates of Income-tax". It is also proposed that information relating to assets which is currently required to be furnished in the wealth-tax return shall be captured by suitably modifying income-tax return.

This amendment will take effect from 1st April, 2016 and will, accordingly, apply in relation to the assessment year 2016-17 and subsequent assessment years.

[Clause 79]

**MINUTES OF THE FIRST MEETING OF THE COMMITTEE REVIEWING THE
ELIGIBILITY CRITERIA PRESCRIBED FOR EWS RESERVATION**

Date & Time : 7.12.2021/11.00 A.M
Venue : Dr. Ambedkar International Centre, New Delhi
Officers present :

- 1 Shri Ajay Bhushan Pandey, Former Finance Secretary, Gol (Member)
- 2 Prof. V.K.Malhotra, Member Secretary, ICSSR (Member)
- 3 Shri Sanjeev Sanyal, Principal Economic Advisor to Gol (Member Convenor)
- 4 Shri R.Subrahmanyam, Secretary, D/o SJE
- 5 Shri N.K.C.Thang, Deputy Secretary, D/o SJE
- 6 Dr. Naveen Bali, Consultant to Principal Economic Advisor
- 7 Shri N.S.Venkateshwaran, Under Secretary, D/o SJE

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1. The meeting started with the Secretary (SJE) welcoming all participants and introducing officials from the Ministry assisting the Committee. He then explained to the members the background history of the case, the need for constitution of the Committee, especially the directions given by the Hon'ble Supreme Court to examine and review the eligibility criteria prescribed for EWS reservation. The issues discussed and decisions taken are as under:

1. The Committee looked at the existing EWS eligibility criteria and discussed the various issues involved. General discussion on strategy to be adopted, the requirement of statistical data on various parameters, OBC criteria, SECC issues etc. were held.
2. The Committee desired to see the detail eligibility conditions prescribed for determination of OBC creamy layer. BC Division (DoSJE) would provide the copies of the instructions issued by DOPT in the matter to the Committee.
3. The Committee noted that the State Government of Kerala had sent references to the DoSJE enumerating the problems being faced by them in issuing EWS certificates because of the existing eligibility conditions and

sought revision in them for the State of Kerala. BC Division (DoSJE) would provide the copies of these papers to the Committee.

4. The Committee desired to have a presentation from the MoRD on the SECC-2011 BPL data. Secretary, MoRD would make a presentation to the Committee on 9th December, 2021.
 5. The Committee desired that the DOPT may provide a brief synopsis regarding the implementation of the EWS reservation so far.
 6. The Committee decided that the provisions in the IT Act /Rules may be studied to see how incomes in different geographies are dealt with in Income Tax regime.
 7. The Committee decided to collate the various Statistical data available on determination of Poverty/Economic Backwardness in the country, including data indicating the regional differences & Rural-Urban divide in the matter, and provide the same to the Committee.
 8. It was also decided to have a draft of the structure framework of the report prepared.
 9. The Committee desired that the meeting be held as frequently as possible. The next meeting is decided to be held on 9th December 2021 at 11.00 A.M. at the same venue i.e. Dr. Ambedkar International Centre.
2. The meeting ended with a Vote of Thanks to the Chair.

(SANJEEV SANYAL)

(V.K.MALHOTRA)

(AJAY BHUSHAN PANDEY)

MINUTES OF THE SECOND MEETING OF THE COMMITTEE
REVIEWING THE ELIGIBILITY CRITERIA PRESCRIBED FOR EWS
RESERVATION

Date : 9.12.2021
Time : 11.00 A.M.
Venue : Dr. Ambedkar International Centre, 15 Janpath, New
Delhi

Members present:

- 1 Shri Ajay Bhushan Pandey (Member)
- 2 Prof. V.K.Malhotra (Member)
- 3 Shri Sanjeev Sanyal (Member Convenor)

Other participants:

- 4 Shri N.K.C.Thang, Deputy Secretary, D/o SJE
- 5 Dr. Naveen Bali, Consultant to Principal Economic Advisor

