

**IN THE SUPREME COURT OF INDIA**

[Order XXI Rule 3(1)(a)]

CIVIL APPELLATE JURISDICTION

**SLP (C) NO. \_\_\_\_\_ OF 2021**

**[WITH PRAYER FOR INTERIM RELIEF]**

[Under Article 136 of the Constitution of India arising out of final judgement and order dated 01.11.2021 passed by the Hon'ble Madurai Bench of the High Court of Judicature at Madras in W.P. No.6429 of 2021 and batch of Writ Petitions]

**IN THE MATTER OF:**

The Government of Tamil Nadu  
Represented by its Secretary,  
Backward Class Commission

...Petitioners

Vs.

C. Vijayakumar

...Respondent

IA No \_\_\_\_\_ of 2021

Application for exemption  
from filing certified copy of the  
impugned order.

**VOLUME-II**

**PAPER BOOK**

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**ADVOCATE FOR THE PETITIONER: D. KUMANAN**

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GOVERNMENT OF TAMIL NADU  
SOCIAL WELFARE DEPARTMENT

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G.O. No.1565, 30<sup>th</sup> July 1985

Backward Classes – Report of the Tamil Nadu Second Backward Classes Commission – Reservation of appointments in Public Services and reservation of seats in Educational Institutions – Fixation of percentage – Orders – Issued.

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READ – the following papers: -

G.O.Ms.No.73, Social Welfare Department, dated 1<sup>st</sup> February 1980.

**Order— No.1565, Social Welfare, dated 30<sup>th</sup> July 1985.**

The Government have carefully considered the guidelines given by the Supreme Court in Vasanth Kumar and another v. State of Karnataka (1985 I Scale 832). The total population of the Backward Classes as determined by the Tamil Nadu Second Backward Classes Commission is approximately 33,570,805, that is, approximately 67 per cent of the total population of the State. The majority Report of the Commission has recommended that in view of the above percentage, the existing reservation of 50 per cent may be continued and needs no modification. The Government accept this recommendation and decide that the reservation of seats for Backward Classes be made at 50 per cent for the purposes of Articles 15(4) and 16(4) of the Constitution. This reservation for Backward Classes will be in addition to the separate existing 18 per cent reservation for Scheduled Castes and Scheduled Tribes.

2. Accordingly, the Government now direct that the reservation of seats shall be made at 50 per cent for Backward Classes and at 18 per cent

for Scheduled Castes and Scheduled Tribes in respect of all courses in all kinds of educational institutions under all kinds of managements (like Government, local body and aided managements) where reservation is provided by the State Government for the above classes. The reservation of seats as per the above orders shall be a condition for the payment of any grant-in-aid from the funds of this Government to any private management or local body or to the Universities (in respect of courses conducted and institutions run directly by them).

3. The Government also direct that reservation of posts for recruitment to the Public Services be made at 50 per cent for Backward Classes and at 18 per cent for Scheduled Castes and Scheduled Tribes in all such services where reservation is provided by the Government of Tamil Nadu for the above classes.

4. The claims of members of the Backward Classes, Scheduled Castes and Scheduled Tribes should also be considered for the remaining 32 per cent of seats which are filled on the basis of merit. Where a candidate belonging to Backward Classes of Scheduled Castes or Scheduled Tribes is selected on the basis of merit against any of the seats in the said 32 percent of unreserved seats, the number of seats reserved for Backward Classes, Scheduled Castes and Scheduled Tribes, as the case may be, should not in any way be affected.

5. This order will take effect on and from the 31<sup>st</sup> day of July 1985, in supersession of the orders issued in G.O.Ms.No.73, Social Welfare Department, dated 1<sup>st</sup> February 1980, and all subsequent orders issued on the subject.(By order of the Governor)

LAKSHMI PRANESH,

Commissioner and Secretary to Government.

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To

The Director of Backward Classes, Madras -5.

The Director of Adi Dravidar and Tribal Welfare, Madras-5.

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/TRUE COPY/

BACKWARD CLASSES WELFARE, NUTRITIOUS MEAL  
PROGRAMME AND SOCIAL WELFARE DEPARTMENT.**G.O.Ms. No.242, dated 28<sup>th</sup> March 1989.**

Backward Classes Welfare - Reservation of appointments in Public Services and reservation of seats in Educational Institutions - Fixation of percentage - Revised orders - Issued.

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READ - the following papers :-

- (1) G.O.Ms.No.1564, Social Welfare Department, dated 30<sup>th</sup> July 1985.
- (2) G.O.Ms.No.1565, Social Welfare Department, dated 30<sup>th</sup> July 1985.
- (3) G.O.Ms.No.1566, Social Welfare Department, dated 30<sup>th</sup> July 1985.
- (4) G.O.Ms.No.1567, Social Welfare Department, dated 30<sup>th</sup> July 1985.
- (5) G.O.Ms.No.558, Social Welfare Department, dated 24<sup>th</sup> February 1985.

**Order - No.242, Backward Classes Welfare, Nutritious Meal Programme and Social Welfare, dated 28<sup>th</sup> March 1989.**

In the Government order first read above, the Government have approved a consolidated list of Backward Classes and out of the communities specified therein, the Government have identified and declared 39 communities as Most Backward Classes and 68 communities as Denotified for purpose of availing the existing educational concessions and scholarships and other benefits under the welfare measures for the Backward Classes in the Government Orders third and fourth read above. In the Government Order fifth read above, the Government have also declared the Christian Communities who are converts from any Hindu Community included in Backward Classes list as Backward Classes. In the Government Order second read above,



the Government have fixed the percentage of reservation for Scheduled Castes and Scheduled Tribes at 18 percent and for Backward Classes at 50 percent. Therefore, the extent of reservation at present is 68 percent for purposes of Articles 15(4) and 16(4) of the Constitution of India consisting of 18 per cent for Scheduled Castes and Scheduled Tribes and 50 per cent for Backward Classes. The balance of 32 percent is available for Open Competition.

2. The issues relating to reservations have been the subject of enquiry by the Backward Classes Commissions appointed in this State. The First Backward Classes Commission as well as the Second Backward Classes Commission have clearly brought out in their reports that several communities among those included in the list of Backward Classes have not received their due share in educational and employment opportunities while a small number of communities in the list of Backward Classes have benefitted to a relatively larger extent. This situation, which has persisted over several years, has led to a demand for special reservations for the Most Backward and Denotified Communities among the Backward Classes. The Most Backward Classes and the Denotified Communities who constitute a large proportion in the population of Backward Classes, have made representation in this regard over a long period.

3. After a detailed and careful consideration of all relevant facts and issues, the Government in modification of the orders issued in the Government order second read above, pass the following orders:-

- (i) The present system of reservation of 18 per cent for Scheduled Castes and Scheduled Tribes shall be continued as at present.

- (ii) The availability of 32 percent, in which all sections, viz., Scheduled Castes, Scheduled Tribes, Backward Classes, Most Backward Classes, Denotified Communities and Forward Communities can benefit under Open Competition shall be continued as at present.
- (iii) From out of the present reservation of 50 percent available for all backward Classes, 20 percent shall be reserved for the Most Backward Classes and Denotified Communities specified in the Annexure to this order and the remaining 30 percent shall be reserved for the Backward Classes declared in the Government orders first and fifth read above other than the Most Backward Classes and Denotified Communities.

4. The orders of Government in paragraph 3 above are applicable for reservation under Articles 15(4) and 16(4) of the Constitution of India.

5. The Government direct that the above reservation shall be applicable in respect of all courses to all kinds of educational institutions under all kinds of managements (like Government, local body and aided management) where reservation is provided by the State Government for the above classes. The reservation of seats as per the above orders shall be a condition or the payment of any grant-in-aid from the funds of this Government to any private management for local body or to the universities (in respect of courses conducted and institutions run directly by them).

6. The Government also direct that the above reservation shall be applicable in all such services where reservation is provided by the Government of Tamil Nadu for the above classes.

7. The claims of members of the Backward Classes, Most Backward Classes, Denotified Communities, Scheduled Caste and Scheduled Tribes should be considered for the remaining 32 percent of seats which are filled on the basis of merit as referred to under item (ii) in paragraph 3 above. Where a candidate belonging to Backward Classes or Most Backward Classes or Denotified Communities or Scheduled Castes or Scheduled Tribes is selected on the basis of merit against any of the seats in the said 32 percent of unreserved seats, the number of seats reserved for Backward Classes, Most Backward Classes, Denotified Communities, Scheduled Castes and Scheduled Tribes, as the case may be, should not in any way be affected.

8. Necessary amendments to Rule 22 of the General Rules will be issued separately by the Government in Personnel and Administrative Reforms Department.

9. This order will take effect from the date of issue of orders in respect of reservation in public services. For admission to educational institutions this order will take effect from the academic year 1989-90.

(By order of the Governor)

R.SHANMUGASIGAMANI  
Commissioner and Secretary to  
Government.

To  
The Director of Backward Classes, Madras-5.  
The Director of Most Backward Classes and Denotified  
Communities, Madras-5  
The Director of Adi-Dravidar and Tribal Welfare, Madras-5.

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LIST OF MOST BACKWARD CLASSES THROUGHOUT THE  
STATE OF TAMIL NADU.

1. Ambalakarar.
2. Andipandaram.
3. Bestha, Siviari.
4. Bhatraju (other than Kshatriya Raju).
5. Boyar, Oddar.
6. Dasari.
7. Dommara.
8. Eravallar (except in Kanniyakumari district and Shencottah taluk of Tirunelveli district where the community is a Scheduled Tribe).
9. Isaivellalar.
10. Jambuvanodai.
11. Jangam.
12. Jogi.
13. Kongu Chettiar (in Coimbatore and Periyar districts only).
14. Koracha.
15. Kulala (including Kuyavar and Kumbarar).
16. Kunnuvar Mannadi.
17. Kurumba.
18. Kuruhini Chetty.
19. Maruthuvar, Navithar, Mangala, Velakkattalavar, Velakatalanair and Pronopakari.
20. Mond Golla.
21. Moundadan Chetty.
22. Mahendra, Medara.
23. Mutlakampatti.
24. Narikoravar.
25. Nokkar.
26. Vanniakula Kshatriya (including Vanniyar, Vanniya, Vannia Gounder, Gounder or Kander, Padayachi, Palli and Agnikula Kshatriya).
27. Paravar (except in Kanniyakumari district and Shencottah taluk of Tirunelveli district where the community is a Scheduled Caste).
28. Meenavar (Parvatharajakulam, Pattanavar, Sembadavar) (including converts to Christianity).
29. Punnan Vettuva Gounder.
30. Sathatha Srivaishnava (including Sathani, Chattadi and Chattada Srivaishnava).
31. Sozhia Chetty.
32. Telugupatty Chetty.

33. Thottia Naicker (including Rajakambalam, Gollavar, Sillavar, Thockalavar and Tholuva Naicker).
34. Thondaman.
35. Valaiyar (including Chettinad Valayars).
36. Vannar (Salaivai Thozhilalar) (including Agasa, Madivala, Ekali, Rajakula, Veluthadar and Rajaka) (except in Kanniyakumari district and Shencottah taluk of Tirunelveli district where the community is a Scheduled Caste).
37. Vettaikarar.
38. Vettuva Gounder.
39. Yogeewarar.

LIST OF DENOTIFIED COMMUNITIES.

<i>Serial number and name of the Community</i>	<i>District and Places in which chiefly found</i>
(1)	(2)
1 Attur Kilnad Koravars	Salem, South Arcot, Ramanathapuram Pasumpon Muthuramalingam and Kamarajar districts
2 Attur Melnad Koravars	Salem district
3 Appanad Kondayam, Kottai Maravar	Pasumpon Muthuramalingam, Kamarajar, Ramanathapuram and Madurai districts
4 Ambalakarar	Thanjavur, Tiruchirapalli and Pudukkottai districts
5 Ambalakkarar	Suriyanur, Tiruchirapalli district.
6 Boyas	Tiruchirappalli, Pudukottai, The Nilgiris, Salem and Dharmapuri districts
7 Battu Turkas	---
8 C.K.Koravars	South Arcot District
9 Chakkala	Pasumpon Muthuramalingam, Kamarajar, Ramanathapuram, Thanjavur, Pudukottai, Tiruchirapalli, Madurai and The Nilgiris districts
10 Changayampudi Koravars	North Arcot District
11 Chettinad Valayars	Pasumpon Muthuramalingam, Kamarajar, and Ramanathapuram district
12 Dombs	Pudukottai and Tiruchirapalli districts
13 Dobba Koravars	Salem district

<i>Serial number and name of the Community</i> (1)	<i>District and Places in which chiefly found</i> (2)
14 Dommars	Thanjavur, Pudukottai and North Arcot districts
15 Donga Boya	---
16 Donga Ur Korachas	---
17 Devagudi Talayaris	---
18 Dobbai Korachas	Tiruchirapalli and Pudukottai districts
19 Dabi Koravars	Thanjavur, Pudukottai Tiruchirapalli and North Arcot districts
20 Donga Dasaris	Chengalpattu, Tiruchirappalli, Pudukottai, Madras and Salem Districts
21 Gorrela Dodda Boyar	---
22 Gudu Dasaris	---
23 Gandarvakottai Koravars	Thanjavur, Tiruchirapalli, Pudukottai and South Arcot districts
24 Gandarvakottai Kallars	Thanjavur and Pudukottai districts
25 Inji Koravars	Thanjavur, Tiruchirapalli and Pudukottai Districts
26 Jogis	Chengalpattu, Madras, South Arcot and North Arcot Districts
27 Jambavanodai	---
28 Kaladis	Pasumpon Muthuramalingam, Kamarajar , Ramanathapuram , Madurai, Thanjavur, Pudukkottai and Tiruchirapalli districts
29 Kal Oddars	Chengalpattu, Ramanathapuram, Pasumpon Muthuramalingam, Kamarajar , Madurai, Pudukottai, Tiruchirapalli, Tirunelveli and Salem Districts
30 Koravars	Chengalpattu, Ramanathapuram, Pasumpon Muthuramalingam, Kamarajar , Pudukottai, Thanjavur, Tiruchirapalli, Tirunelveli, Madras, Madurai and The Nilgiris Districts
31 Kalinji Dabikoravars	Thanjavur and Pudukottai districts
32 Kootappal Kallars	Tiruchirapalli and Pudukottai districts
33 Kala Koravars	Thanjavur, Tiruchirapalli and Pudukottai Districts
34 Kalvathila Boyas	---
35 Kepmaris	Chengalpttu, Pudukottai and

Serial number and name of the Community (1)	District and Places in which chiefly found (2)
36 Maravars	Tiruchirapalli Districts Thanjavur, Pudukottai, Ramanathapuram, Pasumpon Muthuramalingam, Kamarajar and Tirunelveli districts
37 Monda Koravars	---
38 Monda Golla	Salem District
39 Mutlakkampatti	Tiruchirapalli and Pudukottai Districts
40 Nokkars	Tiruchirapalli and Pudukottai Districts
41 Nellorepet Oddars	North Arcot District
42 Oddars	Thanjavur, Tiruchirapalli, Pudukottai and Madurai districts
43 Pedda Boyas	Tiruchirapalli and Pudukottai Districts
44 Ponnai Koravars	North Arcot District
45 Piramalai Kallar	Pasumpon Muthuramalingam, Kamarajar , Ramanathapuram, Madurai, Pudukottai and Thanjavur districts
46 Peria Suriyur Kallars	Tiruchirapalli and Pudukottai Districts
47 Padayachis	Vellayan Kuppam in South Arcot and Tennore in Tiruchirapalli districts
48 Punnan Vettuva Gounder	Tiruchirapalli and Pudukottai Districts
49 Servais	Tiruchirapalli and Pudukottai Districts
50 Salem Melnad Koravars	Madurai, Coimbatore, Periyar, Pudukottai, Tiruchirapalli, Salem and North Arcot districts.
51 Salem Uppu Koravars	Salem district
52 Sakkaraitthamadai Koravars	North Arcot District
53 Saranga Palli Koravars	---
54 Sooramari Oddars	Salem district
55 Sembanad Maravars	Pasumpon Muthuramalingam, Kamarajar and Ramanathapuram district
56 Thalli Koravars	Salem district
57 Thelungupattichettis	Tiruchirapalli and Pudukottai

Serial number and name of the  
Community  
(1)

District and Places in which  
chiefly found  
(2)

Serial number and name of the Community (1)	District and Places in which chiefly found (2)
58 Thottia Naicks	Districts Pasumpon Muthuramalingam, Kamarajar , Ramanathapuram, Chengalpattu, Thanjavur, Tiruchirapalli, Pudukottai, Tirunelveli, Salem, North Arcot Coimbatore and Periyar districts.
59 Thogamalai Koravars or Kepmaris	Tiruchirapalli and Pudukottai Districts
60 Uppukoravars or Settipalli Koravars	Thanjavur, Pudukottai, Madurai and North Arcot district
61 Urali Goundars	Tiruchirapalli and Pudukottai Districts
62 Vayalpad or Nawalpeta Korachas	---
63 Vaduvarpatti Koravars	Madurai, Ramanathapuram, Pasumpon Muthuramalingam, Kamarajar , Tirunelveli, Tiruchirapalli and Pudukottai districts
64 Valaiyars	Madurai, Tiruchirapalli, Pudukottai, Periyar and Coimbatore districts
65 Vettaikarans	Thanjavur and Pudukottai districts
66 Vetta Koravars	Salem district
67 Varaganeri Koravars	Tiruchirapalli and Pudukottai Districts
68 Vettuva Gounder	Tiruchirapalli and Pudukottai Districts

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ANNEXURE - P17  
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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 12-3-1999

CORAM:

THE HONOURABLE MR. JUSTICE N.V.BALASUBRAMANIAN

W.P. NO.10908 of 1990

Kongu Velala Goundarkal Peravai  
Registered Society, with the Registration  
No.62/90, by its Present Vee.Su.Mani.

... Petitioner

Vs.

The Government of Tamil Nadu  
rep. by the Commissioner and  
Secretary to Govt. , Backward Classes  
Welfare, Nutritious Meal Programme and  
Social Welfare Department,  
Fort St. George, Madras-600 009.

... Respondent

For Petitioner       ::     Mr. R.M. Krishna Raju  
For Respondents     ::     Mr. K. Venkatapathi  
                                  Advocate General, assisted  
                                  Mr. V.Rangaraju, G.A.

**ORDER**

The writ petition is for a writ of declaration to declare the order of the Government of Tamil Nadu in G.O.Ms.No.242, Backward Classes, Noon Meal Programme and Social Welfare Department, dated 28.3.1989, as violative of Articles 15(4) and 16(4) of the Constitution of India.

2.     The petitioner is registered society and the society is challenging the notification issued by the Government of Tamil Nadu reserving 20 per cent for the Most Backward Classes or Denotified and specified communities out of 50 per cent reservation available to all Backward Classes on the score that the special classification introduced by the impugned G.O. is not warranted and justified under provisions of the Articles 15(4) and 16(4) of the Constitution of India and the classification is irrational and improper and also invalid. The petitioner has also stated that the said G.O. is not based on any relevant material, scientific data

or rational criterion and the G.O. has been issued on the basis of consideration of castes without detailed investigation and without making a proper and object approach. It is also pleaded that the G.O. has been issued due to political pressure and extraneous compulsion. It is also stated that the communities which were not included in the list of Backward Classes are also included in the category of Most Backward Classes and the communities or the castes now included in the list of Most Backward Classes are neither socially backward nor educationally backward. According to the petitioner, the effect of reserving 20 percent of the total vacancies in favour of the Most Backward Classes would reduce the percentage for Backward Classes to 30 percent of the total seats and the classification is not based on intelligible differentia which could distinguish persons that grouped together from others left out of the group. It is therefore stated that the Backward Classes would be hit and prejudiced by the impugned G.O. and even 50 per cent reservation has not done much for their social upliftment and hence, the reduction in reservation to 30 per cent to the Backward Classes is not appropriate. The petitioner has therefore prayed that the impugned G.O. should be declared as violative of Articles 15(4) and 16(4) of the Constitution of India.

3. The respondent has filed a detailed counter affidavit. After setting out the details of the reservation made for S.C., S.T. and Backward Classes and also other communities, the Government has referred to the referred to the recommendation of the Commission set up under the Chairmanship of Mr.A.N.Sattanathan and also referred to the report of the Tamil Nadu Second Backward Classes Commission and as per the said reports, the Government of Tamil Nadu has decided to give 50 per cent reservation to the Backward Classes. It is stated that certain sections of Backward Classes made a representation to the Government that they did not have adequate representation in public services and educational institutions and the Government found that only a small section of the community in the Backward Classes got benefits and it is stated that after a detailed and careful consideration, the Government revised the policy of

reservation in March 1989 to the effect that from and out of the reservation of 50 per cent available to all Backward Classes, 20 per cent should go to Most Backward Classes and Denotified community. As per the counter affidavit, there are only 142 castes classified as Backward Classes. In the counter affidavit it is stated that considering the backwardness of those castes, the Government had included them in the Backward Classes and subsequently, taking into account their population, the Government has increased the percentage of reservation for Backward Classes from 31 per cent to 50 per cent. It is also stated that the reservation of 20 per cent to Most Backward Classes is not violative of Articles 15(4) and 16(4) of the Constitution of India. According to the respondent, the Government has taken into account the report of the Tamil Nadu Second Backward Classes Commission and after taking note of the social and educational backwardness of the people of the Backward Classes, the Government has decided to provide separate reservation for Most Backward Classes and Denotified Communities. The allegation that the Government has included in the list of Most Backward Classes several castes which were not earlier included in the Backward Classes is denied in the counter affidavit. It is therefore stated that the Government Order does not in any way infringe the Articles 15(4) and 16(4) of the Constitution of India.

4. Mr.R.M.Krishna Raju, learned counsel for petitioner submitted that under both the Articles 15(4) and 16(4) of the Constitution, the reservation made by the Government of Tamil Nadu in favour of Most Backward Classes is not valid. According to him, Most Backward Class is not specified or used anywhere in the Constitution. According to him, the Constitution is intended to benefit only three categories of people, viz., the Scheduled Castes, the Scheduled Tribes and socially and educationally Backward Classes and the term, 'Most Backward Classes' is not used in the Constitution and it could be safely presumed that the framers of the Constitution who were aware of the conditions of the Indian people were not inclined either to specify or to make reservation for Most Backward

Class. According to him, it is only after a discussion on this point, there was a deliberate omission of the expression, 'Most Backward Class' in the Constitution and hence, the expression, 'Most Backward Class' cannot be read into the provisions of the Article 15(4) of the Constitution. He, therefore, submitted that the State has no power to classify the Backward Classes into Backward and Most Backward Classes and the Government is not bonafide in making such classification. According to him, when there is no sufficient advancement even in the Backward Classes, it is not open to the Government of Tamil Nadu to make further reservation for Most Backward Classes from and out of the reservation made for Backward Classes. The learned counsel for the petitioner relied upon a decision of the Supreme Court in the case of Indra Sawhney V. Union of India (A.I.R. 1993 SC 177), particularly, the judgment of B.P. Jeevan Reddy. J. He, therefore, submitted that the classification in favour of Most Backward Classes is not warranted and is violative of Articles 15(4) and 16(4) of the Constitution of India.

5. Learned Advocate General appearing for the State submitted that it is permissible for the Government to make sub-classification. He relied upon a decision of the Supreme Court in the case of K.C.Vasanth Kumar v. State of Karnataka (A.I.R. 1985 SC 1495) and the another decision of the Apex Court in the case of Indra Sawhney v. Union of India (A.I.R. 1993 SC 477) and submitted that the issues raised in the writ petition are concluded against the petitioner by the two decisions of the Supreme Court. The learned Advocate General submitted that the Government has taken into account the report of A.N.Sattanathan and also the report of the Tamil Nadu Second Backward Classes Commission and there was representation to the Government that some of the castes falling within Backward Classes were not adequately represented in the public services and in the appointment to the public services and also in the matter of admission to various education. Institutions and hence, such representations were taken into account and the Government has decided to make reservation for Most Backward Classes

and Denotified Communities on the basis of materials and on the basis of the reports of the Commission. He, therefore, submitted that there is nothing irrational or illogical or arbitrariness in making reservation in favour of Most Backward Classes and Denotified Communities.

6. I have carefully considered the submissions of the learned counsel for the parties. In my view, the issues raised in the writ petition are concluded against the petitioner by the decisions of the Supreme Court in the case of *K.C.Vasanth Kumar v. State of Karnataka* (A.I.R. 1985 SC 1495), and *Indra Sawhney v. Union of India* (A.I.R. 1993 SC 477). In *K.C.Vasanth Kumar's* case, the Supreme Court held that sub-classification is permissible if there are classes of people who are definitely far behind the advanced classes but ahead of the very backward classes and the following observation made by the Supreme Court is relevant for the purpose of this case:-

“It was also observed in *balaji* that the sub-classification made by the reservation order between Backward Classes and more Backward Classes did not appear to be justified under Art. 15(4) as it appeared to be a measure devised to benefit all the classes of citizens who were less advanced when compared with the most advanced classes in the State, and that was not the scope of Art. 15(4). A result of the sub-classification was that nearly 90% of the population of the State was treated as backward. The priority of such a course may be open to question on the facts of each case, but we do not see why on principle there cannot be a classification in Backward Classes and more Backward Classes. If both Classes are not merely a little behind, but far behind the most advanced classes. In fact, such a classification would be necessary to help the more Backward Classes; otherwise those of the Backward Classes who might be a little more advanced than the more Backward Classes might walk away with all the seats, just as, if reservation confined to the more Backward Classes and no reservation was made to the slightly more advanced Backward Classes, the most advanced Classes

would walk away with all the seats available for the general category leaving none for the Backward Classes. All that we can say is that sub-classification may be permissible, if there are classes of people who are definitely far behind the advanced classes but ahead of the very backward classes.”

7. In Indra Sawhney’s case (A.I.R. 1993 Supreme Court 477), the matter was again considered and the Supreme Court held that there is no constitutional or legal bar for a State to categorise the Backward Classes and Backward and Most Backward Classes. The Supreme Court after noticing the observation of O.Chinnappa Reddy.J. in K.C.Vasanth Kumar’s case held as under:-

“We are of the opinion that there is no constitutional or legal bar to a State categorising the backward classes as backward and more backward. We are not saying that it ought to be done. We are concerned with the question if a State makes such a categorisation, whether it would be invalid? We think not. Let us take a criteria evolved by Mandal Commission. Any caste, group or class which scored eleven or more points was treated as a backward class. Now, it is not as if all the several thousands of castes/groups/classes scored identical points. There may be some castes/groups/classes which have scored points between 20 to 22 and there may be some who have scored points between eleven and thirteen. It cannot reasonably be denied that there is no difference between these two sets of castes/groups/classes. To give an illustration, take two occupational groups viz., goldsmiths and vaddes (traditional stone-cutters in Andhra Pradesh both included within Other Backward Classes. None can deny that goldsmiths are far less backward than vaddes. If both of them are ground together and reservation provided the inevitable result would be that goldsmiths would take away all the reserved points leaving none for vaddes, in such a situation, a State may think it advisable to make a reservation even

among other backward classes so as to ensure that the more backward among the backward classes obtain the benefits intended for them. Where to draw the line and how to effect the subclassification is however, is matter for the Commission and the State – and so long as it is reasonably done, the Court may not intervene.”

In view of the above two decisions of the Supreme Court, in my view, it is permissible for the State to make a further classification between backward classes and most backward classes and such classification cannot in any way be regarded as violative of Articles 15(4) and 16(4) of the Constitution of India.

8. The further question that arises is whether the Government of Tamil Nadu had material to make classification. It is seen from the report of the Second Backward Classes Commission, the estimated population in the State, in the year 1983 was 499.91 lakhs and break up details as seen from the Counter affidavit are as under:-

	No. in lakhs	Percent to total population
	(1)	(2)
i. Scheduled Castes (SC)	92.09	18.42
ii. Scheduled Tribes (ST)	5.55	1.11
iii. SC and ST	97.64	19.53
iv. Most Backward Classes	105.00	21.00
v. Denotified Communities	17.19	3.44
vi. Backward Classes not included in (iv) and (v) above	213.52	42.71
vii. All backward classes (iv, v and vi)	335.71	67.15
viii. Other communities (Forward)	66.56	13.31
ix. All communities (iii + vii + viii)	499.91	100.00

Therefore, on the basis of the above report of the Tamil Nadu Second Backward Classes Commission, 50 per cent reservation for Backward Classes has been made in proportion to the percentage of the total population in the State. The first report of the Backward Classes Commission made the following recommendation:-

“The Government have had under consideration for some time a proposal to classify certain Backward Communities as ‘Most Backward Classes’ for extending to them the educational concessions admissible to Scheduled Castes as they are found to be almost backward as the Scheduled Castes but could not be classified as such as they do not satisfy the criterion of untouchability. The Director of Harijan Welfare, who was consulted, has agreed with the proposal and has submitted a list of communities which can be treated as ‘Most Backward’ among the Backward Classes. The Director of Public Instruction has stated that apart from the fact that it is difficult to assess the degrees of backwardness, the recognition of a ‘Most Backward Classes’ among ‘Backward Classes’ will evoke endless protests and appeals and was therefore against the proposal.

The Backward Classes Commission have in their report, classified certain communities as ‘Most Backward’ and have suggested that preference may be given to them over other communities in the list of Backward Classes for the grant of educational concessions, etc. The Government have examined the proposals of the Director of Harijan Welfare in the light of the recommendations of the principle that some of the communities now classified as Other Backward Classes in the State should be treated as more backward than the rest and given the special treatment generally extended to Scheduled Castes. The Government accordingly direct that the communities mentioned in the annexure to this order be classified as most backward classes among the other backward classes now recognised in this State and that they may be granted for the present only the educational



concessions admissible to Scheduled Castes from the academic year 1957-58.”

The Commission suggested that there should be an appointment between Backward Classes and Most Backward Classes and also fixed the percentage of reservation. In Chapter VI (page 269) of the said report, the Commission made the following recommendation:-

“40. In view of the huge size of backward class population, the present reservation of 25% is totally inadequate. In order to give adequate representation to them, the percentage of reservation should be raised to at least to 33 percent, though a case is made out for 40% (para 195).

41. The representations of Most Backward Classes as a group in Government service and in professional colleges is disproportionately low compared to their population taken together or singly. It is, therefore, recommended that castes treated as Most Backward Classes, should be lumped together. The increased percentage of reservation 33% should be distributed among Backward Classes and Most Backward Classes in the following manner:

Backward Classes            :: 17%

Most Backward Classes    :: 16%

(para 195)

A detailed cycle is proposed with specific turn in this rotation for utterly inadequately represented class (as far Navithar, Vannan, Parvatharajakulam, Odda, Valayan, Ambalakaran and Kurumba, etc.) (para 199 – 200).”

9. The report of the Tamil Nadu Second Backward Classes Commission, also suggested that there should be a reservation for Most Backward Classes. The recommendation of the said Commission reads as under:

“There is nothing in Article 15(4) to indicate that the State is not authorised to make reservation in compartments. On the other hand the words, “any

backward class of citizen” in Article 16(4) contemplates a plurality of backward classes and consequent separate reservation these classes. From the statistics collected by the Commission, it is found that all castes included in the backward classes are not equally represented in the services. Also their level of social and educational backwardness is not the same. In fact, some classes take away a lion’s share to the detriment of the weaker groups. All backward classes are not uniformly backward and underrepresented to the same extent in services. There, the State should be permitted to disperse the benefits in such a way they filter down to those who have not so far been benefitted even it might involve giving more benefits to the ‘most disadvantaged’ in preference to those who are least disadvantaged although both of them are really backward and deserving beneficiaries. If the disadvantaged groups have to be protected against open merit competition with the general public there is no reason why the most disadvantaged should not be protected against the relatively advanced groups among the really backward classes. So long as the total reservations do not exceed the limit of 50 per cent and so long as merit is the criterion inter se or each compartment there should be no objection to giving differential benefits to each group of backward classes in a compartment commensurate with the degree of backwardness and under-representation in services.”

10. The Government of Tamil Nadu on the basis of the two reports of the Backward Classes Commission and after taking into account the representations made by public decided to make the classification between the Backward Classes and Most Backward Classes. Though the Backward Classes can be regarded as a group, yet, some of the classes are more backward and hence, if the constitutional protection is given to those less privileged people. In my view, it would extend benefit to them and it could not operate as a detriment to some less fortunate people in the State. The compartmental reservation between Backward

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Classes and Most Backward Classes and Denotified Communities, in my view has been done by the Government of Tamil Nadu on the basis of all relevant informations and the basis of the data collected by the two Backward Classes Commissions. In my view, there is nothing irrational, arbitrariness in the classification made by the Government of Tamil Nadu and as observed by the Supreme Court in Indra Sawhney's case, it is open to the State to make classification between the backward classes and the most backward classes and the sub-classification made in the G.O. is based on materials and also on the basis of the reports which clearly indicate that such classification is warranted between backward and most backward classes. Since the classification has been made on the basis of the material and I do not find any justifiable reason to hold that the impugned G.O. is arbitrary or irrational.

11. Though in the affidavit filed in support of the writ petition it has been alleged that the castes which do not belong to Backward Classes are included in the Most Backward Classes, the said allegation has been denied by the respondent. The petitioner has also not given any particulars and on the basis the vague allegations it is not possible to accept the submission that some other castes which were not in the group of Backward Classes are also found included in the sub-classification.

12. I find that there are no merits in the writ petition. The writ petition is dismissed. However, there will be no order as to cost.

Index: Yes/No.

12-3-1999  
PL ORDER in WP. No.10908/90

Certified to be a true copy,  
Dated this the 23<sup>rd</sup> day of March 1999.

/sd/

Sub-Assistant Registrar  
P.A.Section.

  
/TRUE COPY/

ANNEXURE- P/8

ITEM No.9

COURT No.5

SECTION X

298

SUPREME COURT OF INDIA  
RECORD OF PROCEEDINGS

Writ Petition (Civil/Crl.) No(s). 18/87 (A/N)

L.S. Marthandam

.. Petitioner(s)

Versus

The State of Tamil Nadu  
(with office report)  
(For formal disposal)

.. Respondent(s)

Date: 19.8.96. This /These petition(s) was/were called on for hearing today.

CORAM:

Hon'ble Mr.Justice S.C.Agarwal  
Hon'ble Mr.Justice G.T.Nanavati

For the petitioner(s): Ms. Asha Nair, Adv.  
Mr.C.Balasubramanian, Adv.  
Mr.K.Ram Kumar, Adv.

For the respondents: Mr. V.Krishnamurthy, Adv.  
Mr. A Mariarputham, Adv.

UPON hearing counsel the Court made the following

ORDER

The writ petition is covered by the decision of this Court in Indra Sawhney Vs. Union of India and Ors. 1992 Suppl (3) SCC 217. The writ petition is disposed of in terms of the said judgment. No orders as to costs.

Charanjit

Suneet Bala Sharma  
(Court Master)

Signed order is placed on the file.

...2..

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IN THE SUPREME COURT OF INDIA  
CIVIL ORIGINAL JURISDICTION

WRIT PETITION (C) No.18 OF 1987

L.S. Marthandam .. Petitioner

Versus

The State of Tamil Nadu .. Respondent

ORDER

This writ petition is covered by the decision of this Court in Indra Sawhney Vs. Union of India and Ors., 1992 Supp (3) SCC 217. The writ petition is disposed of in terms of the said judgment. No orders as to costs.

/sd/  
(S.C.Agrawal)  
/sd/  
(G.T.Nanavati)

New Delhi,  
August 19,1996.

  
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Annexure - P/9

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The Tamil Nadu Backward Classes, Scheduled Castes and Scheduled Tribes  
Reservation of seats in Educational Institutions and of appointments or posts  
in the Services under the State) Act, 1993 (Tamil Nadu Act 45 of 1994)

GOVERNMENT OF TAMIL NADU  
TAMIL NADU GOVERNMENT GAZETTE  
EXTRAORDINARY

No.368, dated July 19, 1994, Thursday, Madras.

Part IV – Section 2  
Tamil Nadu Acts and Ordinances.

The following Act of the Tamil Nadu Legislative Assembly received the assent of the President on the 19<sup>th</sup> July 1994 and is hereby published for general information: –

**ACT NO. 45 OF 1994**

*An Act to provide for reservation of seats in educational institutions in the State and of appointment or posts in the services under the State for the Backward Classes of citizens and for persons belonging to the Scheduled Castes and the Scheduled Tribes in the State of Tamil Nadu.*

WHEREAS the policy of reservation for the social, economic and educational advancement of the people belonging to Backward Classes of citizens in admissions to educational institutions in the State and for appointments in the services under the State has been under implementation in the State of Tamil Nadu for a long time;

AND WHEREAS the State of Tamil Nadu is a pioneer State in providing reservation for the underprivileged and the first communal Government Order was passed in the year 1921 and the proportional representation for communities was made in the year 1927 in the State of Tamil Nadu;

AND WHEREAS a large percentage of population of Tamil Nadu suffering from social and educational backwardness for many years have started enjoying the fruits of the reservation policy and have been able to improve their lot and attain a higher standard of living;

AND WHEREAS clause (4) of Article 15 of the Constitution enables the State to make any special provision for the advancement of any socially and educationally Backward Classes of citizens or for the Scheduled Castes and the Scheduled Tribes;

AND WHEREAS clause (4) of Article 16 of the Constitution enables the State to make any provision for the reservation of appointments or posts in favour of any Backward Class of citizens which in the opinion of the State, is not adequately represented in the services under the State;

AND WHEREAS under clause (1) of Article 38 of the Constitution, the State shall strive to promote the welfare of the people by securing and protecting as effectively as it may, a social order in which justice, social, economic and political, shall inform all the institutions of the national life;

AND WHEREAS under clause (2) of Article 38 of the Constitution, the State shall, in particular, strive to minimize the inequalities in income and endeavour to eliminate inequalities in status, facilities and opportunities, not only amongst individuals but also amongst groups of people residing in different areas or engaged in different vocations;

AND WHEREAS under clause (b) of Article 39 of the Constitution, the State shall, in particular, direct its policy towards securing that the ownership and control of the material resources of the community are so distributed as best to subserve the common good;

AND WHEREAS under clause (c) of Article 39 of the Constitution, the State shall in particular, direct its policy towards securing that the operation of the economic system does not result in the concentration of wealth and means of production to the common detriment;

AND WHEREAS under Article 46 of the Constitution, the State shall promote, with special care, the educational and economic interests of the weaker sections of the people, and, in particular, of the Scheduled Castes and the Scheduled Tribes, and shall protect them from social injustice and all forms of exploitation;

AND WHEREAS the representatives of the various political parties and social forums representing backward classes have requested the State Government to consider all the ramifications of the Supreme Court judgment, dated the 16<sup>th</sup> day of November 1992 in Indra Sawhney Vs. Union of India (AIR, 1993 SC 477) regarding reservations under clause (4) of Article 16 of the Constitution and take steps to protect their interests adequately;

AND WHEREAS in the opinion of the State Government, Backward Classes of citizens, and the persons belonging to the Scheduled Castes and the Scheduled Tribes, who constitute the majority of the total population of the State



are not adequately represented in the services under the State in proportion to their population in the State of Tamil Nadu;

AND WHEREAS the State Government have, after careful consideration, taken a policy decision that the existing level of sixty-nine per cent reservation in admission to educational institutions in the State and in the services under the State, for the Backward Classes of citizens and for the persons belonging to the Scheduled Castes and the Scheduled Tribes, should be continued for ensuring the advancement of the majority of the people of the State of Tamil Nadu;

BE it enacted by the Legislative Assembly of the State of Tamil Nadu in the Forty-fourth year of the Republic of India as follows:-

1. *Short title, extent and commencement.*-- (1) This Act may be called the Tamil Nadu Backward Classes, Scheduled Castes and Scheduled Tribes (Reservation of seats in Educational Institutions and of appointments or posts in the Services under the State) Act, 1993.

(2) It extends to the whole of the State of Tamil Nadu.

(3)(a) Sections 2,3,4,5,6 and 8 shall be deemed to have come into force on the 16<sup>th</sup> day of November 1992.

(b) Section 7 shall be deemed to have come into force on the 15<sup>th</sup> day of March 1993.

2. *Declaration.*-- It is hereby declared that this Act is for giving effect to the policy of the State towards securing the principles laid down in Part IV and in particular, in Article 38, clauses (b) and (c) of Article 39 and Article 46 of the Constitution.

3. *Definitions.*-- In this Act, unless the context otherwise requires,-

(a) "Backward Classes of citizens" means the class or classes of citizens who are socially and educationally backward, as may be notified by the Government in the Tamil Nadu Government Gazette, and includes the Most Backward Classes and the Denotified Communities;

(b) "educational institution" means,-

(i) any college or other educational institution, maintained by the State, or receiving aid out of the State funds, or affiliated to any University established by law including a University college and a constituent college; or

(ii) any institute or training center recognized or approved by the Government, with the object of preparing, training or guiding its students for any certificate, degree or diploma or other academic distinctions granted or conferred by any University or authority established or approved in this behalf by the Government;

(c) "Government" means the State Government;

(d) "Scheduled Castes" shall have the same meaning as in the Constitution;

(e) "Scheduled Tribes" shall have the same meaning as in the Constitution.

4. *Reservation of seats in educational institutions.*-- (1) Notwithstanding anything contained in any judgment, decree or order of any court or other authority, having regard to the social and educational backwardness of the Backward Classes of citizens and the persons belonging to the Scheduled Castes and the Scheduled Tribes who constitute the majority of the total population of the State of Tamil Nadu, the reservation in respect of the annual permitted strength in each branch or faculty for admission into educational institutions in the State, for

the Backward Classes of citizens and for the persons belonging to the Scheduled Castes and the Scheduled Tribes, shall be sixty-nine per cent.

(2) The reservation referred to in sub-section (1) shall, in respect of the persons belonging to the Backward Classes, the Most Backward Classes and Denotified Communities, the Scheduled Castes and the Scheduled Tribes, be as hereunder:-

- (a) Backward Classes .. . . . . Thirty per cent.
- (b) Most Backward Classes and  
Denotified Communities. .. Twenty per cent
- (c) Scheduled Castes .. . . . Eighteen per cent
- (d) Scheduled Tribes.. . . . One per cent.

*5. Reservation in appointments or posts in the services under the state.--*

(1) Notwithstanding anything contained in any judgment, decree or order of any court or other authority, having regard to the inadequate representation in the services under the State, of the Backward Classes of citizens and the persons belonging to the Scheduled Castes and the Scheduled Tribes, who constitute the majority of the total population of the State of Tamil Nadu, the reservation for appointments or posts in the services under the State, for the Backward Classes of citizens and for the persons belonging to the Scheduled Castes and the Scheduled Tribes, shall be sixty-nine per cent.

Explanation.- For the purpose of this Act, "services under the State" includes the services under –

- (i) the Government:
- (ii) the Legislature of the State:
- (iii) any local authority:

- (iv) any corporation or company owned or controlled by the Government: or  
 (v) any other authority in respect of which the State Legislature has power to make laws.

(2) The reservation referred to in sub-section(1) shall, in respect of the persons belonging to the Backward Classes, the Most Backward Classes and Denotified Communities, the Scheduled Castes and the Scheduled Tribes be as hereunder:-

- (a) Backward Classes .. .. . Thirty per cent.  
 (b) Most Backward Classes and  
     Denotified Communities .. Twenty per cent  
 (c) Scheduled Castes .. . . . Eighteen per cent  
 (d) Scheduled Tribes .. . . . One per cent.

6. *Reservations not to be affected.*-- Notwithstanding anything contained in sections 4 and 5, the claims of the students or members belonging to the Backward Classes of citizens or the Scheduled Castes or the Scheduled Tribes, shall also be considered for the unreserved seats, appointments, or posts which shall be filled on the basis of merit and where a student or member belonging to the Backward Classes of citizens, or the Scheduled Castes or the Scheduled Tribes, is selected on the basis of merit, the number of seats, appointments or posts reserved for the Backward Classes of citizens or for the persons belonging to the Scheduled Castes or the Scheduled Tribes, as the case may be, shall not in any way be affected.

7. *Classification of Backward Classes of citizens.*-- The Government may, from time to time, based on the reports presented at the appropriate periods to the Government by the Tamil Nadu Backward Classes Commission constituted in G.O.Ms.No.9, Backward Classes and Most Backward Classes Welfare Department, dated the 15<sup>th</sup> day of March 1993, by notification, classify or sub-classify the Backward Classes of citizens for the purpose of this Act.

8. *Power to make rules.*-- (1) The Government may make rules for carrying out the purposes of this Act.

(2)(a) All rules made under this Act shall be published in the Tamil Nadu Government Gazette and unless they are expressed to come into force on a particular day, shall come into force on the day on which they are so published.

(b) All notifications issued under this Act shall, unless they are expressed to come into force on a particular day, come into force on the day on which they are published.

(3) Every rule made or notification or order issued under this Act shall, as soon as possible, after it is made or issued, be placed on the table of the Legislative Assembly, and if, before the expiry of the session in which it is so placed or the next session, the Assembly makes any modification in any such rule or notification or order, or the Assembly decides that the rule or notification or order should not be made or issued, the rule or notification or order shall thereafter have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or notification or order.

9. *Validation.*-- Notwithstanding anything contained in any judgment, decree or order of any court or other authority, the reservation of sixty-nine per cent made,

and anything done or any action taken on the basis of such reservation, by the Government for admissions into educational institutions in the State and for appointments or posts in the services under the State, for the Backward Classes of citizens and for the persons belonging to the Scheduled Castes and the Scheduled Tribes, during the period commencing on the 16<sup>th</sup> day of November 1992 and ending with the date of the publication of this Act in the Tamil Nadu Government Gazette, shall, for all purposes be deemed to be and to have always been, validly made, done or taken in accordance with law, as if this Act had been in force at all material times when such reservation has been made and such thing done or action taken.

**10. Power to remove difficulties.**-- If any difficulty arises in giving effect to the provisions of this Act, the Government may, by an order published in the Tamil Nadu Government Gazette, make such provisions not inconsistent with the provisions of this Act as appear to them to be necessary or expedient for removing the difficulty:

Provided that no such order shall be made after the expiry of two years from the date of the publication of this Act in the Tamil Nadu Government Gazette.

(By order of the Governor)

M.MUNIRAMAN,  
Secretary to Government,  
Law Department.

  
/TRUE COPY/

ANNEXURE-P/10

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**The Constitution (Seventy-sixth Amendment) Act, 1994**

Statement of Objects and Reasons appended to the Constitution (Eighty-fifth Amendment) Bill, 1994 which was enacted as THE CONSTITUTION (Seventy-sixth Amendment) Act, 1994

**STATEMENT OF OBJECTS AND REASONS**

The policy of reservation of seats in Educational Institutions and reservation of appointments of posts in public services for Backward Classes, Scheduled Castes and Scheduled Tribes has had a long history in Tamil Nadu dating back to the year 1921. The extent of reservation has been increased by the State Government from time to time, consistent with the needs of the majority of the people and it has now reached the level of 69 per cent. (18 per cent. Scheduled Castes, 1 per cent. Scheduled Tribes and 50 per cent. Other Backward Classes).

2. The Supreme Court delivered its judgment in Indira Sawhney and others Vs. Union of India and Others (AIR 1993 SC 477) on 16th November, 1992, holding that the total reservations under article 16(4) should not exceed 50 per cent.

3. The issue of admission to educational institutions for the academic year 1993-94 came up before the High Court of Madras in a writ petition. The High Court of Madras held that the Tamil Nadu Government could continue its reservation policy as hitherto followed during that academic year and that the quantum of reservation should be brought down to 50 per cent. during the academic year 1994-95. The Government of Tamil Nadu had filed a Special Leave Petition against the High Court of Madras in order that the present reservation policy of the State Government should be reaffirmed so as to ensure to continue advancement of the Backward

Classes. However, the Supreme Court of India passed an interim order reiterating that the reservation should not exceed 50 per cent. in the matter of admission to educational institutions.

4. In the special Session of Tamil Nadu Legislative Assembly held on 9th November, 1993, it had been unanimously resolved to call upon the Central Government to take steps immediately to bring a suitable amendment to the Constitution of India as to enable the Government of Tamil Nadu to continue its policy of 69 per cent. reservation in Government Services and for admission in Educational Institutions as at present. An all parties meeting had also been held on 26th November, 1993 in Tamil Nadu urging that there should not be any doubt or delay in ensuring the continued implementation of 69 per cent. reservation for the welfare and advancement of the backward classes.

5. The Tamil Nadu Government enacted a legislation namely Tamil Nadu Backward Classes, Scheduled Castes and Scheduled Tribes (Reservation of Seats in Educational Institution and of appointments or posts in the Services under the State) Bill, 1993 and forwarded it to the Government of India for consideration of the President of India in terms of article 31-C of the Constitution.

6. In view of the importance and sensitive nature of the matter, the Union Home Minister held meetings with the leaders of Political Parties on 13th July, 1994 to discuss the provisions of the Bill. The general consensus among the leaders was that the Bill should be assented to. Accordingly, the President gave his assent to the Bill on 19th July, 1994.

7. The Tamil Nadu Government accordingly notified the Tamil Nadu Backward Classes, Schedule Castes and Scheduled Tribes (Reservation of



Seats in Educational Institutions and of appointment or posts in the Services under the State) Act, 1993 as Act No. 45 of 1994 on 19th July, 1994.

8. The Tamil Nadu Government requested the Government of India on 22nd July, 1994 that the aforementioned Tamil Nadu Act 45 of 1994 be included in the Ninth Schedule to the Constitution of India for the reasons given below:-

"The said Act attracts article 31C of the Constitution, as falling within the purview of clauses (b) and (c) of article 39 and articles 38 and 46 of the Constitution-vide section 2 of the Act. The Act has been passed relying on the directive principles of State Policy enshrined in Part IV of the Constitution and in particular, articles 38, 39 (b) and (c) and 46 of the Constitution. As the Act is to give effect to the directive principles of State Policy contained, inter alia, in article 39(b) and (c), the said Act will get the protection of article 31C of the Constitution and therefore, cannot be challenged under articles 14 and 19 of the Constitution, with reference to which article 14, the reservation exceeding 50 per cent. has been struck down by the Supreme Court. Now it has been decided to address the Government of India for including the Act in the Ninth Schedule to the Constitution, so that the law cannot be challenged as violative of any of the fundamental rights contained in Part III of the Constitution including articles 15 and 16, and gets protection under article 31B of the Constitution."

9. The Government of India has already supported the provision of the State legislation by giving the President's assent to the Tamil Nadu Bill. As a corollary to this decision, it is now necessary that the Tamil Nadu Act 45 of 1994 is brought within the purview of the Ninth Schedule to the Constitution

so that it gets protection under article 31B of the Constitution in regard to the judicial review.

10. The Bill seeks to achieve the aforementioned objective.

NEW DELHI; SITARAM KESRI.

The 23rd August, 1994.

THE CONSTITUTION (SEVENTY-SIXTH AMENDMENT) ACT, 1994

[31st August, 1994.]

An Act further to amend the Constitution of India.

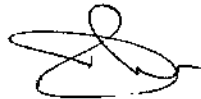
BE it enacted by Parliament in the Forty-fifth Year of the Republic of India as follows:-

1. Short title.-This Act may be called the Constitution (Seventy-sixth Amendment) Act, 1994.

2. Amendment of the Ninth Schedule.-In the Ninth Schedule to the Constitution, after entry 257 and before the Explanation, the following entry shall be inserted, namely:-

"257A. The Tamil Nadu Backward Classes, Scheduled Castes and Scheduled Tribes (Reservation of Seats in Educational Institution and of Appointments or Posts in the Services under the State) Act, 1993 (Tamil Nadu Act 45 of 1994)."

/TRUE TYPED COPY/



ANNEXURE-P/11

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GOVERNMENT OF TAMIL NADU  
2006

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**TAMIL NADU  
GOVERNMENT GAZETTE**

**EXTRAORDINARY** PUBLISHED BY AUTHORITY

No. 131]

CHENNAI, WEDNESDAY, JUNE 7, 2006  
Vaikasi 24, Viya, Thiruvalluar Aandu – 2037

**Part IV – Section 2**

**Tamil Nadu Acts and Ordinances**

**CONTENTS**

**Acts:**

- No. 10 of 2006 – Tamil Nadu Prohibition of Forcible Conversion of Religion (Repeal) Act, 2006
- No. 11 of 2006 – Tamil Nadu Essential Services Maintenance (Repeal) Act, 2006
- No. 12 of 2006 – Tamil Nadu Backward Classes, Scheduled Castes and Scheduled Tribes (Reservation of Seats in Private Educational Institutions) Act, 2006

An Act to repeal the Tamil Nadu Essential Services Maintenance Act, 2002.

BE it enacted by the Legislative Assembly of the State of Tamil Nadu in the Fifty-seventh Year of the Republic of India as follows:---

1. (1) This Act may be called the Tamil Nadu Short title and commencement. Essential Services Maintenance (Repeal) Act, 2006.

(2) It shall come into force at once.

Repeal

2. The Tamil Nadu Essential Services Tamil Nadu Act 36 of 2002 Maintenance Act, 2002 is hereby repealed.

Tamil Nadu Act 36 of 2002

3. All actions taken under the Tamil Nadu Essential Services Maintenance Act, 2002 and all proceedings thereunder pending immediately before the commencement of this Act, before any court or authority shall abate. Abatement of action taken and legal proceedings.

(By Order of the Governor)

S.Dheenadhayalan,  
Secretary to Government-in-charge  
Law Department.

An Act to provide for reservation of seats in private educational institutions in the State for the Backward Classes of citizens and for persons belonging to the Scheduled Castes and the Scheduled Tribes in the State of Tamil Nadu.

WHEREAS, the policy of reservation for the social, economic and educational advancement of the people belonging to Backward Classes of citizens in admissions to educational institutions in the State has been under implementation in the State of Tamil Nadu for a long time;

AND WHEREAS, the State of Tamil Nadu is a pioneer State in providing reservation for the underprivileged and the first communal Government Order was passed in the year 1921 and the proportional representation for communities was made in the year 1927 in the State of Tamil Nadu;

AND WHEREAS, a large percentage of population of Tamil Nadu suffering from social and educational backwardness for many years have started enjoying the fruits of the reservation policy and have been able to improve their lot and attain a higher standard of living;

AND WHEREAS, Tamil Nadu Legislature passed Tamil Nadu Backward Classes, Scheduled Castes and Scheduled Tribes (Reservation of seats in Educational Institutions and of appointments or posts in Services

under the State) Act, 1993;

AND WHEREAS, the Constitution (Seventy-Sixth Amendment) Act, 1994, added the Tamil Nadu Backward Classes, Scheduled Castes and Scheduled Tribes (Reservation of seats in Educational Institutions and of appointments or posts in Services under the State) Act, 1993 enacted by the Tamil Nadu Legislature, to the IX Schedule, so as to give protection to the State Act under Article 31B of the Constitution superseding the decision of the Supreme Court fixing a ceiling of 50% under Article 16(4) on the State forwarding the aforesaid Act to the Centre under Article 31C of the Constitution;

AND WHEREAS, under clause (1) of Article 38 of the Constitution, the State shall strive to promote the welfare of the people by securing and protecting as effectively as it may, a social order in which justice, social, economic and political shall inform all the institutions of the national life;

AND WHEREAS, under clause (2) of Article 38 of the Constitution, the State shall, in particular, strive to minimize the inequalities in income and endeavour to eliminate inequalities in status, facilities and opportunities, not only amongst individuals but also amongst groups of people residing in different areas or

engaged in different vocations;

AND WHEREAS, under Article 46 of the Constitution, the State shall promote, with special care, the educational and economic interest of the weaker sections of the people, and, in particular, of the Scheduled Castes and Scheduled Tribes, and shall protect them from social injustice and all forms of exploitations;

AND WHEREAS, the 93<sup>rd</sup> Constitution Amendment incorporating clause (5) of Article 15 of the Constitution enables the making of any special provisions, by law, for the advancement of any socially and educationally Backward Classes of citizens or for the Scheduled Castes or Scheduled Tribes 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 minority educational institutions referred to in clause (1) of Article 30 of the Constitution;

AND WHEREAS, it has been decided to require reservations to be applied for aided, unaided and deemed Universities;

AND WHEREAS, the State Government have, after careful consideration of the population in the respective categories, the present stage of their advancement in

education, taken a policy decision that the existing level of sixty-nine per cent reservation in admission to educational institutions other than the minority educational institutions referred to in clause (1) of Article 30 of the Constitution in the State for the Backward Classes of citizens and for the persons belonging to the Scheduled Castes and Scheduled Tribes, should be continued for ensuring the advancement of the majority of the people of the State of Tamil Nadu

BE it enacted by the Legislative Assembly of the State of Tamil Nadu in the Fifty-Seventh Year of the Republic of India as follows:-

Short title, extent and commencement

1. (1) This Act may be called the Tamil Nadu Backward Classes, Scheduled Castes and Scheduled Tribes (Reservation of Seats in Private Educational Institutions) Act, 2006.

(2) It extends to the whole of the State of Tamil Nadu

(3) It shall come into force on such date as the State Government may, by notification, appoint.

Definitions.

2. In this Act, unless the context otherwise requires,-

(a) "Backward Classes of citizens" means the class or classes of citizens who are socially and educationally backward notified by the Government in the Tamil Nadu Government Gazette and includes the Most Backward



Classes and the Denotified Communities;

(b) "Competent Authority" means the competent authority appointed by the Government under section 6;

(c) "Government" means the State Government;

(d) "Private educational institution" means any deemed university or any private college or other private educational institution, including any institute or training centre recognized or approved, whether aided or unaided by the State, other than the minority educational institution referred to in clause (1) of Article 30 of the Constitution established with the object of preparing, training or guiding its students for any certificate, degree or diploma or other academic distinctions granted or conferred by any university or authority established or approved in this behalf;

(e) "Prescribed" means prescribed by the rules made under this Act;

(f) "Scheduled Castes" shall have the same meaning as in the Constitution;

(g) "Scheduled Tribes" shall have the same meaning as in the constitution.

Reservation of seats in private educational institutions.

3. (1) Notwithstanding anything contained in any judgement, decree or order of any court or other authority, having regard to the social and educational

backwardness of the Backward Classes of citizens and the persons belonging to the Schedules Castes and the Scheduled Tribes who constitute the majority of the total population of the State of Tamil Nadu, the reservation in respect of the annual permitted strength in each branch or faculty for admission into private educational institutions in the State, for the Backward Classes of citizens and for the persons belonging to the Scheduled Castes and the Scheduled Tribes, shall be sixty-nine per cent.

(2) The reservation referred to in sub-section (1) shall, in respect of the persons belonging to the Backward Classes, the Most Backward Classes and Denotified Communities, the Scheduled Castes and the Scheduled Tribes, be as hereunder:

- |                            |                     |
|----------------------------|---------------------|
| (a) Backward Classes       | .. Thirty per cent  |
| (b) Most Backward Classes  | .. Twenty percent   |
| and Denotified Communities |                     |
| (c) Scheduled Castes       | .. Eighteen percent |
| (d) Scheduled Tribes       | .. One per cent     |

4. Notwithstanding anything contained in section 3, the claims of the students belonging to the Backward

Reservations not to be affected.

Classes of citizens or the Scheduled Castes or the Scheduled Tribes, shall also be considered for the unreserved seats, and where a student belonging to the Backward Classes of citizens or the Scheduled Castes or the Scheduled Tribes, is selected on the basis of merit, the number of seats reserved for the Backward Classes of citizens or for the persons belonging to the Scheduled Castes or the Scheduled Tribes, as the case may be, shall not in any way be affected.

5. The Government may, from time to time, based on the reports presented at the appropriate periods to the Government by the Tamil Nadu Backward Classes Commission constituted in G.O. Ms. No.9, Backward Classes and Most Backward Classes Welfare Department, dated the 15<sup>th</sup> day of March 1993, by notification, classify or sub-classify the Backward Classes of citizens for the purpose of this Act.

Classification of Backward Classes of citizens.

6.(1) The Government may, by notification, appoint any officer not below the rank of District Backward Classes and Minorities Welfare Officer to be the competent authority for the purposes of carrying out the provisions of this Act and the rules made thereunder and different competent authorities may be appointed for different areas.

Competent authority.

(2) The competent authority shall exercise such powers and perform such functions as may be prescribed.

7.(1) The Government may, in the public interest, by order, direct the competent authority to make an enquiry or to take appropriate proceedings under this Act in any case specified in the order, and the competent authority shall report to the Government the result of the enquiry made or the proceedings taken by him within such period as may be prescribed.

Power of Government to give direction.

(2) On receipt of the report from the competent authority under sub-section (1), the Government shall give such direction as they deem fit and such direction shall be final and binding.

Central Act XLV of 1860

8. The competent authority appointed under section 6 shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

Competent authority to be public servant.

9. No suit, prosecution or other legal proceedings shall lie against the competent authority, Government or its Officers for anything which is in good faith done or intended to be done under this Act or any rule or order made thereunder.

Protection of action taken in good faith.

10. (1) The Government may take rules for carrying out the purposes of this Act.

Power to make rules.

(2)(a) All rules made under this Act shall be published in the Tamil Nadu Government Gazette and unless they are expressed to come into force on the particular day, shall come into force on the day on which they are so published.

(b) All notification issued under this Act shall, unless they are expressed to come into force on a particular day, come into force on the day on which they are published.

(3) Every rule made or notification or order issued under this Act shall, as soon as possible, after it is made or issued, be placed on the Table of the Legislative Assembly, and if, before the expiry of the session in which it is so placed or the next session, the Assembly makes any modification in any such rule or notification or order, or the Assembly decides that the rule or notification or order should not be made or issued, the rule or notification or order shall thereafter have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or notification or order.

Power to remove difficulties.

11. If any difficulty arises in giving effect to the


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provisions of this Act, the Government may, by an order published in the Tamil Nadu Government Gazette, make such provisions not inconsistent with the provisions of this Act as appear to them to be necessary or expedient for removing the difficulty;

Provided that no such order shall be made after the expiry of two years from the date of commencement of this Act.

(By Order of the Governor)

S.Dheenadhayan,  
Secretary to Government-in-charge  
Law Department.

  
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a constitutional validity of Articles 16(4), 16(4-A) and 16(4-B) was upheld. In the judgment it was directed that various individual writ petitions would be considered by the appropriate Bench in accordance with the law laid down in this decision.

b 3. As various State orders and notifications have been challenged in these writ petitions, we feel that it would be better if these writ petitions be considered by the respective High Courts. The validity of the same be decided in view of the final decision of the Constitution Bench of this Court in *M. Nagaraj v. Union of India*<sup>1</sup>.

c 4. Therefore, we permit the petitioners in these writ petitions to withdraw these writ petitions with liberty to move the High Court and in the event if writ petitions are filed before the High Court the same may be considered by the High Court in the light of the observations made by this Court in *M. Nagaraj v. Union of India*<sup>1</sup>. The petitioners would be at liberty to seek appropriate interim relief in the High Court.

d 5. The writ petitions as well as contempt petitions are disposed of accordingly.  
*WP (C) No. 234 of 2002 with Contempt Petition (C) No. 234 of 2007 in WP (C) No. 234 of 2002*

e 6. The learned counsel for the petitioner seeks leave to withdraw this petition with liberty to approach the High Court. The writ petition is dismissed as withdrawn. In view of the dismissal of the writ petition, contempt petition is also dismissed.  
*WP (C) No. 340 of 2002*

7. The learned counsel for the petitioner seeks leave to withdraw this petition with liberty to approach the High Court. The writ petition is dismissed as withdrawn.

[CITED ORDER 2]

(2012) 7 Supreme Court Cases 41

(BEFORE S.H. KAPADIA, C.J. AND K.S.P. RADHAKRISHNAN AND  
SWATANTER KUMAR, JJ.)

S.V. JOSHI AND OTHERS

Petitioners:

*Versus*

STATE OF KARNATAKA AND OTHERS

Respondents.

g Writ Petitions (C) No. 259 of 1994 with Nos. 454, 473 of 1994,  
238 of 1995, 35 of 1996, 471 of 1994 and 694 of 1994,  
decided on July 13, 2010

h A. SCs, STs, OBCs and Minorities — Reservation/Concession/  
Exemption/Relaxation and Affirmative Action — Reservation in  
recruitment to services and admission to educational institutions —  
Quantum permissible — Reservation laws in States of Karnataka and Tamil  
Nadu (T.N.) making reservation in excess of 50% and not relying on any  
quantifiable data as laid down in *M. Nagaraj*, (2006) 8 SCC 212 and *Ashoka  
Kumar Thakur*, (2008) 6 SCC 1

— State of T.N., therefore, directed to place quantifiable data before T.N. State Backward Classes Commission — Commission directed to decide the quantum of reservation on said basis — Issue of validity of T.N. Backward Classes, SCs and STs (Reservation of Seats in Educational Institutions and of Appointments or Posts in the Services under the State) Act, 1993 (45 of 1994), therefore, left open — Interim orders passed by Supreme Court from time to time in relation to admissions to educational institutions to continue to be in force and in operation for a period of one year from date of this order

— State of Karnataka had been directed to collect quantifiable data for validating reservation under 1994 Act but this exercise was not done — State of Karnataka, therefore, given one year's time to take appropriate steps — Liberty given to petitioner concerned to move Supreme Court again after one year if no steps were taken — Interim order staying operation of Ss. 4, 5 and 7 of 1994 Karnataka Act to continue till then — Constitution of India — Arts. 15, 16, 14, 46, 38, 39(b), 39(c), 335 and 141 — Karnataka Scheduled Castes, Scheduled Tribes and Other Backward Classes (Reservation of Seats in Educational Institutions and of Appointments or Posts in the Services under the State) Act, 1994 (43 of 1994) — Ss. 4, 5 and 7 — Validity — Operation stayed — T.N. Backward Classes, SCs and STs (Reservation of Seats in Educational Institutions and of Appointments or Posts in the Services under the State) Act, 1993 (45 of 1994) (Paras 3 to 15)

*M. Nagaraj v. Union of India*, (2006) 8 SCC 212 : (2007) 1 SCC (L&S) 1013; *Ashoka Kumar Thakur v. Union of India*, (2008) 6 SCC 1, applied

*S.V. Joshi v. State of Karnataka*, WP (C) No. 259 of 1994, order dated 11-11-1994 (SC), affirmed

*Indra Sawhney v. Union of India*, 1992 Supp (3) SCC 217 : 1992 SCC (L&S) Supp 1 : (1992) 22 ATC 385, referred to

B. Service Law — Pension — Entitlement to pension — Even if writ becoming infructuous because of retirement, pensionary benefits, held, cannot be denied — Constitution of India, Art. 226 (Paras 1 and 2) SS-D/49803/CL

<i>Chronological list of cases cited</i>	<i>on page(s)</i>
1. (2008) 6 SCC 1, <i>Ashoka Kumar Thakur v. Union of India</i>	43b-c, 44b, 44e
2. (2006) 8 SCC 212 : (2007) 1 SCC (L&S) 1013, <i>M. Nagaraj v. Union of India</i>	43b-c, 44b, 44e
3. WP (C) No. 259 of 1994, order dated 11-11-1994 (SC), <i>S.V. Joshi v. State of Karnataka</i>	44g
4. 1992 Supp (3) SCC 217 : 1992 SCC (L&S) Supp 1 : (1992) 22 ATC 385, <i>Indra Sawhney v. Union of India</i>	43g-h

#### ORDER

*Writ Petition (C) No. 259 of 1994*

1. The learned counsel for the petitioners states that, in view of the subsequent events, this writ petition has become infructuous, which is, accordingly, dismissed.

2. This writ petition, basically, has become infructuous because the petitioners have since retired. However, this order of dismissal of the writ petition would not result in denial of pensionary benefits to the petitioners herein.



*Writ Petitions (C) Nos. 454, 473 of 1994, 238 of 1995 and 35 of 1996*

a 3. The short question which arises for determination in these writ petitions is: whether the quantum of reservation provided for in Tamil Nadu Backward Classes, Scheduled Castes and Scheduled Tribes (Reservation of Seats in Educational Institutions and of Appointments or Posts in the Services under the State) Act, 1993, is valid? The impugned Act received the Presidential assent on 19-7-1994.

b 4. Subsequent to the filing of the above writ petitions, Articles 15 and 16 of the Constitution have been amended vide the Constitution (Ninety-third Amendment) Act, 2005, and the Constitution (Eighty-first Amendment) Act, 2000, respectively, which Amendment Acts have been the subject-matter of subsequent decisions of this Court in *M. Nagaraj v. Union of India*<sup>1</sup> and *Ashoka Kumar Thakur v. Union of India*<sup>2</sup> in which, inter alia, it has been laid down that if a State wants to exceed fifty per cent reservation, then it is required to base its decision on the quantifiable data. In the present case, this exercise has not been done.

c 5. Therefore, keeping in mind the said parameter, we direct the State to place the quantifiable data before the Tamil Nadu State Backward Classes Commission and, on the basis of such quantifiable data amongst other things, the Commission will decide the quantum of reservation. We are informed by the learned Solicitor General that such data in the form of reports, which are subsequently prepared, is already available.

d 6. Consequently, these writ petitions stand disposed of with a direction to the State Government to revisit and take appropriate decision in the light of what is stated above. It needs to be mentioned that the interim orders passed by this Court from time to time in relation to admissions to educational institutions shall continue to be in force and in operation for a period of one year from today.

e 7. In the circumstances, we are not expressing any opinion on the validity of the 1993 Act at this stage. The Registry is directed to send the records and proceedings, if any, connected to these writ petitions, back to the State.

*Writ Petition (C) No. 471 of 1994*

f 8. By this writ petition, the Government Order dated 25-7-1994, passed by the State of Karnataka, is sought to be challenged only to the extent that it provides for reservation in excess of fifty per cent, both in the matter of admission to educational institutions and in the matter of recruitment to service.

g 9. On 9-9-1994, the present writ petition had come up for directions along with IA No. 4 in Writ Petition (C) No. 438 of 1994. In this case, we are concerned only with Writ Petition (C) No. 471 of 1994. On the said date, this Court passed the order in the following terms:

“The State Government shall be at liberty to make reservations in terms of the law laid down by this Court in *Indra Sawhney case*<sup>3</sup>.”

1 (2006) 8 SCC 212 : (2007) 1 SCC (L&S) 1013

2 (2008) 6 SCC 1

3 *Indra Sawhney v. Union of India*, 1992 Supp (3) SCC 217 : 1992 SCC (L&S) Supp 1 : (1992) 22 ATC 385

It was also made clear that the State Government can make reservations up to fifty per cent, inclusive of the Scheduled Castes, Scheduled Tribes and Other Backward Classes.

10. We may state that, subsequent to the filing of this writ petition in 1994, Articles 15 and 16 of the Constitution have been amended vide the Constitution (Ninety-third Amendment) Act, 2005 and the Constitution (Eighty-first Amendment) Act, 2000, respectively. Moreover, subsequent decisions in *M. Nagaraj v. Union of India*<sup>1</sup> and *Ashoka Kumar Thakur v. Union of India*<sup>2</sup>, are also required to be kept in mind by the State Government, if at all, it seeks to pass any other order in near future.

11. Subject to the above, this writ petition stands disposed of.  
*Writ Petition (C) No. 694 of 1994*


12. By this writ petition, challenge is laid to Sections 4, 5 and 7 of the Karnataka Scheduled Castes, Scheduled Tribes and Other Backward Classes (Reservation of Seats in Educational Institutions and of Appointments or Posts in the Services under the State) Act, 1994. By an interim order dated 11-11-1994, this Court has stayed the operation of Sections 4, 5 and 7 of the 1994 Act, which is in operation till date. It is not in dispute that, after the filing of this writ petition and during its pendency, Articles 15 and 16 of the Constitution have been amended vide the Constitution (Ninety-third Amendment) Act, 2005 and the Constitution (Eighty-first Amendment) Act, 2000, respectively.

13. Further, after the filing of the writ petition, various pronouncements have been made by the judgments of the Constitution Benches of this Court in *M. Nagaraj v. Union of India*<sup>1</sup> and *Ashoka Kumar Thakur v. Union of India*<sup>2</sup>. Under the said decisions, which have been rendered in the light of the Constitution (Eighty-first Amendment) Act, 2000 and the Constitution (Ninety-third Amendment) Act, 2005, reservation exceeding fifty per cent could be made only on the basis of quantifiable data before the Government. It appears that till today, this exercise has not been undertaken and the State Government has not collected the quantifiable data. It has not presented such data before the Court.

14. In the circumstances, we hereby direct the State of Karnataka to revisit Sections 4, 5 and 7 of the 1994 Act in the light of the judgments of this Court, referred to above. We give one year's time to the State Government to take appropriate decision, if so advised. The interim order dated 11-11-1994<sup>4</sup> will continue to operate for a period of one year from today. After one year, liberty is given to the petitioner, if so advised, to move this Court if no steps are taken by the State Government, as directed above.

15. Subject to the above, this writ petition stands disposed of.

4 *S.V. Joshi v. State of Karnataka*, WP (C) No. 259 of 1994, order dated 11-11-1994 (SC)

  
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ANNEXURE-P/13

GOVERNMENT OF TAMIL NADU

329

Abstract

Welfare of Backward Classes – Tamil Nadu Backward Classes, Scheduled Castes and Scheduled Tribes (Reservation of seats in Educational Institutions and of appointments or posts in the Services under the State) Act, 1993 [Tamil Nadu Act 45 of 1994] – Report of the Tamil Nadu Backward Classes Commission on quantum of reservation and exclusion of creamy layer – Accepted – Orders – Issued.

**BACKWARD CLASSES, MOST BACKWARD CLASSES AND  
MINORITIES WELFARE DEPARTMENT**

**G.O.Ms.No.50**

**Date: 11.7.2011.**

Read:

1. G.O.Ms.No.1565, Social Welfare Dept, dated 30.7.85.
2. G.O.Ms.No.242, Backward Classes Welfare, Nutritious Meal Programme and Social Welfare Dept, dated 28.3.1989.
3. G.O.Ms.No.1090, Adi-Draavidar and Tribal Welfare Department, dated 22.6.1990.
4. Tamil Nadu Act 45 of 1994.

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The writ petitions fired before the supreme court of India challenging the Constitutional validity of Tamil Nadu Backward Classes, Scheduled Castes and Scheduled Tribes (Reservation of seats in Educational Institutions and of appointments or posts in the Services under the State) Act, 1993 [hereinafter referred to as 'Tamil Nadu Act 45 of 1994'] were closed in the year 2010 by two orders of the Supreme Court respectively passed on 13/7/2010 and 3/1/2011 keeping the Constitutional validity of the said Act open, with a direction to the State Government of Tamil Nadu to supply the Tamil Nadu Backward Classes Commission all quantifiable data so as to enable the Commission to find out as to whether the quantifiable data supplied are sufficient and adequate enough for the justification of the 69% reservation provided for under the Tamil Nadu Act 45 of 1994.

2. At the time when the full bench headed by the Chief Justice of India, Thiru S.H.Kapadia delivered the first order, dated 13.7.2010, the Solicitor General informed the full bench that data in the form of reports were already available.

3. The Supreme Court then disposed of all the Writ Petitions pending before it challenging the Constitutional validity of the Tamil Nadu Act 45 of 1994 and sent back all the records and proceedings to the State Government, keeping the challenge to the Constitutional validity of the Act open. The further direction was that “the interim orders passed by the Supreme Court from time to time in relation to admissions to Educational Institutions shall continue to be in force and in operation for a period of one year from today’ (13/7/2010). Yet another direction of the Supreme Court was that the whole exercise must have to be completed within one year, that is to say before 12/7/2011.

4. The Tamil Nadu Backward Classes Commission, in its Report submitted to the Government on 8.7.2011, considered in an elaborate fashion a topic under Chapter 12 “Reservation under the Tamil Nadu Act 45 of 1994 – Existence of Quantifiable Data – Justifiability or Otherwise thereof”. The Commission undertook a thorough analysis of the quantifiable data in the shape of the Report of the Tamil Nadu Second Backward Classes Commission 1985 – popularly known as ‘Ambasankar Commission Report’. The Tamil Nadu Second Backward Classes Commission as pointed out by the Chairman of the Tamil Nadu Backward Classes Commission was able to fix the socially and educationally backward classes population at 67% from among the total population of the State of 5 Crores enumerated by the said Commission. The statistical data provided by the said Commission is more or less equal to the statistical data furnished by the Census of population

conducted by the Government of India in the year 1981. Therefore, the authenticity of the report of the Tamil Nadu Second Backward Classes Commission cannot at all be doubted. The data required by the Commission have also been collected from various Government Institutions, State Public Sector Undertakings and educational institutions. The Tamil Nadu Act 45 of 1994 provided for reservation to the Backward Classes at 50% [i.e., Backward Classes at 30% and Most Backward Classes at 20%]. Therefore, the quantum of reservation provided for under the said Act, viz., 50% to Backward Classes is far below the percentage of Backward Classes population in the State as enumerated by the Tamil Nadu Second Backward Classes Commission. As such, the quantifiable data available on the date when the Tamil Nadu Act 45 of 1994 was passed, was sufficient and adequate enough to justify such percentage of reservation to the backward classes under the said Act.

5. The said Act also provided for reservation at 18% to Scheduled Castes [SC] and 1% to Scheduled Tribes [ST], all totaling to 19%. The Census conducted by the Union Government in 1991 was taken into consideration for fixing the percentage of reservation to Scheduled Castes and Scheduled Tribes, which is proportionate to their population. Therefore, there cannot at all be any doubt as regards the fixity of reservation 50% to Backward Classes, 18% to Scheduled Castes and 1% to Scheduled Tribes.

6. The second order dated 3/1/2011 of the Supreme Court is relatable to exclusion of "creamy layer". The report of the Tamil Nadu Backward Classes Commission reveals that due reliance has been placed upon the nine-Judges Bench judgement of the Supreme Court in *Indra Sawhney supra*. The dictum laid down by the Supreme Court in the said case regarding "creamy layer" is that while applying the exclusion of

creamy layer to the backward classes, none from the backward classes should be deprived of the reservation benefits made available to them. Though the Tamil Nadu Act 45 of 1994 had been in existence for well over 17 years, the lakshman rekha line – as pointed out by the Tamil Nadu Backward Classes Commission in its Report submitted to Government on 8.7.2011 – has not been crossed warranting the application of “creamy layer” exclusion.

7. The report of the Tamil Nadu backward Classes Commission was placed in the meeting of the Council of Ministers held on 11.7.2011 and there was a thorough discussion on it in the meeting. The Council of Ministers of the Cabinet headed by the Hon'ble Chief Minister accepted the report of the Tamil Nadu Backward Classes Commission regarding the justification of the 69% reservation providing 30% for Backward Classes, 20% for Most Backward Classes, 18% for Scheduled Castes and 1% for Scheduled Tribes, as had been provided under Tamil Nadu Act 45 of 1994, as well as on the exclusion of Creamy Layer from the Backward Classes. The Government of Tamil Nadu also decided to continue to implement the reservation of 69% as provided in the Tamil Nadu Act 45 of 1994.

(BY ORDER OF THE GOVERNOR)

G.SANTHANAM  
SECRETARY TO GOVERNMENT

To  
The Director of Backward Classes Welfare, Chennai-5.  
The Commissioner of Most Backward Classes  
and Denotified Communities Welfare, Chennai-5.

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ABSTRACT

Tamil Nadu Backward Classes Commission – Terms of Reference of Tamil Nadu Backward Classes Commission – Additional Terms of Reference prescribed – Orders – Issued.

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Backward Classes, Most Backward Classes and  
Minorities Welfare (BCC) Department

G.O.(Ms) No.35,

Dated: 21.3.2012

Read again:

1. G.O.Ms.No.9, Backward Classes, Most Backward Classes Welfare Department, dated 15.3.93.
2. G.O.Ms.No.17, Backward Classes, Most Backward Classes and Minorities Welfare Department, dated 1.3.2006
3. G.O.Ms.No.30, Backward Classes, Most Backward Classes and Minorities Welfare Department, dated 11.7.2006

Read also:

4. From the Hon'ble Chairman, Tamil Nadu Backward Classes Commission D.O. Letter No.28/TNBCC/2012, dated 30.1.2012 and 6.2.2012.

ORDER:

In pursuance to the direction of the Supreme Court in Indra Sawhney Vs. Union of India, popularly known as Mandal Commission case, the Government have constituted a permanent Commission termed as "Tamil Nadu Backward Classes Commission" under Article 16(4) read with Article 340 of the Constitution under the Chairmanship of a retired High Court Judge in the Government Order first read above to examine and recommend

upon the request for inclusion of communities in the list of Backward Classes and Most Backward Classes and complaints of over inclusion or under in the above lists with the following terms of reference:-

- (i) The Commission shall entertain, examine and recommend upon requests for inclusion and complaints of over-inclusion and under-inclusion in the lists of Backward Classes/ Most Backward Classes.
- (ii) Periodic revision of list of Backward Classes and Most Backward Classes in this state as and when decided.
- (iii) The Commission shall base its recommendations in the light of provision contained in Article 16(4) read with relevant provisions of the Constitution of India and the various decisions of the Supreme Court bearing on the subject.

2. While issuing orders in the Government orders second and third read above for the reconstitution of Tamil Nadu Backward Classes Commission, the terms of reference of the Commission has been amplified as follows taking into consideration of the request made by minority communities for separate reservation:-

- (i) The Commission shall entertain, examine and recommend upon requests for inclusion and complaints of over-inclusion and under-inclusion in the lists of Backward Classes/Most Backward Classes.
- (ii) Periodic revision of list of Backward Classes and Most Backward Classes in this state as and when decided.
- (iii) The Commission shall base its recommendations in the light of provision contained in Article 16(4) read with relevant



provisions of the Constitution of India and the various decisions of the Supreme Court bearing on the subject.

- (iv) The Commission shall make recommendations on improved reservation for Christians, Muslims and other Minorities based on their social and educational backwardness.
- (v) The Commission shall examine and make recommendations on any other matter relating to Backward Classes that may be referred to it by Government from time to time.

3. The Chairman, Tamil Nadu Backward Classes Commission who was consulted on the request relating to the provision of internal reservation for Vanniyar Community within the reservation provided for Most Backward Classes has stated that if the State feel to sub-categorize or make internal reservation for Vanniakula Kshatriya in a specified percentage from among reservation of 20% provided to the Most Backward Classes, it may do so, after getting the recommendation based on the specific reference made to the Commission.

4. The Writ Petition (W.P.No. 14025 of 2010) seeking direction to the respondents to provide for appropriate percentage of reservation for Vanniakula Kshatriya community in the reservation of 20% granted to Most Backward Classes and others is at present pending before the High Court of Madras. It has been informed by Government in the counter affidavit filed in the above writ petition that the issue is pending before the Tamil Nadu Backward Classes Commission. Besides the Vanniakula Kshatriya community, some other communities have also represented to Government / Commission for making internal reservation within the reservation available for Most Backward Classes.

5. Keeping these in mind, the Government have decided to examine the issue relating to the internal reservation within the reservation made for Most Backward Classes / Denotified Communities by getting the recommendation of Tamil Nadu Backward Classes Commission after making a specific reference to them. Accordingly, the Government prescribe the terms of reference of Tamil Nadu Backward Classes Commission as follows:-

- (i) The Commission shall entertain, examine and recommend upon requests for inclusion and complaints of over-inclusion and under-inclusion in the lists of Backward Classes/Most Backward Classes.
- (ii) Periodic revision of list of Backward Classes and Most Backward Classes in this state as and when decided.
- (iii) The Commission shall base its recommendations in the light of provision contained in Article 16(4) read with relevant provisions of the Constitution of India and the various decisions of the Supreme Court bearing on the subject.
- (iv) The Commission shall make recommendations on improved reservation for Christians, Muslims and other Minorities based on their social and educational backwardness.
- (v) The Commission shall examine and recommend upon the demand made by various communities to provide for internal reservation within the reservation provided for Most Backward Classes.
- (vi) The Commission shall examine and make recommendations on any other matter relating to Backward Classes that may be referred to it by Government from time to time.

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6. The Tamil Nadu Backward Classes Commission is requested to examine and render necessary recommendation to Government on the request relating to the provision of internal reservation for various communities within the 20% reservation provided to Most Backward Classes and Denotified Communities.

(BY ORDER OF THE GOVERNOR)

G. SANTHANAM  
SECRETARY TO GOVERNMENT.

To  
Hon'ble Justice Thiru.M.S.Janarthanam,  
Chairman,  
Tamil Nadu Backward Classes Commission,  
No.212, Ramakrishna Mutt Road,  
Mylapore, Chennai – 4.

The Member Secretary,  
Tamil Nadu Backward Classes Commission,  
No.212, Ramakrishna Mutt Road,  
Mylapore, Chennai – 4.

.....  
.....

  
/TRUE COPY/

ANNEXURE - P/15

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**TAMIL NADU BACKWARD CLASSES COMMISSION**  
212, R K MUTT ROAD, MYLAPORE, CHENNAI 600 004.

**RECOMMENDATIONS FOR PROVIDING  
INTERNAL RESERVATION DEMANDED  
BY CERTAIN CASTES AND COMMUNITIES  
IN THE LIST OF MOST BACKWARD CLASSES  
WITHIN THE RESERVATION PROVIDED  
FOR MOST BACKWARD CLASSES AND  
DENOTIFIED COMMUNITIES**

Submitted to  
The Government of Tamil Nadu

In pursuance of G.O. Ms. No.35,  
BC, MBC & MW dept., dated 21.3.2012

**TAMIL NADU BACKWARD CLASSES COMMISSION**  
212, R K MUTT ROAD, MYLAPORE, CHENNAI 600 004.

**RECOMMENDATIONS FOR PROVIDING INTERNAL RESERVATION  
DEMANDED BY CERTAIN CASTES AND COMMUNITIES IN THE LIST OF  
MOST BACKWARD CLASSES WITHIN THE RESERVATION PROVIDED  
FOR MOST BACKWARD CLASSES AND DENOTIFIED COMMUNITIES.**

**Part – I : RECOMMENDATIONS OF THE MAJORITY MEMBERS**

**Part – II : RECOMMENDATIONS OF THE CHAIRMAN**

**Part – III : A CRITICAL REPORT OF THE CHAIRMAN**

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**TAMIL NADU BACKWARD CLASSES COMMISSION**  
212, R K MUTT ROAD, MYLAPORE, CHENNAI 600 004.

**RECOMMENDATIONS FOR PROVIDING INTERNAL RESERVATION  
DEMANDED BY CERTAIN CASTES AND COMMUNITIES IN THE LIST OF  
MOST BACKWARD CLASSES WITHIN THE RESERVATION PROVIDED  
FOR MOST BACKWARD CLASSES AND DENOTIFIED COMMUNITIES.**

## **Part – I**

# **RECOMMENDATIONS OF THE MAJORITY MEMBERS**

MINUTES OF THE MEETING OF THE TAMIL NADU BACKWARD  
CLASSES COMMISSION HELD ON 24.5.2012 AT CHENNAI

Present:

1. Hon'ble Thiru Justice M.S. Janarthanan	Chairman
2. Dr. V.M. Muthukumar	Member
3. Dr. R. Thandavan	Member
4. Prof. D. Sundaram	Member
5. Dr. S. P. Thyagarajan	Member
6. Thiru Kr Muruganandam	Member
7. Dr. M. Rajendran, IAS	Member- Secretary (Ex. Officio)

The Hon'ble Chairman, Tamil Nadu Backward Classes Commission has independently prepared the report 'Recommendations for providing internal reservation demanded by certain castes and communities in the list of Most Backward Classes within the reservation provided for Most Backward Classes and Denotified Communities' and placed the Report before the meeting of the Commission scheduled on 24.5.2012 attended by the Hon'ble Chairman and Members as mentioned above, for consideration to be forwarded to the Government of Tamil Nadu.

2. After detailed discussion, the Chairman elaborated the details of the various sections contained in the said Report to the members. Subsequently all the members were unanimous in expressing the following:

- (1) The present Report in internal reservation among MBC is in response to G.O.Ms. No. 35, Backward Classes, Most Backward Classes and Minorities Welfare (BCC) Department, dated 21.03.2012, requesting the commission to examine and render necessary recommendation to Government on the request relating to the provision of internal reservation for

various communities within the 20% reservation provided to Most backward Classes and Denotified Committees.

- (2) However, the Members have not had any time to go through such an important report with various ramifications since it was presented on table.
- (3) The context of presentation and acceptance of the validating report for continuance of 69% reservation by the Government of Tamil Nadu was of technical and legal requirement in view of impending Supreme Court direction. In addition, it was a well accepted practice by the entire Tamil Nadu without scope for any controversy among various sections of the population of the state of Tamil Nadu. The entire Commission unanimously endorsed the Report and submitted it to the Hon'ble Chief Minister of Tamil Nadu which resulted in a landmark action taken by the Government of Tamil Nadu in issuing a G.O. within the shortest time after Cabinet approval.
- (4) On the other hand, in the context of consideration of the present Report in internal reservation, there is no emergency whatsoever. On the other hand, the Commission Members apprehend several limitations and constraints to the Commission as well as to the Government of Tamil Nadu. Hence,
  - (a) the issue itself is highly sensational which may lead to possible agitations by various community bodies coming under MBC and DNC;
  - (b) The Commission do not have any updated caste-based statistics as it is presently existing in Tamil Nadu as on 2011-12. In this context, the Commission itself has already requested the Government of Tamil Nadu for undertaking a



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caste-based Census by providing a well- structured format for conducting the Census by Tamil Nadu;

- (c) The current situation of the country is, Parliamentary elections could be anticipated at any point of time and it may not be prudent to provide a report to the Government of Tamil Nadu which may result in opposition by the affected segments;
- (d) The members felt that their term of office is scheduled to be over by July 2012 and at this point of time, providing a Report on far-reaching implications may not be advisable.

3. Based on the above, all the Members have suggested to the Hon'ble Chairman to provide an interim reply to the Government of Tamil Nadu requesting the Government to provide the updated caste-based Census data by conducting the Census process in the well – structured format submitted by the Commission which will be more transparent and suit even legal scrutiny.

Sd/-24.5.2012

Sd/-  
24.5.2012

A SOCIOLOGICAL NOTE

343

By

Prof D Sundaram (dsundaram@gmail.com)  
Member Tamilnadu Backward Classes Commission

On

INTERNAL RESERVATION AND THE MOST BACKWARD CLASSES  
IN TAMILNADU

24-05-2012.

Although, I, with reluctance, have been going along with the recommendations of TNBCC for the Sub- Classification of the backward classes on various occasions in the last five years, I believe that the SUB CATEGORISATION/InternalReservation/Sub-Classification for reservation benefits to the backward classes as provided in the IndraSawhney case judgment needs to be critically evaluated in terms of the implementation of the reservation policy with an alternative pragmatism in the approaches to meet the aspirations for the equality in access among the various BC and MBC in Tamilnadu.

SO, the approach of Law and Jurisprudence of Backward classes should strive for an effective RIGHTS- BASED APPROACH, i.e towards a transition of the article 15(4) and 16(4) from ENABLING RIGHTS TO ENFORCEABLE RIGHTS.

Hence, the LEGAL entitlements available under Reservation policy programme should have an adequate impact on Backward Classes' social development to the extent that they meet on how the responsibility of STATE and SOCIETY is in looking into the ways in which the reservation in EDUCATION and EMPLOYMENT sectors (for which Article 15(4) and the Article 16(4) are striving for) as resources through the backward classes welfare policy re-location of the Human Resources Development efforts equitably.