-
1. The Committee discussed the draft structure framework of the report. It also discussed on the various components and contents for the report.
 2. The Committee looked into and discussed the various criteria (creamy layer criteria), which is the criteria for exclusion of the socially advanced persons/sections from the benefits of reservation for socially and educationally Backward Classes.
 3. The Committee study and compared the criterio adopted both for EWS and SEBC (also called OBC). The Committee recognised the need to draw clear differences that exist between EWS and SEBC criteria, and the same need to be mentioned.
 4. The Committee also looked into the various statistical data available on implementation of EWS reservation. The Committee desired to have more such data.
 5. The Ministry of Rural Development has made a Presentation of the SECC-2011 BPL data before the Committee. This was followed by discussions on the subject. The Committee recognised the complexities of the issues involved. The M/o Rural Development was requested to provide a write-up on the subject.
 6. The Committee decided to have the next meeting on 13.12.2021 at 11.00 A.M. at the same venue i.e. Dr. Ambedkar International Centre.

7. The meeting ended with a Vote of Thanks to the Chair.

(SANJEEV SANYAL)

(V.K. MALHOTRA)

(AJAY BHUSHAN PANDEY)

MINUTES OF THE THIRD MEETING OF THE COMMITTEE
REVIEWING THE ELIGIBILITY CRITERIA PRESCRIBED FOR EWS
RESERVATION

Date : 13/12/2021
Time : 11.15 A.M.
Venue : Dr. Ambedkar International Centre, 15 Janpath, New Delhi

Members Present:

1. Shri Ajay Bhushan Pandey (Member)
2. Shri Sanjeev Sanyal (Member Convenor)
3. Prof. V.K. Malhotra (Member)

Other participants:

4. Dr. Rajesh Bhoot
5. Dr. Naveen Bali
6. Dr. Nithin Kumar
7. Shri. N.K.C Thang, DS, D/o SJE
8. Shri. Aneesh V Suresh, PMU D/o SJE

1. The Committee discussed the over all contents and preparedness of the all the materials based on the draft structure framework of the report prepared earlier.
2. Discussions were held on the Evolution, historical background and implementation of EWS in reservation system. The Committee agreed that the focus should be mainly on economic aspect rather than the social backwardness.
3. The Commiittee discussed the implementation of EWS particularly in NEET and JEE. The data received from NTA need more clarification and verification.

4. As almost all the parts of the document framework have been completed, the committee decided to come out with the first draft of the whole structure of the Report.
5. The committee also discussed on different aspects of the documents and how the final report is to be structured.
6. All documents to be annexed with the report are to be send to the member convenor.
7. The next meeting of the committee will be held in the same venue on 15th December 2021at 11.00am.
8. The meeting ended with a vote of thanks to the chair.

(SANJEEV SANYAL)

(V.K.MALHOTRA)

(AJAY BHUSHAN PANDEY)

MINUTES OF THE FOURTH MEETING OF THE COMMITTEE
REVIEWING THE ELIGIBILITY CRITERIA PRESCRIBED FOR EWS
RESERVATION

Date : 15/12/2021
Time : 11.00AM
Venue : Dr. Ambedkar International Centre, 15 Janpath, New Delhi

Members Present:

1. Shri. Ajay Bhushan Pandey(Member)
2. Shri. Sanjeev Sanyal (Member Convenor)
3. Prof. V. K. Malhotra (Member)

Other participants:

4. Dr. Rajesh Bhoot
5. Dr. Naveen Bali
6. Dr. Nithin Kumar
7. Shri. N.K.C Thang, DS, D/o SJE
8. Mr. Aneesh V Suresh, PMU D/o SJE

1. The committee looked into the first draft of the report. Discussions were held to further improve the contents of the report and how to structure better.
2. The committee discussed the agricultural land holding and income related datas placed before them. The committee felt that these datas will be very useful in addressing the issue raised by the Hon'ble Supreme Court and also in justifying the criteria adopted in regards to land holdings by different categories of population especially the EWS.
3. The committee felt that simple and easily understandable terms should be used as far as possible. Where ever some technical terms are used, it would be appropriate to give proper explanation on what the terms meant.
4. The committee looked into NEET and JEE data received from NTA. However, the data need further clarification from NTA.
5. The committee also desired to see more data coming from Income tax department.