As a sociologist member of TNBCC, I wish to state that all these have to strive as a "programme of the SOCIOLOGISTIC SCHOOL of Sociological Jurisprudence which should seek to enable and compel

lawmaking, whether legislative or judicial or administrative, and also of the development, interpretation and application of legal perspectives and also judicious endeavours to take more complete and intelligent account of the SOCIAL FACTS upon which law and jurisprudence must proceed and to which it is implied". (See Roscoe Pound's mention of this in his book titled: Pound, Roscoe. Jurisprudence. St. Paul, Minn.: West Publishing Co., 1959 by borrowing it from the Holmes on "The Path of Law" (1899), 10 Harvard Law review, 457,467)

Thus, I consider the Backward classes Justice system and the Legal instruments should enable the reservation system accessible to all the men of Backward classes as a priority characterised as RIGHT to every citizen belonging to Backward classes rather than meddling with the issue of the retrograde prescription of SUB-CATEGORISATION. Enough has been said by me in the case of Internal Reservation for Arunthathiyar as a consultant sociologist. So, in this age of Information, Participation and Justice in Decision-making of the Good Governance, the reservation policy has to address the status of

- Access to information on backward class entitlements to the socially disadvantaged group,
- Participation of the socially disadvantaged group through the quota, and
- Enabling Legal and Jurisprudence provisions to the backward classes citizens

By asking questions:

- What have the governments done and
- What do they still need to do to create effective RIGHT-BASED systems of backward classes' participation in their access to Education and Employment towards the cause of the Social Development by addressing the issue of SUPPLY -SIDE

APPROACH to meet the DEMAND SIDE of the RESERVATION POLICY?

- It may appear utopian for some; I feel, instead that any solution for the justice in ACCESS issue of the BC and MBC should be implementable without any hassels.

Accordingly, I consider the quest of the representations for INTERNAL RESERVATION by the classes and communities of MBC'S in Tamilnadu reflects the emerging responsive society and shows that the classes and communities forming themselves as association for their welfare and development independently to monitor the backward classes participation systems. In a way these are the engines for implementation of reservation policy.

As this quest has to be seen positively by the governance, legal and judicial fraternity and society, there is no denying the fact that the policy of reservation in its implementation has CHALLENGING problems in providing the access principles in its practice to the satisfaction of all the social groups in Backward Classes and in Most Backward Classes.

To address these challenges, I as a sociologist member, have sought the details of the available Quantitative data on MBC that have represented for Internal Reservation through my letter dated 07-05-2012. The TNBCC was kind enough to provide the details through its letter No, 137.TNBCC/2012 Dated 14-05-2012 and copied to all the members of the TNBCC. As I was keen to look into the voluminous details of the representations and also wanted to have the quantifiable data as provided by the Government of Tamilnadu to prepare the report on Justification of the 69 % reservation, I have addressed another letter dated 19-05-2012 to the Chairman of TNBCC. On their permission, to peruse the details of the representation, I visited the office of the TNBCC on 22-05-2012. Accordingly, I looked into the details:

1) on justification made out by the MBC Communities for internal reservation and

But, I could not look into the quantifiable data on reservation benefits as obtained by the commission from the Government of Tamilnadu in responding the Supreme court order dated 13-07-2010 in connection with the case challenging the quantum of reservation made under the Tamilnadu act 45 of 1994 for justifying the extent of 69% reservation. The quantifiable data are yet to be classified, as I am inclined to believe.

On my perusal of the 30 representation by the various MBC on Internal reservation, I found that the following twelve communities namely

1. Maruthuvar,
2. Navithar,
3. SalavaiThoizilalar,
4. Meenavar,
5. ErraGollar,
6. ThotiyaNaikar,
7. Isai Vellalar
8. Kulalar,
9. Salaivaiyalar,
10. Vannar,
11. Narikuravar and
12. Vanniyar,

have represented for Internal Reservation.

Most of these representations were made to the then Deputy Chief Minister on various dates ranging from 2-09-2008 to 10-11-2011, I.E well before May 2011.

Among them, three communities namely Vanniyar, Maruthuvar and Meenavar have repeated their representations on 6-06-2011, 26-08-2011, 5-10-2011 and on 12-12-2011.

All these representations have reflected their justifiable reasons for Internal Reservation by stating that these communities cannot compete for the reservation benefits with the other MBC social groups who dominate in enjoying the reservation benefits.

Thus, each of these has asked for Internal Reservation ranging from 2% to 15% by these thirteen groups.

In total, the request for internal reservation by all these twelve groups comprising 83,19,572 persons in total population works out to 47% of the reservation as per the TNBCC's enclosure of the Particulars of representation received from the castes and communities in Most Backward Classes to me on 14-05-2012, (see the particulars as received by you in the TNBCC letter No 137 dated 14-05-2012)

All these quantifiable data provided by TNBC through its letter dated on 14-05-2012 are based on data of the well-documented Commissions report by Thiru J A Ambasankar in the year 1983.

A glance into the ratio of appointments data-matrix from the same 1983 J A Ambashankar's commission and as used by TNBCC for its report on Justification for 69% reservation shows as follows:

- Kulalar with a population of 30,179 has a ratio of appointments as 0.875.
- Maruthuvar  
Navithar,  
Mangala,  
and other related  
Social groups with a population of 426,427 have a job ratio of 0.8957,
- Narikuravar with a population of 20,162 has a ratio of appointments 0.6791.
- Vanniyars with a population of 6,504855 has a ratio of appointments as 0.5854.
- ThottiaNaikar and Other related

social groups with a population of 271,318 have a ratio of appointments as of 0.2341 and

- Vannarand

related social groups with a population of 445,637 have a job ratio as of 0.5729.

As for the other SIX MBC social groups which represented for internal reservation, there is no quantifiable data-matrix on Ratio of Appointments, although the same document of JA Ambashankar has similar data -matrix for other communities of BC and MBC.

Similarly, a data-matrix on the split details of the ratio of appointments for these representationists under the Group I, Group II, Group III and Group IV are not available in the document although the data- matrix of other socio-economic and educational status are available in detail for the same groups.

But, a Statistical expert can formulate a similar data-matrix from among the quantifiable data sources as supplied by our Government of Tamilnadu... for preparing the report on Justification of the 9% reservation and submitted by the TNBCC.

With the data -matrix of 1983 alone, I am of the opinion that it will not be pragmatic for TNBCC to have a responsive solution for the request for internal reservation by those MBC communities who say that they cannot compete for the reservation benefits with the other MBC social groups who dominate in enjoying the reservation benefits.

So, the TNBCC should use the available quantitative data supplied by the Government of Tamilnadu for finding a solution for Internal reservation. Accordingly, there is a need for;

1. Looking into the quantifiable data as supplied by the government of Tamilnadu (lying in TNBCC) by a statistical expert and by the collation of the current survey data on castes. This

exercise can be compared the data-matrix of J A Ambashankar's 1983 commission report.

2. collecting ethnographic data of these social groups in today's context (besides the textual representation) on the social hierarchical variation along with the differentials of socio-economic and educational status of these social groups as was done by J A Ambashankar for his report in 1983 for grouping these representationists into a viable groups of horizontal hierarchically similarity for Internal reservation.

(In this regard, it will be a fruitful endeavour to study the reports of the various backward classes commissions in classifying the backward classes into various social groups with maximum homogeneity and with a minimum heterogeneity by Andhra Pradesh and Karnataka as references).

3. a wider consultation with the practitioners of the Reservation policy namely the Vice Chancellors of the Universities Directors of Institutes, Chairman and Members of various recruitment commissions and agencies both at the center and state level and the representationists along with the non representationists of the communities and classes, bureaucrats in various departments and more particularly of the personnel and administrative reform departments, of Government of Tamilnadu and Government of India.

(In this regard the current practice of Roster System and the conversion of it from 100 point into 200 points and the Carry Forward System in allocating the vacancies in the organisations and institutions to the various backward class groups may be referred into while having consultations of such type).



4. Looking into the representations for internal reservation from the BC's also and getting them included by the commission through a suitable suomotoquasi judicial action and by the wider publicity to all the communities under the BC and MBC on this subject in order to get representations from the different communities.

5. Looking into the scope for enhancing the SUPPLY-SIDE of the employment opportunities and educational opportunities to meet the justifiable increased DEMAND-SIDE in these sectors under the reservation policy.

6. Looking into the socio-legal implications of all these different access principles finally in order to avoid the various legal glitches in implementation practice of the reservation policy.

All these, may provide a basis for dialogue and action to improve the level implementation of the reservation policy. These will focus on closing the gap between law on reservation and practice.

These efforts will enable us to identify the strengths and weaknesses of specific approach of the various modes of implementation in utilising the reservation policy provisions.

- So, I believe that all these will throw open for a pragmatic and comprehensive solution instead of limiting to the Internal Reservation mode solution alone.
- These will respond to the quest for equitable access by the various communities in BC and MBC. to make informed personal choices and encourages improved performance of the reservation policy by government.

Prof D Sundaram,  
Sd/-  
24.05.2012  
Member, TNBCC

**TAMIL NADU BACKWARD CLASSES COMMISSION**  
212, R K MUTT ROAD, MYLAPORE, CHENNAI 600 004.

**RECOMMENDATIONS FOR PROVIDING INTERNAL RESERVATION  
DEMANDED BY CERTAIN CASTES AND COMMUNITIES IN THE LIST OF  
MOST BACKWARD CLASSES WITHIN THE RESERVATION PROVIDED  
FOR MOST BACKWARD CLASSES AND DENOTIFIED COMMUNITIES.**

## **Part – II**

**RECOMMENDATIONS OF  
THE CHAIRMAN**

**352**

**TAMIL NADU BACKWARD CLASSES COMMISSION**  
212, R K MUTT ROAD, MYLAPORE, CHENNAI 600 004

**RECOMMENDATIONS FOR PROVIDING  
INTERNAL RESERVATION DEMANDED BY  
CERTAIN CASTES AND COMMUNITIES IN THE  
LIST OF MOST BACKWARD CLASSES  
WITHIN THE RESERVATION PROVIDED  
FOR MOST BACKWARD CLASSES AND  
DENOTIFIED COMMUNITIES**

Submitted to  
The Government of Tamil Nadu

On 24<sup>th</sup> May 2012

By

Justice Thiru.M.S.Janarthanam,  
Judge, Madras High Court (Retd.),  
Chairman, Tamil Nadu Backward Classes Commission  
and Members of the Commission

## **RECOMMENDATIONS FOR PROVIDING INTERNAL RESERVATION DEMANDED BY CERTAIN CASTES AND COMMUNITIES IN THE LIST OF MOST BACKWARD CLASSES WITHIN THE RESERVATION PROVIDED FOR MOST BACKWARD CLASSES AND DENOTIFIED COMMUNITIES**

### **1. PUNCTILIOUS INTRODUCTION**

- 1.1 Reservation is well recognized, in the Indian context, as a tool of affirmative action for upliftment of backward classes of citizens, including Backward Classes, Most Backward Classes, Denotified Communities, Scheduled Castes and Scheduled Tribes. The cause of reservation can be traceable to the prevalent social inequalities, discriminatory practices, deprivation of human dignity and respect, inability of backward classes and depressed classes to take part in education, domination of the socially higher segment of the society, disadvantaged section forming the majority of the population, inability of unequals to compete with equals, and so on. The reservation policy of the State not only endeavours to liberate the backward classes and disadvantaged segments of the society from all such discriminatory practices and inequalities prevailing in the caste-driven Indian society – which follows social stratification in an entirely different fashion when compared to any other part of the world, – but also facilitates their advancement and upliftment.
- 1.2 The reservation is further envisaged as a capacity building measure for resolution of conflict within the society. The social justice through the system of reservation has also been accepted as a policy for inclusive

growth of the nation. It is equally important that there is equality in distribution of public goods among various segments of the society.

- 1.3 In so far as maintenance of equality in distribution of good and services of the public authorities, the Government should always find innovative policy measures to implement them for social inclusion. This report is one such measure attempted to advise the Government for bringing in innovation in the reservation policy of the State.
- 1.4 The recent data on caste enumeration in the State has been collected in 1980's. It is true that the population is growing up decade after decade. Until such other caste based data relevant for the purposes of the Commission is made available, usage of the existing caste based data along with such other current empirical data supporting a policy proposed for implementation can, by no stretch of imagination, be construed as bad in the eye of law. The Commission has taken reasonable care to sift and analyse the available data to the best advantage of the State, by avoiding redundancies, if any. The judgements of the superior Courts and decisions of the Union in the matter of reservation to backward classes are being rendered/taken mainly based on thematic legal principles on demands of the people with no or little caste based statistics covering entire nation. In such state of affairs the data available in Tamil Nadu relating to social, educational and economic status of all castes/communities in the determination of the backwardness of all such castes/communities, cannot in any way be seen as a lacuna – factual, legal or Constitutional – in the process of making a policy decision for benefiting the larger segment of the Society. It may not be out of place to

mention that the Socio-Economic and Caste Census, 2011, which is under progress in the State is practically of no use from the legal point of view in the determination of backwardness of castes/ communities so as to enable the State to revise, alter or modify the quantum of existing percentage of reservation to BC, MBC, SC and ST as mandated by the Supreme Court although it may be a best suitable device for profiling of below poverty line (BPL) families in the State. Pertinent it is to mention here that necessary reports therefor have already been sent to the Government. It is equally open for the State Government to review the policy of reservation after conducting caste based social, educational and economic survey covering the entire populace of the State. In this regard, the Commission has all along been writing to the Government from the date of its establishment.

- 1.5 This report has been conceived after keeping in mind all the relevant historical, sociological, constitutional, legal, factual and statistical data materials made available to and perused by the Commission.
- 1.6 The Chapter 2 of the report, following this introduction, enumerates all innovations made in the reservation policy of the State for the benefit of the backward classes of citizens, from time to time. In Tamil Nadu, the origin of such affirmative actions can be traced to 1920's, when the Backward Classes of Hindus were granted reservation in permanent employment under the Government. The post-Constitutional era of reservation in Tamil Nadu witnessed very many innovations in delivery of social justice to the backward classes of citizens. The legislation of the Tamil Nadu Act 45 of 1994 soon after the delivery of judgement of the

Supreme Court in *Indra Sawhney Vs. Union of India* (popularly known as Mandal case) is a benchmark in the post-Constitutional era of reservation. The reason for the implementation of 69% reservation in this State continuously without cessation right from 1992, the year of delivery of the judgment in *Indra Sawhney's* case, cannot be any one other than the timely astute action taken by the Hon'ble Chief Minister, now in the mantle of office by causing the Tamil Nadu Act 45 of 1994 being placed under the Ninth Schedule of the Constitution of India, under Article 31B, by way of the Constitution (Seventy-sixth Amendment) Act, 1994.

- 1.7 The genesis and evolution of the present day list of MBC and DNC have been traced in Chapters 3 and 4. The report under Chapter 5 reveals the nature of quantifiable data materials used for analysis. The legal validity and power of the State to make such policy relating to internal reservation within MBC and DNC has been discussed in Chapter 6. The Terms of Reference issued to the Tamil Nadu Backward Classes Commission is indicated in Chapter 7. The analytical methodology and feasibility analysis made in pursuance of the terms of reference and the strategic option evolved from such an analysis are depicted under Chapter 8. The option derived under Chapter 8 is recommended to the Government in specific terms in Chapter 9.
- 1.8 The Annexures give the information on the steps taken by the Commission to conduct a *prima-facie* feasibility study and to advise on the necessity of specific reference by the Government to consider the demands made by certain castes/communities within MBC and DNC requesting for internal reservation. Model legislation is appended in

Annexure IV to assist the Government to synergise the recommendations made by this Commission in the report.



## 2. PROGRESSION IN DISTRIBUTION OF RESERVATION AMONGST DIFFERENT SEGMENTS OF THE SOCIETY

### 2.1 Distribution of pattern and quantum of reservation prior to coming into force of the Constitution of India

2.1.1 The State action on reservation has commenced successfully after the Justice Party won the 1920 Election in Madras. The first step the Government took for increase of representation from the classes or communities other than Brahmin community, in permanent service of the State, was passing of the First Communal Order in G.O.No.613, Public department, dated 16.9.1921 (when majority of the appointments were held by Brahmin community). The order also directed submitting of half-yearly return on representation of Brahmin, Non-Brahmin Hindus, Indian Christians, Muhammadans, Europeans and Anglo Indians and others in permanent service of the Government. In order to secure such information, the promotions were made, during 1922, not by seniority, but by selection. The Committee appointed to enquire into and report on the working of the system of communal representation did not submit any report, despite functioning for three years.

2.1.2 In G.O.Ms.No.1071, Public department, dated 4.11.1927, the following distribution of quantum of reservation was ordered for appointment under government service.

		<u>Reservation (%)</u>	<u>Population (%)</u>
1. Non Brahmins	5 out of 12	41.67	72
2. Brahmins	2 out of 12	16.67	3
3. Anglo-Indian and Christians	2 Out of 12	16.67	4
4. Muhammadans	2 out of 12	16.67	7
5. Depressed Classes	1 out of 12	8.33	14

Under the above system the backward classes of Hindus did not derive any benefit. The Madras Provincial Backward Classes League, an Association representing the various Backward Hindu communities, pressed for a separate quota for the backward members. For the first time in the history of appointments to public services the group of Backward Hindus came to be recognised and a separate allocation was made in G.O. No.3437, Public Services, dated 21.11.1947 by giving separate quota to the Backward Hindus. The Government also increased the then existing representation of 1 out of 12 allowed for depressed classes. In the place of the earlier allocation of the unit of 12 appointments a revised allocation of a unit of 14 appointments as shown below was ordered:-

		<u>Reservation (%)</u>	<u>Population (%)</u>
1. Non-Brahmin Hindus	6 out of 14	42.86	22
2. Backward Hindus	2 out of 14	14.29	50
3. Brahmins	2 out of 14	14.29	3
4. Harijans	2 out of 14	14.29	14
5. Anglo Indians / Indian Christians	1 out of 14	7.14	4
6. Muslims	1 out of 14	7.14	7

## 2.2 Distribution of pattern and quantum of reservation after coming into force of the Constitution of India

2.2.1 The Constitution as originally passed contained Article 16(4). Soon after the Constitution came into force the Government of India suggested to the State Government that the existing system of recruitment for public services on communal basis should be abrogated at an early date as it was inconsistent with the letter and spirit of Article 16 of the Constitution and that suitable provisions within the meaning of Article 16(4) and Article 335 of the Constitution should be made for protecting the interests of the weaker sections of the Society. There were also objections from the

public to the communal system followed in the matter of admission of students to the Professional Colleges.

2.2.2 The year 1951 marks the watershed in the history of Backward Class movement. When the Constitution of India came into being, there was opposition to the application of the communal Government order. The matter was taken up to the Supreme Court, in the case of educational institutions in *Champakam Dorairajan Vs State of Madras*, similarly in *Venkataramana Vs State of Madras*, the same matter was agitated in respect of its application to appointments in public services. In both the cases Supreme Court struck down the communal Government order as unconstitutional. Following this, there were State-wide protests by various communities included in the Backward Classes list. In Madras City, Thanthai Periyar organised mass processions and meetings and observed "Communal Government Order day". These protests forced the State Government to take up the matter with the Centre. This resulted in the first amendment to the Constitution introducing Article 15(4).

2.2.3 The Supreme Court judgement in *Venkataramana Vs State of Madras* made the Government to revise the then existing rule relating to representation of communities in public services. Social and Educational backwardness alone became the criteria for reservation in public services. Under the revised system introduced in G.O. No.2432, Public (Services) department, dated 27.9.1951, in a cycle of 20 appointments 3 were reserved for Scheduled Castes and Scheduled Tribes, 5 for Backward Classes and rest were filled in by open competition. A certain sections of

Mohammedans and Anglo Indians and Christians were included among the Backward Classes. This amounts to a reservation of,-

Scheduled Castes and Scheduled Tribes	..	15%
Backward Classes	..	25%
Open Competition	..	60%

If qualified and suitable candidates were not available among the Scheduled Castes and Scheduled Tribes and Backward Classes in their respective turns they simply lapsed. Candidates belonging to Scheduled Castes and Scheduled Tribes and Backward Classes were also eligible for selection against the open competition turns on the basis of merit without prejudice to the turns reserved for them.

2.2.4 At the time of State Re-organisations, Kanniyakumari District and Shencottah Taluk of Tirunelveli District were added into Tamil Nadu from Travancore Cochin State. The concessions enjoyed by those of the communities in Travancore Cochin State were preserved and continued to those communities in Kanniyakumari District and Shencottah Taluk. Hence a separate list was maintained for those transferred territories and their special identity was maintained. Four of those communities from the migrated territory were treated as Backward Classes only for the purpose of reservation of seats in educational institutions and for the posts in public services. After the reorganisation of the State and taking into account the population of Scheduled Castes and Scheduled Tribes the reservation of appointments was modified in G.O. Ms. No.2643, Public (Services) department, dated 30.12.1954 as follows:-

Scheduled Castes and Scheduled Tribes	..	16%
Backward Classes	..	25%
Open Competition	..	59%

2.2.5 The present list of Most Backward Classes owes its origin to a representation made in 1954 by the Tamil Nadu Washermen Federation to the then Chief Minister, Thiru K. Kamaraj. The request of the Washermen Federation was that the facilities extended to them as a Backward Class were not adequate and that they should be included in the list of Scheduled Castes. As Washermen were not considered in the State as absolutely untouchable, the Government did not think it proper to accept their request. The Chief Minister desired that though the caste may not be included in the Schedule, their request for concessions on a par with the Scheduled Castes should be examined and he also directed that there may be several Backward Castes who may be in a similar position and ordered the various departments concerned to report on the subject. On the basis of the investigation so ordered in 1954, a list of castes which can be treated as "More Backward" among the Backward Classes was prepared. Support to this proposal came from the report of the Backward Classes Commission, published in 1956 (Khalelkar's Commission), which identified certain castes as more backward and suggested that preference may be given to them over other castes in the list of Backward Classes for the grant of educational concessions, etc. The Government accordingly issued directions in G.O. Ms. No.353, Industries, Labour and Co-operation department, dated 31.1.1957 recognising a list of Most Backward Classes for whom educational concessions alone need be granted for the present as admissible to Scheduled Castes from the academic year 1957-58. The number of communities in the list of Most Backward Classes at that time was 58.

2.2.6 In pursuance of the recommendation of Tamil Nadu Backward Classes Commission constituted under the chairmanship of Thiru.A.Sattanathan (First Backward Classes Commission in the State), and the recommendation of the High Level Committee, the Government revised the percentage of reservation in the year 1971 as follows:

Scheduled Castes and Scheduled Tribes	..	18%
Backward Classes	..	31%
Open Competition	..	51%

2.2.7 The existing list of Backward Classes in the State of Tamil Nadu owes its origin to the list of Backward Classes as approved by the Government in 1972, which was an outcome of the recommendations of the First Backward Classes Commission. At the time of formation of the above Commission, there were three lists relating to Backward Classes with number of inconsistencies separately maintained by three departments viz., the Backward Classes Department (for the purpose of award of Scholarship etc.), the Education Department (for the purpose of grant of fee concessions under Rule 92 of the Madras Educational Rules) and the Tamil Nadu Public Service Commission (for the Recruitment to Public Services).

2.2.8 The Sattanathan Commission decided to do away with the practice of maintaining separate list by different authorities and made the Backward Classes Department, as the only single authority for the maintenance of the list of Backward Classes in future and made recommendation in this regard. The list of Backward Classes finally drawn by the Commission had undergone certain mutations culminating in elimination of certain castes / communities as stated below:

1. Deletion of Communities which were figuring in the list of Scheduled Castes / Scheduled Tribes.
2. Deletion of Communities which were not found in the State of Tamil Nadu.
3. Elimination of redundancies and repetitions and giving alternative descriptions of certain communities.
4. Amplifying the description of certain communities; and
5. Clubbing together certain allied communities.

Based on the recommendation of the above Commission, the Government included certain communities in the list of Backward Classes from time to time. A consolidated list incorporating those communities was issued in G.O. Ms. No.437, Social Welfare Department, dated 15.5.1972. Annexure III of the said G.O. contained 39 communities in the list of Most Backward Classes. (Annexure I listed the Backward Classes throughout the State; Annexure II listed Backward Classes in Kanniyakumari district and Shencottah taluk of Tirunelveli district). The revised list was given effect from the academic year 1971-1972 for the purpose of educational and other concessions and reservation of seats in educational institutions. For the purpose of reservation in recruitment to public services, the list was given effect from the date of the order.

- 2.2.9 The separate list of Backward Classes maintained from 1954 for the communities in Kanniyakumari district and Shencottah taluk of Tirunelveli district was merged with the Backward Classes throughout State with specific mention about the area/territorial restriction.

2.2.10 The Sattanathan Commission, among other things, observed that the more affluent and advanced sections of Backward Classes themselves monopolized all concessions. It suggested superimposition of an annual income limit of Rs.9,000/- for eligibility to get the concession. The Government superimposed the income limit of Rs.9,000/- per annum to become eligible for the Backward Classes concessions including reservation in G.O. Ms. No.1156, Social Welfare department, dated 2.7.1979. The Government reviewed its policy in consultation with all parties and removed this income limit in G.O. Ms. No.72, Social Welfare department, dated 1.2.1980. While removing the income ceiling, an upward reservation for Backward Classes from 31% to 50% was ordered in G.O. Ms. No.73, Social Welfare department, dated 1.2.1980 taking into account the addition of certain communities in the list of Backward Classes and the total population of Backward Classes. The total reservation comes to 68% as follows:

Scheduled Castes and Scheduled Tribes	..	18%
Backward Classes	..	50%
Open Competition	..	32%

2.2.11 The Government constituted the Tamil Nadu Second Backward Classes Commission, vide G.O. Ms. No.3078, Social Welfare, dated 13.12.1982, under the Chairmanship of Thiru J.A.Ambasankar, I.A.S.(Retired) to review the existing list of Backward Classes and for recommending measures for their upliftment. The total population of Backward Classes as determined by the Tamil Nadu Second Backward Classes Commission was approximately 67% of the total population of the State. The Majority Report of the Commission recommended that in view of the above percentage, the existing reservation of 50% for Backward Classes may be



continued and needs no modification. The Government accepted the above recommendation and issued orders for the continuance of 68% reservation in the State, namely 50% for BC, and 18% to SC and ST which is proportionate to their population, in G.O. Ms. No.1565, Social Welfare, dated 30.7.1985. The Government also approved the list of Most Backward Classes in G.O. Ms. No.1566, Social Welfare Department, dated 30.7.1985 and list of Denotified Communities in G.O. Ms. No.1567, Social Welfare department, dated 30.7.1985.

2.2.12 The issues relating to reservations have been the subject of enquiry by the Backward Classes Commissions appointed from time to time in this State. The First Backward Classes Commission (Sattanathan Commission) as well as the Second Backward Classes Commission (Ambasankar Commission) clearly brought out in their report that several communities among those included in the list of Backward Classes did not receive their due share in educational and employment opportunities while a small number of communities in the list of Backward Classes benefited to a relatively large extent. The Most Backward Classes and the Denotified Communities who constitute a large proportion in the population of Backward Classes made representations for special reservation to Most Backward Classes and Denotified Communities amongst Backward Classes. Government issued orders in G.O. Ms. No.242, Backward Classes Welfare, Nutritious Meal Programme and Social Welfare department, dated 28.3.1989 providing 20% reservation for Most Backward Classes and Denotified Communities from out of the 50% reservation then available for all Backward Classes leaving the remaining

30% for Backward Classes. The reservation was distributed among the various categories as given below:

Scheduled Castes and Scheduled Tribes	..	18%
Most Backward Classes and Denotified Communities	..	20%
Backward Classes	..	30%
Open Competition	..	32%

2.2.13 Based on the directions of High Court in W.A.No.1692 of 1987 the Government issued orders in G.O. Ms. No.1090, Adi dravidar and Tribal Welfare Department, dated 22.6.90 providing 1% separate reservation for Scheduled Tribes taken from 32% reservation then available for Open Competition. Thus the 69% reservation had been in vogue in the State since 1990.

Scheduled Castes	..	18%
Scheduled Tribes	..	1%
Most Backward Classes and Denotified Communities	..	20%
Backward Classes	..	30%
Open Competition	..	31%

2.2.14 Consequent on the judgement of the Constitution Bench of the Supreme Court, delivered on 16.11.1992 in *Indra Sawhney Vs Union of India* (AIR 1993 SC 477), popularly known as Mandal Commission cases, the State underwent turmoil by way of litigations and agitations from pro and anti reservationists. The entire State of Tamil Nadu was deeply disturbed by the far-reaching implications of the Supreme Court judgment restricting the quantum of Reservation to 50%. To tide over the crisis, the Tamil Nadu Legislative Assembly, in its session on 31.12.1993, passed unanimously the Tamil Nadu Backward Classes, Scheduled Castes and Scheduled Tribes (Reservation of seats in Educational Institutions and of appointments or posts in the services under the State) Bill, 1993 seeking to retain 69% reservation, taking recourse to Article 31B of the Constitution of India. The President of India gave his assent to the above

Bill on 19.7.1994 and the Bill became an Act (Tamil Nadu Act 45 of 1994). The Tamil Nadu Act 45 of 1994 has been included in the Ninth Schedule to the Constitution on 31.8.1994 by the Constitution (Seventy sixth Amendment) Act, 1994 enacted by the Parliament to get protection under Article 31B of the Constitution. After getting the assent given by His Excellency the President of India to the Tamil Nadu Act 45 of 1994, the Government notified the lists of classes of citizens of socially and educationally backward including the Most Backward Classes and the Denotified Communities under clause (a) of section 3 of the said Act in G.O.Ms.No.28, Backward Classes and Most Backward Classes Welfare department, dated 19.7.1994. (Notification No.II(1)/BCMBC/62(a)/94, dated 19.7.1994.).

2.2.15 Consequent on the bifurcation / trifurcation and renaming of certain Districts, Government published notification under clause (a) of section 3 of Tamil Nadu Act 45 of 1994 amending the Backward Classes and Most Backward Classes Welfare Department Notification No.II(1)/BCMBC/62(a)/94 Part II - Section 1, TNGG Extraordinary dated 19.7.1994 in relation to name of certain Districts in G.O.Ms.No.100, Backward Classes and Most Backward Classes welfare department dated 24.11.1997. Similarly, in pursuance of bifurcation of Dharmapuri District and Krishnagiri District in G.O.Ms.No.570, Revenue department, dated 20.11.2003, Government published notification amending the Backward Classes and Most Backward Classes welfare department Notification No.II(1)/BCMBC/62(a)/94 Part II Section1, TNGG Extraordinary dated 19.7.1994 in relation to Dharmapuri District in G.O.Ms.No.78, Backward

Classes, Most Backward Classes and Minorities welfare department, dated 4.6.2005.

2.2.16 The Tamil Nadu Backward Classes, Scheduled Castes and Scheduled Tribes (Reservation of Seats in Private Educational Institutions) Act, 2006 to provide for reservation of seats in private educational institutions in the State for the Backward Classes of citizens and for persons belonging to the Scheduled Castes and the Scheduled Tribes in the State of Tamil Nadu [Tamil Nadu Act 12 of 2006] was enacted providing for reservation similar to the Tamil Nadu Act 45 of 1994.

2.2.17 The Tamil Nadu Backward Classes Commission constituted, w.e.f. 15.3.1993, for the purpose of advising and recommending the Government on inclusion or otherwise of castes / communities in backward classes, most backward classes, in pursuance of the judgement of the Supreme Court in Mandal Cases, was entrusted with an additional 'terms of reference', viz., the Commission shall make recommendations on improved reservation for Christians, Muslims and other Minorities based on their social and educational backwardness, vide G.O.Ms.No.30, Backward Classes, Most Backward Classes and Minorities welfare department, dated 11.7.2006. The recommendations of the Tamil Nadu Backward Classes Commission on the said terms of reference was accepted by the Government and The Tamil Nadu Backward Class Christians and Backward Class Muslims (Reservation of seats in Educational Institutions, including Private Educational Institutions and of Appointments or Posts in the Services under the State) Act, 2007 [Tamil Nadu Act 33 of 2007] was legislated for providing 3.5% reservation each

to Backward Class Christians and Backward Class Muslims from out of 30% reservation for Backward Classes. Consequent to the provision of 3.5% reservation to each of the Backward Class Muslims and Backward Class Christians, in supersession of the Notification No.11(1)/BCMBC/62(a)/94 dated 19.7.1994 of the Backward Classes and Most Backward Classes welfare department, the Government notified the list of Backward Classes, Backward Class Christians, Backward Class Muslims, Most Backward Classes and Denotified Communities in G.O.Ms.No.85, Backward Classes, Most Backward Classes and Minorities welfare department, dated 29.7.2008 [Notification No.II(1)/BCMBCM/W/36(a)/2008 dated 5.9.2008]. Then the distribution of reservation stood as,-

Scheduled Castes	..	18%
Scheduled Tribes	..	1%
Most Backward Classes and Denotified Communities	..	20%
Backward Classes of Christians (BCC)	..	3.5%
Backward Classes of Muslims (BCM)	..	3.5%
Backward Classes, other than BCC & BCM	..	23%
Open Competition	..	31%

But, the act was amended consequent on the request made by the representatives of Christian communities; the 3.5% reservation provided to the Backward Class Christians was withdrawn and they are allowed to avail the benefit from the 26.5% reservation available for Backward Classes other than Muslims (Tamil Nadu Act No. 51 of 2008).

Scheduled Castes	..	18%
Scheduled Tribes	..	1%
Most Backward Classes and Denotified Communities	..	20%
Backward Classes of Muslims (BCM)	..	3.5%
Backward Classes, other than BCM	..	26.5%
Open Competition	..	31%

2.2.18 The Tamil Nadu Arunthathiyars (Special Reservation of seats in Educational Institutions including Private Educational Institutions and of

appointments or posts in the Services under the State within the Reservation for the Scheduled Castes) Act, 2009 [Tamil Nadu Act 4 of 2009] was enacted to provide for reservation to seven castes in Scheduled Castes list, namely Arunthathiyar, Chakkilian, Madhari, Madiga, Thoti, Pagadai and Adi-Andhra, on preferential basis to an extent of sixteen percent (i.e., about 3% from out of 18%) from out of the reservation available for the Scheduled Castes in admission to educational institutions including private educational institutions and for appointments to the Public Services.

2.2.19 The Writ Petitions challenging the validity of quantum of reservation provided for in the Tamil Nadu Act 45 of 1994 were disposed of by the Supreme Court, vide order dated 13.7.2010, with the following directions:-

"Subsequent to the filing of the above Writ Petitions, Articles 15 and 16 of the Constitution have been amended vide Constitution (Ninety-third Amendment) Act, 2005, and Constitution (Eighty-first Amendment) Act, 2000, respectively, which Amendment Acts have been the subject-matter of subsequent decisions of this Court in the cases of *M.Nagaraj & Ors. Vs. Union of India & Ors* [2006 (8) S.C.C. 212] and *Ashoka Kumar Thakur Vs. Union of India & Ors.* [2008 (6) S.C.C. 1], in which, *inter-alia*, it has been laid down that if a State wants to exceed fifty percent reservation, then it is required to base its decision on the quantifiable data. In the present case, this exercise has not been done. Therefore, keeping in mind the said parameter, we direct the State to place the quantifiable data before the Tamil Nadu State Backward Classes Commission and, on the basis of such quantifiable data amongst other things, the Commission will decide the quantum of reservation. We are informed by learned Solicitor General that such data in the form of Reports, which are subsequently prepared, is already available. Consequently, these writ petitions stands disposed of with a direction to the State Government to re-visit and take appropriate decision in the light of what is stated above. It needs to be mentioned that the interim orders passed by this Court from time to time in relation to admissions to Educational Institutions shall continue to be in force and in operation for a period of one year from today. In the circumstances, we are not expressing any opinion on the validity of 1994 Act at this stage."

2.2.20 The Supreme Court in its order dated 3.1.2011, has also directed this Commission to examine the grievances regarding exclusion of the creamy layer from the benefit of reservation in the matter of admission to Educational Institutions and in the matter of employment under various services in the State of Tamil Nadu.

2.2.21 In pursuance of the orders of the Supreme Court referred to in para 2.2.19 and 2.2.20 above, this Commission has submitted to the Government, on 8.7.2011, a report captioned "Justification of Reservation under the Tamil Nadu Act 45 of 1994 on quantifiable data". The report submitted by the Commission was placed before the Council of Ministers of the Cabinet headed by the Hon'ble Chief Minister and accepted by the Government and necessary order had been issued for continuance of implementation of the reservation of 69% as provided in the Tamil Nadu Act 45 of 1994. The relevant portions (para 4 to 7) of the G.O. Ms.No.50, Backward Classes, Most Backward Classes and Minorities welfare department, dated 11.7.2011 are extracted below:-

"4. The Tamil Nadu Backward Classes Commission, in its Report submitted to the Government on 8.7.2011, considered in an elaborate fashion a topic under Chapter 12 "Reservation under the Tamil Nadu Act 45 of 1994 – Existence of Quantifiable Data – Justifiability or Otherwise thereof". The Commission undertook a thorough analysis of the quantifiable data in the shape of the Report of the Tamil Nadu Second Backward Classes Commission – popularly known as 'Ambasankar Commission Report'. The Tamil Nadu Second Backward Classes Commission as pointed by the Chairman of the Tamil Nadu Backward Classes Commission was able to fix the socially and educationally backward classes population at 67% from among the total population of the State to 5 Crores enumerated by the said Commission. The statistical data provided by the said Commission is more or less equal to the statistical data furnished by the Census of population conducted by the Government of India in the year 1981. Therefore, the authenticity of the report of the Tamil Nadu Second Backward Classes Commission cannot at all be doubted. The data required

by the Commission have also been collected from various Government Institutions, State Public Sector Undertakings and educational institutions. The Tamil Nadu Act 45 of 1994 provided for reservation to the Backward Classes at 50% [i.e., Backward Classes at 30% and Most Backward Classes at 20%]. Therefore, the quantum of reservation provided for under the said Act, viz., 50% to Backward Classes is far below the percentage of Backward Classes population in the State as enumerated by the Tamil Nadu Second Backward Classes Commission. As such, the quantifiable data available on the date when the Tamil Nadu Act 45 of 1994 was passed, was sufficient and adequate enough to justify such percentage of reservation to the backward classes under the said Act.

5. The said Act also provided for reservation at 18% to Scheduled Castes [SC] and 1% to Scheduled Tribes [ST], all totaling to 19%. The Census conducted by the Union Government in 1991 was taken into consideration for fixing the percentage of reservation to Scheduled Castes and Scheduled Tribes, which is proportionate to their population. Therefore, there cannot at all be any doubt as regards the fixity of reservation 50% to Backward Classes, 18% to Scheduled Castes and 1% to Scheduled Tribes.

6. The second order dated 3/1/2011 of the Supreme Court is relatable to exclusion of "creamy layer". The report of the Tamil Nadu Backward Classes Commission reveals that due reliance has been placed upon the nine-Judges Bench judgement of the Supreme Court in Indra Sawhney supra. The dictum laid down by the Supreme Court in the said case regarding "creamy layer" is that while applying the exclusion of creamy layer to the backward classes, none from the backward classes should be deprived of the reservation benefits made available to them. Though the Tamil Nadu Act 45 of 1994 had been in existence for well over 17 years, the lakshman rekha line – as pointed out by the Tamil Nadu Backward Classes Commission in its Report submitted to Government on 8.7.2011 – has not been crossed warranting the application of "creamy layer" exclusion.

7. The report of the Tamil Nadu backward Classes Commission was placed in the meeting of the Council of Ministers held on 11.7.2011 and there was a thorough discussion on it in the meeting. The Council of Ministers of the Cabinet headed by the Hon'ble Chief Minister accepted the report of the Tamil Nadu Backward Classes Commission regarding the justification of the 69% reservation providing 30% for Backward Classes, 20% for Most Backward Classes, 18% for Scheduled Castes and 1% for Scheduled Tribes, as had been provided under Tamil Nadu Act 45 of 1994, as well as on the exclusion of Creamy Layer from the Backward Classes. The Government of Tamil Nadu also decided to



continue to implement the reservation of 69% as provided in the Tamil Nadu Act 45 of 1994."

2.2.22 An overview of the grant of reservation prior to and subsequent to passing of the Constitution of India is tabulated below:-

**Distribution of reservation among various segments of the society in Tamil Nadu**

**(a) Prior to passing of the Constitution of India**

Period	Segment of the society	Distribution of seats	Reservation (%)	Population (%)	Area of reservation
1927 to Nov. 1947	1. Non Brahmins	5 out of 12	41.67	72	In permanent government employment
	2. Brahmins	2 out of 12	16.67	3	
	3. Anglo-Indian and Christians	2 out of 12	16.67	4	
	4. Muhammadans	2 out of 12	16.67	7	
	5. Depressed Classes	1 out of 12	8.33	14	
Nov. 1947 to 1951	1. Non-Brahmin Hindus	6 out of 14	42.86	22	In permanent government employment
	2. Backward Hindus	2 out of 14	14.29	50	
	3. Brahmins	2 out of 14	14.29	3	
	4. Harijans	2 out of 14	14.29	14	
	5. Anglo Indians / Indian Christians	1 out of 14	7.14	4	
	6. Muslims	1 out of 14	7.14	7	

**(b) After coming into force of the Constitution of India**

Period	SC	ST	MBC	DNC	BCO	BCC	BCM	OC
1951	-----15%-----		-----		25%	-----		60%
1954	-----16%-----		-----		25%	-----		59%
1971	-----18%-----		-----		31%	-----		51%
1980	-----18%-----		-----		50%	-----		32%
1989	-----18%-----		----- 20%-----		-----	30%-----		32%
1990	18%	1%	----- 20%-----		-----	30%-----		31%
2007	18%	1%	----- 20%-----		23%	3.5%	3.5%	31%
2008	18%	1%	----- 20%-----		----- 26.5%-----		3.5%	31%
2009	Preferential allotment of seats/posts @ 16% to SC-Arunthathiyars within the reservation available for SC (approximately 3% from 18% available for SC) has been made.							

SC – Scheduled Castes; ST – Scheduled Tribes; MBC – Most Backward Classes; DNC – Denotified Communities; BCO – Backward Classes other than BCM & BCC; BCC – Backward Classes of Christians; BCM – Backward Classes of Muslims; OC – Open Competition.

### 3. GENESIS / EVOLUTION OF THE LIST OF MOST BACKWARD CLASSES

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3.1 In the 1950s or thereabouts, the environment prevailing in Tamil Nadu was that certain backward communities were almost on par with the Scheduled Castes *dehors* 'untouchability'. In such a situation, there was an opinion veering round in the State that certain backward communities were to be treated as Most Backward Classes in extending to them the educational concessions admissible to the Scheduled Castes. The Director of Harijan Welfare, who was consulted, had agreed with the proposal and submitted a list of communities which could be treated as most backward among the backward classes. In this connection, the Director of Public Instruction, it appears, was also consulted and he, as a matter of fact, expressed strong dissent against such a proposal. He was of such opinion that the recognition of the most backward classes among the backward classes will evoke endless protests and appeals and therefore such a proposal could not be given his seal of approval. On the contrary, the Backward Classes Commission had, in their report, classified certain communities as most backward and consequently suggested that preference might be given to them over other communities in the list of Backward Classes for the grant of educational concessions etc. The Government, in turn, after examining all the proposals, eventually, agreed to the proposal of the Director of Harijan Welfare in the light of the recommendations of the Backward Classes Commission and accepted that some of the communities then classified as other Backward Classes in the State be treated as Most Backward Classes among other backward classes then recognized in the State and they might be granted for the

present only the educational concessions admissible to Scheduled Castes from the academic year 1957-58. The Annexure to G.O. Ms. No.353, Department of Industries, Labour and Cooperation department, dated 31.1.1957 had registered 58 communities as Most Backward Communities within the Backward Classes.

- 3.2 The Backward Classes Commission recognized the then existing three lists for Backward Classes viz., (i) for award of scholarship by the Backward Classes Department; (ii) for award of educational concessions by the Education Department and (iii) by the Tamil Nadu Public Service Commission for recruitment to public services.
- 3.3 The Commission revised the list of backward classes, most backward classes and backward classes for Kanniyakumari district and Shencottah taluk of Tirunelveli district, after deleting certain communities which were figuring in the list of Scheduled Castes and Scheduled Tribes, deleting certain communities not found in the State, removing redundancies and repetitions and giving alternative description for certain communities, amplifying certain communities and clubbing together certain allied communities. This sort of a process, as stated above, was found mentioned in G.O. Ms. No.437, Social Welfare Department, dated 15.5.1972 and ultimately, the 58 communities listed as Most Backward Communities in the earlier G.O.Ms. No.353, dated 31.1.1957 referred to *supra* was rationalized and consequently limited to 39 communities in the list of Most Backward Classes as per Annexure III to the revised G.O. dated 15.5.1972. Subsequent to rationalization of the list of Backward Classes in pursuance of the Sattanathan Commission Report, in the year

1980, vide G.O. Ms. No.72, Social Welfare Department, dated 1.2.1980 an order was issued by the Government specifying 39 communities as Most Backward Communities in the earlier G.O. of the year 1972, with minor modifications by deleting certain sub-sects of certain communities from the old list of Most Backward Classes.

- 3.4 After the submission of the report of Tamil Nadu Second Backward Classes Commission (known as Ambasankar Commission) in 1985, the Government issued G.O. No.1566, Social Welfare Department, dated 30.7.1985 including in the Annexure to that G.O. the same 39 communities for the purpose of availing the then prevailing educational concessions and scholarships with effect on and from 31.7.1985.
- 3.5 Prior to the issuance of G.O. Ms.No.242, Backward Classes, Nutritious Meal Programme and Social Welfare Department, dated 28.3.1989, the reservation benefits for Backward Classes including MBC and DNC under Articles 15(4) and 16(4) were to the extent of 50%; SC and ST put together were 18% and Open Competition 32%. Though MBC and DNC were in large proportion to other backward classes, they were then unable to get the reservation benefits proportionate to their population. This led to a demand for separate reservation for MBC and DNC put together within the 50% reservation provided generally to BC inclusive of MBC, and consequently, MBC and DNC put together were given reservation benefits to the extent of 20% by dividing the 50% into 30% for BC and 20% for DNC, retaining the reservation benefits of 18% to SC and ST and Open Competition at 32%.

- 3.6 After the passing of the Tamil Nadu Backward Classes, Scheduled Castes and Scheduled Tribes (Reservation of seats in Educational Institutions and of appointments or posts in the services under the State) Act, 1994 [Tamil Nadu Act 45 of 1994], the Government issued G.O. Ms. No.28, Backward Classes and Most Backward Classes welfare department, dated 19.7.1994, notifying all the then existing BC, MBC and DNC, of which BC were 143, MBC were 41 including the addition of two communities viz., Mukkuvar or Mukayar (including converts to Christianity) and Pannayar (other than Kathikarar in Kanniyakumari District) [the additions were made during 1989 and 1991, respectively]; and DNC numbering 68.
- 3.7 In G.O. Ms. No.97, Backward Classes, Most Backward Classes and Minorities Welfare Department, dated 11.9.2008, the following castes/communities viz., (1) Erra Gollar, (2) Panisaivan/Panisivan, (3) Latin Catholic Christian Vannar, (4) Thoraiyar (Nilgiris), (5) Thoraiyar (Plains), (6) Arayar and (7) Kurumba Gounder have been added to the list of Most Backward Classes.
- 3.8 In G.O. Ms. No.98, Backward Classes, Most Backward Classes and Minorities Welfare Department, dated 5.11.2009, 'Paravar Christian' has been added to the list of Most Backward Classes by the Government of Tamil Nadu.
- 3.9 The entry relating to 'Narikoravar' in the list of MBC was amended as 'Narikoravar (Kuruvikars)' in G.O. Ms. No.6, Backward Classes, Most Backward Classes and Minorities Welfare department, dated 11.1.2011.

3.10 The present list of Most Backward Classes contains the castes/  
communities as below:

Sl. No.	Entry No.	Present entries in MBC	Population <sup>@</sup> (as on 1983)
1	1	Ambalakarar	446759
2	2	Andipandaram	223770
3	2[A]	Arayar (in Kanniyakumari District)	3409
4	3	Bestha, Siviari	7063
5	4	Bhatraju (other than Kshatriya Raju)	15700
6	5	Boyar, Oddar	409567
7	6	Dasari	15907
8	7	Dommarra	4436
9	8	Eravallar (except in Kanniyakumari District and Shencottah Taluk of Tirunelveli District where the community is a Scheduled Tribe)	1377
10	9	Isaivellalar	58327
11	10	Jambuvanodai	1399
12	11	Jangam	71951
13	12	Jogi	19848
14	13	Kongu Chettiar (in Coimbatore and Erode Districts only)	43531
15	14	Koracha	3429
16	15	Kulala (including Kuyavar and Kumbarar)	301179
17	16	Kunnuvar Mannadi	11055
18	17	Kurumba, Kurumba Gounder	183689
19	18	Kuruhini Chetty	4225
20	18[A]	Latin Catholic Christian Vannar (in Kanniyakumari District)	6129
21	19	Maruthuvar, Navithar, Mangala, Velakattalavar, Velakataianair and Pronopakari	426427
22	20	Mond Golla	5700
23	21	Moundadan Chetty	6254
24	22	Mahendra, Medara	7418
25	23	Mutlakampatti	1575
26	24	Narikoravar (Kuruvikars)	20162
27	25	Nokkar	7559
28	25[A]	Panisaivan/Panisivan	18511
29	26	Vanniakula Kshatriya (including Vanniyar, Vanniya, Vannia Gounder or Kander, Padayachi, Palli and Agnikula Kshatriya)	6504855
30	27	Paravar (except in Kanniyakumari District and Shencottah Taluk of Tirunelveli District where the Community is Scheduled Caste)	37183
31	27[A]	Paravar Converts to Christianity including the Paravar Converts to Christianity of Kanniyakumari District and Shencottah Taluk in Tirunelveli District	56384
32	28	Meenavar (Parvatharajakulam, Pattanavar, Sembadavar) (including converts to Christianity)	271764
33	29	Mukkuvar or Mukayar (including converts to Christianity)	11446

Sl. No.	Entry No.	Present entries in MBC	Population <sup>@</sup> (as on 1983)
34	30	Punnan Vettuva Gounder	4562
35	31	Pannayar (other than Kathikarar in Kanniyakumari District)	9758
36	32	Sathatha Srivaishnava (including Sathani, Chattadi and Chattada Srivaishnava)	15354
37	33	Sozhia Chetty	82556
38	34	Telugupatti Chetty	58375
39	35	Thottia Naicker (including Rajakambalam, Gollavar, Sillavar, Thockalavar, Thozhuva Naicker and Erra Gollar)	271318
40	36	Thondaman	14036
41	36[A]	Thoraiyar (Nilgiris)	7226
42	36[B]	Thoraiyar (Plains)	
43	37	Valaiyar (including Chettinad Valayars)	283580
44	38	Vannar (Salavai Thozhilalar) (including Agasa, Madivala, Ekali, Rajakula, Veluthadar and Rajaka) (except in Kanniyakumari District and Shencottah Taluk of Tirunelveli District where the community is a Scheduled Caste)	445637
45	39	Vettaikarar	70298
46	40	Vettuva Gounder	125886
47	41	Yogeeswarar	18618
Total population of MBC			10615192

- <sup>@</sup> (i) Both Arayar and Nulayar in Kanniyakumari district and Shencottah Taluk of Tirunelveli district were originally listed as BC. In 2008, the Government added Arayar community of Kanniyakumari district in the list of MBC as entry no. 2A, while retaining Nulayar in the BC. The population of Arayar and Nulayar of Kanniyakumari district as observed in the Ambasankar Commission Report was minimal comprising of 3409.
- (ii) Entry 17 is relatable to Kurumba Gounder. It was previously in the BC added along with Kongu Vellala Gounder in BC has now been added as a community in MBC along with Kurumba as entry no. 17 after deletion of their name from the BC.
- (iii) Entry 18A is relatable to Latin Catholic Vannar (in Kanniyakumari district). Pertinent it is to mention here that the Latin Catholics composed of very many communities in the Kanniyakumari. Vannar of Kanniyakumari district is also one such community included in the Latin Catholics. All the communities included in the Latin Catholics throughout Tamil Nadu were formerly included in the list of BC including Latin Catholic Christian Vannars of Kanniyakumari district. Latin Catholic Christian Vannars of Kanniyakumari district was included in the list of MBC under entry no. 18A by the G.O. issued in 2008. The reported population of the said community was 6159 in Kanniyakumari district.
- (iv) Entry no. 25A is relatable to Panisaivan/Panisivan. Both the synonyms Panisaivan and Panisivan were originally included in Virakodi Vellalar and all of them were included previously in the list of BC. Panisaivan/Panisivan alone comprising a minimal population of 18511, said to be mainly located in erstwhile Madras, Chengalpattu, North Arcot and South Arcot districts were included in MBC list in 2008 by the Government.
- (v) Entry No. 35 is relatable to Thottia Naicker. Erra Gollar which is said to be a sub-caste of Thottia Naicker was included in the said entry.
- (vi) The communities / castes going by the nomenclature Thoriar and Thoraiyar are synonymous to each other and represent one and the same groups of people though they were named differently. Thoraiyar located in the Nilgiris district figure in MBC list as entry no. 36A, while Thoraiyar located in the plains is numbered as entry no. 36B in the MBC list. The population of Thoraiyar throughout the State reported by Ambasankar Commission is to the tune of 7226.

#### 4. GENESIS / EVOLUTION OF THE LIST OF DENOTIFIED COMMUNITIES

- 4.1 Denotified Communities were an amalgamation of communities belonging to backward classes, scheduled castes and scheduled tribes. Their common characteristic was indulging in crimes.
- 4.2 The Criminal Tribes Act 1871 [Act XXVII of 1871], it is said, was passed to handle certain gangs or classes or tribes of persons found to be addicted to the systematic commission of non-bailable offences, mainly counterfeiting of coins. Under this Act, the offending gangs were put under surveillance and punished when involved in crimes. Reformatory schools and settlements, etc, were established for reclamation of those people. The gangs were issued passes to enable them to move within restricted areas. They could be arrested without warrant, when found outside.
- 4.3 By the Criminal Tribes (Amendment) Act [Act II of 1897], the scope of operation of the earlier Act was enlarged to cover additional crimes like murder, theft, robbery, dacoity and house-breaking.
- 4.4 At the beginning of the Twentieth Century, the Britishers were anxious to bring under effective control anti-social elements chronically addicted to criminal activities so as to ensure peace, law and order in the country. Through the Act III of 1911, the Act XXVII of 1871 was extended throughout the British India.
- 4.5 Some of the salient features of this Act may be related for the purpose of sociological and legal interest. The Act applied to the gangs as a whole irrespective of whether individuals had committed criminal act or not. The District Magistrate notified them. The Superintendent of Police maintained



a register, secured the finger prints of these members and issued them passes for identification and required them to report to the police at regular intervals. The place of residence should be notified, as also any change in it. They were kept under strict surveillance. Reformatory settlements were established for those criminal tribes. Hard work was extracted from them for nominal wages. Children in the age group of 6 to 18 of criminal tribes were removed from their parents and put in reformatory schools established by the Government. Members of the criminal tribes found outside their normal place of residence, were arrested without warrant and severe punishments were inflicted on them. No court could question the validity of any notification issued by the District Magistrate under the provisions of this Act.

- 4.6 The Criminal Tribes (Consolidation) Act of 1924 was enacted consolidating all the provisions of Act of 1911 and subsequent amendments.
- 4.7 Society lent strong support for the suppression of crimes and punishment of the offenders. However, they could not wholeheartedly subscribe to an entire gang being declared under the Act for the offences committed by a few individuals. The public were dissatisfied with innocent children born to declared criminals and the aged persons in the gang being treated on par with the known and potential criminals for no fault of theirs. It was generally felt that the Acts enacted during unsettled times were no longer necessary. In the Madras Legislative Council, strong feelings were expressed in 1947 urging the repeal of the Criminal Tribes Act. The repealing Act came into force on 29<sup>th</sup> April 1948.

- 4.8 The communities in the list of Backward Classes are identified with reference to their social and educational backwardness. Similarly, communities which were subject to the stigma of untouchability and those having tribal characteristics were treated as Scheduled Castes and Scheduled Tribes respectively. Owing to their traditionally disadvantaged social conditions, some of the communities included in the classifications (viz., Backward Classes, Scheduled Castes/ Scheduled Tribes) were forced to resort to criminal activities as the means of their livelihood. All such communities were declared as "Criminal Tribes" by the Britishers. Several restrictions were placed on their movements and heavy punishments were inflicted on them when they committed offences.
- 4.9 Schemes for the welfare of the Denotified Communities were continued to be implemented by the Directorate of Backward Classes. However, the list of Denotified Communities till 1980 was not maintained as an integral part of the Backward Classes for the purpose of reservation in Educational Institutions and Public Services. They were granted educational and other concessions by the Backward Classes Department.
- 4.10 The communities in the list of Denotified Communities had been declared as an integral part of the Backward Classes List in G.O. Ms. No.72, Social Welfare Department, dated 1.2.1980. Consequently, the term "Backward Classes" now includes the Denotified Communities. During the unsettled times - when the Britishers were engaged in consolidation of their Empire - maintenance of law and order was considered to be their single major task. Some of the worst types of crimes were committed by the "Brinjarries" and "Lambadies" who were operating in the North of the

Presidency. But in the South, the present Tamil Nadu, a host of regional groups, viz., Kallars, Maravars, Kuravars, Dasaries, Alagiries, Capemaries and Yanadies indulged in criminal activities.

- 4.11 The Manual of the Administration of the Madras Presidency [Vol.I, Part II] presents a graphic account of the state of affairs prevalent in the Madras Presidency, during the late 19<sup>th</sup> Century and early 20<sup>th</sup> Century.

"The districts of Tanjore, Trichirapally and Madurai are infested by Kallar and Maravar. Both the classes are by profession robbers. They chiefly maintain themselves by plundering travelers; about whose movements they are able, being employed as cauvalgars or watchmen in the bandy pettahs of those districts, to obtain all the necessary information. When bent on crime, they carry fire-arms, swords and other weapons and at the bidding of their leader will, without hesitation, perpetrate outrages of the gravest enormity. The Koravar of Salem and North Arcot represent another distinct criminal tribe. Basket making is their avowed calling, but they rob or steal on every convenient occasion.

.....  
 "The Dasaries and Alagiries or capmaries are highly troublesome tribes. The Alagiries occasionally form themselves into small settlements, where they combine agricultural and criminal pursuits. They have been known to commit exceedingly daring and well-planned dacoities, but generally they frequent festivals and fairs for the purpose of picking pockets. The Yanadies are a singular and almost outcaste race.

....  
 Even though, all these communities were well-versed in committing crime, the role played by the "Kallars" in Thanjavur (Pudukkottai included) and Madurai districts, left an indelible impression in the annals of criminal administration of the presidency. A perusal of the "Tanjore District Hand Book" reveals the offences committed by them in that district. Relevant portions are reproduced for their historic value.

.....  
 As to the crime and criminals since 1860 the most noteworthy crimes of the districts have been, dacoity, robbery and house-breaking, and the most noteworthy criminals have been the "Kallars". Besides the Kallars, the Kuravars, have also played no small part in the commission of crimes. A Kallar Reclamation Scheme for improving the social and economic condition of the Kallars by inducing them through their own Panchayats to cooperate with the police for the prevention and detection of crimes was started in 1923. Its object was no other than that of reforming the worst affected Kallars without bringing them under the Criminal

Tribes Act. But the scheme was found to be a failure and was, therefore, wound up in 1933 and the Kallars of the notorious villages of "Gandharvakottai" were then brought under the Act. Special Police out-posts were also provided at these places to keep watch over the Kallars. The Koravars, the Vettaikarans and the Thottiyanyaks were also brought under the Act.

.....  
 Since most of the crimes were committed by the Kallars the administration felt that the thefts could be curbed only by appointing people of the Kallar community themselves as Kavalgars (Village Watchman). But what happened was to the contrary and the Kavalgars themselves colluded with the local thieves and thereby helped the perpetuation of the old thefts.

.....  
 In order to remove the monopoly of the supervision of villages under the Kavalgar system from the Kallars the Government appointed a special committee for suggesting proper measures for establishing a regular system of police and upon its recommendation, in 1813, abolished the "Kaval system" altogether.

.....  
 In Madurai district, the citadel of criminal activities, Kallars blackmailed the people and committed most of the crimes in the district. They stole cattle and returned them to their owners through intermediaries on payment of half their value called "Tuppu coolie" and they levied fees, called 'Kaval fees' for insurance against theft. In 1909 a cattle branding system was introduced in Madurai district by means of which each owner of cattle could have his animals identified by particular letters and numbers. It was hoped that this would make it more difficult for Kallars to dispose of stolen animals. But very soon the system had to be abandoned as the Kallars took greater care to hide the stolen animals and on that account demanded a higher "tuppu coolie" for restoring them.

.....  
 The steps taken by the police to register the Kallars, watch their activities, book them when they committed any offence and punish them heavily did not produce results. The crime rate never subsided. Thus in the Report of the Police in the Madras State for 1952, it has been recorded that "in 1951 there were 101 murders, 48 dacoities, 77 robberies, 869 burglaries, 734 cattle thefts and 3,364 ordinary thefts. These were committed mostly only by the Kallars. But Kuravars and the Valayars were responsible to some extent.

.....  
 Kallars were involved in some of the brutal upheavals during 1904 (Sellampatti riots) 1920 (Perungamanallur disturbance), 1932 (Kambam attack) and 1935 (Kaval dispute).

.....  
 Notable among the Kallars are the 'Piramalai Kallars'. Kallars were found to be concentrated in the Melur and Tirumangalam Taluks of Madurai District. The three endogamous sections among them

were Kilnad (east country) Kallars, Melurnad (Melur Taluk) Kallars, and the Melnad (West-Country) Kallars. The last of these three sections was also known as 'Piramalainad (beyond the hills) Kallars, living in the north-west of Tirumangalam Taluk to the west of Nagamalai. They were also known as Anaiyur Kallars.

.....  
Thus, though not a wandering tribe, the Kallars, like the Maravars were the principal criminals engaged in the commission of crimes in the Thanjavur, Pudukkottai, Tiruchirapalli, Madurai and Tirunelveli districts. They were principally addicted to dacoity (in houses or in highways), robbery, house-breaking, and cattle lifting. They were usually armed with "Vellari Thadis" and occasionally with knives. Their women without direct involvement in their crimes, assisted their men in the disposal of the stolen goods. The Kallars taught their offsprings the rudiments of thieving and robbery at an early age.

**Maravars:** The earliest of the inhabitants of the Ramanathapuram district were known to be the Kallars and Maravars. The existence of criminal tribes was a unique problem of the district. They were described to be the persons who could not conform to the norms of conduct prescribed by the State and society and due to certain factors and hereditary and environment, came into conflict with the existing laws and became chronically unreconciled individuals to normal social order. Principal among these criminal tribes were the Maravars.

In the former times, the Maravars were a great fighting or warrior tribe. They were a wild, lawless unmanageable race and were a perpetual terror to quiet and peaceable tribes. They were formerly notorious for turbulence and lawlessness and had given much trouble to the British authorities of the district. But they have now settled down for the most part of peaceable habits exhibiting however a bolder and more determined spirit than their neighbours.

In the olden days, their activities extended to the Tirunelveli district. They generally indulged in dacoity, robbery, burglary and cattle lifting. Their principle clans were:-

Semunattu	Kondyan Kottai	Appanur nattu
Agata	Oreiyur nattu	Uppu Kottai
Kurichi Kattu.		

4.12 Apart from the Denotified Communities as referred to above, certain other communities falling within such classification may now be related.

**Kuravars – Kurachas – Erukulas :** Kuravars were popularly known in the southern districts of the Presidency. They went by the names of Korachas (Korchavandlu) or Erukulas (Yerukulavandlu) in

the Telugu district. The word Kurava is derived from the Tamil word 'Kuram' meaning 'Palmistry' or fortune-telling. The Telugu word 'Erukula' is known to have been derived from the Telugu word 'Erugu' having an identical meaning. They were essentially a criminal race, adopting dacoity, highway robbery and burglary as a hereditary profession. They were known to be committing crimes in a systematic manner. Following were the main divisions among Kuravars:-

Uppu kuravars (Salt bearers)  
 Karuveppilai Kuravars (Bergeria Konigii)  
 Kavalkara Kuravars (Watchmen)  
 Thubbai Kuravars (Bamboo Plants)  
 Ponaikuthi Kuravars (Cat Killers)  
 Koonjil Kuravars (FŚĂš - A Fan)  
 Patchikuthi Kuravars (tattooers)  
 Koodaikatti Kuravars (Basket-makers)"

Dacoity in highways as well as on parties returning from weekly markets was their favourite crime. Their women usually collected and gave the required information to their men-folk under the pretext of selling "Karuveppilai" or "telling fortunes".

The offshoots of the Kurava tribe called themselves as "Thogamalai Kuravars". The more educated and the more respected members of these groups called themselves as 'Balijas' or 'Naidus'.

Like Capemari Alagirias, the Thogamalai Kuravars were essentially pickpockets and thieves wandering all over the country and especially use the railway as a means of locomotion. They attended all the fairs and festivals at which they reaped a rich harvest.

**Oddars and Boyars :** Oddars were a labouring tribe of Telugu origin. They were a hard working people but had a hard reputation. Those who adopted criminal habits were skilled burglars and inveterate robbers. By going about under the pretence of mending grind-stones, they obtained much useful information as to the houses to be looted or parties of travellers to be attacked. In committing a highway robbery or dacoity, they were always armed with stout sticks and used great violence in the event of any resistance being offered.

**Alagiries :** 'Alagiries' take their name from 'Kallalagar' temple situated near Madurai. The appellation 'Alagiri' was given to classes of professional thieves and pickpockets. There were four classes of Alagiries known by four different appellations according to the districts or localities they frequented. They were:-

- (1) Capemari Alagiri
- (2) Donga Dasari Alagiri
- (3) Gudu Dasari Alagiri and
- (4) Padayachi Alagiri  
(also known as Ena or Thogamalai Koravar)

**Capemari Alagiri:** The headquarters of the Capemari Alagiri was Tiruvellore and its surroundings in the Chengalpattu district. The head of Capemari group was adopting the title 'Golla Chetti'. Both men and women were clever thieves. The young were trained in the art of picking pockets and snatching jewels from unsuspecting travelers. The railways were their lucrative fields of activity and each gang had its particular beat. Night trains were always selected and they did not miss special trains run for the convenience of pilgrims and others attending festivals when women were always decked out in jewels.

**Donga Dasaries – Gudu Dasaries:** Donga Dasaries – Gudu Dasaries were also known as 'Mucher Kalas'. They were characteristic of the northern districts of the Presidency and were drawn from the Boya, Golla, Oddar, Salia castes. The disguises usually adopted by them were those of Gosseins and Byraghies. They combined burglary and thieving. Some of them were known to have called themselves 'Bhatrajas' or 'Battu Turgas'."

- 4.13 With this historical background in mind, the evolution of the present list of DNC is enumerated as follows. Until issue of order in G.O.Ms.No.437, Social Welfare department, dated 15.5.1972 – based upon certain recommendations made by the Sattanathan Commission for extending reservation benefits – the Tamil Nadu Government had different lists of backward classes for different purposes, namely, (i) for public service recruitments, (ii) for educational concessions/scholarships and (iii) to show the communities of reorganized territories of Travancore State merged into Madras State. The Sattanathan Commission recommended for deletion of multiple entries of castes and communities in Backward Classes, due to over-inclusion of certain castes / communities therein, taking into account the similar entries found either in the lists of Scheduled

Castes or Scheduled Tribes. At that point of time, there was no separate list named as Denotified Tribes forming part and parcel of the list of Backward Classes. However, there was a list of Denotified Tribes annexed to the professional courses application form, with 70 entries, for conferring reservation benefits. The note appended below the annexure referred above is couched below for understanding the status that prevailed in 1974:

"The admission of denotified tribes to Educational institutions against the reserved quota is governed by the following instructions.

(1) Most of the denotified tribes have either been specifically listed under Scheduled Castes, Scheduled Tribes, Most-Backward Classes and Backward Classes, or are sub-groups of communities coming under the said four categories.

Hence such of the Denotified Tribes as are able to produce from the Revenue authorities (or other authorities empowered to issue community certificates) certificates to the effect that they belong to a community listed under the Scheduled Castes, Scheduled Tribes, Most Backward Classes or other Backward Classes according to the category in which the said community is listed. For example, the "Piramalaikallars" will fall under the Backward Classes "Kallan" and "Veppur Parayar" under the Scheduled Castes "Paraiyan".

(2) Such of the persons belonging to denotified tribes who are not able to obtain certificates that they belong to a community listed under any of the said four categories but are able to prove merely that they belong to a denotified tribe shall be treated as belonging to Backward Classes (including Most Backward Classes) for purposes of admission to professional colleges and will be counted towards the 31 per cent of seats reserved for those classes in professional colleges.

(3)(a) Converts to any other religion from among members of denotified tribes who are treated as Scheduled Tribes under (1) above but shall also be eligible to be counted against 18 per cent reservation for Scheduled Castes / Tribes irrespective of the generation in which the conversion took place.

(b) Such of the members of denotified tribes who if they are Hindus are eligible to be treated as Scheduled Castes under (1) above but who are themselves converts to any other religion will be treated



only as Backward Classes and counted against 31 per cent reservation for Backward (including Most Backward) Class."

4.14 The Sattanathan Commission examined in detail about such Denotified Tribes and made observations, including specific recommendation for deletion of such of those castes / communities / tribes finding same or similar entries already made either in Scheduled Castes or Scheduled Tribes.

4.15 The following information has been noted from the G.O.Ms.No.1310, Social Welfare department, dated 30.7.1979, relating to the change of nomenclature of 'Denotified Tribes' as 'Denotified Communities', in tune with the usage made by the Government of India.

"In its report dated August 1978, the Working Group on Scheduled Castes and Other Backward Classes during Medium Term Plan 1978-83, has observed that there are 258 communities (*throughout India*) which are designated as Denotified, Nomadic, and Semi-nomadic Communities, that these are the only groups besides Scheduled Castes and Scheduled Tribes which are included in the definition of Backward Classes as adopted by the Government of India and that the three groups have their distinctive features and within them each community has its own socio-economic and historical background. In view of the above, the Working Group on Scheduled Castes and Other Backward Classes has used the word "Communities" in place of "Tribes".

2. This Government have considered the matter and have decided that the word "Tribe" shall not be used for the Denotified, Nomadic and Semi-nomadic Tribes in future. Instead they shall be called as "the Denotified, Nomadic and Semi-nomadic Communities" only."

4.16 It is to be noted that till issue of orders in G.O.Ms.No.72, Social Welfare department, dated 1.2.1980, the Backward Classes list had not included all the castes / communities referred to as Denotified Communities saying they all form integral part of the list of Backward Classes for the purpose of reservation in Educational Institutions and Public Services. For the first time in the history of DNC, a separate list of DNC was notified in

G.O.Ms.No.72, Social Welfare department, dated 1.2.1980, to confer reservation benefits as backward classes.

- 4.17 The Tamil Nadu Second Backward Classes Commission headed by Thiru.J.A.Ambasankar, I.A.S(Retired), has restructured and rationalized the said 70 entries in the list of Denotified Communities and regrouped them as follows:-

Sl. No.	Name of group	No. of entries
1	Kuravars	27
2	Boyars, Oddars	9
3	Valayars	5
4	Kallars	4
5	Maravars	3
6	Vettuva Gounder	2
7	Monda Golla	1
8	Dasari	3
9	Dommara	2
10	Jogi	1
11	Jambavanodai	1
12	Mutlakampatti	1
13	Nokkars	1
14	Padayachis	1
15	Telugupatti Chettis	1
16	Thottia Naicks	1
17	Urali Gounder	1
18	Vettaikarar	1
19	Adi-Dravidar (Venganur)	1
20	Parayar (Veppur)	1
21	Chakkala	1
22	Devagudi Talayari	1
23	Kaladi	1
		70

- 4.18 The entries suggested by the Ambasankar Commission for the list of DNC, is a result of reclassification with reference to their history. Another step taken by the Commission was that the rationalized and restructured list of DNC was inducted into the main list of BC.
- 4.19 The Government of Tamil Nadu, after taking into consideration, the report of the Ambasankar Commission, issued G.O. Ms. No.1564, Social Welfare department, dated 30.7.1985, passing orders relatable to various recommendations made by the Commission as respects the deletions and

additions of certain castes/ communities in the list of Backward Classes/ Denotified Communities. Paragraph 3 of the said G.O. is relatable to 'Kuravars' while paragraph 4 thereof is relatable to 'Venganur Adi-Dravidar' and 'Veppur Parayar'. These paragraphs of the said G.O. which are relevant for the present purpose are extracted as below:-

" 3. The Commission has stated that at present, there are twenty-seven Koravan communities with various prefixes and as "Koravan" and "Kuravan" are one and the same, and as "Kuravan" is already in the list of Scheduled Castes, all the 27 entries relating to "Koravan" with various prefixes need not find a place in the list of Backward Classes prepared by them and that therefore, they have deleted these "Koravan" communities from the list of Backward Classes. The Government considered that though item 36 of Part XVI of the Schedule to the Constitution (Scheduled Castes) Order, as amended by Central Act 108 of 1976, refers to "Kuravan" in Tamil Nadu, the question whether "Koravan" will also be covered by the expression "Kuravan" requires further examination, in consultation with the Government of India. Till the Constitution (Scheduled Castes) Order is suitably amended so as to specifically include "Koravan", it is considered necessary that these 27 Koravan communities find a place in the list of Backward Classes, so that they may not lose the benefits given to the Backward Classes. Accordingly, the 27 Koravan communities will be retained in the list of Backward Classes till they are specifically included in the list of Scheduled Castes.

.....  
4. The Commission has also suggested that the two communities "Venganur Adi-Dravidar" and "Veppur Parayar" belong respectively to Adi-Dravidar and Parayar castes. "Adi-Dravida" is a Scheduled Caste and "Paraiyan, Parayan, Sambavar" are Scheduled Castes in Tamil Nadu, under items 2 and 56 respectively of Part XVI of the Schedule to the Constitution (Scheduled Castes) Order. In G.O. Ms. No.866, Social Welfare Department, dated 29.3.1985, the Government have clarified that Venganur Adi-Dravidar and Veppur Paraiyar may be given certificates as belonging to Scheduled Castes. In the light of this Government Order, these two communities, viz., Venganur Adi-Dravidar and Veppur Parayar are not included in the list of Backward Classes."

4.20 The Government notified the presently existing list of DNC with 68 entries vide G.O. Ms. No.1567, Social Welfare Department, dated 30.7.1985.

- 4.21 Consequent to the issuance of orders in G.O. Ms.No.242, Backward Classes, Nutritious Meal Programme and Social Welfare Department, dated 28.3.1989, the 50% reservation to all the Backward Classes of population was sub-divided into 20% for Most Backward Classes and Denotified Communities, and 30% for Backward Classes other than MBC and DNC. The DNC were availing the reservation along with MBC from out of the 20% quota.
- 4.22 There were complaints of over-inclusion of 27 synonyms of Koravar community in the list of DNC, which is already finding place in SC as 'Kuravan' and as 'Malaikkuravan' under ST. The Government of Tamil Nadu is writing all along to the Government of India for inclusion of Koravar either in the list of SC or ST. The request of the Koravar community for deletion of 27 synonyms of their community finding entries in DNC was also considered by this Commission and its views thereon has been sent to the Government on 6.7.2007 accepting the need for deletion of 27 synonyms of Koravar from the DNC. However, the Commission has specifically stated that the community should not be allowed to hang over without any reservation benefits by simply deleting their entries from DNC, until they are included either in SC or ST, as the case may be.
- 4.23 The people belonging to "Piramalai Kallar" community, which is included in the list of DNC are concentrated in Madurai, Theni and Dindigul districts of Tamil Nadu. The schemes intended for the upliftment of the Piramalai Kallars are being implemented by the Special Deputy Collector (Kallar Reclamation), with head quarters at Madurai. The Most Backward Classes

and Denotified Communities welfare Commissionerate is running 260 Special Kallar Reclamation Schools and 48 hostels to benefit the Piramalai Kallars in Madurai, Theni and Dindigul districts, preferentially. Midday meals, uniforms, text books and slate are given free of cost in these schools. These schools are now admitting students from other backward classes also.

4.24 The present list of the Denotified Communities contains the castes and communities as below:-

Sl. No.	Entry No.	Present entries	Population (as on 1983)
1	1	Attur Kilnad Koravars (Salem, Namakkal, Cuddalore, Villupuram, Ramanathapuram, Sivaganga and Virudhunagar Districts)	7994
2	2	Attur Melnad Koravars (Salem and Namakkal District)	2290
3	3	Appanad Kodayam Kottai Maravar (Sivaganga, Virudhunagar, Ramanathapuram, Madurai, Theni and Dindigul Districts)	50753
4	4	Ambalakarar (Thanjavur, Nagapattinam, Tiruvarur, Tiruchirapalli, Karur, Perambalur and Pudukottai Districts)	258840
5	5	Ambalakarar (Suriyanur, Tiruchirapalli District)	5179
6	6	Boyas (Tiruchirapalli, Karur, Perambalur, Pudukottai, The Nilgiris, Salem, Namakkal and Dharmapuri Districts)	12478
7	7	Battu Turkas	441
8	8	C.K.Koravars (Cuddalore and Villupuram Districts)	2549
9	9	Chakkala (Sivaganga, Virudhunagar, Ramanathapuram, Thanjavur, Nagapattinam, Tiruvarur, Pudukottai, Tiruchirapalli, Karur, Perambalur, Madurai, Theni, Dindigul and the Nilgiris Districts)	2110
10	10	Changayampudi Koravars (Vellore and Tiruvannamalai Districts)	3136
11	11	Chettinad Valayars (Sivaganga, Virudhunagar and Ramanathapuram Districts)	62194
12	12	Dombs (Pudukottai, Tiruchirapalli, Karur and Perambalur Districts)	260
13	13	Dobba Koravars (Salem and Namakkal Districts)	2206
14	14	Dommars (Thanjavur, Nagapattinam, Tiruvarur, Pudukottai, Vellore and Tiruvannamalai Districts)	1089
15	15	Donga Boya	238
16	16	Donga Ur.Korachas	287
17	17	Devagudi Talayaris	1955
18	18	Dobbai Korachas (Tiruchirapalli, Karur, Perambalur and Pudukottai Districts)	51

Sl. No.	Entry No.	Present entries	Population (as on 1983)
19	19	Dabi Koravars (Thanjavur, Nagapattinam, Tiruvarur, Tiruchirapalli, Karur, Perambalur, Pudukottai, Vellore and Tiruvannamalai Districts)	2260
20	20	Donga Dasarais (Kancheepuram, Tiruvallur, Tiruchirapalli, Karur, Perambalur, Pudukottai, Chennai, Salem and Namakkal Districts)	797
21	21	Gorrela Dodda Boya	154
22	22	Gudu Dasarais	482
23	23	Gandarvakottai Koravars (Thanjavur, Nagapattinam, Tiruvarur, Tiruchirapalli, Karur, Perambalur, Pudukottai, Cuddalore and Villupuram Districts)	1229
24	24	Gandarvakottai Kallars (Thanjavur, Nagapattinam, Tiruvarur and Pudukottai Districts)	14566
25	25	Inji Korvars (Thanjavur, Nagapattinam, Tiruvarur, Tiruchirapalli, Karur, Perambalur and Pudukottai Districts)	537
26	26	Jogis (Kancheepuram, Tiruvallur, Chennai, Cuddalore, Villupuram, Vellore and Tiruvannamalai Districts)	4512
27	27	Jambavanodai	243
28	28	Kaladis (Sivaganga, Virudhunagar, Ramanathapuram, Madurai, Theni, Dindigul, Thanjavur, Nagapattinam, Tiruvarur, Pudukottai, Tiruchirapalli, Karur and Perambalur Districts)	2506
29	29	Kal Oddars (Kancheepuram, Tiruvallur, Ramanathapuram, Sivaganga, Virudhunagar, Madurai, Theni, Dindigul, Pudukottai, Tiruchirapalli, Karur, Perambalur, Tirunelveli, Toothukudi, Salem and Namakkal Districts)	40708
30	30	Koravars (Kancheepuram, Tiruvallur, Ramanathapuram, Sivaganga, Virudhunagar, Pudukottai, Thanjavur, Nagapattinam, Tiruvarur, Tiruchirapalli, Karur, Perambalur, Tirunelveli, Toothukudi, Chennai, Madurai, Theni, Dindigul and The Nilgiris Districts).	45899
31	31	Kalinji Dabikoravars (Thanjavur, Nagapattinam, Tiruvarur and Pudukottai Districts)	1971
32	32	Kootappal Kallars (Tiruchirapalli, Karur, Perambalur and Pudukottai Districts)	4888
33	33	Kala Koravars (Thanjavur, Nagapattinam, Tiruvarur, Tiruchirapalli, Karur, Perambalur and Pudukottai Districts)	887
34	34	Kalavathila Boyas	736
35	35	Kepmaris (Kancheepuram, Tiruvallur, Pudukottai, Tiruchirapalli, Karur and Perambalur Districts)	1225
36	36	Maravars (Thanjavur, Nagapattinam, Tiruvarur, Pudukottai, Ramanathapuram, Sivaganga, Virudhunagar, Tirunelveli and Toothukodi Districts)	433346
37	37	Monda Koravars	196
38	38	Monda Golla (Salem and Namakkal Districts)	64
39	39	Mullakampatti (Tiruchirapalli, Karur, Perambalur and Pudukottai Districts)	805
40	40	Nokkars (Tiruchirapalli, Karur, Perambalur and Pudukottai Districts)	697

Sl. No.	Entry No.	Present entries	Population (as on 1983)
41	41	Nellorepet Oddars (Vellore and Tiruvannamalai Districts)	2949
42	42	Oddars (Thanjavur, Nagapattinam, Tiruvarur, Tiruchirapalli, Karur, Perambalur, Pudukottai, Madurai, Theni and Dindigul Districts).	16997
43	43	Pedda Boyas (Tiruchirapalli, Karur, Perambalur and Pudukottai Districts)	2655
44	44	Ponnai Koravars (Vellore and Tiruvannamalai Districts)	694
45	45	Piramalai Kallars (Sivaganga, Virudhunagar, Ramanathapuram, Madurai, Theni, Dindigul, Pudukottai, Thanjavur, Nagapattinam and Tiruvarur Districts).	346252
46	46	Peria Suriyur Kallars (Tiruchirapalli, Karur, Perambalur and Pudukottai Districts)	1940
47	47	Padayachi (Vellayan Kuppam in Cuddalore District and Tennore in Tiruchirapalli District)	34459
48	48	Punnan Vettuva Gounder (Tiruchirapalli, Karur, Perambalur and Pudukottai Districts)	995
49	49	Servai (Tiruchirapalli, Karur, Perambalur and Pudukottai Districts)	77527
50	50	Salem Melnad Koravars (Madurai, Theni, Dindigul, Coimbatore, Erode, Pudukottai, Tiruchirapalli, Karur, Perambalur, Salem, Namakkal, Vellore and Tiruvannamalai Districts)	1839
51	51	Salem Uppu Koravars (Salem and Namakkal Districts)	2782
52	52	Sakkaraitamadai Koravars (Vellore and Tiruvannamalai Districts)	754
53	53	Saranga Palli Koravars	54
54	54	Sooramari Oddars (Salem and Namakkal Districts)	2691
55	55	Sembanad Maravars (Sivaganga, Virudhunagar and Ramanathapuram Districts)	25540
56	56	Thalli Koravars (Salem and Namakkal Districts)	1510
57	57	Thelungapatti Chettis (Tiruchirapalli, Karur, Perambalur and Pudukottai Districts)	5184
58	58	Thottia Naickers (Sivaganga, Virudhunagar, Ramanathapuram, Kancheepuram, Tiruvallur, Thanjavur, Nagapattinam, Tiruvarur, Tiruchirapalli, Karur, Perambalur, Pudukottai, Tirunelveli, Thoothukudi, Salem, Namakkal, Vellore, Tiruvannamalai, Coimbatore and Erode Districts).	40553
59	59	Thogamalai Koravars or Kepmaris (Tiruchirapalli, Karur, Perambalur and Pudukottai Districts)	512
60	60	Uppukoravars or Settipalli Koravars (Thanjavur, Nagapattinam, Tiruvarur, Pudukottai, Madurai, Theni, Dindigul, Vellore and Tiruvannamalai Districts)	7626
61	61	Urali Gounders (Tiruchirapalli, Karur, Perambalur and Pudukottai Districts)	67195
62	62	Wayalpad or Nawalpeta Korachas	15
63	63	Vaduvarpatti Koravars (Madurai, Theni, Dindigul, Ramanathapuram, Sivaganga, Virudhunagar, Tirunelveli, Thoothukudi, Tiruchirapalli, Karur, Perambalur and Pudukottai Districts)	381
64	64	Valayars (Madurai, Theni, Dindigul, Tiruchirapalli, Karur, Perambalur, Pudukottai, Erode and Coimbatore Districts)	68909
65	65	Vettaikarar (Thanjavur, Nagapattinam, Tiruvarur and Pudukottai Districts)	744

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Sl. No.	Entry No.	Present entries	Population (as on 1983)
66	66	Vetta Koravars (Salem and Namakkal Districts)	1295
67	67	Varaganeri Koravars (Tiruchirapalii, Karur, Perambalur and Pudukottai Districts)	313
68	68	Vettuva Gounder (Tiruchirapalii, Karur, Perambalur and Pudukottai Districts)	17430
Total population of DNC			1702553



## **5. QUANTIFIABLE DATA MATERIAL ON MOST BACKWARD CLASSES AND DENOTIFIED COMMUNITIES**

- 5.1 The statistical particulars and details relatable to MBC and DNC are culled out from the Report of the Tamil Nadu Second Backward Classes Commission, popularly known as "Ambasankar Commission". A mention may be made as to how the said Commission has been constituted and how meticulously the said Commission conducted the socio-educational-cum-economic survey of the entire populace of the State in rather a bid to find out the backwardness of each and every community. The Commission was set up pursuant to the orders of the Supreme Court by the Tamil Nadu Government, on 13<sup>th</sup> December 1982 under the Chairmanship of Thiru J.A. Ambasankar, I.A.S (Retd), former Chairman of Tamil Nadu Public Service Commission, with adequate number of Members to conduct a Socio, Educational and Economic survey of the entire populace of Tamil Nadu, with a view to find out and identify socially and educationally backward class people entitled to enjoy the reservation benefits for admission into educational institutions and professional colleges and for appointments or posts in the services under the State.
- 5.2 The said Commission conducted an elaborate survey employing 25000 personnel and collected all relevant, requisite and necessary particulars of 5 crores of people in the process of identifying socially and educationally backward classes. The survey lasted for 2 years. The Members of the said Commission did an extensive touring to all the districts for more than 30 days and recorded the evidence of more than 2000 witnesses.

- 5.3 Two seminars were held, where Members and experts in various fields met and exchanged ideas about the identification of backwardness and how to improve the lot of unfortunate Backward Classes. The ideas gathered by the census and survey was larger in number when compared to the survey conducted by the Government of India. The said Commission also collected population figures and the entire picture of each and every member of all the inhabitants of nearly 5 Crores. The figures so collected were analysed and output tables were prepared and placed in the hands of the Members.
- 5.4 To determine the social backwardness, exhaustive information about one lakh of families in the State were collected through a random sample survey for approximately 1% households in the State. More than 8.5 lakh of employees of Government / Local bodies and Public Sector Undertakings were enumerated with full details of their job, their salary, their qualification and the community to which they belong.
- 5.5 Survey was also conducted in the field of school education. About 2000 schools furnished information about their students. All the 230 colleges supplied information about those undergoing studies. The particulars about the admission to professional colleges like Medicine / Engineering/ Law and Veterinary for the past three years prior to survey were also collected. The details of recruitment made by Tamil Nadu Public Service Commission were gathered and enumerated. The Commission thus collected exhaustive information on all issues, Social, Educational – not to speak of economic conditions of people.

- 5.6 The said Commission by conducting elaborate survey identified by applying relevant criteria evolved in consultation with experts, the Socially and Educationally Backward Classes castes and communities prevailing in the State. The Commission estimated the Socially, Educationally Backward Class population as 67%.
- 5.7 The Report of the Commission had been placed before the Supreme Court in *Indra Sawhney's* case. Pertinent it is to point out at this juncture that the Supreme Court had affixed the seal of its approval to the Report of the said Commission. The Supreme Court further went on to say that if any caste/ community is omitted to be included in the List of Other Backward Classes in the Mandal List and in case such caste/ community finds a place in the List of Backward Classes stated in the Ambasankar Commission Report, the same has to be included in the Central List of OBCs for the purpose of reservation. Further if there was an inconsistency between the Report of the Mandal Commission and the Report of the Ambasankar Commission regarding any caste/ community of Backward Classes, the List as given in the Ambasankar Commission Report will prevail. The most distinguishing feature of this Report is that it is the only one report available in the whole of India where the socio-educational-cum-economic survey of the entire caste/ community of the populace of the State was taken and the population figures, as already stated, more or less tallied with the Census conducted by the Government of India in the year 1981.
- 5.8 The particulars and details with regard to the population of MBC and DNC as culled out from the Report of the Ambasankar Commission can't be

stated to be not authentic, taking into consideration the manner and methodology adopted by the said Commission in conducting the survey, besides the fact that the said Report has got the seal of approval of the Apex Court of the country, as noted above.

- 5.9 Top of all, the said Report came into existence in the year 1985, 9 years before the Tamil Nadu Act 45 of 1994 was enacted. The *vires* of the Tamil Nadu Act 45 of 1994 was challenged before the Supreme Court in the year 1994. Despite an order of stay of the provisions of the said Act having been prayed for, no stay was granted. The challenge so made remained in hibernation before the Supreme Court for about 17 years or thereabouts. Ultimately, the Writ Petition challenging the *vires* of the said Act, came to be disposed of in the year 2010. The disposal was not made on merits. Simply, the Writ petition was closed and the matter was remitted back to the State Backward Classes Commission to decide on the question of justification of 69% reservation provided by the State in the Tamil Nadu Act 45 of 1994, keeping the challenge made to the validity of the said Act open, with a direction to the State Government to furnish quantifiable data materials for the justification of 69% reservation before the State Backward Classes Commission. The quantifiable data materials were culled out from the Report of the Ambasankar Commission and other relevant materials furnished by the Government. It is worthwhile to note here that the Mandal Commission based its recommendations by applying statistical principles for calculating the population of OBC and fixing it at 52%, using the Census Report of the year 1931. In such state of affairs, the quantifiable data materials culled out from Ambasankar Commission

Report for the justification of 69% provided for in the Tamil Nadu Act 45 of 1994 cannot at all be stated to be not justifiable in the eye of Law, when especially the Union Government had been striking a discordant note all along to perform caste count in the decennial census or such other periodical census operations, despite persistent insistence made by the State Government of Tamil Nadu for reservation purposes as mandated by the Supreme Court. The Tamil Nadu Backward Classes Commission, on consideration of such quantifiable data materials, came to the conclusion that there was enough justification for providing 69% reservation under the Tamil Nadu Act 45 of 1994. The report of this Commission justifying the 69% reservation made under the said Act was submitted to the Government on 8<sup>th</sup> July 2011. The said report was placed before the Cabinet headed by the Hon'ble Chief Minister and the Cabinet accepted the report justifying 69% reservation. Ultimately, the Government passed G.O. Ms. No.50, Backward Classes, Most Backward Classes and Minorities Welfare Department, dated 11.7.2011 which is to the following effect:-

"GOVERNMENT OF TAMIL NADU

Abstract

Welfare of Backward Classes – Tamil Nadu Backward Classes, Scheduled Castes and Scheduled Tribes (Reservation of seats in Educational Institutions and of appointments or posts in the Services under the State) Act, 1993 [Tamil Nadu Act 45 of 1994] – Report of the Tamil Nadu Backward Classes Commission on quantum of reservation and exclusion of creamy layer – Accepted – Orders – Issued.