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6. The committee also discussed on the appropriate criteria to be adopted in respect of residential flat/plot, agricultural land/plot and other assets holdings.
7. The next meeting of the committee will be held in the same venue on 16th December 2021 at 11.00am.
8. The meeting ended with a vote of thanks to the chair.

(SANJEEV SANYAL)

(V.K.MALHOTRA)

(AJAY BHUSHAN PANDEY)

MINUTES OF THE FIFTH MEETING OF THE COMMITTEE
REVIEWING THE ELIGIBILITY CRITERIA PRESCRIBED FOR EWS
RESERVATION

Date :16/12/2021

Time: : 11.15AM

Venue :Dr. Ambedkar International Centre, 15 Janpath, New Delhi

Members Present :

1. Shri. Ajay Bhushan Pandey(Member)
2. Shri. Sanjeev Sanyal (Member Convenor)
3. Prof. V. K. Malhotra (Member)

Other participants:

4. Dr. Naveen Bali
5. Shri. N.K.C Thang, DS, D/o SJE
6. Mr. Aneesh V Suresh, PMU D/o SJE

The Committee resumed discussions on the draft report. Various improvements were suggested and added to make the report more easier to understand and also better clarity.

2. The Committee received more data on agricultural land holding in rural areas. Additional data were also received from income tax department. The National Testing Agency also provided more data on NEET and JEE. The Committee examined and analysed all these data. The Committee found these datas very useful in understanding how the existing criteria work in reality on the ground. It also found helpful in enhancing or improving the same.

3. The Committee decided to have the next meeting online on 17th December 2021 at 01.00pm.

(SANJEEV SANYAL)

(V.K.MALHOTRA)

(AJAY BHUSHAN PANDEY)

MINUTES OF THE SIXTH MEETING OF THE COMMITTEE
REVIEWING THE ELIGIBILITY CRITERIA PRESCRIBED FOR EWS
RESERVATION

Date : 17/12/2021
Time : 01.00 PM
Venue : Online

Members Present :

1. Shri. Ajay Bhushan Pandey(Member)
2. Shri. Sanjeev Sanyal (Member Convenor)
3. Prof. V. K. Malhotra (Member)

Other participants:

4. Dr. Rajesh Bhoot
5. Shri. N.K.C Thang, DS, D/o SJE
6. Mr. Aneesh V Suresh, PMU D/o SJE

1. The committee held a brief online meeting and discussed the progress made and the various modifications made in the draft report.
2. The Committee held further discussion on the draft report and suggested more **improvement.**

(SANJEEV SANYAL)

(V.K.MALHOTRA)

(AJAY BHUSHAN PANDEY)

MINUTES OF THE SEVENTH MEETING OF THE COMMITTEE
REVIEWING THE ELIGIBILITY CRITERIA PRESCRIBED FOR EWS
RESERVATION

Date : 22/12/2021
Time : 12.00 PM
Venue : Dr. Ambedkar International Centre, New Delhi

Members Present :

1. Shri. Ajay Bhushan Pandey(Member)
2. Shri. Sanjeev Sanyal (Member Convenor)
3. Prof. V. K. Malhotra (Member)

Other participants:

4. Dr. Naveen Bali
5. Shri. N.K.C Thang, DS, D/o SJE
6. Mr. Aneesh V Suresh, PMU D/o SJE

1. The committee looked into the draft report section by section in details and made necessary changes and suggestions to be incorporated in the final report.
2. The committee also desired that all the annexes should be merged into one document. All the above tasks should be completed at the earliest.

(SANJEEV SANYAL)

(V.K.MALHOTRA)

(AJAY BHUSHAN PANDEY)

MINUTES OF THE SIXTH MEETING OF THE COMMITTEE
REVIEWING THE ELIGIBILITY CRITERIA PRESCRIBED FOR EWS
RESERVATION

Date : 31/12/2021
Time: :12.30 PM
Venue : Dr. Ambedkar International Centre, 15 Janpath, New Delhi

Members Present :

1. Shri. Ajay Bhushan Pandey(Member)
2. Shri. Sanjeev Sanyal (Member Convenor)
3. Prof. V. K. Malhotra (Member)

Other participants:

4. Dr. Naveen Bali
5. Dr. Rajesh Bhoot
6. Shri. N.S. Venkateshwaran, US, D/o SJE
7. Mr. Aneesh V Suresh, PMU D/o SJE

1. The committee has drafted the final report with the necessary changes as decided in the previous meeting.
2. The committee has decided to submit the complete final report to the Secretary, Ministry of Social Justice and Empowerment on 31/12/2021.