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Backward Classes, Most Backward Classes and  
Minorities welfare department

G.O. Ms. No.50

Date : 11.7.2011

Read :

1. G.O.Ms.No.1566, Social Welfare Dept., dated 30.7.85.

2. G.O.Ms.No.242, Backward Classes Welfare, Nutritious Meal Programme and Social Welfare Dept., dated 28.3.1989.
3. G.O.Ms.No.1090, Adi Dravidar and Tribal Welfare Department, dated 22.6.1990.
4. Tamil Nadu Act 45 of 1994.

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The Writ Petitions filed before the Supreme Court of India challenging the Constitutional validity of the Tamil Nadu Backward Classes, Scheduled Castes and Scheduled Tribes (Reservation of seats in Educational Institutions and of appointments or posts in the Services under the State) Act, 1993 [hereinafter referred to as 'Tamil Nadu Act 45 of 1994'] were closed in the year 2010 by two orders of the Supreme Court respectively passed on 13/7/2010 and 3/1/2011 keeping the Constitutional validity of the said Act open, with a direction to the State Government of Tamil Nadu to supply the Tamil Nadu Backward Classes Commission all quantifiable data so as to enable the Commission to find out as to whether the quantifiable data supplied are sufficient and adequate enough for the justification of the 69% reservation provided for under the Tamil Nadu Act 45 of 1994.

2. At the time when the full bench headed by the Chief Justice of India, Thiru.S.H.Kapadia delivered the first order dated 13.7.2010 the Solicitor General informed the full bench that data in the form of reports were already available.

3. The Supreme Court, then, disposed of all the Writ Petitions pending before it challenging the Constitutional validity of the Tamil Nadu Act 45 of 1994 and sent back all the records and proceedings to the State Government, keeping the challenge to the Constitutional validity of the Act open. The further direction was that 'the interim orders passed by the Supreme Court from time to time in relation to admissions to Educational Institutions shall continue to be in force and in operation for a period of one year from today' [13/7/2010]. Yet another direction of the Supreme Court was that the whole exercise must have to be completed within one year, that is to say, before 12/7/2011.

4. The Tamil Nadu Backward Classes Commission, in its Report submitted to the Government on 8.7.2011, considered in an elaborate fashion a topic under Chapter 12 "Reservation under the Tamil Nadu Act 45 of 1994 – Existence of Quantifiable Data – Justifiability or Otherwise thereof". The Commission undertook a thorough analysis of the quantifiable data in the shape of the Report of the Tamil Nadu Second Backward Classes Commission – popularly known as 'Ambasankar Commission Report'. The Tamil Nadu Second Backward Classes Commission as pointed out by the Chairman of the Tamil Nadu Backward Classes Commission was able to fix the socially and educationally backward classes population at 67% from among the total population of the State to 5 Crores enumerated by the said Commission. The statistical data provided by the said Commission is more or less equal to the statistical data furnished by the Census of population conducted by the Government of India in the year 1981. Therefore, the authenticity of the report of the Tamil Nadu Second Backward Classes Commission cannot at all be doubted. The data required by the Commission have also been collected from various Government Institutions, State Public Sector Undertakings and educational institutions. The Tamil Nadu Act 45 of 1994

provided for reservation to the Backward Classes at 50% [i.e., Backward Classes at 30% and Most Backward Classes at 20%]. Therefore, the quantum of reservation provided for under the said Act, viz., 50% to Backward Classes is far below the percentage of Backward Classes population in the State as enumerated by the Tamil Nadu Second Backward Classes Commission. As such, the quantifiable data available on the date when the Tamil Nadu Act 45 of 1994 was passed, was sufficient and adequate enough to justify such percentage of reservation to the backward classes under the said Act.

5. The said Act also provided for reservation at 18% to Scheduled Castes [SC] and 1% to Scheduled Tribes [ST], all totaling to 19%. The Census conducted by the Union Government in 1991 was taken into consideration for fixing the percentage of reservation to Scheduled Castes and Scheduled Tribes, which is proportionate to their population. Therefore, there cannot at all be any doubt as regards the fixity of reservation 50% to Backward Classes, 18% to Scheduled Castes and 1% to Scheduled Tribes.

6. The second order dated 3/1/2011 of the Supreme Court is relatable to exclusion of "creamy layer". The report of the Tamil Nadu Backward Classes Commission reveals that due reliance has been placed upon the nine-Judges Bench judgement of the Supreme Court in Indra Sawhney supra. The dictum laid down by the Supreme Court in the said case regarding "creamy layer" is that while applying the exclusion of creamy layer to the backward classes, none from the backward classes should be deprived of the reservation benefits made available to them. Though the Tamil Nadu Act 45 of 1994 had been in existence for well over 17 years, the lakshman rekha line – as pointed out by the Tamil Nadu Backward Classes Commission in its Report submitted to Government on 8.7.2011 – has not been crossed warranting the application of "creamy layer" exclusion.

7. The report of the Tamil Nadu backward Classes Commission was placed in the meeting of the Council of Ministers held on 11.7.2011 and there was a thorough discussion on it in the meeting. The Council of Ministers of the Cabinet headed by the Hon'ble Chief Minister accepted the report of the Tamil Nadu Backward Classes Commission regarding the justification of the 69% reservation providing 30% for Backward Classes, 20% for Most Backward Classes, 18% for Scheduled Castes and 1% for Scheduled Tribes, as had been provided under Tamil Nadu Act 45 of 1994, as well as on the exclusion of Creamy Layer from the Backward Classes. The Government of Tamil Nadu also decided to continue to implement the reservation of 69% as provided in the Tamil Nadu Act 45 of 1994.

(BY ORDER OF THE GOVERNOR)

G.SANTHANAM  
SECRETARY TO GOVERNMENT

To  
....."

- 5.10 The Tamil Nadu Act 45 of 1994 provided for reservation of seats in educational institutions, *vide* section 4 thereof, and for reservation in appointments or posts in the services under the State, *vide* section 5 thereof. In both these cases, viz., *vide* sections 4 and 5 respectively, the BC were given 30%; MBC & DNC 20%; SC 18% and ST 1%.
- 5.11 It is to be noted that the Tamil Nadu Backward Classes Commission which was in existence since 15.3.1993 was reconstituted in G.O.Ms.No.39, Backward Classes, Most Backward Classes and Minorities welfare department, dated 11.7.2006. When the Commission was reconstituted, in addition to its earlier terms of reference covering inclusion or otherwise of a caste or community in BC or MBC, it was entrusted with the additional responsibility of making recommendation on improved reservation for Christians, Muslims and Minorities based on their social and educational backwardness. The Commission made recommendation to the Government for provision of reservation to the BC Christian and BC Muslim in proportion to their population at rate of 3.5% each. The recommendation was accepted and put into action by way of enactment of the Tamil Nadu Backward Classes of Christians and Backward Classes of Muslims (Reservation of seats in Educational Institutions, including Private Educational Institutions and of appointments or posts in the services under the State) Act, 2007. Later in the year 2008, the Act was amended by withdrawing the quota of 3.5% provided to the BC Christians.
- 5.12 Both in educational institutions and in appointments or posts in the services under the State, an internal reservation to the extent of 3.5% was provided to BC (Muslims) within the 30% reservation provided for BC.



The percentage of reservation to BC (Muslims) was worked out by the Commission considering their population in proportion to the total population of BC. The BC (Muslims) population was also culled out from the Report of the Ambasankar Commission. Similarly, if internal reservation or sub-categorisation is to be made among MBC and DNC, it could be worked out on the individual proportionate population of each of those castes/ communities in proportion to the total population of MBC and DNC and within the reservation of 20% provided to MBC and DNC, as has been provided under the Tamil Nadu Act 45 of 1994.

- 5.13 As already indicated, the Tamil Nadu Act 45 of 1994 provides for 20% reservation to castes/ communities listed as MBC and DNC for admission into educational institutions as well as in appointments or posts in the services under the State. As per the mandate of the Supreme Court, this Commission submitted its report, as already stated, justifying the 69% reservation as provided for under the said Act which is inclusive of 20% reservation provided for MBC and DNC. The quantifiable data relied upon by this Commission for the justification of the reservation provided in the said Act is the statistical particulars gathered by the Ambasankar Commission and other relevant materials furnished by the Government. For working out the internal reservation sought for by the castes/ communities included within MBC, the reliance placed upon such statistical data materials gathered by the said Commission, cannot at all be stated to be unsustainable. Therefore, for working out the internal reservation as demanded by certain castes/ communities included in the list of MBC in respect of which a reference has been made by the

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Government to this Commission, it is incumbent upon this Commission to rely upon the authenticated data materials collected by the Ambasankar Commission and other relevant materials furnished by the Government.

## 6. LEGALITY OF INTERNAL RESERVATION AMONG MOST BACKWARD CLASSES AND DENOTIFIED COMMUNITIES

- 6.1 The Writ Petition in W.P. No.14025 of 2010 was filed by one Thiru C.N.Ramamurthy figuring as petitioner, President, Vanniyar Federation, Chennai, in the High Court of Judicature at Madras, impleading the Chief Secretary to Government of Tamil Nadu and the Secretary to Government of Tamil Nadu, Ministry of Backward Classes, Most Backward Classes and Minorities, figuring as Respondents praying for a direction to issue a Writ of Mandamus by way of an appropriate order or direction in the nature, directing the Respondents to consider the representations of the petitioner dated 20.11.2009 and 3.5.2010 to provide appropriate percentage of reservation, viz., 15% within the reservation of 20% allocated to Most Backward Classes and others and to pass such further orders as the Hon'ble High Court may deem fit and proper in the circumstances of the case.
- 6.2 The Secretary to Government, Backward Classes, Most Backward Classes and Minorities Welfare department, had discussion with the Chairman, Tamil Nadu Backward Classes Commission, over the phone on 23.1.2012 regarding the internal reservation prayed for in the Writ Petition referred to *supra*. In furtherance of the discussion the Chairman had with the Secretary to Government, a D.O. Letter in No.28/TNBCC/2012, dated 30.1.2012 was addressed by the Chairman to the Secretary to Government (Annexure II), expressing the opinion of the Chairman in the above matter, which is getting reflected in paragraphs 7 to 16 of the said letter, which run as under:-

7. The request relating to sub-categorisation or internal reservation or special reservation within Backward Classes, Most Backward Classes or Denotified Communities are within the purview of the policy decision of the Government. Such being the case, the Commission can act upon such requests only when specific terms of reference emanating from the Government based on such a policy decision. This Commission explicitly referred to such a position on many an occasion when such a request – which had been given to the Chief Minister's cell – has been forwarded to this commission for disposal in the manner allowed by law.

8. In the affidavit of the Petitioner in the instant case, the Petitioner had referred to the internal reservation made to Backward classes of Muslims from among the reservation of 30% allocated to Backward Classes and consequently stated that there could be no impediment or obstacle for making internal reservation for Vanniakula Kshatriya.

9. It is not as if the Petitioner Thiru C.N.Ramamurthy alone had made a representation to this Commission for internal reservation. Many such representations from among Vanniakula Kshatriya community had also been received by this commission requesting for such internal reservation as had been asked for by the petitioner. The list of caste / community seeking internal or separate reservation from among Backward Classes / Most Backward Classes is enclosed. Many oral representations had been made to this Commission from various community people either requesting

internal reservation separately or clubbing with other castes / communities reportedly enjoying similar or equal status in the society with little or no difference among them. The Chairman gave audience and explained the legal position to them.

10. There is no constitutional or legal bar to the State for categorizing the Backward Classes / Most Backward Classes besides making sub-classification from among them.

11. The question - as to whether there is any constitutional or legal bar for the State to categorize the Backward Classes and effect sub-classification - arose for consideration before the apex court of this country, in *Indira Sawhney Vs. Union of India & Others* (1992 SCC (L&S) Supp 1) and what the court said in the context in para 802 and 803 is relevant and they run as under:

*"802. We are of the opinion that there is no constitutional or legal bar to a State categorizing the backward classes as backward and more backward. We are not saying that it ought to be done. We are concerned with the question if a State makes such a categorization, whether it would be invalid? We think not. Let us take the criteria evolved by Mandal Commission. Any caste, group or class which scored eleven or more points was treated as a backward class. Now, it is not as if all the several thousands of castes / groups / classes scored identical points. There may be some castes / groups / classes which have scored points between 20 to 22 and there may be some who have scored points between eleven and thirteen. It cannot reasonably be denied that there is no difference between these two sets of castes / groups / classes. To give an illustration, take two occupational groups viz., goldsmiths and vaddes (traditional stone-cutters in Andhra Pradesh) both included within Other Backward Classes. None can deny that goldsmiths are far less backward than vaddes. If both of them are grouped together and reservation provided, the inevitable result would be that goldsmiths would take away all the reserved posts leaving none for vaddes. In such a situation, a State may think it advisable to make a categorization even among other backward classes so as to ensure that the more backward among the backward classes obtain the benefits intended for them. Where to draw the line and how to effect the sub-classification is, however, a matter for the Commission and the State – and so long as it is reasonably done, the Court may not*

intervene. In this connection, reference may be made to the categorization obtaining in Andhra Pradesh. The Backward Classes have been divided into four categories. Group A comprises "Aboriginal tribes, Vimukta jatis, nomadic and semi-nomadic tribes etc." Group B comprises professional group like tappers, weavers, carpenters, ironsmiths, goldsmiths, kamsalins etc. Group C pertains to "Scheduled Castes converts to Christianity and their progeny", while Group D comprises all other classes / communities / groups, which are not included in Groups A, B and C. The 25% vacancies reserved for backward classes are sub-divided between them in proportion to their respective population. This categorization was justified in *Balram (State of A.P. v. U.S.V. Balram, (1972) 1 SCC 660: (1972) 3 SCR 247, 286)*. This is merely to show that even among backward classes, there can be a sub-classification on a reasonable basis.

803. There is another way of looking at this issue. Article 16(4) recognises only one class viz., "backward class of citizens". It does not speak separately of Scheduled Castes and Scheduled Tribes, as does Article 15(4). Even so, it is beyond controversy that Scheduled Castes and Scheduled Tribes are also included in the expression "backward class of citizens" and that separate reservations can be provided in their favour. It is well-accepted phenomenon throughout the country. What is the logic behind it? It is that if Scheduled Tribes, Scheduled Castes and Other Backward Classes are lumped together, OBCs will take away all the vacancies leaving Scheduled Castes and Scheduled Tribes high and dry. The same logic also warrants categorization as between more backward and backward. We do not mean to say – we may reiterate – that this should be done. We are only saying that if a State chooses to do it, it is not impermissible in law."

12. It is rather very well settled that Articles 15(4) and 16(4) of the Constitution are not fundamental rights but on the contrary, they are only enabling rights. Such being the case, none among the Backward Classes / Most Backward Classes can knock at the doors of superior courts of jurisdiction either praying for reservation under Article 15(4) or 16(4) and other related matters such as categorization and sub-classification. If and when the State feels justified to make any special reservation or sub- categorization or sub-classification it may do so as a policy matter falling within its exclusive purview and power.

13. In the instant case, the Court cannot make any order as prayed for by the Petitioner and if at all, what possibly could be done is to refer the request of the Petitioner to the Government for consideration and disposal within a time frame in accordance with the law.

14. If the State feel to sub-categorize or make internal reservation for Vanniakula Kshatriya in a specified percentage from among reservation of 20% provided to the MBC and DNC, it may do so, after getting the recommendation based on a specific reference made to this commission.

15. In respect of representations from various castes / communities included in Backward Classes / Most Backward Classes asking for internal reservation within Backward Classes / Most Backward Classes, if the Government desire to make any such reservation, as had been prayed for thereto, also do so by issuing specific terms of reference to this commission towards fulfillment of the policy decision taken therefor.

16. The commission will, then, make necessary, requisite and suitable recommendation therefor, after taking into consideration the factual, legal, constitutional and feasibility aspects of the matter.

6.3 The opinion expressed earlier to the Government by the Chairman of this Commission as detailed above shall hold good for addressing the additional 'Terms of Reference' issued to this Commission in G.O.Ms.No.35, Backward Classes, Most Backward Classes and Minorities welfare department, dated 21.3.2012 (Annexure I).

## 7. TERMS OF REFERENCE FOR THE COMMISSION

7.1 On the basis of the information furnished and the opinion expressed by the Chairman, Tamil Nadu Backward Classes Commission, as noted in para 6.2, the Government issued orders in G.O. Ms. No.35, Backward Classes, Most Backward Classes and Minorities Welfare department, dated 21.3.2012, and the relevant portion thereof runs as under:-

"5. .... the Government have decided to examine the issue relating to the internal reservation within the reservation made for Most Backward Classes / Denotified Communities by getting the recommendation of Tamil Nadu Backward Classes Commission after making a specific reference to them. Accordingly, the Government prescribe the terms of reference of Tamil Nadu Backward Classes Commission as follows:-

.....

v) The Commission shall examine and recommend upon the demand made by various communities to provide for internal reservation within the reservation provided for Most Backward Classes.

.....

6. The Tamil Nadu Backward Classes Commission is requested to examine and render necessary recommendation to Government on the request relating to the provision of internal reservation for various communities within the 20% reservation provided to Most Backward Classes and Denotified Communities."



7.2 On the basis of the reference so issued to this Commission, it goes without saying that the point arising for consideration can't be anyone other than as to which of the castes/ communities listed as Most Backward Classes which have demanded sub-categorisation, is eligible and pass the test of viability for internal reservation or sub-categorisation, although each of the castes/ communities, as a matter of law, is entitled to internal reservation, as has been mandated by the Supreme Court in *Indra Sawhney's case* [*vide* paragraphs 802 and 803] (*see para 6.2*).

## 8. STRATEGIC OPTIONS FOR PROVIDING INTERNAL RESERVATION WITHIN MOST BACKWARD CLASSES AND DENOTIFIED COMMUNITIES

- 8.1 The thrust and focus may now be diverted and delved deep into the question framed for consideration arising out of the terms of reference.
- 8.2 Fifty representations have been received by this Commission from various castes/ communities – listed as BC or MBC or otherwise – asking for internal reservation in educational institutions as well as in job opportunities.
- 8.3 Representations, numbering 50, so received consist of 30 from MBC, 13 from BC, 3 from Muslims, 1 from Mukulathor, 1 from Inter-Caste marriage and 2 from individuals from Forward Communities.
- 8.4 A cursory perusal of the Terms of Reference issued to this Commission *vide* G.O. Ms. No.35, Backward Classes, Most Backward Classes and Minorities Welfare Department, dated 21.3.2012, indicates in crystal clear terms that this Commission is required to consider the representations received from the castes/ communities listed as MBC requesting for internal reservation within the 20% reservation provided for MBC and DNC. As such, consideration of the requests received in the shape of representations from BC asking for internal reservation either for individual caste/community or as a group/s of such castes/ communities is left out of consideration.
- 8.5 The thirty representations which emanated from MBC are relatable to seven communities listed as MBC.
- 8.6 Among these, 8 representations from Vanniakula Kshatriya, 5 from Meenavars and 1 each from Thotiya Naicker, Maruthuvar, Navithar,

Salavai Thozhilalar and Erra Gollar, all totalling 18, asking for internal reservation on the basis of individual castes/communities, were received.

8.7 The castes/ communities going by the name Isai Vellalar, Meenavar, Kulalar, Salavaiyalar, Maruthuvar, Vannar, Navithar and Narikuravar have given seven representations to this Commission joining as groups consisting of 2/3/4/5 communities, asking for internal reservation to the said group as formed by them. Navithar, Salavai Thozhilalar forming as a group gave 2 representations; Navithar, Vannar, Narikuravar forming as a group gave 1 representation; Isai Vellalar, Meenavar, Kulalar, Vannar, Maruthuvar forming as a group gave 1 representation. Maruthuvar, Salavaiyalar forming as a group gave 1 representation. Isai Vellalar, Meenavar, Kulalar, Salavaiyalar, Maruthuvar forming as a group gave 1 representation; Maruthuvar Navithar, Vannar, Narikuravar forming as a group gave 1 representation; Isai Vellalar, Meenavar, Kulalar, Vannar, Navithar forming as a group gave 5 representations. Thus, all totalling 7 group representations were made asking for internal reservation to the groups so formed.

8.8 Subsequent to the reference to this Commission by the Government on 21.3.2012 on receipt of the opinion of the Chairman of this Commission, three representations from the most backward class Vannar community on three different dates viz., 9.3.2012, 29.3.2012 and 4.5.2012 were received requesting for internal reservation of 5%. Similarly, another representation dated 7.5.2012 from the most backward class Vanniakula Kshatriya had been received asking for internal reservation of 15%. These two communities have asked for internal reservation as above within the 20%

reservation provided for MBC and DNC. This Commission has already made analysis on the quantifiable data materials for the purpose of working out the internal reservation percentage both for the most backward class Vannar as well as for the most backward class Vanniakula Kshatriya and this in effect will mean the consideration of these subsequent representations of those communities of similar nature.

- 8.9 The terminology Vanniakula Kshatriya as notified by the Government in the list of Most Backward Classes includes Vanniyar, Vanniya, Vannia Gounder, Gounder or Kander, Padayachi, Palli and Agnikula Kshatriya. The terminologies Navithar and Maruthuvar represent one and the same caste/ community; similarly, Salavai Thozhilalar, Salavaiyalar and Vannar represent one and the same caste/ community. Likewise, Erra Gollar and Thotiya Naicker represent one and the same caste/ community and the representation so given emanated from the same Association.
- 8.10 For feasibility analysis of the requests for internal reservation or separate quota within the reservation made for MBC, this Commission culled out population data of all castes/ communities listed as MBC from the Ambasankar Commission Report submitted to the Government in 1985 and other relevant particulars furnished by the Government and available with the Commission.
- 8.11 The total population of castes/ communities listed as MBC or DNC as detailed under para 3.10 and 4.24 comes to (1,06,15,192 + 17,02,553) 1,23,17,745. The total population of the State of Tamil Nadu representing all castes/communities during 1983 was 4,99,90,743. From the particulars so taken, the percentage of internal reservation or separate quota had

been worked out in relation to the total population of castes/ communities listed as MBC.

- 8.12 Similarly, the population of castes/ communities listed as MBC forming as groups consisting of 2/3/4/5 from among such castes/ communities had also been worked out. From the population figures of castes/ communities formed as one group, the percentage of internal reservation or separate quota had also been worked out.
- 8.13 All these particulars are now gathered after careful scrutiny from the source material in order to avoid likely statistical error even to the minuscule level which might have crept in during preparation of prima-facie feasibility studies while advising the Government regarding the necessity of special reference to this Commission in this subject matter of internal reservation. It is also not out of place to mention specifically that the source materials made available to the Commission taken from Ambasankar Commission survey related tables are thoroughly checked again and figures have been given in this report.
- 8.14 The feasibility analysis, now made for the castes and communities demanding internal reservation, is depicted in the following tables. The formula derived for finding out the feasibility factor is given below:-

$$\text{Feasibility Factor} = \frac{P_C}{(P_{MBC} + P_{DNC})} \times 20\%$$

Where,

$P_C$  refers to the population of the caste / caste group;  
 $P_{MBC}$  refers to the total population of MBC;  
 $P_{DNC}$  refers to the total population of DNC;  
 20% is the factor showing the quantum of reservation available for the entire population of MBC and DNC.

## (i) Feasibility analysis for all castes / communities in Most Backward Classes

Sl. No.	Entry No.	Present entries	Population Reported in Ambasankar Commission Report	% out of total population (499990743)	Feasibility factor
1	1	Ambalakarar	446759	0.894%	0.725%
2	2	Andipandaram	223770	0.448%	0.363%
3	2[A]	Arayar (in Kanniyakumari District)	3409	0.007%	0.006%
4	3	Bestha, Siviari	7063	0.014%	0.011%
5	4	Bhatraju (other than Kshatriya Raju)	15700	0.031%	0.025%
6	5	Boyar, Oddar	409567	0.819%	0.665%
7	6	Dasari	15907	0.032%	0.026%
8	7	Dommarra	4436	0.009%	0.007%
9	8	Eravallar (except in Kanniyakumari District and Shencottah Taluk of Tirunelveli District where the community is a Scheduled Tribe)	1377	0.003%	0.002%
10	9	Isaivellalar	58327	0.117%	0.095%
11	10	Jambuvanodai	1399	0.003%	0.002%
12	11	Jangam	71951	0.144%	0.117%
13	12	Jogi	19848	0.040%	0.032%
14	13	Kongu Chettiar (in Coimbatore and Erode Districts only)	43531	0.087%	0.071%
15	14	Koracha	3429	0.007%	0.006%
16	15	Kulala (including Kuyavar and Kumbarar)	301179	0.602%	0.489%
17	16	Kunnuvar Mannadi	11055	0.022%	0.018%
18	17	Kurumba, Kurumba Gounder	183689	0.367%	0.298%
19	18	Kuruhini Chetty	4225	0.008%	0.007%
20	18[A]	Latin Catholic Christian Vannar (in Kanniyakumari District)	6129	0.012%	0.010%
21	19	Maruthuvar, Navithar, Mangala, Velakattalavar, Velakataianair and Pronopakari	426427	0.853%	0.692%
22	20	Mond Golla	5700	0.011%	0.009%
23	21	Moundadan Chetty	6254	0.013%	0.010%
24	22	Mahendra, Medara	7418	0.015%	0.012%
25	23	Mutlakampatti	1575	0.003%	0.003%
26	24	Narikoravar (Kuruvikars)	20162	0.040%	0.033%
27	25	Nokkar	7559	0.015%	0.012%
28	25[A]	Panisaivan/Panisivan	18511	0.037%	0.030%
29	26	Vanniakula Kshatriya (including Vanniyar, Vanniya, Vannia Gounder or Kander, Padayachi, Palli and Agnikula Kshatriya)	6504855	13.012%	10.562%

Sl. No.	Entry No.	Present entries	Population Reported in Ambasankar Commission Report	% out of total population (499990743)	Feasibility factor
30	27	Paravar (except in Kanniyakumari District and Shencottah Taluk of Tirunelveli District where the Community is Scheduled Caste)	37183	0.074%	0.060%
31	27[A]	Paravar Converts to Christianity including the Paravar Converts to Christianity of Kanniyakumari District and Shencottah Taluk in Tirunelveli District	56384	0.113%	0.092%
32	28	Meenavar (Parvatharajakulam, Pattanavar, Sembadavar) (including converts to Christianity)	271764	0.544%	0.441%
33	29	Mukkuvar or Mukayar (including converts to Christianity)	11446	0.023%	0.019%
34	30	Punnan Vettuva Gounder	4562	0.009%	0.007%
35	31	Pannayar (other than Kathikarar in Kanniyakumari District)	9758	0.020%	0.016%
36	32	Sathatha Srivaishnava (including Sathani, Chattadi and Chattada Srivaishnava)	15354	0.031%	0.025%
37	33	Sozhia Chetty	82556	0.165%	0.134%
38	34	Telugupatti Chetty	58375	0.117%	0.095%
39	35	Thottia Naicker (including Rajakambalam, Gollavar, Sillavar, Thockalavar, Thozhuva Naicker and Erra Gollar)	271318	0.543%	0.441%
40	36	Thondaman	14036	0.028%	0.023%
41	36[A]	Thoraiyar (Nilgiris)	7226	0.014%	0.012%
42	36[B]	Thoraiyar (Plains)			
43	37	Valaiyar (including Chettinad Valayars)	283580	0.567%	0.460%
44	38	Vannar (Salavai Thozhilalar) (including Agasa, Madivala, Ekali, Rajakula, Veluthadar and Rajaka) (except in Kanniyakumari District and Shencottah Taluk of Tirunelveli District where the community is a Scheduled Caste)	445637	0.891%	0.724%
45	39	Vettaikarar	70298	0.141%	0.114%
46	40	Vettuva Gounder	125886	0.252%	0.204%
47	41	Yogeeswarar	18618	0.037%	0.030%
Total MBC population			10615192	21.234%	17.236%
Total population of the State			49990743		

## (ii) Feasibility analysis for all the castes / communities in Denotified Communities

Sl. No.	Entry No.	Present entries	Population Reported in Ambasankar Commission Report	% out of total population (499990743)	Feasibility factor
1	1	Attur Kilnad Koravars (Salem, Namakkal, Cuddalore, Villupuram, Ramanathapuram, Sivaganga and Virudhunagar Districts)	7994	0.016%	0.013%
2	2	Attur Melnad Koravars (Salem and Namakkal District)	2290	0.005%	0.004%
3	3	Appanad Kondayam Kottai Maravar (Sivaganga, Virudhunagar, Ramanathapuram, Madurai, Theni and Dindigul Districts)	50753	0.102%	0.082%
4	4	Ambalakarar (Thanjavur, Nagapattinam, Tiruvarur, Tiruchirapalli, Karur, Perambalur and Pudukottai Districts)	258840	0.518%	0.420%
5	5	Ambalakarar (Suriyanur, Tiruchirapalli District)	5179	0.010%	0.008%
6	6	Boyas (Tiruchirapalli, Karur, Perambalur, Pudukottai, The Nilgiris, Salem, Namakkal and Dharmapuri Districts)	12478	0.025%	0.020%
7	7	Battu Turkas	441	0.001%	0.001%
8	8	C.K.Koravars (Cuddalore and Villupuram Districts)	2549	0.005%	0.004%
9	9	Chakkala (Sivaganga, Virudhunagar, Ramanathapuram, Thanjavur, Nagapattinam, Tiruvarur, Pudukottai, Tiruchirapalli, Karur, Perambalur, Madurai, Theni, Dindigul and the Nilgiris Districts)	2110	0.004%	0.003%
10	10	Changayampudi Koravars (Vellore and Tiruvannamalai Districts)	3136	0.006%	0.005%
11	11	Chettinad Valayars (Sivaganga, Virudhunagar and Ramanathapuram Districts)	62194	0.124%	0.101%
12	12	Dombs (Pudukottai, Tiruchirapalli, Karur and Perambalur Districts)	260	0.001%	0.000%
13	13	Dobba Koravars (Salem and Namakkal Districts)	2206	0.004%	0.004%
14	14	Dommas (Thanjavur, Nagapattinam, Tiruvarur, Pudukottai, Vellore and Tiruvannamalai Districts)	1089	0.002%	0.002%
15	15	Donga Boya	238	0.000%	0.000%



Sl. No.	Entry No.	Present entries	Population Reported in Ambasankar Commission Report	% out of total population (499990743)	Feasibility factor
16	16	Donga Ur.Korachas	287	0.001%	0.000%
17	17	Devagudi Talayaris	1955	0.004%	0.003%
18	18	Dobbai Korachas (Tiruchirapalli, Karur, Perambalur and Pudukottai Districts)	51	0.000%	0.000%
19	19	Dabi Koravars (Thanjavur, Nagapattinam, Tiruvarur, Tiruchirapalli, Karur, Perambalur, Pudukottai, Vellore and Tiruvannamalai Districts)	2260	0.005%	0.004%
20	20	Donga Dasarlis (Kancheepuram, Tiruvallur, Tiruchirapalli, Karur, Perambalur, Pudukottai, Chennai, Salem and Namakkal Districts)	797	0.002%	0.001%
21	21	Gorrela Dodda Boya	154	0.000%	0.000%
22	22	Gudu Dasarlis	482	0.001%	0.001%
23	23	Gandarvakottai Koravars (Thanjavur, Nagapattinam, Tiruvarur, Tiruchirapalli, Karur, Perambalur, Pudukottai, Cuddalore and Villupuram Districts)	1229	0.002%	0.002%
24	24	Gandarvakottai Kallars (Thanjavur, Nagapattinam, Tiruvarur and Pudukottai Districts)	14566	0.029%	0.024%
25	25	Inji Korvars (Thanjavur, Nagapattinam, Tiruvarur, Tiruchirapalli, Karur, Perambalur and Pudukottai Districts)	537	0.001%	0.001%
26	26	Jogis (Kancheepuram, Tiruvallur, Chennai, Cuddalore, Villupuram, Vellore and Tiruvannamalai Districts)	4512	0.009%	0.007%
27	27	Jambavanodai	243	0.000%	0.000%
28	28	Kaladis (Sivaganga, Virudhunagar, Ramanathapuram, Madurai, Theni, Dindigul, Thanjavur, Nagapattinam, Tiruvarur, Pudukottai, Tiruchirapalli, Karur and Perambalur Districts)	2506	0.005%	0.004%

Sl. No.	Entry No.	Present entries	Population Reported in Ambasankar Commission Report	% out of total population (499990743)	Feasibility factor
29	29	Kal Oddars (Kancheepuram, Tiruvallur, Ramanathapuram, Sivaganga, Virudhunagar, Madurai, Theni, Dindigul, Pudukottai, Tiruchirapalli, Karur, Perambalur, Tirunelveli, Toothukudi, Salem and Namakkal Districts)	40708	0.081%	0.066%
30	30	Koravars (Kancheepuram, Tiruvallur, Ramanathapuram, Sivaganga, Virudhunagar, Pudukottai, Thanjavur, Nagapattinam, Tiruvarur, Tiruchirapalli, Karur, Perambalur, Tirunelveli, Toothukudi, Chennai, Madurai, Theni, Dindigul and The Nilgiris Districts).	45899	0.092%	0.075%
31	31	Kalinji Dabikoravars (Thanjavur, Nagapattinam, Tiruvarur and Pudukottai Districts)	1971	0.004%	0.003%
32	32	Kootappal Kallars (Tiruchirapalli, Karur, Perambalur and Pudukottai Districts)	4888	0.010%	0.008%
33	33	Kala Koravars (Thanjavur, Nagapattinam, Tiruvarur, Tiruchirapalli, Karur, Perambalur and Pudukottai Districts)	887	0.002%	0.001%
34	34	Kalavathila Boyas	736	0.001%	0.001%
35	35	Kepmaris (Kancheepuram, Tiruvallur, Pudukottai, Tiruchirapalli, Karur and Perambalur Districts)	1225	0.002%	0.002%
36	36	Maravars (Thanjavur, Nagapattinam, Tiruvarur, Pudukottai, Ramanathapuram, Sivaganga, Virudhunagar, Tirunelveli and Toothukodi Districts)	433346	0.867%	0.704%
37	37	Monda Koravars	196	0.000%	0.000%
38	38	Monda Golla (Salem and Namakkal Districts)	64	0.000%	0.000%
39	39	Mutlakampatti (Tiruchirapalli, Karur, Perambalur and Pudukottai Districts)	805	0.002%	0.001%
40	40	Nokkars (Tiruchirapalli, Karur, Perambalur and Pudukottai Districts)	697	0.001%	0.001%

Sl. No.	Entry No.	Present entries	Population Reported in Ambasankar Commission Report	% out of total population (499990743)	Feasibility factor
41	41	Nellorepet Oddars (Vellore and Tiruvannamalai Districts)	2949	0.006%	0.005%
42	42	Oddars (Thanjavur, Nagapattinam, Tiruvarur, Tiruchirapalli, Karur, Perambalur, Pudukottai, Madurai, Theni and Dindigul Districts).	16997	0.034%	0.028%
43	43	Pedda Boyas (Tiruchirapalli, Karur, Perambalur and Pudukottai Districts)	2655	0.005%	0.004%
44	44	Ponnai Koravars (Vellore and Tiruvannamalai Districts)	694	0.001%	0.001%
45	45	Piramalai Kallars (Sivaganga, Virudhunagar, Ramanathapuram, Madurai, Theni, Dindigul, Pudukottai, Thanjavur, Nagapattinam and Tiruvarur Districts).	346252	0.693%	0.562%
46	46	Peria Suriyur Kallars (Tiruchirapalli, Karur, Perambalur and Pudukottai Districts)	1940	0.004%	0.003%
47	47	Padayachi (Vellayan Kuppam in Cuddalore District and Tennore in Tiruchirapalli District)	34459	0.069%	0.056%
48	48	Punnan Vettuva Gounder (Tiruchirapalli, Karur, Perambalur and Pudukottai Districts)	995	0.002%	0.002%
49	49	Servai (Tiruchirapalli, Karur, Perambalur and Pudukottai Districts)	77527	0.155%	0.126%
50	50	Salem Melnad Koravars (Madurai, Theni, Dindigul, Coimbatore, Erode, Pudukottai, Tiruchirapalli, Karur, Perambalur, Salem, Namakkal, Vellore and Tiruvannamalai Districts)	1839	0.004%	0.003%
51	51	Salem Uppu Koravars (Salem and Namakkal Districts)	2782	0.006%	0.005%
52	52	Sakkaraithamadai Koravars (Vellore and Tiruvannamalai Districts)	754	0.002%	0.001%
53	53	Saranga Palli Koravars	54	0.000%	0.000%
54	54	Sooramari Oddars (Salem and Namakkal Districts)	2691	0.005%	0.004%

Sl. No.	Entry No.	Present entries	Population Reported in Ambasankar Commission Report	% out of total population (499990743)	Feasibility factor
55	55	Sembanad Maravars (Sivaganga, Virudhunagar and Ramanathapuram Districts)	25540	0.051%	0.041%
56	56	Thalli Koravars (Salem and Namakkal Districts)	1510	0.003%	0.002%
57	57	Thelungapatti Chettis (Tiruchirapalli, Karur, Perambalur and Pudukottai Districts)	5184	0.010%	0.008%
58	58	Thottia Naickers (Sivaganga, Virudhunagar, Ramanathapuram, Kancheepuram, Tiruvallur, Thanjavur, Nagapattinam, Tiruvarur, Tiruchirapalli, Karur, Perambalur, Pudukottai, Tirunelveli, Thoothukudi, Salem, Namakkal, Vellore, Tiruvannamalai, Coimbatore and Erode Districts).	40553	0.081%	0.066%
59	59	Thogamalai Koravars or Kepmaris (Tiruchirapalli, Karur, Perambalur and Pudukottai Districts)	512	0.001%	0.001%
60	60	Uppukoravars or Settipalli Koravars (Thanjavur, Nagapattinam, Tiruvarur, Pudukottai, Madurai, Theni, Dindigui, Vellore and Tiruvannamalai Districts)	7626	0.015%	0.012%
61	61	Uruli Gounders (Tiruchirapalli, Karur, Perambalur and Pudukottai Districts)	67195	0.134%	0.109%
62	62	Wayalpad or Nawalpeta Korachas	15	0.000%	0.000%
63	63	Vaduarpatti Koravars (Madurai, Theni, Dindigul, Ramanathapuram, Sivaganga, Virudhunagar, Tirunelveli, Thoothukudi, Tiruchirapalli, Karur, Perambalur and Pudukottai Districts)	381	0.001%	0.001%
64	64	Valayars (Madurai, Theni, Dindigul, Tiruchirapalli, Karur, Perambalur, Pudukottai, Erode and Coimbatore Districts)	68909	0.138%	0.112%
65	65	Vettaikarar (Thanjavur, Nagapattinam, Tiruvarur and Pudukottai Districts)	744	0.001%	0.001%

Sl. No.	Entry No.	Present entries	Population Reported in Ambasankar Commission Report	% out of total population (499990743)	Feasibility factor
66	66	Vetta Koravars (Salem and Namakkal Districts)	1295	0.003%	0.002%
67	67	Varaganeri Koravars (Tiruchirapalli, Karur, Perambalur and Pudukottai Districts)	313	0.001%	0.001%
68	68	Vettuva Gounder (Tiruchirapalli, Karur, Perambalur and Pudukottai Districts)	17430	0.035%	0.028%
Total DNC population			1702553	3.406%	2.764%
Total population of the State			49990743	100.000%	

(iii) Feasibility analysis of requests for internal reservation or separate quota within Most Backward Classes

(a) Representations from individual caste/community

Sl. No.	Date of representation	Caste / Community requested reservation	Internal Reservation requested	Entry in MBC list	Total Population of caste as per Ambasankar Commission Report (1985)	% out of total population	Feasibility factor
1	24.6.2010	Maruthuvar	7%	19	426427	0.853%	0.692%
2	9.7.2010	Navithar	5%	19	426427	0.853%	0.692%
3	18.3.2011	Salavai Thozhilar	3%	38	445637	0.891%	0.724%
4	20.5.2010	Meenavar	5%	28	271764	0.544%	0.441%
5	16.9.2010	Meenavar	2.5%	28	271764	0.544%	0.441%
6	6.6.2011	Meenavar	2%	28	271764	0.544%	0.441%
7	26.8.2011	Meenavar	2%	28	271764	0.544%	0.441%
8	10.11.2011	Meenavar	2%	28	271764	0.544%	0.441%
9	30.10.2009	Erra Gollar	6%	35	271318	0.543%	0.441%
10	2.3.2010	Thotiya Naicker	6%	35	271318	0.543%	0.441%
11	12.5.2010	Vanniyar	**	26	6504855	13.012%	10.562%
12	10.6.2010	Vanniyar	15%	26	6504855	13.012%	10.562%
13	19.7.2010	Vanniyar	15%	26	6504855	13.012%	10.562%
14	27.8.2010	Vanniyar	**	26	6504855	13.012%	10.562%
15	20.9.2010	Vanniyar	15%	26	6504855	13.012%	10.562%
16	26.11.2010	Vanniyar	15%	26	6504855	13.012%	10.562%
17	28.3.2011	Vanniyar	13%	26	6504855	13.012%	10.562%
18	12.12.2011	Vanniyar	13%	26	6504855	13.012%	10.562%

## (b) Representations from individual caste/community

Sl. No.	Date of representation	Group of castes / communities requested reservation	Internal Reservation requested	Entry in MBC list	Total Population of caste as per Ambasankar Commission Report (1985)	% out of total population	Feasibility factor
1	12.5.2010	Isai Vellalar, Meenavar, Kulalar, Salavaiyalar Maruthuvar	**	9, 28, 15, 38, 19	1503334	3.01%	2.441%
2	23.12.2009	Isai Vellalar, Meenavar, Kulalar, Vannar, Maruthuvar	5%	9, 28, 15, 38, 19	1503334	3.01%	2.441%
3	4.5.2010	Isai Vellalar, Meenavar, Kulalar, Vannar, Navithar	5%	9, 28, 15, 38, 19	1503334	3.01%	2.441%
4	4.5.2010	Isai Vellalar, Meenavar, Kulalar, Vannar, Navithar	3%	9, 28, 15, 38, 19	1503334	3.01%	2.441%
5	18.6.2010	Isai Vellalar, Meenavar, Kulalar, Vannar, Navithar	**	9, 28, 15, 38, 19	1503334	3.01%	2.441%
6	6.9.2010	Isai Vellalar, Meenavar, Kulalar, Vannar, Navithar	7%	9, 28, 15, 38, 20	1503334	3.01%	2.441%
7	25.10.2010	Isai Vellalar, Meenavar, Kulalar, Vannar, Navithar	3%	9, 28, 15, 38, 19	1503334	3.01%	2.441%
8	5.10.2011	Maruthuvar, Navithar, Vannar, Narikuravar	**	19, 38, 24	892226	1.78%	1.449%
9	29.4.2010	Navithar, Salavai Thozhilalar	7%	19, 38	872064	1.74%	1.416%
10	29.12.2010	Navithar, Vannar, Narikuravar	**	19, 38, 24	892226	1.78%	1.449%

Sl. No.	Date of representation	Group of castes / communities requested reservation	Internal Reservation requested	Entry in MBC list	Total Population of caste as per Ambasankar Commission Report (1985)	% out of total population	Feasibility factor
11	15.2.2010	Maruthuvar, Salavaiyalar	5%	19, 38	872064	1.74%	1.416%
12	2.9.2008	Navithar, Salavai Thozhilalar	**	19, 38	872064	1.74%	1.416%

8.15 From the analysis so made, it is clear that none of the castes/ communities listed as MBC asking for internal reservation – either individually or as groups – excluding Vanniakula Kshatriya, asking for internal reservation exclusively for themselves – is satisfying the test of viability or feasibility for making internal reservation. Further, the percentage of internal reservation asked for by such castes/ communities has to be accommodated within the 20% reservation provided for MBC and DNC, taking into consideration the accommodation to be made to other castes/ communities in proportion to their population within the 20% quota allotted to all castes/ communities included in the list of MBC or DNC.

8.16 The internal reservation to be provided for the castes/ communities other than Vanniakula Kshatriya, either individually or as groups, is so minimal in percentage, falling below or around 2.5%, as based on their population, proportionate to the population of MBC, within the quota of reservation of 20% provided for MBC and DNC. The preparation of roster working out the reservation so made will get complicated and become unworkable to the disadvantage of such castes and communities.

- 8.17 So far as Vanniakula Kshatriya community is concerned, their population as culled out from the Ambasankar Commission Report, 1985, is to the tune of 65,04,855, which is enumerated as the largest community in the State of Tamil Nadu. The percentage of internal reservation worked out for the said caste, taking into consideration the total population of MBC and DNC in proportion to their population comes to 10.562%. Going by the international mathematical principles, the figure arrived at "10.562%" for internal reservation for Vanniakula Kshatriya may be rounded off to the nearest decimal viz., "10.5%".
- 8.18 As such, the internal reservation or separate quota to the extent of 10.5% for Vanniakula Kshatriya listed as MBC from out of the 20% reservation for MBC and DNC in educational institutions as well as appointments or posts in the services under the State may not be stated to be not feasible.
- 8.19 It is pertinent to note here that the estimation of population made with reference to the castes newly added to the MBC after 2008 carry no statistical significance while rounding off the internal reservation figures derived as 10.5% for Vanniakula Kshatriya. Even if such population figures are not taken into account for the feasibility studies, the variation in the quantum of internal reservation derived now is negligible.
- 8.20 Providing for separate quota of reservation for the most backward class Vanniakula Kshatriya within the quota of reservation provided for MBC and DNC proportionate to their population will neither tantamount to conferring any undue advantage in their favour, nor it will unduly affect or prejudice or cause any detriment to the entitlement of reservation benefits to the other castes/communities in the list of MBC or DNC. Further, the separate



quota of reservation conferred on the most backward class Vanniakula Kshatriya within the quota of reservation for MBC and DNC will not in the least affect the distribution of reservation benefits among the various castes/ communities listed as MBC or DNC.

8.21 A broad spectrum analysis of the castes/ communities listed as MBC or DNC asking for internal reservation reveals in crystal clear terms that none of the castes/ communities listed as MBC or DNC asking for internal reservation, except Vanniakula Kshatriya, satisfies the test of viability or feasibility for making internal reservation. Consequently, this Commission is put to the necessity of recommending internal reservation for Vanniakula Kshatriya in proportion to their population, at 10.5%, taking into consideration the total population of MBC and DNC.

8.22 This Commission rather made a bid to study the admission status of Vanniakula Kshatriya in the professional courses such as Engineering, Medicine, Veterinary, Agriculture and Law, for a period of five years starting from 2006-07 to 2010-11. We were able to gather particulars of total admission for those five years period for all castes/ communities.

Year	Admission to professional courses of Tamil Nadu					
	Engineering courses	Medicine (MBBS/BDS)	Veterinary Science	Agriculture	Law	Total
2006-2007	42288	2080	243	421	2234	47266
2007-2008	55996	2504	243	437	2234	61414
2008-2009	78233	2681	242	583	2314	84053
2009-2010	83511	2709	242	593	2314	89369
2010-2011	111848	3329	242	635	2314	118368
Total of 5 years	371876	13303	1212	2669	11410	400470
	92.9%	3.3%	0.3%	0.7%	2.8%	

We were, however, unable to get the correct and full admission particulars of Vanniakula Kshatriya in professional courses such as Medicine, Veterinary, Agriculture and Law excepting Engineering courses. The total admission for Engineering courses for all castes/ communities for the aforesaid five years comes to 3,71,876. In respect of Medicine (MBBS/BDS) it was 13,303; Veterinary Science-1212; Agriculture-2669; and Law-11,410, totaling to 4,00,470 for all the professional courses. The figure 3,71,876 for Engineering admissions constitutes 92.9% of the totality of admissions in all the professional courses in the State as indicated above; that is to say, 7.1% is relatable to the rest of the professional courses, about which we have already stated, sufficient and adequacy of particulars of admission of Vanniakula Kshatriya is not available. We are, however, inclined to consider the percentage of share of admission of Vanniakula Kshatriya in engineering courses for the five years period as indicated above. The reason is not far to seek. Among all professional courses, as indicated above, engineering course is the most covetable one from the point of view of immediate prospects.

8.23 The seats secured by Vanniakula Kshatriya in the Engineering courses in the last five years will give an indication of their share of enjoyment of reservation benefits in such courses. Such a study reveals the reservation benefits enjoyed by them as follows, 2006-2007 - 8.66%; 2007-2008 - 9.81%; 2008-2009 - 10.41%; 2009-2010 - 9.52%; 2010-2011 - 10.35%, which is far below the percentage of internal reservation proportionate to their population to which they are entitled.

Academic year	Total seats allotted in Engineering Admissions	Reserved seats secured by Vanniakula Kshatriya	
		Number	Percentage
2006-2007	42288	3661	8.66%
2007-2008	55996	5496	9.81%
2008-2009	78233	8146	10.41%
2009-2010	83511	7948	9.52%
2010-2011	111848	11581	10.35%
Total of 5 years	371876	36832	9.90%

8.24 The Commission also studied the representation of Vanniakula Kshatriya in Tamil Nadu Government Services in various Groups viz., Groups A, B, C and D as on 1.8.2010. The statistical figures so gathered are given as below:

**Representation of Vanniakula Kshatriya in the Tamil Nadu Government Service (as on 1.8.2010)**

Group of the employees	Total number of employees	Representation of Vanniakula Kshatriya in the State Services	
		Number	Percentage
Group-A (Grade pay above Rs.6600/-)	47066	3452	7.33%
Group-B (Grade pay above Rs.4400/- but below Rs.6600/-)	257433	21235	8.25%
Group-C (Grade pay above Rs.1400/- but below Rs.4400/-)	514322	41178	8.01%
Group-D <sup>@</sup> (Grade pay below Rs.1400/-)	106912	14400	13.47%
Total of above groups	925733	80265	8.67%

<sup>@</sup> Group-D does not include the cadres of Sweepers and Scavengers on such scale of pay.

The percentage of representation of Vanniakula Kshatriya in Tamil Nadu Government Service as on 1.8.2010 in various Groups is as follows, Group A – 7.33%; Group B – 8.25%; Group C – 8.01%; Group D – 13.47%. Their representation in Groups such as A, B and C

falls much below 10.5% which is the internal reservation as derived by this Commission in proportion to their population. In Group-D alone, their representation is 13.47%, which consists of menial services in respect of which one cannot expect many takers from other higher classes and that explains their representation in excess of the percentage of internal reservation proportionate to their population to which they are entitled.

8.25 From the particulars given above, it is abundantly clear that Vanniakula Kshatriya did not at all enjoy the reservation benefits from the quota provided for MBC and DNC crossing 10.5% as the Commission has now derived by way of internal reservation to them within the reservation of 20% provided for MBC and DNC. Such internal reservation for Vanniakula Kshatriya within the reservation provided for MBC and DNC proportion to their population will neither tantamount to conferring any undue advantage on them nor it will unduly affect the entitlement of reservation benefits of the other castes/ communities listed as MBC or DNC. Further, the separate quota of reservation conferred on the most backward class Vanniakula Kshatriya within the quota of reservation benefits for MBC and DNC will not in the least affect the distribution of reservation among various castes/ communities listed as MBC or DNC.

8.26 If such a reservation as opted above is made, there may not be any objection emerging from any quarter whatever, either from the perspective of factual, legal or Constitutional and feasibility aspects and the law as declared by the Supreme Court of India as of now.

## 9. RECOMMENDATIONS OF THE COMMISSION

- 9.1 In view of the foregoing discussions, this Commission unanimously recommends that internal reservation or separate quota may be provided for to the extent of 10.5% for Vanniakula Kshatriya (including Vanniyar, Vanniya, Vannia Gounder, Gounder or Kander, Padayachi, Palli and Agnikula Kshatriya) listed as Most Backward Class from out of the 20% reservation provided for MBC and DNC in educational institutions, including private educational institutions, as well as in appointments or posts in the services under the State.
- 9.2 If the State desires to provide internal reservation as recommended above for Vanniakula Kshatriya, better it is, to make such internal reservation by enacting a separate enactment or ordinance, as the case may be, without prejudice to the provisions of the Tamil Nadu Act 45 of 1994 (Model legislation is in *Annexure IV*).

/sd/ (24.5.2012)  
[Justice M.S.Janarthanam,  
Chairman]

*As the report is untimely and incomplete without updated statistics, we dissent for the acceptance of the report unanimously.*

/SD/  
[S.P.THYAGARAJAN]

/SD/  
[KR.MURUGANANDAM]

/SD/  
[D.SUNDARAM]

/SD/  
[DR.M.RAJENDRAN, I.A.S.,]

/SD/  
[DR.V.M.MUTHUKUMAR]

/SD/  
[R.THANDEVAN]

Annexure I

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GOVERNMENT OF TAMIL NADU

ABSTRACT

Tamil Nadu Backward Classes Commission – Terms of Reference of  
Tamil Nadu Backward Classes Commission – Additional Terms of  
Reference prescribed – Orders – Issued.

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Backward Classes, Most Backward Classes and  
Minorities Welfare (BCC) Department

G.O.(Ms) No.35,

Dated: 21.3.2012

Read again:

1. G.O.Ms.No.9, Backward Classes, Most Backward Classes Welfare Department, dated 15.3.93.
2. G.O.Ms.No.17, Backward Classes, Most Backward Classes and Minorities Welfare Department, dated 1.3.2006
3. G.O.Ms.No.30, Backward Classes, Most Backward Classes and Minorities Welfare Department, dated 11.7.2006

Read also:

4. From the Hon'ble Chairman, Tamil Nadu Backward Classes Commission D.O. Letter No.28/TNBCC/2012, dated 30.1.2012 and 6.2.2012.

ORDER:

In pursuance to the direction of the Supreme Court in Indra Sawhney Vs. Union of India, popularly known as Mandal Commission case, the Government have constituted a permanent Commission termed as "Tamil Nadu Backward Classes Commission" under Article 16(4) read with Article 340 of the Constitution under the Chairmanship of a retired High Court Judge in the Government Order first read above to examine and recommend upon the request for inclusion of communities in the list of Backward Classes and Most Backward Classes and complaints of over inclusion or under in the above lists with the following terms of reference:-

- (i) The Commission shall entertain, examine and recommend upon requests for inclusion and complaints of over-inclusion and under-inclusion in the lists of Backward Classes/ Most Backward Classes.
- (ii) Periodic revision of list of Backward Classes and Most Backward Classes in this state as and when decided.

- (iii) The Commission shall base its recommendations in the light of provision contained in Article 16(4) read with relevant provisions of the Constitution of India and the various decisions of the Supreme Court bearing on the subject.

2. While issuing orders in the Government orders second and third read above for the reconstitution of Tamil Nadu Backward Classes Commission, the terms of reference of the Commission has been amplified as follows taking into consideration of the request made by minority communities for separate reservation:-

- (i) The Commission shall entertain, examine and recommend upon requests for inclusion and complaints of over-inclusion and under-inclusion in the lists of Backward Classes/Most Backward Classes.
- (ii) Periodic revision of list of Backward Classes and Most Backward Classes in this state as and when decided.
- (iii) The Commission shall base its recommendations in the light of provision contained in Article 16(4) read with relevant provisions of the Constitution of India and the various decisions of the Supreme Court bearing on the subject.
- (iv) The Commission shall make recommendations on improved reservation for Christians, Muslims and other Minorities based on their social and educational backwardness.
- (v) The Commission shall examine and make recommendations on any other matter relating to Backward Classes that may be referred to it by Government from time to time.

3. The Chairman, Tamil Nadu Backward Classes Commission who was consulted on the request relating to the provision of internal reservation for Vanniyar Community within the reservation provided for Most Backward Classes has stated that if the State feel to sub-categorize or make internal reservation for Vanniakula Kshatriya in a specified percentage from among reservation of 20% provided to the Most Backward Classes, it may do so, after getting the recommendation based on the specific reference made to the Commission.

4. The Writ Petition (W.P.No. 14025 of 2010) seeking direction to the respondents to provide for appropriate percentage of reservation for Vanniakula Kshatriya community in the reservation of 20% granted to Most Backward Classes and others is at present pending before the High Court of madras. It has been informed by Government in the counter affidavit filed in the above writ petition that the issue is pending before the Tamil Nadu Backward Classes Commission. Besides the Vanniakula Kshatriya community, some other communities have also represented to Government / Commission for making internal reservation within the reservation available for Most Backward Classes.

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5. Keeping these in mind, the Government have decided to examine the issue relating to the internal reservation within the reservation made for Most Backward Classes / Denotified Communities by getting the recommendation of Tamil Nadu Backward Classes Commission after making a specific reference to them. Accordingly, the Government prescribe the terms of reference of Tamil Nadu Backward Classes Commission as follows:-

- (i) The Commission shall entertain, examine and recommend upon requests for inclusion and complaints of over-inclusion and under-inclusion in the lists of Backward Classes/Most Backward Classes.
- (ii) Periodic revision of list of Backward Classes and Most Backward Classes in this state as and when decided.
- (iii) The Commission shall base its recommendations in the light of provision contained in Article 16(4) read with relevant provisions of the Constitution of India and the various decisions of the Supreme Court bearing on the subject.
- (iv) The Commission shall make recommendations on improved reservation for Christians, Muslims and other Minorities based on their social and educational backwardness.
- (v) The Commission shall examine and recommend upon the demand made by various communities to provide for internal reservation within the reservation provided for Most Backward Classes.
- (vi) The Commission shall examine and make recommendations on any other matter relating to Backward Classes that may be referred to it by Government from time to time.

6. The Tamil Nadu Backward Classes Commission is requested to examine and render necessary recommendation to Government on the request relating to the provision of internal reservation for various communities with in the 20% reservation provided to Most Backward Classes and Denotified Communities.

(BY ORDER OF THE GOVERNOR)

G. SANTHANAM  
SECRETARY TO GOVERNMENT.

To

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## Annexure II

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D.O. Letter No.28/TNBCC/2012, dated 30.1.2012 of the Chairman, Tamil Nadu backward Classes Commission, Chennai, addressed to Dr. G.Santhanam, I.A.S., Secretary to Government, Backward Classes, Most Backward Classes and Minorities Welfare Department, Secretariat, Chennai 600 009.

Dear Sir,

Sub: Writ Petition – W.P. No.14025 of 2010, filed by Thiru.C.N.Ramamurthy, Vanniyar Federation, Chennai – Request for internal reservation within the reservation provided to Most Backward Classes – Reg.

This is in continuation of the discussion, the Secretary to Government, Backward Classes, Most Backward Classes and Minorities Welfare Department, Secretariat, had with the Chairman, Tamil Nadu Backward Classes Commission over phone on 23.1.2012 regarding W.P.No.14025/2010, instituted by one Thiru.C.N.Ramamurthy, figuring as Petitioner, President, Vanniyar Federation, Chennai in the High Court of Judicature at Madras impleading the Chief Secretary to Government of Tamil Nadu, Chennai and the Secretary to Government of Tamil Nadu, Ministry of Backward Classes, Most Backward Classes and Minorities, Social Welfare Department, respectively as Respondents 1 & 2, praying for a direction to issue Writ of Mandamus by way of an appropriate order or direction in the nature, directing the Respondents to consider the representation of the petitioner dated 20.11.2009 and 3.5.2010 to provide appropriate percentage of reservation within the reservation of 20% allocated to Most Backward Class and Others and to pass such further orders as the Hon'ble Court may deem fit and proper in the circumstances of the case.

2. Counter Affidavit for and on behalf of the Respondents have been filed on 30.11.2010.

3. The Writ Petition so filed, it appears, was dismissed for non-prosecution on 15.6.2011.

4. The first bench consisting of Hon'ble Chief Justice Thiru Iqbal and Hon'ble Justice Thiru P.A.Sivagnanam allowed M.P.No.2 of 2011, restoring the Writ Petition to file by its order dated 31.10.2011.

5. The representation referred to in the affidavit of the petitioner viz., the representation dated 20.11.2009 was the one which was addressed to the Chairman, Tamil Nadu Backward Classes Commission with a request to make an internal reservation of 15% within 20% reservation allocated to Most Backward Classes and Denotified Communities numbering 109.

6. This Commission on 30.11.2009 forwarded the representation so sent by the Petitioner to the Government, in original, in as much as the matter of separate special reservation does not fall within the specific terms of reference issued to this Commission.

7. The request relating to sub-categorisation or internal reservation or special reservation within Backward Classes, Most Backward Classes or Denotified Communities are within the purview of the policy decision of the Government. Such being the case, the Commission can act upon such requests only when specific terms of reference emanating from the Government based on such a policy decision. This Commission explicitly referred to such a position on many an occasion when such a request – which had been given to the Chief Minister's cell – has been forwarded to this commission for disposal in the manner allowed by law.

8. In the affidavit of the Petitioner in the instant case, the Petitioner had referred to the internal reservation made to Backward classes of Muslims from among the reservation of 30% allocated to Backward Classes and consequently stated that there could be no impediment or obstacle for making internal reservation for Vanniya Kula Kshatriyas.

9. It is not as if the Petitioner Thiru C.N.Ramamurthy alone had made a representation to this Commission for internal reservation. Many such representations from among Vannia Kula Kshatriya community had also been received by this commission requesting for such internal reservation as had been asked for by the petitioner. The list of caste / community seeking internal or separate reservation from among Backward Classes / Most Backward Classes is enclosed. Many oral representations had been made to this Commission from various community people either requesting internal reservation separately or clubbing with other castes / communities reportedly enjoying similar or equal status in the society with little or no difference among them. The Chairman gave audience and explained the legal position to them.

10. There is no constitutional or legal bar to the State for categorizing the Backward Classes / Most Backward Classes besides making sub-classification from among them.

11. The question - as to whether there is any constitutional or legal bar for the State to categorize the Backward Classes and effect sub-classification - arose for consideration before the apex court of this country, in *Indira Sawhney Vs. Union of India & Others* (1992 SCC (L&S) Supp 1) and what the court said in the context in para 802 and 803 is relevant and they run as under:

*"802. We are of the opinion that there is no constitutional or legal bar to a State categorizing the backward classes as backward and*

more backward. We are not saying that it ought to be done. We are concerned with the question if a State makes such a categorization, whether it would be invalid? We think not. Let us take the criteria evolved by Mandal Commission. Any caste, group or class which scored eleven or more points was treated as a backward class. Now, it is not as if all the several thousands of castes / groups / classes scored identical points. There may be some castes / groups / classes which have scored points between 20 to 22 and there may be some who have scored points between eleven and thirteen. It cannot reasonably be denied that there is no difference between these two sets of castes / groups / classes. To give an illustration, take two occupational groups viz., goldsmiths and vaddes (traditional stone-cutters in Andhra Pradesh) both included within Other Backward Classes. None can deny that goldsmiths are far less backward than vaddes. If both of them are grouped together and reservation provided, the inevitable result would be that goldsmiths would take away all the reserved posts leaving none for vaddes. In such a situation, a State may think it advisable to make a categorization even among other backward classes so as to ensure that the more backward among the backward classes obtain the benefits intended for them. Where to draw the line and how to effect the sub-classification is, however, a matter for the Commission and the State – and so long as it is reasonably done, the Court may not intervene. In this connection, reference may be made to the categorization obtaining in Andhra Pradesh. The Backward Classes have been divided into four categories. Group A comprises "Aboriginal tribes, Vimukta jatis, nomadic and semi-nomadic tribes etc." Group B comprises professional group like tappers, weavers, carpenters, ironsmiths, goldsmiths, kamsalins etc. Group C pertains to "Scheduled Castes converts to Christianity and their progeny", while Group D comprises all other classes / communities / groups, which are not included in Groups A, B and C. The 25% vacancies reserved for backward classes are sub-divided between them in proportion to their respective population. This categorization was justified in *Balram (State of A.P. v. U.S.V. Balram, (1972) 1 SCC 660: (1972) 3 SCR 247, 286*. This is merely to show that even among backward classes, there can be a sub-classification on a reasonable basis.

803. There is another way of looking at this issue. Article 16(4) recognises only one class viz., "backward class of citizens". It does not speak separately of Scheduled Castes and Scheduled Tribes, as does Article 15(4). Even so, it is beyond controversy that Scheduled Castes and Scheduled Tribes are also included in the expression "backward class of citizens" and that separate reservations can be provided in their favour. It is well-accepted phenomenon throughout the country. What is the logic behind it? It is that if Scheduled Tribes, Scheduled Castes and Other Backward Classes are lumped together, OBCs will take away all the vacancies leaving Scheduled Castes and Scheduled Tribes

*high and dry. The same logic also warrants categorization as between more backward and backward. We do not mean to say – we may reiterate – that this should be done. We are only saying that if a State chooses to do it, it is not impermissible in law.”*

12. It is rather very well settled that Articles 15(4) and 16(4) of the Constitution are not fundamental rights but on the contrary, they are only enabling rights. Such being the case, none among the Backward Classes / Most Backward Classes can knock at the doors of superior courts of jurisdiction either praying for reservation under Article 15(4) or 16(4) and other related matters such as categorization and sub-classification. If and when the State feels justified to make any special reservation or sub- categorization or sub-classification it may do so as a policy matter falling within its exclusive purview.

13. In the instant case, the Court cannot make any order as prayed for by the Petitioner and if at all, what possibly could be done is to refer the request of the Petitioner to the Government for consideration and disposal within a time frame in accordance with the law.

14. If the State feel to sub-categorize or make internal reservation for Vanniya Kula Kshatriya in a specified percentage from among reservation of 20% provided to the Most Backward Classes, it may do so, after getting the recommendation based on a specific reference made to this commission.

15. In respect of representations from various castes / communities included in Backward Classes / Most Backward Classes asking for internal reservation within Backward Classes / Most Backward Classes, if the Government desire to make any such reservation, as had been prayed for thereto, also do so by issuing specific terms of reference to this commission towards fulfillment of the policy decision taken therefor.

16. The commission will, then, make necessary, requisite and suitable recommendation therefor, after taking into consideration the factual, legal, constitutional and feasibility aspects of the matter.

Yours sincerely,  
/sd/

[Justice M.S.Janarthanam]

Annexure III

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D.O. Letter No.28/TNBCC/2012, dated 6.2.2012 of the Chairman, Tamil Nadu backward Classes Commission, Chennai, addressed to Dr. G.Santhanam, I.A.S., Secretary to Government, Backward Classes, Most Backward Classes and Minorities Welfare Department, Secretariat, Chennai 600 009.

Dear Sir,

SUB : WRIT PETITION – W.P. No.14025 of 2010, filed by Thiru C.N.Ramamurthy, Vanniyar Federation, Chennai – Request for internal reservation within the reservation provided to Most Backward Classes – Regarding.

REF : My D.O. Letter No.28/TNBCC/2012, dated 30.1.2012.,

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In furtherance of the discussion the Secretary to Government, Backward Classes, Most Backward Classes and Minorities Welfare Department, Secretariat, earlier had with the Chairman, Tamil Nadu Backward Classes Commission, with regard to the request of various castes/communities asking for internal reservation, further information and details are furnished as under:-

2. Fifty representations have been received by this Commission from various castes/ communities – either listed as BC or MBC or otherwise – asking for internal reservation in educational institutions as well as in job opportunities.

3. Representations, numbering 50, so received consist of 30 from MBC, 13 from BC, 3 from Muslims, 1 from Mukulathor, 1 from Inter-Caste Marriage and 2 from individuals from forward communities.

4. The thirty representations which emanated from MBC are relatable to 7 communities listed as MBC.

5. Among these, 8 representations from Vanniakula Kshatriya, 5 from Meenavars and 1 each from Thotiya Naicker, Maruthuvar, Navithar, Salavai Thozhilalar and Erra Gollar, all totalling 18, asking for internal reservation on the basis of individual castes/ communities, were received.

6. The castes/ communities going by the name Isai Vallalar, Meenavar, Kulalar, Salavaiyalar, Maruthuvar, Vannar, Navithar and Narikuravar have given seven representations to this Commission joining as groups consisting of 2/3/4/5 communities, asking for internal reservation to the said groups as formed by them. Navithar, Salavai Thozhilalar forming as a group gave 2 representations; Navithar, Vannar, Narikuravar forming as a group gave 1 representation; Isai Vellalar, Meenavar, Kulalar, Vannar, Maruthuvar forming as a group gave 1 representation; Maruthuvar, Salavaiyalar forming as a group gave 1

representation; Maruthuvar, Navithar, Vannar, Narikuravar forming as a group gave 1 representation; Isai Vellalar, Meenavar, Kulalar, Vannar, Navithar forming as a group gave 5 representations. Thus, all totalling, 7 group representations were made asking for internal reservation to the groups so formed.

7. The terminologies Navithar and Maruthuvar represent one and the same caste/ community; similarly, Salavai Thozhilalar, Salavaiyalar and Vannar represent one and the same caste/ community. Likewise, Erra Gollar and Thotiya Naicker represent one and the same caste/ community and the representation so given emanated from the same Association.

8. For feasibility analysis of the requests for internal reservation or separate quota within the reservation made for MBC, this Commission culled out statistical data or particulars of all castes/ communities listed as MBC from the Ambasankar Commission Report submitted to the Government in 1985.

9. The total population of castes/communities listed as MBC/DNC as per the said report comes to 1,22,66,623 out of the total population of the State of Tamil Nadu representing all castes/ communities at that time numbering 4,99,90,743.

10. As already stated, the population data of each caste/community listed as MBC had been culled out from the Ambasankar Commission Report, 1985. From the particulars so taken, the percentage of internal reservation or separate quota had been worked out in relation to the total population of castes/ communities listed as MBC.

11. Similarly, the population of castes/ communities listed as MBC forming as groups consisting of 2/3/4/5 from among such castes/ communities had also been worked out. From the population figures of castes/ communities formed as one group, the percentage of internal reservation or separate quota for such groups had also been worked out. All these particulars are gathered and worked out for the purpose of feasibility analysis within the 20% quota for MBC/DNC

Population data as per Ambasankar Commission Report, 1985

Sl. No.	Caste name	Entry in present MBC list	Population of caste as per Ambasankar Commission Report (1985)	Percentage within total population of MBC and DNC
1.	Isai Vellalar	9	58327	0.48%
2.	Kulalar	15	301179	2.46%
3.	Navithar, Maruthuvar	19	426427	3.48%
4.	Nari Kuravar	24	20162	0.16%
5.	Vanniya Kula Kshatriya	26	6504855	53.03%

Sl. No.	Caste name	Entry in present MBC list	Population of caste as per Ambasankar Commission Report (1985)	Percentage within total population of MBC and DNC
6.	Meenavar	28	271764	2.22%
7.	Thottiya Naicker (Erra Gollar)	35	271318	2.21%
8.	Vannar, Salavi Thozhilalar	38	445637	3.63%
Total population of MBC			10603329	
Total population of DNC			1663294	
Total population of the State (all castes)			49990743	

Feasibility analysis of requests for internal reservation or separate quota within MBC

**A. Representations from individual caste/community:**

Sl. No.	Date of representation	Caste / Community requested reservation	Internal Reservation requested	Entry in MBC list	Total Population of caste as per Ambasankar Commission Report (1985)	% out of MBC & DNC	Feasible quota within 20% quota for MBC & DNC
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
1	24-6-10	MARUTHUVAR	7%	19	426427	3.48%	0.7
2	9-7-10	NAVITHAR	5%	19	426427	3.48%	0.7
3	18-3-11	SALAVAI THOZHILALAR	3%	38	445637	3.63%	0.7
4	20-5-10	MEENAVAR	5%	28	271764	2.22%	0.4
5	16-9-10	MEENAVAR	2.50%	28	271764	2.22%	0.4
6	6-6-11	MEENAVAR	2%	28	271764	2.22%	0.4
7	26-8-11	MEENAVAR	2%	28	271764	2.22%	0.4
8	10-11-11	MEENAVAR	2%	28	271764	2.22%	0.4
9	30-10-09	ERRA GOLLAR	6%	35	271318	2.21%	0.4
10	2-3-10	THOTIYA NAICKER	6%	35	271318	2.21%	0.4
11	12-5-10	VANNIYAR	**	26	6504855	53.03%	10.6
12	10-6-10	VANNIYAR	15%	26	6504855	53.03%	10.6
13	19-7-10	VANNIYAR	15%	26	6504855	53.03%	10.6

Sl. No.	Date of representation	Caste / Community requested reservation	Internal Reservation requested	Entry in MBC list	Total Population of caste as per Ambasankar Commission Report (1985)	% out of MBC & DNC	Feasible quota within 20% quota for MBC & DNC
14	27-8-10	VANNIYAR	**	26	6504855	53.03%	10.6
15	20-9-10	VANNIYAR	15%	26	6504855	53.03%	10.6
16	26-11-10	VANNIYAR	15%	26	6504855	53.03%	10.6
17	28-3-11	VANNIYAR	13%	26	6504855	53.03%	10.6
18	12-12-11	VANNIYAR	13%	26	6504855	53.03%	10.6

**B. Representations from Groups of castes/communities:**

Sl. No.	Date of representation	Caste / Community requested reservation	Internal Reservation requested	Entry in MBC list	Total Population of caste as per Ambasankar Commission Report (1985)	% out of MBC & DNC	Feasible quota within 20% quota for MBC & DNC
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
1	12-5-10	ISAI VELLALAR, MEENAVAR, KULALAR, SALAVAIYALAR, MARUTHUVAR	**	9,28,15,38,19	1503334	12.26%	2.5
2	23-12-09	ISAI VELLALAR, MEENAVAR, KULALAR, VANNAR, MARUTHUVAR	5%	9,28,15,38,19	1503334	12.26%	2.5
3	4-5-10	ISAI VELLALAR, MEENAVAR, KULALAR, VANNAR, NAVITHAR	5%	9,28,15,38,19	1503334	12.26%	2.5
4	4-5-10	ISAI VELLALAR, MEENAVAR, KULALAR, VANNAR, NAVITHAR	3%	9,28,15,38,19	1503334	12.26%	2.5
5	18-6-10	ISAI VELLALAR, MEENAVAR, KULALAR, VANNAR, NAVITHAR	**	9,28,15,38,19	1503334	12.26%	2.5
6	6-9-10	ISAI VELLALAR, MEENAVAR, KULALAR, VANNAR, NAVITHAR	7%	9,28,15,38,19	1503334	12.26%	2.5
7	25-10-10	ISAI VELLALAR, MEENAVAR, KULALAR, VANNAR, NAVITHAR	3%	9,28,15,38,19	1503334	12.26%	2.5



Sl. No.	Date of representation	Caste / Community requested reservation	Internal Reservation requested	Entry in MBC list	Total Population of caste as per Ambasankar Commission Report (1985)	% out of MBC & DNC	Feasible quota within 20% quota for MBC & DNC
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
8	5-10-11	MARUTHUVAR, NAVITHAR, VANNAR, NARIKURAVAR	**	19,38, 24	892226	7.27%	1.5
9	29-4-10	NAVITHAR, SALAVAI THOZHILALAR	7%	19,38	872064	7.11%	1.4
10	29-12-10	NAVITHAR, VANNAR, NARI KURAVAR	**	19,38, 24	892226	7.27%	1.5
11	15-2-10	MARUTHUVAR, SALAVAIYALAR	5%	19,38	872064	7.11%	1.4
12	2-9-08	NAVITHAR, SALAVAI THOZHILALI	**	19, 38	872064	7.11%	1.4

12. From the analysis so made, it is clear that none of the castes/ communities listed as MBC asking for internal reservation – either individually or as groups – excepting Vanniya Kula Kshatriyas, asking for internal reservation exclusively for them – is satisfying the test of viability or feasibility for making internal reservation. Further, the percentage of internal reservation asked for by such castes/ communities is far in excess of the percentage proportionate to their population, which is legally impermissible.

13. The internal reservation to be provided for the said castes/ communities, either individually or as groups, is so minimal in percentage, falling below 2.5%, as based on their population, proportionate to the population of MBC, within the quota of reservation of 20% provided for MBC and DNC. The preparation of roster working out the reservation so made will get complicated and become unworkable.

14. So far as Vanniya Kula Kshatriya community is concerned, their population, as culled out from the Ambasankar Commission Report, 1985 is to the tune of 65,04,855, which is the largest community in the State of Tamil Nadu. The percentage of internal reservation worked out for the said caste, taking into consideration the total population of MBC and DNC in proportion to the population comes to 10.6%. Going by the international mathematical principles, the figure arrived at, "10.6%", for internal reservation for Vanniya Kula Kshatriyas may be rounded off to the nearest whole number "11%."

15. As such, the internal reservation or separate quota to the extent of 11% for Vanniya Kula Kshatriyas listed as MBC from out of the 20% reservation for MBC/DNC in educational institutions as well as appointments or posts in the services under the State may not be stated to be not feasible. If such a reservation is made, there may not be any objection emerging from any quarter whatever, either from the perspective

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of factual, legal or Constitutional aspects and the law as declared by the Supreme Court as of now.

16. In view of the hue of views as expressed above, it goes without saying, the internal reservation for Vanniya Kula Kshatriyas may be examined and recommendations made therefor by this Commission, if the Government desires to make such internal reservation for the said community. In such an eventuality, the Government may make a specific reference to this Commission for such reservation, inasmuch as, the reservation so to be provided for by the State either under Article 15(4) or under Article 16(4) is an enabling right falling within the exclusive purview of the State.

Yours sincerely,

/sd/

[Justice M.S.Janarthanam]

**MODEL LEGISLATION**

**The Tamil Nadu Most Backward Class of Vanniakula Kshatriya (Reservation of seats in Educational Institutions including Private Educational Institutions and of appointments or posts in the Services under the State) Bill, .....**

A

*Bill*

*to provide for reservation of seats in educational institutions including private educational institutions in the State and of appointments or posts in the services under the State to the Most Backward Class of Vanniakula Kshatriya in the State of Tamil Nadu within the twenty per cent reservation available for the Most Backward Classes and Denotified Communities.*

WHEREAS the policy of reservation for the social, economic and educational advancement of the people belonging to the backward classes of citizens in admissions to educational institutions in the State and for appointments in the services under the State has been under implementation in the State of Tamil Nadu for a long time;

AND WHEREAS the State of Tamil Nadu is a pioneer State in providing reservation for the underprivileged and the first communal Government Order was passed in the year 1921 and the proportional representation for communities was made in the year 1927 in the State of Tamil Nadu;

AND WHEREAS a large percentage of population of Tamil Nadu suffering from social and educational backwardness for many years have started enjoying the fruits of the reservation policy and have been able to improve their lot and attain a higher standard of living;

AND WHEREAS the Tamil Nadu Legislature passed the Tamil Nadu Backward Classes, Scheduled Castes and Scheduled Tribes (Reservation of seats in Educational Institutions and of appointments or posts in the Services under the State) Act, 1993 (Tamil Nadu Act 45 of 1994);

AND WHEREAS the Constitution (Seventy-sixth Amendment) Act, 1994, added the Tamil Nadu Backward Classes, Scheduled Castes and Scheduled Tribes (Reservation of seats in Educational institutions and of appointments or posts in the Services under the State) Act, 1993 (Tamil Nadu Act 45 of 1994) enacted by the Tamil Nadu Legislature, to the IX Schedule, so as to give protection to the State Act, under Article 31B of the Constitution;

AND WHEREAS the Constitution (Ninety-third Amendment) Act, 2005 incorporating clause (5) of Article 15 of the Constitution enables the making of any special provisions, by law, for the advancement of any socially and educationally backward classes of citizens or for the Scheduled Castes and Scheduled Tribes 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 minority educational institutions referred to in clause (1) of Article 30 of the Constitution;

AND WHEREAS, by virtue of clause (5) of Article 15 of the Constitution and also after taking a policy decision that the existing level of sixty-nine per cent reservation, in admission to educational institutions other than minority educational institutions referred to in clause (1) of Article 30 of the Constitution in the State for the Backward Classes of citizens and for the persons belonging to the Scheduled Castes and Scheduled Tribes, should be continued for ensuring the advancement of the majority of the people of the State of Tamil Nadu, the Tamil Nadu Legislature passed the Tamil Nadu Backward Classes, Scheduled Castes and Scheduled Tribes (Reservation of Seats in Private Educational Institutions) Act, 2006 (Tamil Nadu Act 12 of 2006);

AND WHEREAS the Supreme Court in *Indra Sawhney v. Union of India* [1992 SCC (L&S) Supp 1 = 1992 Supp (3) SCC 217] declared in crystal clear terms that sub-categorization or internal reservation among the Backward Classes or Most Backward Classes is a legitimate and permissible exercise in law;

AND WHEREAS, the *Vanniakula Kshatriya* listed as Most Backward Classes availing the benefits of reservation, along with other Most Backward Classes and Denotified Communities of the State and a largely populated community in the State, requested for a separate quota of reservation for them as they could not compete with other communities included in the lists of Most Backward Classes and Denotified Communities published by the Government so as to get their legitimate share in admissions to educational institutions and of appointments or posts in the services under the State;

AND WHEREAS, the Tamil Nadu Backward Classes Commission was consulted on the impelling need for providing internal or separate reservation for *Vanniakula Kshatriya* included in the list of Most Backward Classes in the State of Tamil Nadu;

AND WHEREAS, the said Commission, having considered the issue elaborately, has recommended to the Government, on the basis of the population reported in the year 1985, the feasibility and necessity of making internal or separate reservation for *Vanniakula Kshatriya* figuring in Most Backward Classes within the quantum of reservation now available for Most Backward Classes and Denotified Communities;

AND WHEREAS providing for separate quota of reservation for the Most Backward Class of *Vanniakula Kshatriya* within the quota of reservation provided for Most Backward Classes and Denotified Communities proportionate to their population will neither tantamount to conferring any undue advantage in their favour, nor it will unduly affect or prejudice or cause any detriment to the entitlement of reservation benefits to the other castes and communities in the lists of Most Backward Classes and Denotified Communities; and on the other hand, a separate quota of reservation conferred on the Most Backward Class of *Vanniakula Kshatriya* within the quota of reservation benefits for Most Backward Classes and Denotified Communities will not, in the least, affect the distribution of reservation benefits among the various castes and communities listed as Most Backward Classes and Denotified Communities;

AND WHEREAS, it has become imperative to provide for *Vanniakula Kshatriya* internal reservation from the existing level of reservation of twenty per cent intended for Most Backward Classes and Denotified Communities in admission to educational institutions including private educational institutions and of appointments or posts in the services under the State;

AND WHEREAS the State Government have, after careful consideration, taken a policy decision that the existing level of twenty per cent reservation to Most Backward Classes and Denotified Communities in admission to educational institutions including private educational institutions in the State and of appointments or posts in the services under the State, be sub-divided into ten and one-half per cent (10.5%) for Most Backward Class of *Vanniakula Kshatriya* and rest of nine and one-half per cent (9.5%) for Most Backward Classes other than Most Backward Class of *Vanniakula Kshatriya* and Denotified Communities, for ensuring distribution of reservation benefits more equitably among Most Backward Classes and Denotified Communities in the State of Tamil Nadu;

BE, it enacted by the Legislative Assembly of the State of Tamil Nadu in the ..... year of the Republic of India as follows:-

**Short title, extent and commencement.**

1. (1) This Act may be called the Tamil Nadu Most Backward Class of Vanniakula Kshatriya (Reservation of seats in Educational Institutions including Private Educational Institutions and of appointments or posts in the Services under the State) Act,.....

(2) It extends to the whole of the State of Tamil Nadu.

(3) It shall come into force at once.

**Definitions.**

2. In this Act, unless the context otherwise requires,-

(a) "competent authority" means the competent authority appointed under section 6;

(b) "Denotified Communities" means the communities notified as such for the purposes of the Tamil Nadu Backward Classes, Scheduled Castes and Scheduled Tribes (Reservation of seats in Educational Institutions and of appointments or posts in the Services under the State) Act, 1993 (Tamil Nadu Act 45 of 1994) (hereinafter referred to as the 1994 Act);

(c) "educational institution" shall have the same meaning as defined in the 1994 Act.

(d) "Government" means the State Government;

(e) "Most Backward Classes" means the castes and communities notified as such, from time to time, for the purposes of the Tamil Nadu Backward Classes, Scheduled Castes and Scheduled Tribes (Reservation of seats in Educational Institutions and of appointments or posts in the Services under the State) Act, 1993 (Tamil Nadu Act 45 of 1994);

(f) "prescribed" means prescribed by the rules made under this Act;

(g) "private educational institution" shall have the same meaning as defined in the Tamil Nadu Backward Classes, Scheduled Castes and Scheduled Tribes (Reservation of seats in Private Educational Institutions) Act, 2006 (hereinafter referred to as the 2006 Act);

(h) "Most Backward Class of *Vanniakula Kshatriya*" means the community of *Vanniakula Kshatriya*, including *Vanniyar*, *Vanniya*, *Vannia Gounder*, *Gounder* or *Kander*, *Padayachi*, *Palli* and *Agnikula Kshatriya*, as notified by the Government under the list of Most Backward Classes of the State of Tamil Nadu;

***Reservation of seats in educational institutions including private educational institutions for Vanniakula Kshatriya in the list of Most Backward Classes and Denotified Communities.***

3. Notwithstanding anything contained in the 1994 Act or the 2006 Act and notwithstanding anything contained in any judgement, decree or order of any court or other authority, having regard to the social and educational backwardness of the *Vanniakula Kshatriya*, the reservation, in respect of annual permitted strength in each branch or faculty for admission into educational institutions in the State including private educational institutions for the Most Backward Class of *Vanniakula Kshatriya* shall be ten and one-half per cent within the twenty per cent reservation to Most Backward Classes and Denotified Communities.

***Reservation in the appointments or posts in the services under the State.***

4. Notwithstanding anything contained in the 1994 Act and notwithstanding anything contained in any judgement, decree or order of any court or other authority, having regard to the inadequate representation in the services under the State, of the Most Backward Class of *Vanniakula Kshatriya*, the reservation for appointments or posts in the services under the State for the Most Backward Class of *Vanniakula Kshatriya* shall be ten and one-half per cent within the twenty per cent reservation for Most Backward Classes and Denotified Communities.

*Explanation:-* For the purposes of this Act, the services under the State include the services under:-

- (i) the Government;
- (ii) the Legislature of the State;
- (iii) any local authority;
- (iv) any Corporation or Company owned or controlled by the Government; or
- (v) any other authority in respect of which the State Legislature has power to make laws.

***Reservation not to be affected.***

5. Notwithstanding anything contained in sections 3 and 4, the claims of the students or members belonging to the Most Backward Class of *Vanniakula Kshatriya* shall also be considered for the unreserved seats, appointments or posts which shall be filled on the basis of merit and where a student or member belonging to the Most Backward Class of *Vanniakula Kshatriya* is selected on the basis of merit, the number of seats, appointments or posts reserved for Most Backward Class of *Vanniakula Kshatriya* as the case may be, shall not in any way be affected.

***Competent Authority.***

6. (1) The Government may, by notification, appoint any officer not below the rank of District Backward Classes and Minorities Welfare Officer to be the competent authority for the purposes of carrying out the provisions of this Act and the rules made thereunder in respect of private educational institutions.

(2) The competent authority shall exercise such powers and perform such functions as may be prescribed.

***Power of Government to give direction.***

7.(1) The Government may, in the public interest, by order, direct the competent authority to make an enquiry or to take appropriate proceedings under this Act in any case specified in the order, and the competent authority shall report to the Government the result of the enquiry made or the proceedings taken by him within such period as may be prescribed.

(2) On receipt of the report from the competent authority under subsection (1), the Government shall give such direction as they deem fit and such direction shall be final and binding.

***Competent Authority to be public servant.***

8. The competent authority appointed under section 6 shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code, 1860.



***Protection of action taken in good faith.***

9. No suit, prosecution or other legal proceedings shall lie against the competent authority, Government or its Officers for anything which is in good faith done or intended to be done under this Act or any rule or order made thereunder.

***Power to make rules.***

10. (1) The Government may make rules for carrying out the purposes of this Act.

(2)(a) All rules made under this Act shall be published in the *Tamil Nadu Government Gazette* and unless they are expressed to come into force on a particular day, shall come into force on the day on which they are so published.

(b) All notifications issued under this Act shall, unless they are expressed to come into force on a particular day, come into force on the day on which they are published.

(3) Every rule made or notification or order issued under this Act shall, as soon as possible, after it is made or issued, be placed on the Table of the Legislative Assembly, and if, before the expiry of the session in which it is so placed or the next session, the Assembly makes any modification in any such rule or notification or order, or the Assembly decides that the rule or notification or order should not be made or issued, the rule or notification or order shall thereafter have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or notification or order.

***Power to remove difficulties.***

11. If any difficulty arises in giving effect to the provisions of this Act, the Government may, by an order published in the *Tamil Nadu Government Gazette*, make such provisions not inconsistent with the provisions of this Act as appear to them to be necessary or expedient for removing the difficulty:

Provided that no such order shall be made after the expiry of two years from the date of commencement of this Act.

### Statement of Object and Reasons

The Tamil Nadu Second Backward Classes Commission headed by Thiru J.A.Ambasankar, I.A.S.(Retired) submitted its report in the year 1985. The said Commission estimated the population of Backward Classes, Most Backward Classes and Denotified Communities in the State of Tamil Nadu. A survey of the entire populace of the State was taken by the said Commission for finding out the backwardness of all such castes and communities then existing in the State of Tamil Nadu.

Under the Tamil Nadu Act 45 of 1994, the Backward Classes and the Most Backward Classes as well as Denotified Communities have been availing of the reservation of 30% and 20% respectively, in admission to educational institutions including private educational institutions and in appointments or posts in the services under the State.

There had been consistent representations from the Most Backward Class of *Vanniakula Kshatriya* for providing separate reservation for them in admission to such educational institutions and in appointments or posts in the services under the State as they could not compete with the other castes and communities included in the list of Most Backward Classes and Denotified Communities so as to get their due and legitimate share of such reservation benefits. The Tamil Nadu Backward Classes Commission examined the demand made by various communities to provide for internal reservation within the reservation provided for Most Backward Classes and recommended to the Government that a separate quota of ten and one-half percent may be granted to the Most Backward Class of *Vanniakula Kshatriya* from out of the twenty per cent reservation provided for Most Backward Classes and Denotified Communities. The Government decided to accept the recommendations of the Commission and implement the reservation policy accordingly.

This Act seeks to give effect to the above decision.

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**TAMIL NADU BACKWARD CLASSES COMMISSION**  
212, R K MUTT ROAD, MYLAPORE, CHENNAI 600 004.