(SANJEEV SANYAL)

(V.K.MALHOTRA)

(AJAY BHUSHAN PANDEY)



GOVERNMENT OF KERALA



JS/BC/ - on four

सचिव (सा.न्याय एवं अधि.)
Secretary (SJSF)
डा.सं./Dy. No. 193582-11/19
दिनांक/Date 9/9/19

No.Cdn.4/93/2019/GAD

General Admn (Co-ordination) Dept,
Thiruvananthapuram, Dated: 06.09.2019.

The Principal Secretary to Govt.

huf 22/9/19

The Secretary
Government of India
Department of Personnel and Training,
Ministry of Personnel, Public Grievances and Pensions
North Block, New Delhi

✓ The Secretary
Government of India
Department of Social Justice and Empowerment
Ministry of Social Justice and Empowerment
Shastri Bhavan, New Delhi

Sir,

Sub:- Reservation for Economically Weaker Section (EWS) in direct recruitment in civil Posts and Services in the Government of India - Reg.

- Ref:- 1) OM F.No.20013/01/2018-BC-II dated, 17.01.2019 Department of Social Justice and Empowerment, Ministry of Social Justice and Empowerment ,
2) OM F.No.36039/1/2019-Estt (Res) dated, 19.01.2019 Department of Personnel and Training, Ministry of Personnel, Public Grievances and Pensions, Government of India

In the above subject matter and as conveyed in the contents of the OMs as refereed above, the Government of Kerala seeks the attention of Government of India to the following matters of significant importance which require immediate attention to achieve the stated objectives of the constitutional amendment in having provided 10% reservation to Economically Weaker Sections (EWSs) who are not covered under the existing scheme of reservations for the Scheduled Castes, the Scheduled Tribes and the Socially and Educationally Backward Classes, to receive the benefits of reservation on a preferential basis in civil posts and services in the Government of India and admission in Educational Institutions.

vs/BC/2
BC/2 MSU 13/9/19
18/9
Mr. Swach

I. The exclusion criteria (Creamy Layer) for the benefit of the preferential treatment for EWS among forward communities as provided in the referred OM's are as under:

- a) Family having gross annual income above Rs.8 lakhs
- b) 5 acres of Agriculture Land and above;
- c) Residential flat of 1000 sq.ft and above
- d) Residential plot of 100 sq yards and above in notified municipalities
- e) Residential plot of 200 sq yards and above in areas other than the notified municipalities

In having consideration to the above exclusion criteria as specified in (iv) and (v), it is pertinent to note that the state government have been engaged over years as a proactive policy for poverty alleviation in empowering the downtrodden families in urban and rural areas both, and one such policy measure is 'creating immovable assets' by way of land grants for housing purpose. Almost all BPL families have been provided housing plots to the extent of 3 to 5 cents which though is a very small land parcel size, but has very significant bearing on their well being. One cent of land comprises 48.4 sq. yards. In having considered the exclusion criteria of ownership of housing plot sizes in panchayats at 200 sq. yards and 100 sq. yards in notified municipal areas as applicable in EWS case would mean an ownership and possession of 4.13 cents of land by a family in the classified eligible social group in non-municipal areas and 2.7 cents of land by such eligible family in municipal areas respectively dis-entitling such poor families from getting preferential treatment in employment and admission to educational institutions. Primarily and essentially, Government assistance for such poor people is the instrument responsible for their exclusion though poverty still looms large, and defeating the entire objectives of the constitutional amendment. Moreover, as per the provisions of extant Building Rules and Regulations in Kerala applicable in Municipal area, a minimum of 3 cents of land is required in ownership for obtaining the construction license for residential building. The specified exclusion threshold of 100 sq yards ownership in municipal areas which is less than 2.1 cents of land makes this category of families non existent and accordingly no purpose is served.

Accordingly, State Government requests for amending the threshold value of exclusion criteria to 500 sq. yards in municipal area and 1000 sq yards in non-municipal areas OR by inserting a proviso that land ownership received through Government programmes will not be taken into account while arriving at ownership of land parcel size for determining exclusion.