**RECOMMENDATIONS FOR PROVIDING INTERNAL RESERVATION  
DEMANDED BY CERTAIN CASTES AND COMMUNITIES IN THE LIST OF  
MOST BACKWARD CLASSES WITHIN THE RESERVATION PROVIDED  
FOR MOST BACKWARD CLASSES AND DENOTIFIED COMMUNITIES.**

## **Part – III**

# **A CRITICAL REPORT OF THE CHAIRMAN**

**TAMIL NADU BACKWARD CLASSES COMMISSION**  
212, R K MUTT ROAD, MYLAPORE, CHENNAI 600 004.

RECOMMENDATIONS FOR PROVIDING INTERNAL RESERVATION DEMANDED BY CERTAIN CASTES AND COMMUNITIES IN THE LIST OF MOST BACKWARD CLASSES WITHIN THE RESERVATION PROVIDED FOR MOST BACKWARD CLASSES AND DENOTIFIED COMMUNITIES.

**PART – III**

**A CRITICAL REPORT OF THE CHAIRMAN,  
TAMIL NADU BACKWARD CLASSES COMMISSION, CHENNAI**

1. One Thiru C.N.Ramamurthy, President, Vanniar Federation, Chennai, filed a Writ Petition in the High Court of Judicature at Madras for a direction to issue a Writ of Mandamus impleading the Chief Secretary to Government of Tamil Nadu and the Secretary to Government of Tamil Nadu, Ministry of Backward Classes, Most Backward Classes and Minorities, figuring as Respondents, to consider the representations of the petitioner dated 20.11.2009 and 3.5.2010 to provide for appropriate percentage of reservation viz., 15% to *Vanniakula Kshatriya* listed as Most Backward Class, within the reservation of 20% allocated to Most Backward Classes/ Denotified Communities. The Government filed a counter in the said Writ Petition and the same is pending.
2. The Government asked for the opinion of the Chairman with regard to the outcome of the Writ Petition pending before the High Court. The opinion of the Chairman sent to the Government bristles to this: Articles 15(4) and 16(4) of the Constitution of India, though included in the Fundamental Rights Chapter, are not fundamental rights but only enabling rights as declared by the Supreme Court. As such, no one can approach the superior

Courts of jurisdiction for the enforcement of such rights. Such Courts also cannot issue any direction to the State to provide for reservation rights if any such members of the backward classes knocked at the doors of those Courts for the enforcement of such rights. The Courts, if at all, can dispose of such writ petitions with a direction to the alleged aggrieved party to present such a request for reservation before the State which alone is competent to provide for such reservation to such backward classes as a policy matter of the State, provided there is enough justification for doing so. While deciding such policy matters, it behoves upon the State to send a reference to the State Backward Classes Commission in specific terms with regard to the request or demand made by any member of the BC/MBC/DNC to examine the factual, legal and Constitutional implications and requesting the Commission to send its recommendations to the State to decide ultimately about such a policy matter.

3. On receipt of the opinion from the Chairman, the Government issued specific terms of reference to this Commission in G.O. Ms. No.35, Backward Classes, Most Backward Classes and Minorities Welfare (BCC) Department, dated 21.3.2012. The relevant portion of the reference runs as under:

“5. .... the Government have decided to examine the issue relating to the internal reservation within the reservation made for Most backward Classes/ Denotified Communities by getting the recommendation of Tamil Nadu Backward Classes Commission after making a specific reference to them. Accordingly, the Government prescribe the terms of reference of Tamil Nadu Backward Classes Commission as follows:

.....

v) The Commission shall examine and recommend upon the demand made by various communities to provide for internal reservation within the reservation provided for Most Backward Classes.  
.....”

As such, the Tamil Nadu Backward Classes Commission has been requested to examine and render necessary recommendation to Government on the request relating to the provision of internal reservation for various communities within the 20% reservation provided to Most Backward Classes and Denotified Communities. On the basis of the reference so issued, it goes without saying that as to which of the castes/ communities listed as Most Backward Classes which have demanded sub-categorisation, is eligible and pass the test of viability for internal reservation or sub-categorisation, although each of the castes/ communities, as a matter of law, is entitled to internal reservation, as has been mandated by the Supreme Court in *Indra Sawhney's* case [vide paragraphs 802 and 803]

4. Copy of the G.O. containing the terms of reference issued by the Government was forwarded to all the Members of the Commission on 18.4.2012 with an intimation that the Meeting of the Tamil Nadu Backward Classes Commission will be held on 3.5.2012 and the Agenda for the Meeting was as below:-

“(1) To take note of and discuss the additional ‘Terms of Reference’ in the G.O.(Ms.) No.35, Backward Classes, Most Backward Classes and Minorities welfare (BCC) department, dated 21.3.2012. [Copy of G.O. enclosed for information]

(2) To take note of and ratify the communication sent to the Government, in this Commission’s letter No.337/TNBCC/2010, dated 17.4.2012, recommending a separate caste based socio-

educational-cum-economic survey with uniform scales for both rural and urban areas covering the entire populace of the State, as the Socio-Economic and Caste Census, 2011 initiated as per format prescribed by the Government of India does not address the requirements of this Commission to effectively perform its 'Terms of Reference.'

5. Accordingly, the Meeting was held on 3.5.2012 and took note of the additional Terms of Reference referred to in item (1) above and this Commission's communication dated 17.4.2012 referred to in item (2) above, besides ratifying the same. The Xerox copy of the relevant portions viz., paragraphs 802 and 803 of the judgement of Supreme Court in *Indra Sawhney's* case providing for separate quota or internal reservation among BC / MBC was placed on the table of the meeting besides furnishing copies of portions of the said judgement to all the members. Further, the Chairman explained in crystal clear terms that granting of separate quota or providing internal reservation in a specific percentage proportionate to the population of the community / caste demanding internal reservation within percentage of reservation quota provided to such castes/communities. The Commission also resolved to discuss about the G.O. noted above in the next meeting.
6. This Commission *vide* letter dated 9.5.2012 sent an intimation to all the Members that the next meeting of the Commission will be held on 24.5.2012 and the Agenda for the Meeting was as under:-

“(1) To discuss the draft report prepared by the Chairman relating to the orders issued to this Commission in the G.O. (Ms.) No.35, Backward Classes, Most Backward Classes and Minorities welfare (BCC) department, dated 21.3.2012 for examining and rendering necessary recommendation to the Government on the demand made by various communities to provide for internal reservation within the

reservation provided for Most Backward Classes and Denotified Communities.

(2) Any other subject as may be decided at the meeting.”

7. Prof.D.Sundaram, a Member of this Commission, sent a communication dated 7.5.2012, received by the office of the Commission on 10.5.2012, marking a copy thereof to all the other Members of the Commission, in which he sought the details of representations the TNBCC had received from the communities and classes for internal reservation and also the quantifiable data relatable to those communities so as to enable him to submit a ‘Note’ on sociological framework on internal reservation within reservation.
8. As requested by the Member, the data available in this Commission on the subject matter referred to above were sent on 14.5.2012 to all the Members inclusive of Prof.D.Sundaram, for facilitation of effective discussion in the Meeting of the Commission proposed to be held on 24.5.2012.
9. Prof.D.Sundaram, in his letter dated 19.5.2012, received on 21.5.2012, requested this Commission to furnish him the data matrix/data-set format as used by the TNBCC for its report on Justification for the 69% reservation stating that they were required for finding a pragmatic solution within the socio-legal framework to all the representations for internal reservation made by the MBC communities and castes, and a sample of the representation was also sought for by him.
10. On receipt of the said communication, the Commission informed the Member that a copy of the said Report on “Justification of Reservation



under the Tamil Nadu Act 45 of 1994 on quantifiable data” along with Appendices containing all the data-matrix used for the preparation of the said Report, approved by all the Members in the Meeting of the Commission and accepted by the Government had already been sent to all the Members of the Commission. It was further informed that the representations received by the Commission seeking internal reservation were available in the Commission’s office and may be perused by the Member at any time convenient to him.

11. Prof.D.Sundaram visited the office of the Commission on 22.5.2012 to peruse the representations of the various castes/ communities, besides perusal of other records. As a matter of fact, the Member perused the records. No other member made any request either to furnish copies of any document or for perusal of the records so as to enable him to effectively participate in the meeting or to send a separate note to the Chairman just like Prof. Sundaram did.
12. The venue of the Commission’s Meeting scheduled for 24.5.2012 was fixed in the Meeting Hall of the Commission premises. On the day in question, however, there was a complete power shutdown in the area where the Commission’s office is situated. Consequently, the venue of the Meeting was shifted to a Meeting Hall in the adjacent Hotel Sangeetha. The Meeting commenced at 11.15 a.m. The Chairman elaborated to the Members the details of the various sections contained in the Report. Besides, the discussion revolved around the factual matrix relatable to the

population of various castes/ communities listed as MBC or DNC, the percentage of each of the castes listed as MBC or DNC within the total population of MBC and DNC, the feasibility factor analysis of various castes/ communities in the matter of working out the internal reservation, the dictum laid down as regards the legality of sub-categorisation or sub-classification among BC/MBC/DNC as laid down by the Supreme Court in *Indra Sawhney's* case – xerox copy of relevant portions of the judgement having been furnished to all the members on 3.5.2012, the sanctity and validity to be attached to the Report of the Tamil Nadu Second Backward Classes Commission [popularly known as Ambasankar Commission], relating to the survey conducted by the said Commission with regard to the details of the entire State of Tamil Nadu comprising of nearly 5 crores or thereabouts then in existence, with regard to the determination of the backwardness of each and every community in the State on socio, educational-cum-economic factors, the authenticity of the particulars contained therein, the manner and methodology of elaborate survey conducted by the said Ambasankar Commission after giving training to 25000 personnel employed in such survey, involvement of Ethnographers, Sociologists and legal luminaries and personalities belonging to the Bar as well as Judiciary, framing the criteria after tabulating the materials collected in the survey for the determination of the backwardness of the castes/ communities and what not.

13. Even the Mandal Commission based its report on the progressive evaluation of population figures as available in 1931 Census conducted by the Government of India and put the percentage of socially and educationally backward classes of people at 52%. It is axiomatic a truth that the Union Government fixed the reservation at 27% for OBCs, 15% for SCs and 7½% for STs based upon the judgment of the Supreme Court in 1992. It is to be remembered here that though Art.16(4) was in the Constitution right from its inception in 1950, the Union Government did not choose to make reservation for OBCs till up to 1992 for a period of 42 years until the judgment in *Indra Sawhney's* case was delivered by the Supreme Court in 1992. Even the reservation as granted by the Union Government at 27% for OBCs was almost snatched away by the application of "Creamy Layer" concept. As a consequence thereof, OBCs were not able to enjoy the reservation benefits even upto 27% and actually the reservation benefits availed of by OBCs, it appears, has not crossed beyond 5% to 7%.
14. The Chairman further explained that there is no other report available in the Indian context better than the report of the Tamil Nadu Second Backward Classes Commission. He further said that the survey particulars regarding the details of the entire State as evaluated by the Ambasankar Commission was more or less equal to the Census figures adopted by the Government of India in 1981 with a little difference with regard to the population figures which was due to the fact that the Ambasankar Commission Report took the population figures of Tamil Nadu in 1983 two years after the Census survey

which took place in 1981. Even the Census reports are not released immediately after the completion of Census operations. They were made public only much later after the materials which were collected are collated and printed in the form of reports, some six or seven years later. Such being the case, the quantifiable data materials collected by the Ambasankar Commission took the shape of the Report submitted to Government in 1985. The Tamil Nadu Act 45 of 1994 was enacted in the year 1993, few years after the report of the Ambasankar Commission was submitted. The Ambasankar Commission Report evaluated the population of Backward Classes viz., BC/MBC/DNC at 67% of the total population of the State. Besides, it also evaluated the population of SC and ST respectively at 18% and 1%.

15. No doubt true it is that at the time when the Tamil Nadu Act 45 of 1994 was enacted there was no reference either in the Statement of Objects and Reasons or in the Preamble attached the said Act as to the existence of quantifiable data materials for the 67% of Backward Classes in the State of Tamil Nadu as traceable to the Report of the Ambasankar Commission.
16. The Constitutional validity of the Tamil Nadu Act 45 of 1994 was challenged before the Supreme Court in 1994, however, no stay was granted. The 69% reservation viz., 30% to BC, 20% to MBC/DNC, 18% to SC and 1% to ST which was in existence prior to the pronouncement of the judgment in *Indra Sawhney's* case was continued to be implemented by the timely enactment of the Tamil Nadu Act 45 of 1994 by the Herculean and

Himalayan efforts of the Hon'ble Chief Minister of Tamil Nadu now in office. The challenge of Constitutional validity of the said Act which was pending for 17 years or thereabouts was finally disposed of on 13.7.2010 by the Apex Court. During the course of the hearing, the Supreme Court, it appears, posed a query as to the existence of quantifiable data materials for the justification of 69% reservation in the State of Tamil Nadu. The query was answered by the State of Tamil Nadu saying that there is enough quantifiable data materials for justification of such 69% reservation. The Supreme Court closed the case, remitted it to the Tamil Nadu Backward Classes Commission with a direction to the State to supply the quantifiable data materials in support of such justification of 69% reservation.

17. This Commission, on consideration of such materials placed before it by the State recorded its finding that there is enough quantifiable data materials for justification of 69% reservation. The Report so prepared by the Chairman of this Commission was placed before the Meeting of the Commission on 6.7.2011. The Members of the Commission then were no different than the present members of the Commission except the Ex-Officio Member and Ex-Officio Member Secretary. They are:

- (1) Thiru V.Elumalai, Ex.MLA
- (2) Dr.V.M.Muthukumar
- (3) Dr.R.Thandavan
- (4) Prof.D.Sundaram
- (5) Dr.S.P.Thyagarajan
- (6) Thiru KR.Muruganandam, Ex.MLA
- (7) Thiru J.Chandrakumar, IAS, Ex.Officio Member
- (8) Thiru A.Mohammed Aslam, IAS,  
Ex.Officio Member-Secretary

All the Members supported the projection of hues of views of the Chairman *in toto* and affixed their seal of approval without any sort of a whisper of demur or dissent whatever, and the said Report was submitted to the Government on 8.7.2011.

18. The Government placed the said Report before the Council of Ministers headed by the Hon'ble Chief Minister and the Cabinet, it appears, after an elaborate discussion, accepted *in toto* the Report prepared by the Chairman to which, as already indicated, all the members affixed their seal of approval. Consequently, G.O.Ms. No.50, BC, MBC & MW Department dated 11.7.2011 was issued by the Government so as to continue the implementation of reservation of 69% thitherto available in Tamil Nadu.
19. The very same quantifiable data materials as culled out from the Report of the Ambasankar Commission for the justification of 69% reservation are now relied upon by the Chairman of this Commission in preparing the draft Report containing recommendations for providing internal reservation demanded by certain castes/ communities in the list of Most Backward Classes within the reservation provided for MBC and DNC.
20. On the date of the Meeting on 24.5.2012, all the Members of the Commission except Thiru.V.Elumalai, Ex.MLA were present and participated in the discussion. Dr.M.Rajendran, IAS, Commissioner of Backward Classes Welfare and Commissioner of Most Backward Classes and Denotified Communities i/c who is also the Ex.Officio Member and Ex.Officio Member-Secretary respectively, of this Commission was also

present and participated in the Meeting. The Members of the Commission are of various hues and colours of the societal mosaic.

21. After a threadbare explanation of the draft Report by the Chairman for 2 hours or thereabouts, the Members – inclusive of the Ex.Officio Member-Secretary – present and participated in the Meeting, struck a discordant note to the Report and minuted their dissent, in the handwriting of Dr.S.P.Thyagarajan, Member, as below, at the fag end of the report containing the Chairman's recommendations:

“As the Report is untimely and incomplete without updated statistics, we dissent for the acceptance of the report unanimously.”

And, all the Members, inclusive of Dr.M.Rajendran, Ex.Officio Member-Secretary, present and participated in the Meeting, subscribed their signature thereto. This apart, Dr.S.P.Thyagarajan, a Member of this Commission, dictated the “Minutes” of the alleged to be containing additional reasons for dissent expressed by the Members of the Commission to the draft Report prepared by the Chairman of the Commission. The reasons as given thereto are reflected as below:

“(1) The present Report on internal reservation among MBC is in response to G.O.Ms.No. 35, Backward Classes, Most Backward Classes and Minorities Welfare (BCC) Department, dated 21.3.2012, requesting the Commission to examine and render necessary recommendation to Government on the request relating to the provision of internal reservation for various communities within the 20% reservation provided to Most Backward Classes and Denotified Communities.

(2) However, the Members have not had any time to go through such an important report with various ramifications since it was presented on table.

(3) The context of presentation and acceptance of the validating report for continuance of 69% reservation by the Government of Tamil Nadu was of technical and legal requirement in view of impending Supreme Court direction. In addition, it was a well-accepted practice by the entire Tamil Nadu without scope for any controversy among various sections of the population of the State of Tamil Nadu. The entire Commission unanimously endorsed the Report and submitted it to the Hon'ble Chief Minister of Tamil Nadu which resulted in a landmark action taken by the Government of Tamil Nadu in issuing a G.O. within the shortest time after Cabinet approval.

(4) On the other hand, in the context of consideration of the present Report in internal reservation, there is no emergency whatsoever. On the other hand, the Commission Members apprehend several limitations and constraints to the Commission as well as to the Government of Tamil Nadu. Hence,

(a) the issue itself is highly sensational which may lead to possible agitations by various community bodies coming under MBC and DNC;

(b) The Commission do not have any updated caste-based statistics as it is presently existing in Tamil Nadu as on 2011-12. In this context, the Commission itself has already requested the Government of Tamil Nadu for undertaking a caste-based Census by providing a well-structured format for conducting the Census by Tamil Nadu;

(c) The current situation of the country is, Parliamentary elections could be anticipated at any point of time and it may not be prudent to provide a report to the Government of Tamil Nadu which may result in opposition by the affected segments;

(d) The Members felt that their term of office is scheduled to be over by July 2012 and at this point of time, providing a Report on far-reaching implications may not be advisable."

All the Members, inclusive of Dr.M.Rajendran, I.A.S., Ex.Officio Member-Secretary, subscribed their signature to the above said "Dissent Note".

22. Prof.D.Sundaram, another Member of this Commission, placed before the Commission a note titled, "A Sociological Note on Internal Reservation and



the Most Backward Classes in Tamil Nadu”, which is getting reflected in verbatim as below:-

**“A SOCIOLOGICAL NOTE By Prof D Sundaram ([dsundaram@gmail.com](mailto:dsundaram@gmail.com))  
Member Tamilnadu Backward Classes Commission On  
INTERNAL RESERVATION AND THE MOST BACKWARD CLASSES  
IN TAMILNADU  
24-05-2012.”**

Although, I, with reluctance, have been going along with the recommendations of TNBCC for the Sub-Classification of the backward classes on various occasions in the last five years, I believe that the SUB CATEGORISATION/Internal Resrvation/Sub-Classification for reservation benefits to the backward classes as provided in the Indra Sawhney case judgement needs to be critically evaluated in terms of the implementation of the reservation policy with an alternative pragmatism in the approaches to meet the aspirations for the equality in access among the various BC and MBC in Tamilnadu.

SO, the approach of Law and Jurisprudence of Backward classes should strive for an effective RIGHTS-BASED APPROACH, i.e towards a transition of the article 15(4) and 16(4) from ENABLING RIGHTS TO ENFORCEABLE RIGHTS.

Hence, the LEGAL entitlements available under Reservation policy programme should have an adequate impact on Backward Classes' social development to the extent that they meet on how the responsibility of STATE and SOCIETY is in looking into the ways in which the reservation in EDUCATION and EMPLOYMENT sectors (for which Article 15(4) and the Article 16(4) are striving for) as resources through the backward classes welfare policy re-location of the Human Resources Development efforts equitably.

As a sociologist member of TNBCC, I wish to state that all these have to strive as a “programme of the SOCIOLOGISTIC SCHOOL of Sociological Jurisprudence which should seek to enable and compel lawmaking, whether legislative or judicial or administrative, and also of the development, interpretation and application of legal perspects and also judiciating endeavours to take more complete and intelligent account of the SOCIAL FACTS upon which law and jurisprudence must proceed and to which it is implied”.(See Rosco. Pound's mention of this in his book titled:Pound, Roscoe. Jurisprudence. St. Paul, Minn.: West Publishing Co., 1959 by borrowing it from the Holmes on “The Path of Law” (1899), 10 Harvard Law review, 457,467)

Thus, I consider the Backward classes Justice system and the Legal instruments should enable the reservation system accessible to all the men of Backward classes as a priority characterised as RIGHT to every citizen belonging to Backward classes rather than meddling with the issue of the retrograde prescription of SUB-CATEGORISATION.Enough has been said by me in the case of Internal Rsvation for Arunthathiyar as a consultant sociologist.

So, in this age of Information, Participation and Justice in Decision-making of the Good Governance, the reservation policy has to address the status of

- Access to information on backward class entitlements to the socially disadvantaged group.
- Participation of the socially disadvantaged group through the quota, and

- Enabling Legal and Jurisprudence provisions to the backward class citizens

By asking questions:

- What have the governments done and
- What do they still need to do to create effective RIGHT-BASED systems of backward classes' participation in their access to Education and Employment towards the cause of the Social Development by addressing the issue of SUPPLY –SIDE APPROACH to meet the DEMAND SIDE of the RESERVATION POLICY?
- It may appear utopian for some; I feel, instead that any solution for the justice in ACCESS issue of the BC and MBC should be implementable without any hassels.

Accordingly, I consider the quest of the representations for INTERNAL RESERVATION by the classes and communities of MBC'S in Tamilnadu reflects the emerging responsive society and shows that the classes and communities forming themselves as association for their welfare and development independently to monitor the backward classes participation systems. In a way these are the engines for implementation of reservation policy.

**As this quest has to be seen positively by the governance, legal and judicial fraternity and society, there is no denying the fact that the policy of reservation in its implementation has CHALLENGING problems in providing the access principles in its practice to the satisfaction of all the social groups in Backward Classes and in Most Backward Classes.**

To address these challenges, I as a sociologist member, have sought the details of the available Quantitative data on MBC that have represented for Internal Reservation through my letter dated 07-05-2012. The TNBCC was kind enough to provide the details through its letter No, 137.TNBCC/2012 Dated 14-05-2012 and copied to all the members of the TNBCC. As I was keen to look into the voluminous details of the representations and also wanted to have the quantifiable data as provided by the Government of Tamilnadu to prepare the report on Justification of the 69 % reservation, I have addressed another letter dated 19-05-2012 to the Chairman of TNBCC. On their permission, to peruse the details of the representation, I visited the office of the TNBCC on 22-05-2012.

Accordingly, I looked into the details:

1) on justification made out by the MBC Communities for internal reservation and

But, I could not look into the quantifiable data on reservation benefits as obtained by the commission from the Government of Tamilnadu in responding the Supreme court order dated 13-07-2010 in connection with the case challenging the quantum of reservation made under the Tamilnadu act 45 of 1994 for justifying the extent of 69% reservation. The quantifiable data are yet to be classified, as I am inclined to believe.

On my perusal of the 30 representation by the various MBC on Internal reservation, I found that the following twelve communities namely

1. Maruthuvar,
2. Navithar,
3. Salavai Thoizilalar,
4. Meenavar,
5. Erra Gollar,
6. Thotiya Naikar,
7. Isai Vellalar
8. Kulalar,

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9. Salaivaialar,
10. Vannar,
11. Narikuravar and
12. Vanniyar,

have represented for Internal Reservation.

Most of these representations were made to the then Deputy Chief Minister on various dates ranging from 2-09-2008 to 10-11-2011, i.e well before May 2011.

Among them, three communities namely Vanniyar, Maruthuvar and Meenavar have repeated their representations on 6-06-2011, 26-08-2011, 5-10-2011 and on 12-12-2011.

All these representations have reflected their justifiable reasons for Internal Reservation by stating that these communities cannot compete for the reservation benefits with the other MBC social groups who dominate in enjoying the reservation benefits.

Thus, each of these has asked for Internal Reservation ranging from 2% to 15% by these thirteen groups.

In total, the request for internal reservation by all these twelve groups comprising 83, 19,572 persons in total population works out to 47% of the reservation as per the TNBCC's enclosure of the Particulars of representation received from the castes and communities in Most Backward Classes sent to me on 14-05-2012..(see the particulars as received by you in the TNBCC letter No 137 dated 14-05-2012)

All these quantifiable data provided by TNBC through its letter dated on 14-05-2012 are based on data of the well-documented Commissions report by Thiru J A Ambashankar in the year 1983.

A glance into the ratio of appointments data-matrix from the same 1983 J A Ambashankar's commission and as used by TNBCC for its report on Justification for 69% reservation shows as follows:

- Kulalar with a population of 30,179 has a ratio of appointments as 0.875.
- Maruthuvar, Navithar, Mangala, and other related Social groups with a population of 426,427 have a job ratio of 0.8957,
- Naikuravar with a population of 20,162 has a ratio of appointments 0.6791.
- Vanniyars with a population of 6,504855 has a ratio of appointments as 0.5854,
- Thottia Naikar and Other related Social groups with a population of 271,318 have a ratio of appointments as of 0.2341 and
- Vannar and related social groups with a population of 445,637 have a job ratio as of 0.5729.

As for the other SIX MBC social groups which represented for internal reservation, there is no quantified data-matrix on Ratio of Appointments, although the same document of JA Ambashankar has similar data -matrix for other communities of BC and MBC.

Similarly, a data-matrix on the split details of the ratio of appointments for these representationists under the Group I, Group II, Group III and Group IV are not available in the document although the data- matrix of other socio-economic and educational status are available in detail for the same groups

But, a Statistical expert can formulate a similar data-matrix from among the quantifiable data sources as supplied by our Government of Tamilnadu which was for preparing the report on Justification of the 9% reservation and submitted by the TNBCC.

**With the data-matrix of 1983 alone, I am of the opinion that it will not be pragmatic for TNBCC to have a responsive solution for the request for internal reservation by those MBC communities who say that they cannot compete for the reservation benefits with the other MBC social groups who dominate in enjoying the reservation benefits**

So, the TNBCC should use the available quantitative data supplied by the Government of Tamilnadu for finding a solution for internal reservation. Accordingly, there is a need for;

1. Looking into the quantifiable data as supplied by the government of Tamilnadu lying in TNBCC by a statistical expert and by the collation of the current survey data on castes. This exercise can be compared with the data-matrix of J A Ambashankar's 1983 commission report.

2. collecting ethnographic data of these social groups in today's context (besides the textual representation) on the social hierarchical variation along with the differentials of socio-economic and educational status of these social groups as was done by J A Ambashankar for his report in 1983 for grouping these representationists into a viable groups of horizontal hierarchically similarity for Internal reservation. *(In this regard, it will be a fruitful endeavour to study the reports of the various backward classess commissions in classifying the backward classess into various social groups with maximum homogeneity and with a minimum heterogeneity by Andra Pradesh and Karnataka as references).*

3. a wider consultation with the practioners of the Reservation policy namely the Vice Chancellors of the Universities Directors of Institutes, Chairman and Members of various recruitment commissions and agencies both at the center and state level and the representationists along with the non representationists of the communities and classes, bureaucrats in various departments and more particularly of the personnel and administrative reform departments of Government of Tamilnadu and Government of India.

*(In this regard the current practice of Roster System and the conversion of it from 100 points into 200 points and the Carry Forward System in allocating the vacancies in the organiations and institutions to the various backward class groups may be referred into while having consultations of such type).*

4. Looking into the representations for internal reservation from the BC's also and getting them included by the commission through a suitable suomoto quasi judicial action and by the wider publicity to all the communities under the BC and MBC on this subject in order to get representations from the different communities.

5. Looking into the scope for enhancing the SUPPLY-SIDE of the employment opportunities and educational opportunities to meet the justifiable increased DEMAND-SIDE in these sectors under the reservation policy.

6. Looking into the socio-legal implications of all these different access principles finally in order to avoid the various legal glitches in implementation practice of the reservation policy

All these, may provide a basis for dialogue and action to improve the level implementation of the reservation policy. **These will focus on closing the gap between law on reservation and practice**

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These efforts will enable us to identify the strengths and weaknesses of specific approach of the various modes of implementation in utilising the reservation policy provisions.

- **So, I believe that all these will throw open for a pragmatic and comprehensive solution instead of limiting to the Internal Reservation mode solution alone.**
- **These will respond to the quest for equitable access by the various communities in BC and MBC to make informed personal choices and to encourage improved performance of the reservation policy by government.**

**Prof D Sundaram, Member, TNBCC (dated 24.5.2012)"**

23. Certain facts and questions of law over which there was no pale of controversy have to be related before ever the objections raised by the Members in expressing total dissent with the hues of views of the Chairman in his draft Report which was placed before the Meeting on 24<sup>th</sup> May 2012, besides the consideration of various points raised by Prof.D.Sundaram in his "Sociological Note", in rather a bid to appreciate the relevancy or otherwise of the objections raised by the Members inclusive of Dr.M.Rajendran,IAS., Ex.Officio Member-Secretary.
24. Admitted fact it is, that ethnographic or sociological study had been made after the collection of all relevant data relatable to the socio-educational-cum-economic factors before the trifurcation of the backward classes into Backward Classes, Most Backward Classes and Denotified Communities. The settled thing is, the relevant statistical particulars of BC, MBC and DNC are presently available for the grant of internal reservation. Particulars regarding the population of such BC/MBC/DNC are available. The Tamil Nadu Second Backward Classes Commission's Report in 1985 which has been accepted by the Supreme Court furnishes authentic

population particulars of all caste / communities. There is no pale of controversy that there is no such report equal to the caliber and authenticity of the socio-educational and economic status of the populace of the State. All such quantifiable data materials in the form of the said Report were available at the time when the Tamil Nadu Act 45 of 1994 was enacted by the Government of Tamil Nadu. However, the existence of such quantifiable data materials as available in the said Report was not stated either in the Statement of Objects and Reasons or in the Preamble to the Tamil Nadu Act 45 of 1994. When the challenge thrown to the Tamil Nadu Act 45 of 1994 was finally disposed of by the Supreme Court on 13.7.2010, it was represented before the Supreme Court that quantifiable data materials were available for the justification of 69% reservation. The Supreme Court immediately closed the matter and remitted it back to this Commission with a direction to the State Government to supply all such quantifiable data materials before the Commission, thereby empowering this Commission to decide the question of justification of 69% reservation. This Commission, on examination of the entire matter, prepared an elaborate report justifying the 69% reservation and submitted it to the Government, which, in turn, accepted the same *in toto* and passed a G.O. allowing the continuance of 69% reservation in the State of Tamil Nadu. Pertinent it is to note here that the Members of this Commission viz., Prof.SP.Thyagarajan, Prof.D.Sundaram, Dr.R.Thandavan, Dr.V.M.Muthukumar, Thiru.R.Muruganandam and Thiru V.Elumalai were appointed as Members

of this Commission in G.O.Ms.No.43, BC, MBC & MW Department, dated 5.7.2011, a day prior to the discussion of the draft Report prepared by the Chairman Justice M.S.Janarthanam. The report consisted of 264 pages inclusive of the Appendices. The Report was placed on the table of this Commission on 6.7.2011 for discussion. All the aforesaid Members were present. The one difference was that Dr.M.Rajendran, I.A.S. was not the Member-Secretary then and Thiru J.Chandrakumar, IAS, was the Ex.Officio Member and Thiru A.Mohammed Aslam, I.A.S., was then the Ex.Officio Member-Secretary of this Commission. The Chairman elaborated the Report to all of them for about three to four hours. The Chairman pin pointedly referred to in the discussion so made that the quantifiable data materials considered for the justification of 69% reservation was the authentic quantifiable data materials traceable to the Report of the Ambasankar Commission. None of the Members present whispered or expressed any demur or objection to the draft Report prepared by the Chairman justifying the 69% reservation provided for under the Tamil Nadu Act 45 of 1994. They simply subscribed their signature in the said Report prepared by the Chairman.

25. At the time when the Tamil Nadu Act 45 of 1994 was enacted, the total population of BC/MBC/ DNC was to the extent of 67% of the total population of the State. The reservation provided under the Act to BC/MBC/DNC was only to the extent of 50% viz., 30% to BC, 20% to MBC / DNC put together which is 17% lower than the population of such

classes of people. SC and ST were specifically provided reservation of 18% and 1% respectively which is proportionate to their population.

26. The Members are, indeed, very learned people. One served as a Vice-Chancellor of the prestigious University of Madras, another served as Director, Anna Centre for Public Affairs, while yet another is a Professor and Head of Department of Public Administration in Government Arts College. Added to the galaxy of such educationists, there is also a legal luminary who was also an erstwhile Member of the Legislative Assembly and another former Member of the Legislative Assembly. Top of all, there is a Member Prof.D.Sundaram who was a retired Professor and Head of Department of Sociology in the University of Madras, besides being a Member of this Commission for well over 17 years. The Member-Secretary of this Commission, an officer in the cadre of I.A.S., is no less a learned elite than the other Members. The Member-Secretary of this Commission, being a public servant, can echo – if at all – the views of the Government and he cannot be expected to express any other view even if he is holding views contrary to that of the Government.
27. There is no pale of controversy regarding the law relating to internal reservation among BC/MBC/DNC. The law is very well settled by the Supreme Court in *Indra Sawhney's* case that the provision of internal reservation or separate quota among BC/MBC/DNC is a permissible exercise in law.



28. Simply because separate quota or internal reservation is requested for by certain communities/castes listed as BC/MBC/DNC by sending representations to this Commission, it is not as if, the Commission can consider such requests for internal reservation *suo motu* without any direction emanating from the State Government by way of specific terms of reference when especially internal reservation is a policy matter of the Government. Representations from various castes/ communities – both from BC/MBC/DNC or others have been received and kept pending without disposal. For want of specific reference from the Government, even when queries were received by this Commission from the Chief Minister's Cell, for the pendency of such representations for quite long time without disposal, the Commission replied suitably as above.
29. Admittedly the Government passed G.O.Ms.No.35, BC,MBC & MW(BCC) Department, dated 21.3.2012 issuing specific terms of reference to this Commission to examine and render necessary recommendation to Government on the request relating to the provision of internal reservation for various communities within the 20% reservation provided to Most Backward Classes and Denotified Communities. It is only as a consequence of such terms of reference having been sent to this Commission, the Chairman convened the meeting of the Members of the Commission twice – on 3.5.2012 and on 24.5.2012 for the consideration and discussion of the reference. It is to be emphasized here, that all the Members, inclusive of the Member-Secretary, were provided with all the

necessary and requisite materials and given adequacy of opportunity to go through such materials before they attended the meeting on those two dates. This apart, the Chairman made Herculean efforts in explaining to the Members on both these dates for more than four hours all the legal, factual and Constitutional implications involved in the matter for providing internal reservation to such castes/ communities listed as Most Backward Classes as has been requested by the Government. The quantifiable data materials provided to the Members of this Commission would amply demonstrate that the percentage of population for internal reservation of almost all the communities listed as MBC or DNC excepting *Vanniakula Kshatriya* listed as MBC falls below 1% while the feasibility percentage of internal reservation to groups of the castes/communities falls below or around 2.5%. The internal reservation percentage for *Vanniakula Kshatriya* listed as MBC worked out to 10.562% rounded off to 10.5%. The law on the point of internal reservation is rather well settled by the nine-Judge Bench decision of the Supreme Court in *Indra Sawhney's* case. The factual as well as legal matrix in providing internal reservation for *Vanniakula Kshatriya* listed as MBC is rather very crystal clear.

30. It is not as if the Commission is providing internal reservation for the first time. The Commission had on earlier occasions, on receipt of specific terms of reference from the Government, based on the demand emerged from Backward Classes of Muslims and Backward Classes of Christians, recommended for internal reservation to each of those Backward Classes of

Muslims and Backward Classes of Christians at 3.5% to each of them within the reservation of 30% provided to Backward Classes. The Government accepted the recommendations of this Commission and passed a legislation called the "Tamil Nadu Backward Classes Christians and Backward Classes Muslims (Reservation of Seats in Educational Institutions including Private Educational Institutions and of appointments or posts in the services under the State) Act, 2007". Pertinent it is to refer to at this juncture that Prof.D.Sundaram who was also a Member of this Commission then, did not raise his little finger in objecting to such internal reservation. Further, he did not object to the quantifiable data materials taken out from the Ambasankar Commission Report which was relied upon by this Commission for providing such internal reservation to Backward Classes of Muslims and Backward Classes of Christians.

31. Internal reservation or separate quota of reservation had also been provided to Arunthathiyars at about 3% within the 18% reservation provided to SC. The present Chairman of this Commission Justice M.S.Janarthanam was appointed as One Man Committee to go into such aspects of internal reservation to Arunthathiyars. No Member of this Commission can be expected to have any say on such a matter of internal reservation provided for Arunthathiyars by the One Man Committee. For providing such internal reservation to Arunthathiyars, the One Man Committee relied upon the quantifiable data materials traceable to the decennial census report of the Government of India.

32. The Chairman of this Commission, who prepared the draft report which is the subject matter of this Note, while making recommendation for providing internal reservation to the eligible castes/ communities listed as MBC, relied upon the quantifiable data materials traceable to Ambasankar Commission Report.
33. In such a backdrop and setting, the various points raised by Prof.D.Sundaram, Member of this Commission, in his "Sociological Note" may now fall for consideration.
34. Prof.D.Sundaram, having been a party to the report by affixing his seal of approval not only to the draft Report prepared by the Chairman of this Commission justifying 69% reservation as has been provided under the Tamil Nadu Act 45 of 1994 placing reliance on the quantifiable data materials traceable to the Report of the Ambasankar Commission, but also to the draft Report prepared by the Chairman providing for internal reservation to Backward Classes of Muslims and Backward Classes of Christians placing reliance on the quantifiable data materials traceable to the very same Report of the Ambasankar Commission, has now raised his opposition to the draft Report of the Chairman of this Commission providing for internal reservation to *Vanniakula Kshatriya* listed as Most Backward Class based on the quantifiable data materials culled out from the Report of the Ambasankar Commission and has now requested the collection of ethnographic data of the social groups in today's context on the social hierarchical variations as necessary and that quantifiable data

materials have to be collected as of now for providing internal reservation to any caste/community listed as BC/MBC/ DNC. The reason for dawning of such wisdom on the learned Member is quite obvious as obviousness could be and needs no further explanation or elucidation. He would offer a puerile explanation for his giving his seal of approval on the earlier occasions when internal reservation was provided for Backward Classes of Muslims and Backward Classes of Christians. What he would say is this: “.... I, with reluctance, have been going along with the recommendations of TNBCC for the Sub-Classification of the backward classes on various occasions in the last five years, .....” It is atrocious for him to say that he is unable to accept the view of the Supreme Court in *Indra Sawhney's* case providing for sub-categorisation / sub-classification or internal reservation which judgment, according to him, “needs to be critically evaluated”. He would further say that prescription of sub-categorisation is “retrograde”. His view, therefore, is that despite the judgment of the Supreme Court, internal reservation should not be provided for to any caste/community listed as BC/MBC/DNC. He cannot consider himself to be above Supreme Court. Everyone is bound by the law as declared by the Supreme Court under Article 141 of the Constitution. It is also suggested by him that a wider consultative process must be adopted with practitioners of reservation policy who comprise of (1)Vice-Chancellors of Universities; (2)Directors of Institutes; (3)Chairman and Members of various recruitment Commissions and agencies both at the Centre and State level; (4)Representationists along

with non-representationists of the communities and classes; and (5) Bureaucrats in various departments, more particularly, of the Personnel and Administrative Reforms Department of Government of Tamil Nadu and Government of India. Besides, according to him, wider publicity should be given to attract representations from all the castes and communities listed as BC/MBC for internal reservation through *suo motu* quasi-judicial action.

35. While making such suggestions, which are not only impracticable but also against the existing provisions of the Constitution, he also places himself in the highest pedestal that what he says should be approved and followed. Nonetheless, yet another idea projected by him is that the “approach of Law and Jurisprudence of Backward classes should strive for an effective RIGHTS-BASED APPROACH i.e., towards a transition of the article 15(4) and 16(4) from ENABLING RIGHTS TO ENFORCEABLE RIGHTS”. This sort of a view requires Constitutional amendment for making Art.15(4) and Art.16(4) as justiciable fundamental rights. He is further of the view that sociological factors should be the main focus of the law-making – by the executive and the administration of justice by the Judiciary. This sort of a view is against and directly in conflict with the existing provisions of the Constitution. The Constitution prescribed social and educational factors alone should be taken into consideration for the determination of backwardness of any caste/community. Even this sort of a provision has been interpreted by the Supreme Court in such a way that the economic status, to some extent, of a person should also be taken into consideration

while determining the backwardness of any caste/community inasmuch as the social factors involve the element of economic factors also, though such a view has not been expressly stated by the provisions of the Constitution. Prof.D.Sundaram would make an insinuating statement in his "Sociological Note" that twelve of thirty representations filed by MBC for internal reservation were given to the then Deputy Chief Minister on various dates ranging from 2.9.2008 to 10.11.2010 i.e, well before May 2011. Among them, three communities, namely, Vanniyar, Maruthuvar and Meenavar have repeated their representations on 6.6.2011, 26.8.2011, 5.10.2011 and on 12.12.2011. The reason why the Chairman took into consideration all such representations i.e., representations given to the earlier Government as well as the present Government is, the terms of reference in the G.O. specifically mandated the Commission to examine all the demands made to the Commission by the members of castes/ communities figuring in the list of MBCs requesting for internal reservation. When the terms of reference are as such, it is incumbent upon this Commission to examine all such representations also. In the process of examination of those thirty representations, the representation given by *Vanniakula Kshatriya* to the earlier Government as well as to the present Government alone has been found to be satisfying the requirements of feasibility for internal reservation and therefore recommendations are made therefor. The Chairman took into consideration while making recommendations for providing for internal

reservation, only the factual, legal and Constitutional matters and nothing else.

36. Prof.D.Sundaram would also say that the quantifiable data materials supplied by the Government must have to be analysed by a Statistical Expert by correlation of the current survey of data. Further, the exercise then has to be compared with the data-matrix of the Ambasankar Commission Report of 1985. No doubt true it is that this Commission collected particulars relatable to employment details of various castes/ communities in the services under the State and some materials relatable to admission of candidates belonging to various castes/ communities in professional courses. The current data materials so collected are not at all necessary for justification of 69% reservation as had been provided for by the Tamil Nadu Act 45 of 1994. The very pertinent question that arose for consideration before the Supreme Court was as to what were the quantifiable data materials at or about the time of passing of the Tamil Nadu Act 45 of 1994 and not the quantifiable data materials available subsequent to the enactment of the said Act. Such data materials were collected by this Commission with the *bona fide* intention of using the materials - in case the Union Government took the Decennial Census in an authentic fashion - as required by the State Government of Tamil Nadu - for the purpose of revising and fixing the correct quota of reservation for the BC, MBC, SC and ST. Even at the time when the Tamil Nadu Act 45 of 1994 was enacted, the population figure of BC was to the tune of 67%.



Further, some statistical figures as furnished by the various Departments of Central Government (NSSO, NFHS) by taking a sample survey stated that the backward classes population of Tamil Nadu State was to the tune of 72% to 74% which is the maximum percentage of BC available in the whole of India. Since the caste based Census figures as required by the State Government of Tamil Nadu was not taken by the Central Government, the quantifiable data materials relating to employment of backward classes in the services under the State as well as in admission to professional courses were unable to be utilized by this Commission. This Commission is anxiously waiting for the Census to be taken at least by the State Government covering entire populace of the State on the socio-educational-cum-economic factors to enhance the percentage of reservation to BC, MBC, DNC, SC and ST from 69% provided for by the Tamil Nadu Act 45 of 1994, by utilizing the details to a higher level of increased population so collected. Therefore the suggestion as given by Prof.D.Sundaram bristles next to nothing.

37. One more thing left out of consideration from the "Sociological Note" of Prof.D.Sundaram is this: What has been stated by him as respects internal reservation for Arunthathiyars in his said "Note" may be quoted *verbatim*:

"Enough has been said by me in the case of Internal Reservation for Arunthathiyar as a consultant sociologist."

The Government appointed Justice M.S.Janarthanam, a retired Judge of High Court and also the Chairman of this Commission, as the One Man Committee to go into the question of internal reservation to Arunthathiyar

within the reservation provided for Scheduled Castes and no sociologist was appointed to aid or assist the said One Man Committee as a “consultant sociologist” much less Prof.D.Sundaram. It is highly derogatory of him to say that he served as “consultant sociologist” in the matter of providing internal reservation for Arunthathiyar. No doubt true it is that Prof.D.Sundaram, being a Member of the Tamil Nadu Backward Classes Commission, had indulged in casual talk when the Chairman was preparing the Report for providing such internal reservation to Arunthathiyar. He also provided written opinion regarding internal reservation for Arunthathiyar saying that the said written opinion of his may be useful to the Chairman. As usual, the written opinion given by him was a confounding confusion and cannot at all be utilized for any purpose whatever and so, the Chairman, as the One Man Committee, did not at all take into consideration such opinion. That does not mean that he was crowned with the position of a “consultant sociologist” in the matter of providing internal reservation for Arunthathiyar. It is a despicable act on his part to designate himself as a “consultant sociologist” therefor.

38. To put it in a nutshell, the “Sociological note” given by Prof.D.Sundaram contains materials totally irrelevant and not germane to the issue on hand. It is totally extraneous and not at all useful in providing a solution for such an issue.
39. Further, the “Sociological Note” given by him is in violation of the existing provisions of law with an avowed intention of not only injuring the

*Vanniakula Kshatriya* community listed as MBC but also avoiding such benefits to be conferred on any caste or community listed as BC/MBC/DNC which is nothing but 'malice in Law'.