II. The exclusion criteria specifies "residential plot". It is a matter of concern that all panchyats in Kerala do not have notified land use plan detailing out separate land utilization namely residential. The rural landscape presents a mixed land utilization where numerous families are residing in houses constructed in the agriculture properties/farms. Accordingly, this subject also requires revisiting

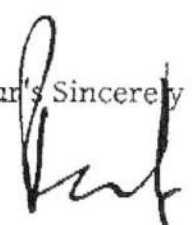
The Government of Kerala requests to delete the residential plot size and replace the same with the size built up areas of house irrespective of the land parcel size and earmarked land utilization

III. The existing family income threshold of Rs.8 lakh for determination of economically backwardness is very high keeping in mind that even income tax payees are coming in the ambit of eligibility provided having fulfilled other norms; the prime consideration, however, should be financial state. This 8 lakh limit has excluded many eligible poor families. Even for OBC's where ever, family income is relied upon, such a high income threshold is not prescribed. Accordingly, State Government requests that income threshold be lowered reasonably to extend benefits to as many poor families.

IV. In addition, the State Government request clarification on following two issues as well:

- 1) How the residential plot is considered; whether the plinth area of building/house or the total sq.yards of the land where the residential building is situated.
- 2) If a Residential building/house is situated in an agricultural land, how the land is considered?

Your's Sincerely


BISHWANATH SIMALA.S
Principal Secretary

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No.12018/39/2021-BC-II
 Government of India
 Ministry of Social Justice and Empowerment
 Department of Social Justice and Empowerment
 Shastri Bhawan, New Delhi-1
 Dated : 30th November, 2021

OFFICE MEMORANDUM

Subject : Constitution of Committee for reviewing of the criteria for Economically Weaker Sections (EWS) reservation

In accordance with the commitment given to the Honble Supreme Court in W.P. No. 961/2021 to revisit the criteria for determining the economically weaker sections in terms of the provisions of the explanation to Article 15 of the Constitution, the Government hereby constituted the following Committee :-

- | | | | |
|---|--------------------------|---|--|
| 1 | Shri Ajay Bhushan Pandey | - | Former Finance Secretary, Gol |
| 2 | Prof. V K. Malhotra | - | Member Secretary, ICSSR |
| 3 | Shri Sanjay Sanyal | - | Principal Economic Advisor to
Gol (Member Convenor) |

2. The Terms of Reference of the Committee would be as follows :-

- a) To re-visit the criterion given in O.M. dated 17.01.2019 in determining EWS category keeping in view the observations of the Hon'ble Supreme Court in their Order dated 21.10.2021.
- b) To examine various approaches so far followed in the country for identifying economically weaker sections, and
- c) Recommend criteria that may be adopted for identifying EWS category in future.

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3. Department of Social Justice and Empowerment (DoSJE) will provide secretarial assistance to the Committee as required. The Committee is requested to complete their work within 03 (Three) weeks.



(Ram Prasad Meena)
Joint Secretary to the Government of India
Email – jsbc-msje@nic.in
Telephone: 23384284

- 1 Shri Ajay Bhushan Pandey
Former Finance Secretary
Gol
- 2 Prof. V K. Malhotra
Member Secretary
Indian Council of Social Science Research
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Aruna Asaf Ali Marg, New Delhi-110067
[E-mail: ms@icssr.org]
- 3 Shri Saneev Sanyal
Principal Economic Advisor
to Government of India
Ministry of Finance
North Block, New Delhi-1
[email : sanjeev.sanyal@gov.in]

Copy to:

1. Joint Secretary (Estt), DoSJE – with request to make necessary arrangements for providing the necessary support staff to the Committee members for completing the task within time.
2. Director, DAIC, New Delhi – with request to make necessary arrangements for holding of the meetings of the Expert Committee on regular basis till completion of the exercise.
3. All officers of DoSJE through E-office Notice Board.
4. NIC, DoSJE with request to upload the order in the website of the Department.
5. PMO, Cabinet Secretariat
6. Secretaries of DOPT, DHE, D/o Expenditure, MHA, M/o H&FW



(Ram Prasad Meena)

Joint Secretary to the Government of India