40. Malice is of two types – 'malice in fact' and 'malice in law'. Malice in fact is relatable to motive; on the other hand, malice in law is the question of intention. 'Improper motive' is a question to be determined by consideration of the evidence; whereas the 'intention' is an artificial or technical notion of law, which depends partly upon the subjective desires of the defendant, partly upon the objective policy of the law. 'Intention', for our purposes, is not merely 'desire' or 'aim'. It is also the absence of legitimate excuse for action. 'Intention' is really an elliptical way of saying 'intending to cause harm without what the law considers to be just cause or excuse.' 'Malice in law', in substance, bristles to the intentional commission of a wrongful act; absent justification; with the intent to cause harm to others; conscious violation of the law that injures another individual; a mental state indicating a disposition in disregard of social duty and a tendency toward malfeasance.
41. 'Malice in fact', being a question of fact upon evidence adduced, cannot be said to be of any use or application in the instant case, on the facts and circumstances thereof, in the absence of any material evidence on record. However, from the facts and in the circumstances of the case, adverse inference is capable of being drawn under sec.114 (g) of the Indian Evidence Act, 1872. No such inference is necessary when especially there

is abundant material on record to attribute malice in law to the Members present and participated in the Meeting. The issue involved is rather very simple, revolving on internal reservation among BC/MBC/DNC. That the providing of Internal reservation among BC etc is an exercise permissible in law, is well-settled by the dictum of the Supreme Court in *Indra Sawhney's* case about which all the Members are very well aware of. They were also aware of the existence of relevant quantifiable data materials for the grant of internal reservation among MBC and DNC. There is also no pale of controversy that all the Members were aware of the ineligibility of castes/communities listed as MBC or DNC for internal reservation inasmuch as the individual percentage of population of such castes/communities fall below 1% of the total population. Even, the feasibility percentage of internal reservation of various groups of communities falls below or around 2.5%. Even if internal reservation is provided for them, it may not be workable. The feasibility percentage of reservation to *Vanniakula Kshatriya* works out to 10.5% within 20% reservation provided for MBC and DNC. It is also made crystal clear to all the Members that such internal reservation will neither tantamount to conferring any undue advantage in their favour nor it will affect or prejudice or cause any detriment to the entitlement of reservation benefits to other castes/communities in the list of MBC or DNC; and on the other hand, a separate quota of reservation conferred on the most backward class *Vanniakula Kshatriya* within the quota of reservation benefits for MBC and DNC will not, in the least, affect

the distribution of reservation benefits among various castes/ communities listed as MBC or DNC.

42. In such state of affairs, the Members objecting to the internal reservation for *Vanniakula Kshatriya* listed as MBC for reasons as minuted by them which will a little later be listed and discussed, cannot be anyone other than the 'intentional commission of wrongful act without any sort of justification and with intent to cause harm' to *Vanniakula Kshatriya* community listed as MBC which injures them. Besides, such an act on their part gives vent to their mental state indicating a disposition in disregard of social duty and a tendency toward malfeasance.
43. The listed reasons are that the Report is:
- (i) untimely;
  - (ii) incomplete without updated particulars;
  - (iii) no time to go through the Report;
  - (iv) existence of emergent situation at the time of approval of the Report of the Commission justifying 69% reservation not being present in the context of consideration of the present Report for internal reservation;
  - (v) issue itself is highly sensational which may lead to possible agitations by various community bodies coming under MBC/DNC;

- (vi) not prudent to provide the Report to the Government as the current situation is that Parliamentary elections are anticipated at any point of time and providing a Report on far-reaching implications is not advisable;
- (vii) the term of office of the Members is to be over by July 2012.

All the above rationale or reasoning are highly irrelevant and non-germane to the consideration of these issues covered by the terms of reference issued to this Commission by the Government.

- 44. The dismal and abysmal failure on the part of the Members inclusive of the Member-Secretary in taking into consideration the simple dictum laid down by the Supreme Court regarding internal reservation among BCs etc, and the factual matrix available on record in justifying the feasibility of internal reservation for *Vanniakula Kshatriya* listed as MBC and citing reasons irrelevant, extraneous and non-germane to the issue on hand, is a surer indication of revealing their mind not only in violation of the provisions of law but also 'indicating their disposition in disregard of social duty and tendency toward malfeasance.'
- 45. **An overview of the discussion above, if taken into consideration, leads to the one and the only irresistible conclusion that the internal reservation at 10.5%, if provided to *Vanniakula Kshatriya* listed as MBC, within the reservation of 20% among the MBC and DNC, will not infringe to any extent whatever the law of the land as declared by the Supreme Court providing for internal reservation among backward**

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classes of citizens. The provision of internal reservation is a policy decision of the Government. The duty cast on this Commission is to make a recommendation to the Government taking into account the factual, legal and Constitutional matters besides the law declared by the Supreme Court so as to enable the Government to take a proper and correct policy decision. In such circumstances, it goes without saying that the rationale or reasoning's trotted out by all the Members present and participated in the Meeting are but perverse which cannot at all be taken into consideration in deciding the issue on hand.

[JUSTICE M.S. JANARTHANAM]  
CHAIRMAN,  
TAMIL NADU BACKWARD CLASSES  
COMMISSION, CHENNAI.

  
True Copy

ANNEXURE-P/16  
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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.04.2015

CORAM

The Hon'ble MR.SANJAY KISHAN KAUL, CHIEF JUSTICE  
AND  
The Hon'ble MR.JUSTICE M.M.SUNDRESH

W.P.No.14025 of 2010

C.N.Ramamurthy

.. Petitioner

-vs-

1.The Chief Secretary,  
Government of Tamil Nadu,  
Fort St. George,  
Chennai-600 009.

2.The Secretary to Government of Tamil Nadu,  
Ministry of Backward Classes,  
Most Backward Classes to Minorities,  
Social Welfare Department,  
Fort St. George,  
Chennai-600 009.

.. Respondents

Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Mandamus to consider the representation of the petitioner dated 20.11.2009 and 03.05.2010 and to provide appropriate percentage of reservation in this reservation of 20% granted to the Most Backward Classes and others.

For Petitioner : Mr.K.Anbarasan

For Respondents : Mr.STS.Moorthy

Government Pleader for R1 and R2

\* \* \* \* \*



ORDER

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(Order of the Court was made by The Hon'ble Chief Justice)

The learned counsel for the petitioner states that in terms of the G.O.(Ms) No.35, Backward Classes, Most Backward Classes and Minorities Welfare (BCC) Department, dated 21.03.2012, the issue raised in the writ petition was referred to the Tamil Nadu Backward Classes Commission. He submits that as per the information received by him, the report has been submitted.

2. The respondents, may, thus, inform the petitioner about the receipt of the report, if any and the decision taken on the same, if any within one month from today.

3. The writ petition is disposed of accordingly. No costs.

(S.K.K., CJ.) (M.M.S, J.)  
01.04.2015

Index : Yes/No

Internet : Yes/No

Note: Issue order copy on : 06.04.2015.

To

1.The Chief Secretary,  
Government of Tamil Nadu,  
Fort St. George,  
Chennai-600 009.

2.The Secretary to Government of Tamil Nadu,  
Ministry of Backward Classes,  
Most Backward Classes to Minorities,  
Social Welfare Department,  
Fort St. George,  
Chennai-600 009.

  
- 1 new copy -

ANNEXURE- P/17  
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ITEM NO.1 COURT NO.1 SECTION PIL(W)

SUPREME COURT OF INDIA

RECORD OF PROCEEDINGS

Writ Petition (Civil) No. 462/2006

VOICE (CONSUMER CARE COUNCIL)

Petitioner(s)

VERSUS

UNION OF INDIA & ANR.

Respondent(s)

(Office report for direction)

Date :27/07/2015 This petition was called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE ARUN MISHRA

HON'BLE MR. JUSTICE AMITAVA ROY

For Petitioner(s)

Mr. K.V. Mohan, Adv.

For Respondent(s)

Mr. M. Yogesh Kanna, Adv.

Mr. Jayant Patel, Adv.

Mr. V.G. Pragasam, Adv.

Mr. R.K. Verma, Adv.

Mr. Shalender Saini, Adv.

Mr. B.V. Balram Das, Adv.

UPON hearing the counsel the Court made the following

ORDER

The writ petition is disposed of as having become infructuous.

[ Charanjeet Kaur ]

[ Vinod Kulvi ]

A.R.-cum-P.S.

Asstt. Registrar

[ Signed order is placed on the file ]

IN THE SUPREME COURT OF INDIA  
CIVIL ORIGINAL JURISDICTION  
WRIT PETITION © NO. 462 OF 2006

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VOICE (CONSUMER CARE COUNCIL)

..PETITIONER(S)

Versus

UNION OF INDIA & ANR.

.. RESPONDENT(S)

O R D E R

1. Learned counsel for the petitioner states that nothing survives in this petition for our consideration and decision.

2. Accordingly, the writ petition is disposed of as having become infructuous.

.....CJI. [ H.L. DATTU ]

.....J. [ ARUN MISHRA ]

.....J. [ AMITAVA ROY ]

NEW DELHI,

JULY 27, 2015



/TRUE COPY/

ANNEXURE P/18

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Letter, dated 22.2.2021, of Justice M.Thanikachalam, former Judge, Madras High Court, Chairman, Tamil Nadu Backward Classes Commission, 212, R.K. Mutt Road, Mylapore, Chennai-600004.

To

The Principal Secretary to Government,  
Backward Classes, Most Backward Classes and  
Minorities Welfare Department,  
Secretariat, Chennai-600 009.

Sir,

Sub: Tamil Nadu Backward Classes Commission -  
Lists of Most Backward Classes and Denotified  
Communities - Provision of internal reservation  
within the 20% reservation provided under the  
Tamil Nadu Act 45 of 1994 - Remarks - Sent.

Ref: Government Letter No.1010337/BCC/2021-1,  
BC, MBC & MW Dept, dated 18.2.2021.

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In the Government letter cited, it has been requested to send views regarding the possibility of providing internal reservation amongst the communities listed as Most Backward Classes and Denotified Communities within the 20% reservation available for them in this State under the Tamil Nadu Act 45 of 1994.

2. The following views are sent to the Government in the above subject of providing internal reservation within the 20% reservation available for Most Backward Classes and Denotified Communities:-

- (i) In G.O.Ms.No.35, BC, MBC & MW dept, dated 21.3.2012, the following additional Terms of Reference has been issued to the Tamil Nadu Backward Classes Commission:-

“The Commission shall examine and recommend upon the demand made by various communities to provide for internal reservation within the reservation provided for Most Backward Classes.”

- (ii) The Commission has discussed the above Terms of Reference in its meetings held on 3.5.2012 and 24.5.2012, referring to various representations received from the communities enlisted as Most Backward Classes and Denotified Communities, relying upon the Constitutional, legal and factual data available in this regard and sent its report to the Government vide letter No.111/TNBCC/2012, dated 13.6.2012.
- (iii) The then Chairman recommended for grant of 10.5% separate reservation to Most Backward Class Vanniyakula Kshtriya within the 20% reservation available for Most Backward Classes and Denotified Communities. On the other hand, all the other Members participated in the meeting have dissented to the above views of the Chairman.
- (iv) It is noted that the then Members who have dissented against the recommendations of the then Chairman of this Commission did not document any legally and factually justifiable material for their objections. The

Members have dissented neither to the legal position enumerated nor the factual data relied upon by the then Chairman to make his recommendation; rather the Members have asserted extraneous reasons which are irrelevant or not germane to the consideration of issues under the additional Terms of Reference issued in the year 2012, as rightly observed earlier by the then Chairman in his note. Viewing this fact, it may be said with certainty that the report, concerning grant of reservation within reservation for MBC, to Vanniyakula Kshatriya is unassailable.

- (v) It is an undisputed fact that the Tamil Nadu Act 45 of 1994 is under challenge before the Apex Court though the enactment is protected under the Ninth Schedule of the Constitution in pursuance of Article 31-B. As observed in the report of the then Chairman, the Apex Court has ruled in *Indra Sawhney & Ors. Vs. Union of India & Ors.*, (1992) Supp 3 SCC 217, that there is no Constitutional or legal bar for a State to make categorization within Backward Classes, if it desires so. Existence of power for the State in Section 7 of the Tamil Nadu Act 45 of 1994 enabling the State to classify and sub-classify the Backward Classes of citizens, including Most Backward Classes, can be exercised if the State desires so based on the report presented by this Commission. It is true to state that each and every community in the Most Backward Classes have equal and equitable rights to distributive

social justice in the form of sub-classification. When procedural formalities in this regard have already been completed, there is no statutory bar to sub-classify amongst Most Backward Classes.

- (vi) In the earlier occasions the power to sub-classify within the Backward Classes has been exercised by the State to provide for separate reservation to Backward Class Muslims. Further, the Apex Court in the recent decision (dated 27.8.2020) related to Scheduled Caste Arunthathiyars has agreed to the power of the State to make sub-classification within the Scheduled Castes for the purposes of State reservation (State of Punjab Vs. Dalvinder Singh), though the legal question on such observation is before a larger Bench for laying down law in such matters. As such, there is no legal hurdle for the State to proceed with sub-classification amongst Most Backward Classes.
- (vii) The views stated earlier in the then Chairman's report rejecting or ignoring reservation demanded by the other communities within the list of MBCs/DNCs may not be acceptable in my view since they also have to be provided sub-categorization/quota, etc. When a large community is preferred for internal reservation, then the sufferers will be the other communities also and stating that it is not feasible on the basis of the population alone to provide internal reservation may not be advisable. Whatever may be the difficulty in

implementation of the internal reservation to be provided, a way has to be found out to give due relief to all the deserving communities which are listed as MBCs/DNCs, to those who are entitled to 20% reservation as contemplated under the Tamil Nadu Act 45 of 1994.

- (viii) In G.O. Ms. No.35, BC, MBC & MW dept, dated 21.3.2012, as per the terms of reference under (v) therein, it is stated that,

“The Commission shall examine and recommend upon the demand made by various communities to provide for internal reservation within the reservation provided for Most Backward Classes.”  
(emphasis supplied).

From a reading of the above terms of reference, it is made abundantly clear that it is the duty of the Commission to receive petitions or applications, as the case may be, from “various communities”, which includes not only major communities but also smaller communities and appropriate relief should be given. If a separate internal reservation within the reservation cannot be granted to a particular community based upon their population, then, there should have been an attempt to group certain communities having the same kind of social and educational backwardness and give certain percentage of reservation and in this view, satisfaction should have been given to them and that



alone will be reasonable and equitable and ignoring them in toto may not be proper.

- (ix) Though the report had been submitted by the then Chairman on 13.6.2012, still, this Commission is receiving a number of applications for sub-categorization, reservation within reservation or otherwise for carving out some portion from the percentage of reservation given to other classes, thereby indicating that the need of sub-categorization and internal reservation is unavoidable. Therefore, giving reservation within the reservation to a particular community and rejecting the same kind of relief to other number of communities may not amount to natural justice and it may be a denial of equality, which they are also entitled to as that of Vanniakula Kshatriya community. If at all, on the basis of the population and on the basis of the social and educational backwardness the major communities may be given some major share and at the same time allowing the relief of reservation within the reservation should follow, it is for that purpose, the additional terms of reference was specifically introduced by the Government. Having come to the conclusion, it is imperative to work out how equitably the reservation can be provided to MBCs and DNCs based upon the available data.
- (x) On a cursory perusal of the available data before this Commission regarding the population of the Most

Backward Classes and Denotified Communities, amongst several such possibilities, if the State would desire to make sub-classification within these communities based on the proportion of their population as reported by the Tamil Nadu Second Backward Classes Commission for providing reservation at the rates indicated against them, it cannot be stated to be arbitrary:-

Category	Communities	Population as on 1983	% of population	Possible reservation
A	Vanniyakula Kshatriya	6504855	13.01%	10.5%
B	Denotified Communities and MBCs having similarity with DNC names grouped together with fishermen communities and Vannar communities in MBCs	4287466	8.56%	7.0%
C	Other MBC communities not included in Category B	1525424	3.05%	2.5%
	Total	12317745	24.64%	20.0%

The communities from amongst Most Backward Classes grouped under the above three categories, as

appended, are agreeable for more meaningful administration of reservation policy of the State.

- (xi) In the Category-B proposed, all of the Denotified Communities are kept intact. The MBC communities having similarity in names compared with the entries in Denotified Communities, such as Ambalakarar, Boyar, Oddar, Dasari, Dommara, Jambuvanodai, Jogi, Koracha, Mond Golla, Nokkar, Vettuva Gounder, Telugupatti Chetti, Thottia Naicker, and Valaiyar entered in the Most Backward Classes, have been grouped along with their DNC counterparts. Further, the Fishermen communities, and Vannar are grouped together in Category-B for their prevalence in the areas populated by DNCs. The quantum of reservation for these communities is kept within their population proportion; as such, it cannot be stated that one particular segment of communities have been granted more percentage of reservation.
- (xii) In the Category-C proposed, the MBC communities which are not included along with the Denotified Communities are considered in accordance with their population. The communities included in this category, such as Maruthuvar, Kulalar, Kurumba and Narikoravar can be redressed of their grievance by virtue of this sub-classification, in particular.
- (xiii) Several representations have been received from various communities demanding for internal reservation or separate reservation within the Most

Backward Classes even after submission of the report by this Commission to the Government on 13.6.2012. The very fact reveals that there is imperative need for such sub-classification amongst Most Backward Classes without exceeding their proportion of population as disclosed in authenticated reports of the State. The proportionality theory advocated in the then Chairman's report cannot be brushed aside, as it is universally acceptable.

- (xiv) Any decision taken by the Government to sub-categorise within the Most Backward Classes in such reasonable proportions and combinations to facilitate distributive social justice amongst the Most Backward Classes and Denotified Communities in this State cannot be stated to be arbitrary.

3. For the foregoing reasons, considering the facts and existing laws rational sub-categorisation amongst Most Backward Classes is within the competency of the State and therefore to meet the ends of justice and to satisfy the requirements of masses of Most Backward Classes and Denotified Communities, the above views expressed by me may be adopted.

Yours faithfully,

/sd/

CHAIRMAN

/TRUE COPY/

**CATEGORY - A**

507

**Most Backward Class Vanniyakula Kshatriya**

<b>Sl. No.</b>	<b>Entry</b>		<b>Community name</b>	<b>Population as on 1983</b>	<b>% of population</b>
1	MBC	26	Vanniakula Kshatriya (including Vanniyar, Vanniya, Vannia Gounder, Gounder or Kander, Padayachi, Palli and Agnikula Kshatriya)	6504855	13.01%

**Proposed reservation 10.50%**

**CATEGORY - B**

**508**

**Denotified Communities and MBCs having similarity  
with DNC names grouped together with few occupational  
groups of MBCs**

<b>Sl. No.</b>	<b>Entry</b>	<b>Community name</b>	<b>Population as on 1983</b>	<b>% of population</b>
<b>DENOTIFIED COMMUNITIES</b>				
1	DNC	1	Attur Kilnad Koravars (Salem, Namakkal, Cuddalore, Villupuram, Kallakurichi, Ramanathapuram, Sivaganga and Virudhunagar Districts)	7994 0.02%
2	DNC	2	Attur Melnad Koravars (Salem and Namakkal District)	2290 0.00%
3	DNC	3	Appanad Kondayam kottai Maravar (Sivaganga, Virudhunagar, Ramanathapuram, Madurai, Theni and Dindigul Districts)	50753 0.10%
4	DNC	4	Ambalakarar (Thanjavur, Nagapattinam, Mayiladuthurai, Tiruvarur, Tiruchirapalli, Karur, Perambalur, Ariyalur and Pudukottai Districts)	258840 0.52%
5	DNC	5	Ambalakarar (Suriyanur, Tiruchirapalli District)	5179 0.01%
6	DNC	6	Boyas (Tiruchirapalli, Karur, Perambalur, Ariyalur, Pudukottai, The Nilgiris, Salem, Namakkal, Dharmapuri and Krishnagiri Districts)	12478 0.02%
7	DNC	7	Battu Turkas	441 0.00%
8	DNC	8	C.K. Koravars (Cuddalore and Villupuram, Kallakurichi Districts)	2549 0.01%
9	DNC	9	Chakkala (Sivaganga, Virudhunagar, Ramanathapuram, Thanjavur, Nagapattinam, Mayiladuthurai, Tiruvarur, Pudukottai Tiruchirapalli, Karur, Perambalur, Ariyalur,	2110 0.00%

Sl. No.	Entry		Community name	Population as on 1983	% of population
			Madurai, Theni, Dindigul and The Nilgiris Districts)		
10	DNC	10	Changyampudi Koravars (Tirupattur, Ranipet, Vellore and Tiruvannamalai Districts)	3136	0.01%
11	DNC	11	Chettinad Valayars (Sivaganga, Virudhunagar and Ramanathapuram Districts)	62194	0.12%
12	DNC	12	Dombs (Pudukottai, Tiruchirapalli, Karur and Perambalur, Ariyalur Districts)	260	0.00%
13	DNC	13	Dobba Koravars (Salem and Namakkal Districts)	2206	0.00%
14	DNC	14	Dommars (Thanjavur, Nagapattinam, Mayiladuthurai, Tiruvarur, Pudukottai, Tirupattur, Ranipet, Vellore and Tiruvannamalai Districts)	1089	0.00%
15	DNC	15	Donga Boya	238	0.00%
16	DNC	16	Donga Ur. Korachas	287	0.00%
17	DNC	17	Devagudi Talayaris	1955	0.00%
18	DNC	18	Dobbai Korachas (Tiruchirapalli, Karur, Perambalur, Ariyalur and Pudukottai Districts)	51	0.00%
19	DNC	19	Dabi Koravars (Thanjavur, Nagapattinam, Mayiladuthurai, Tiruvarur, Tiruchirapalli, Karur, Perambalur, Ariyalur, Pudukottai, Tirupattur, Ranipet, Vellore and Tiruvannamalai Districts)	2260	0.00%
20	DNC	20	Donga Dasaris (Chengalpattu, Kancheepuram, Tiruvallur, Tiruchirapalli, Karur, Perambalur, Ariyalur, Pudukottai, Chennai, Salem and Namakkal Districts)	797	0.00%
21	DNC	21	Gorrela Dodda Boya	154	0.00%
22	DNC	22	Gudu Dasaris	482	0.00%
23	DNC	23	Gandarvakottai Koravars	1229	0.00%

Sl. No.	Entry		Community name	Population as on 1983	% of population
			(Thanjavur, Nagapattinam, Mayiladuthurai, Tiruvarur, Tiruchirapalli, Karur, Perambalur, Ariyalur, Pudukottai, Cuddalore and Villupuram, Kallakurichi Districts)		
24	DNC	24	Gandarvakottai Kallars (Thanjavur, Nagapattinam, Mayiladuthurai, Tiruvarur & Pudukottai Districts)	14566	0.03%
25	DNC	25	Inji Koravars (Thanjavur, Nagapattinam, Mayiladuthurai, Tiruvarur, Tiruchirapalli, Karur, Perambalur, Ariyalur and Pudukottai Districts)	537	0.00%
26	DNC	26	Jogis (Chengalpattu, Kancheepuram, Tiruvallur, Chennai, Cuddalore, Villupuram, Kallakurichi, Tirupattur, Ranipet, Vellore and Tiruvannamalai Districts)	4512	0.01%
27	DNC	27	Jambavanodai	243	0.00%
28	DNC	28	Kaladis (Sivaganga, Virudhunagar, Ramanathapuram, Madurai, Theni, Dindigul, Thanjavur, Nagapattinam, Mayiladuthurai, Tiruvarur, Pudukottai, Tiruchirapalli, Karur and Perambalur, Ariyalur Districts)	2506	0.01%
29	DNC	29	Kal Oddars (Chengalpattu, Kancheepuram, Tiruvallur, Ramanathapuram, Sivaganga, Virudhunagar, Madurai, Theni, Dindigul, Pudukottai, Thanjavur, Nagapattinam, Mayiladuthurai, Tiruvarur, Tiruchirapalli, Karur, Perambalur, Ariyalur, Tirunelveli, Tenkasi, Thoothukudi, Salem and Namakkal Districts)	40708	0.08%



Sl. No.	Entry		Community name	Population as on 1983	% of population
30	DNC	30	Koravars (Chengalpattu, Kancheepuram, Tiruvallur, Ramanathapuram, Sivaganga, Virudhunagar, Pudukottai, Thanjavur, Nagapattinam, Mayiladuthurai, Thiruvarur, Tiruchirapalli, Karur, Perambalur, Ariyalur, Tirunelveli, Tenkasi, Thoothukudi, Chennai, Madurai, Theni, Dindigul and The Nilgiris Districts)	45899	0.09%
31	DNC	31	Kalinji Dabikoravars (Thanjavur, Nagapattinam, Mayiladuthurai, Tiruvarur and Pudukottai Districts )	1971	0.00%
32	DNC	32	Kootappal Kallars (Tiruchirapalli, Karur, Perambalur, Ariyalur and Pudukottai Districts)	4888	0.01%
33	DNC	33	Kala Koravars (Thanjavur, Nagapattinam, Mayiladuthurai, Tiruvarur, Tiruchirapalli, Karur, Perambalur, Ariyalur and Pudukottai Districts)	887	0.00%
34	DNC	34	Kalavathila Boyas	736	0.00%
35	DNC	35	Kepmaris (Chengalpattu, Kancheepuram, Tiruvallur, Pudukottai, Tiruchirapalli, Karur and Perambalur, Ariyalur Districts )	1225	0.00%
36	DNC	36	Maravars (Thanjavur, Nagapattinam, Mayiladuthurai, Tiruvarur, Pudukottai, Ramanathapuram, Sivaganga, Virudhunagar, Tirunelveli, Tenkasi and Thoothukudi Districts )	433346	0.87%
37	DNC	37	Monda Koravars	196	0.00%
38	DNC	38	Monda Golla (Salem and Namakkal Districts)	64	0.00%
39	DNC	39	Mutlakampatti (Tiruchirapalli,	805	0.00%

Sl. No.	Entry		Community name	Population as on 1983	% of population
			Karur, Perambalur, Ariyalur and Pudukottai Districts)		
40	DNC	40	Nokkars (Tiruchirapalli, Karur, Perambalur, Ariyalur and Pudukottai Districts)	697	0.00%
41	DNC	41	Nellorepet Oddars (Tirupattur, Ranipet, Vellore and Tiruvannamalai Districts)	2949	0.01%
42	DNC	42	Oddars (Thanjavur, Nagapattinam, Mayiladuthurai, Tiruvarur, Tiruchirapalli, Karur, Perambalur, Ariyalur, Pudukottai, Madurai, Theni and Dindigul Districts)	16997	0.03%
43	DNC	43	Pedda Boyas (Tiruchirapalli, Karur, Perambalur, Ariyalur and Pudukottai Districts)	2655	0.01%
44	DNC	44	Ponnai Koravars (Tirupattur, Ranipet, Vellore and Tiruvannamalai Districts)	694	0.00%
45	DNC	45	Piramalai Kallars ( Sivaganga, Virudhunagar, Ramanathapuram, Madurai, Theni, Dindigul, Pudukottai, Thanjavur, Nagapattinam, Mayiladuthurai and Tiruvarur Districts)	346252	0.69%
46	DNC	46	Peria Suriyur Kallars (Tiruchirapalli, Karur, Perambalur, Ariyalur and Pudukottai Districts)	1940	0.00%
47	DNC	47	Padayachi (Vellayan Kuppam in Cuddalore District and Tennore in Tiruchirapalli District)	34459	0.07%
48	DNC	48	Punnan Vettuva Gounder (Tiruchirapalli, Karur, Perambalur, Ariyalur and Pudukottai Districts)	995	0.00%
49	DNC	49	Servai (Tiruchirapalli, Karur, Perambalur, Ariyalur and Pudukottai Districts)	77527	0.16%
50	DNC	50	Salem Melnad Koravars	1839	0.00%

Sl. No.	Entry		Community name	Population as on 1983	% of population
			(Madurai, Theni, Dindigul, Coimbatore, Tiruppur, Erode, Pudukottai, Tiruchirapalli, Karur, Perambalur, Ariyalur, Salem, Namakkal, Tirupattur, Ranipet, Vellore and Tiruvannamalai Districts)		
51	DNC	51	Salem Uppu Koravars (Salem and Namakkal Districts)	2782	0.01%
52	DNC	52	Sakkaraitthamadai Koravars (Tirupattur, Ranipet, Vellore and Tiruvannamalai Districts)	754	0.00%
53	DNC	53	Saranga Palli Koravars	54	0.00%
54	DNC	54	Sooramari Oddars (Salem and Namakkal Districts)	2691	0.01%
55	DNC	55	Sembanad Maravars (Sivaganga, Virudunagar and Ramanathapuram Districts)	25540	0.05%
56	DNC	56	Thalli Koravars (Salem and Namakkal Districts)	1510	0.00%
57	DNC	57	Telungapatti Chettis (Tiruchirapalli, Karur, Perambalur, Ariyalur and Pudukottai Districts)	5184	0.01%
58	DNC	58	Thottia Naickers (Sivaganga, Virudunagar, Ramanathapuram, Chengalpattu, Kancheepuram, Tiruvallur, Thanjavur, Nagapattinam, Mayiladuthurai, Tiruvarur, Tiruchirapalli, Karur, Perambalur, Ariyalur, Pudukottai, Tirunelveli, Tenkasi, Thoothukudi, Salem, Namakkal, Tirupattur, Ranipet, Vellore, Tiruvannamalai, Coimbatore, Tiruppur and Erode Districts)	40553	0.08%
59	DNC	59	Thogamalai Koravars or Kepmaris (Tiruchirapalli, Karur, Perambalur, Ariyalur and Pudukottai Districts)	512	0.00%
60	DNC	60	Uppukoravars or Settipalli	7626	0.02%

Sl. No.	Entry		Community name	Population as on 1983	% of population
			Koravars (Thanjavur, Nagapattinam, Mayiladuthurai, Tiruvarur, Pudukottai, Madurai, Theni, Dindigul, Tirupattur, Ranipet, Vellore and Tiruvannamalai Districts)		
61	DNC	61	Urali Gounders (Tiruchirapalli, Karur, Perambalur, Ariyalur and Pudukottai Districts)	67195	0.13%
62	DNC	62	Wayalpad or Nawalpeta Korachas	15	0.00%
63	DNC	63	Vaduvarpatti Koravars (Madurai, Theni, Dindigul, Ramanathapuram, Sivaganga, Virudunagar, Tirunelveli, Tenkasi, Thoothukudi, Tiruchirapalli, Karur, Perambalur, Ariyalur and Pudukottai Districts)	381	0.00%
64	DNC	64	Valayars (Madurai, Theni, Dindigul, Tiruchirapalli, Karur, Perambalur, Ariyalur, Pudukottai, Erode and Coimbatore, Tiruppur Districts)	68909	0.14%
65	DNC	65	Vettaikarar (Thanjavur, Nagapattinam, Mayiladuthurai, Tiruvarur and Pudukottai Districts)	744	0.00%
66	DNC	66	Vetta Koravars (Salem and Namakkal Districts)	1295	0.00%
67	DNC	67	Varaganeri Koravars (Tiruchirapalli, Karur, Perambalur, Ariyalur and Pudukottai Districts)	313	0.00%
68	DNC	68	Vettuva Gounder (Tiruchirapalli, Karur, Perambalur, Ariyalur and Pudukottai Districts)	17430	0.03%
<b>MOST BACKWARD CLASSES</b>					
1	MBC	1	Ambalakarar	446759	0.89%
2	MBC	2[A]	Arayar (in Kanniyakumari District)	3409	0.01%
3	MBC	3	Bestha, Siviari	7063	0.01%

Sl. No.	Entry		Community name	Population as on 1983	% of population
4	MBC	4	Bhatraju (other than Kshatriya Raju)	15700	0.03%
5		5	Boyar, Oddar	409567	0.82%
6	MBC	6	Dasari	15907	0.03%
7	MBC	7	Dommara	4436	0.01%
8	MBC	10	Jambuvanodai	1399	0.00%
9	MBC	12	Jogi	19848	0.04%
10	MBC	14	Koracha	3429	0.01%
11	MBC	18[A]	Latin Catholic Christian Vannar (in Kanniyakumari District)	6129	0.01%
12	MBC	20	Mond Golla	5700	0.01%
13	MBC	23	Mutlakampatti	1575	0.00%
14	MBC	25	Nokkar	7559	0.02%
15	MBC	27	Paravar (except in Kanniyakumari District and Shencottah Taluk of Tenkasi District where the Community is a Scheduled Caste)	37183	0.07%
16	MBC	27[A]	Paravar converts to Christianity including the Paravar converts to Christianity of Kanniyakumari District and Shencottah Taluk of Tenkasi District	56384	0.11%
17	MBC	28	Meenavar (Parvatharajakulam, Pattanavar, Sembadavar) (including converts to Christianity)	271764	0.54%
18	MBC	29	Mukkuvar or Mukayar (including converts to Christianity)	11446	0.02%
19	MBC	30	Punnan Vettuva Gounder	4562	0.01%
20	MBC	34	Telugupatty Chetty	58375	0.12%
21	MBC	35	Thottia Naicker (including Rajakambalam, Gollavar, Sillavar, Thockalavar, Thozhuva Naicker and Erragollar)	271318	0.54%
22	MBC	37	Valayar (including Chettinad Valayars)	283580	0.57%
23	MBC	38	Vannar (Salavai Thozhilalar) (including Agasa, Madivala, Ekali, Rajakula, Veluthadar and Rajaka) (except in	445637	0.89%

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Sl. No.	Entry		Community name	Population as on 1983	% of population
			Kanniyakumari District and Shencottah Taluk of Tenkasi District where the community is a Scheduled Caste)		
24	MBC	39	Vettaikarar	70298	0.14%
25	MBC	40	Vettuva Gounder	125886	0.25%
All Denotified Communities				1702553	3.41%
MBCs grouped with DNCs				2584913	5.17%
Total of the DNC grouped with some MBCs				4287466	8.58%

**Proposed reservation****7%**

## CATEGORY - C

## Most Backward Classes not grouped under Category-B

Sl. No.	Entry		Community name	Population as on 1983	% of population
1	MBC	2	Andipandaram	223770	0.45%
2	MBC	8	Eravallar (except in Kanniyakumari District and Shencottah Taluk of Tenkasi District where the community is a Scheduled Tribe)	1377	0.00%
3	MBC	9	Isaivellalar	58327	0.12%
4	MBC	11	Jangam	71951	0.14%
5	MBC	13	Kongu Chettiar (in Coimbatore, Tiruppur and Erode Districts only)	43531	0.09%
6	MBC	15	Kulala (including Kuyavar and Kumbarar)	301179	0.60%
7	MBC	16	Kunnuvar Mannadi	11055	0.02%
8	MBC	17	Kurumba, Kurumba Gounder	183689	0.37%
9	MBC	18	Kuruhini Chetty	4225	0.01%
10	MBC	19	Maruthuvar, Navithar, Mangala, Velakattalavar, Velakatalanair and Pronopakari	426427	0.85%
11	MBC	21	Moundadan Chetty	6254	0.01%
12	MBC	22	Mahendra, Medara	7418	0.01%
13	MBC	24	Narikoravar (Kuruvikars)	20162	0.04%
14	MBC	25[A]	Panisaivan/Panisivan	18511	0.04%
15	MBC	31	Pannayar (other than Kathikarar in Kanniyakumari District)	9758	0.02%
16	MBC	32	Sathatha Srivaishnava (including Sathani, Chattadi and Chattada Srivaishnava)	15354	0.03%
17	MBC	33	Sozhia Chetty	82556	0.17%
18	MBC	36	Thondaman	14036	0.03%
19	MBC	36[A]	Thoraiyar (Nilgiris)	7226	0.01%
20	MBC	36[B]	Thoraiyar (Plains)		
21	MBC	36[C]	Transgender/Eunch (Thirunangai / Aravani)	0	0.00%
22	MBC	41	Yogeeswarar	18618	0.04%
			Total	1525424	3.05%

Reservation proposed : 2.50%

*True copy*



No. 144]

CHENNAI, FRIDAY, FEBRUARY 26, 2021  
Maasi 14, Saarvari, Thiruvalluvar Aandu-2052

## Part IV—Section 2

### Tamil Nadu Acts and Ordinances

The following Act of the Tamil Nadu Legislative Assembly received the assent of the Governor on the 26th February 2021 and is hereby published for general information:—

#### ACT No. 8 OF 2021.

*An Act to provide for special reservation of seats in educational institutions including private educational institutions in the State and of appointments or posts in the services under the State, in the State of Tamil Nadu within the twenty per cent reservation for Most Backward Classes and Denotified Communities.*

WHEREAS the policy of reservation for the social and educational advancement of the people belonging to the Backward Classes of citizens in admissions to educational institutions in the State and for appointments in the services under the State has been under implementation in the State of Tamil Nadu for a long time;

AND WHEREAS the State of Tamil Nadu is a pioneer State in providing reservation for the underprivileged and the first Government Order providing communal reservation was passed in the year 1921 and the proportional representation for communities was made in the year 1927 in this State;



AND WHEREAS a large percentage of population in Tamil Nadu who were suffering from social and educational backwardness for many years have started enjoying the benefits of the reservation policy and have been able to improve their lot and attain a higher standard of living;

AND WHEREAS the Tamil Nadu Legislature passed the Tamil Nadu Backward Classes, Scheduled Castes and Scheduled Tribes (Reservation of seats in Educational Institutions and of appointments or posts in the Services under the State) Act, 1993 (Tamil Nadu Act 45 of 1994);

AND WHEREAS the Constitution (Seventy-sixth Amendment) Act, 1994, added the said Tamil Nadu Act 45 of 1994, enacted by the Tamil Nadu Legislature, to the Ninth Schedule so as to give protection to the State Act, under Article 31-B of the Constitution;

AND WHEREAS under Article 14 of the Constitution, equals and unequals cannot be treated equally and a differential treatment, if made, cannot at all be stated to be discriminatory, if it is having a rational nexus to the object sought to be achieved;

AND WHEREAS the Constitution (Ninety-third Amendment) Act, 2005 incorporating clause (5) of Article 15 of the Constitution enables the making of any special provision, by law, for the advancement of any socially and educationally Backward Classes of citizens or for the Scheduled Castes or Scheduled Tribes 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 minority educational institutions referred to in clause (1) of Article 30 of the Constitution;

AND WHEREAS by virtue of clause (5) of Article 15 of the Constitution and also, after taking a policy decision that the existing level of sixty-nine per cent reservation in admission to educational institutions other than minority educational institutions referred to in clause (1) of Article 30 of the Constitution in the State for the Backward Classes of citizens and for the persons belonging to the Scheduled Castes and Scheduled Tribes, should be continued for ensuring the advancement of the majority of the people of the State of Tamil Nadu, the Tamil Nadu Legislature passed the Tamil Nadu Backward Classes, Scheduled Castes and Scheduled Tribes (Reservation of Seats in Private Educational Institutions) Act, 2006 (Tamil Nadu Act 12 of 2006);

AND WHEREAS clause (4) of Article 16 of the Constitution enables the making of reservation to those Backward Classes of citizens which are not adequately represented in the services under the State;

AND WHEREAS under clause (1) of Article 38 of the Constitution, the State shall strive to promote the welfare of the people by securing and protecting as effectively as it may a social order in which justice, social, economic and political, shall inform all the institutions of the national life;

AND WHEREAS under clause (2) of Article 38 of the Constitution, the State shall, in particular, strive to minimize the inequalities in income, and endeavour to eliminate inequalities in status, facilities and opportunities, not only amongst individuals but also amongst groups of people residing in different areas or engaged in different vocations;

AND WHEREAS under clause (b) of Article 39 of the Constitution, the State shall, in particular, direct its policy towards securing that the ownership and control of the material resources of the community are so distributed as best to subserve the common good;

AND WHEREAS under clause (c) of Article 39 of the Constitution, the State shall, in particular, direct its policy towards securing that the operation of the economic system does not result in the concentration of wealth and means of production to the common detriment;

AND WHEREAS Vanniakula Kshatriya including Vanniyar, Vanniya, Vannia Gounder, Gounder or Kander, Padayachi, Palli and Agnikula Kshatriya notified as Most Backward Classes, among other classes, under the said Tamil Nadu Act 45 of 1994, requested for a separate quota of reservation for them, as they could not compete with the other communities in the list of Most Backward Classes and Denotified Communities in view of their large population, so as to get their legitimate share in admissions to educational institutions and of appointments or posts in the services under the State;

AND WHEREAS, the Tamil Nadu Backward Classes Commission which was earlier consulted on the issue of providing internal reservation for Vanniakula Kshatriya Community had recommended to the Government that separate quota may be provided to the extent of ten and a half per cent for Vanniakula Kshatriya including Vanniyar, Vanniya, Vannia Gounder, Gounder or Kander, Padayachi, Palli and Agnikula Kshatriya listed as Most Backward Classes from out of the twenty per cent reservation provided for the Most Backward Classes and Denotified Communities in educational institutions including private educational institutions as well as, in appointments or posts in the services under the State;

AND WHEREAS, on a reference made to the Chairman, Tamil Nadu Backward Classes Commission in regard to the possibility of providing internal reservation amongst communities listed as Most Backward Classes and Denotified Communities within the twenty per cent available for them under the said Tamil Nadu Act 45 of 1994, the Chairman, by referring to the recommendation of the then Chairman of the said Commission for providing ten and a half per cent reservation to Vanniyakula Kshatriya Community within the said twenty per cent, has stated that to facilitate distributive social justice, there can be no bar to group the other communities notified as Most Backward Classes and Denotified Communities on the proportion of their population and accordingly has suggested that apart from the ten and a half per cent recommended to Vanniyakula Kshatriya Community, the remaining may be grouped into two categories, one with Denotified Communities and the Most Backward Class Communities having similarity with Denotified Communities; and another with other Most Backward Classes not included in the above category and provided with seven per cent and two and a half per cent reservation, respectively, within the overall twenty per cent provided under the said Tamil Nadu Act 45 of 1994;

AND WHEREAS, the State Government, after careful consideration, in order to ensure that the benefit of the twenty per cent reservation provided to the Most Backward Classes and Denotified Communities under the said Tamil Nadu Act 45 of 1994, is equitably distributed among all of them, has taken a policy decision to categorise them and provide each such category with such percentage of reservation within the twenty per cent as suggested above by the Chairman, Tamil Nadu Backward Classes Commission;

BE it enacted by the Legislative Assembly of the State of Tamil Nadu in the Seventy-second Year of the Republic of India as follows:—

Short title,  
extent and  
commencement.

1. (1) This Act may be called the Tamil Nadu Special Reservation of seats in Educational Institutions including Private Educational Institutions and of appointments or posts in the services under the State within the Reservation for the Most Backward Classes and Denotified Communities Act, 2021.

(2) It extends to the whole of the State of Tamil Nadu.

(3) It shall come into force at once.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) "competent authority" means the competent authority appointed under section 6;

Tamil Nadu Act 45 of  
1994.

(b) "Denotified Communities" means the community or communities which are socially and educationally backward and notified as Denotified Communities by the Government under the Tamil Nadu Backward Classes, Scheduled Castes and Scheduled Tribes (Reservation of seats in Educational Institutions and of appointments or posts in the Services under the State) Act, 1993 (hereinafter referred to as the 1994 Act);

(c) "educational institution" shall have the same meaning as defined in the 1994 Act;

(d) "Government" means the State Government;

(e) "Most Backward Classes of citizens" means the class or classes of citizens who are socially and educationally backward and notified as Most Backward Classes by the Government under the 1994 Act;

(f) "Part-MBC (V) Communities" means the community or communities mentioned in Part-MBC (V) of the Schedule, which are notified as Most Backward Classes by the Government under the 1994 Act;

(g) "Part- MBC and DNC Communities" means the community or communities mentioned in Part- MBC and DNC of the Schedule, which are notified as Most Backward Classes and Denotified Communities by the Government under the 1994 Act;

(h) "Part-MBC Communities" means the community or communities mentioned in Part-MBC of the Schedule, which are notified as Most Backward Classes by the Government under the 1994 Act;

Tamil Nadu Act 12 of  
2006.

(i) "private educational institution" shall have the same meaning as defined in the Tamil Nadu Backward Classes, Scheduled Castes and Scheduled Tribes (Reservation of seats in Private Educational Institutions) Act, 2006 (hereinafter referred to as the 2006 Act);

(j) "Schedule" means the Schedule appended to this Act.

3. Notwithstanding anything contained in the 1994 Act or the 2006 Act or in any other law for the time being in force or in any judgment, decree or order of any court or other authority, having regard to the social and educational backwardness of the communities notified as Most Backward Classes and Denotified Communities under the 1994 Act, the reservation in respect of annual permitted strength in each branch or faculty for admission into educational institutions including private educational institutions, for Part-MBC (V) Communities, Part-MBC and DNC Communities and Part- MBC Communities shall be ten and a half per cent, seven per cent and two and a half per cent, respectively, within the twenty per cent reservation for the Most Backward Classes and Denotified Communities as provided in the 1994 Act and in the 2006 Act.

Reservation of seats  
in Educational  
Institutions  
including Private  
Educational  
Institutions.

Reservation in appointments or posts in the services under the State.

4. Notwithstanding anything contained in the 1994 Act or the 2006 Act or in any other law for the time being in force or in any judgment, decree or order of any Court or other authority, having regard to the inadequate representation in the services under the State, of the communities notified as Most Backward Classes and Denotified Communities under the 1994 Act, the reservation for appointments or posts in the services under the State for Part-MBC (V) Communities, Part-MBC and DNC Communities and Part-MBC Communities shall be ten and a half per cent, seven per cent and two and a half per cent, respectively, within the twenty per cent reservation for Most Backward Classes and Denotified Communities as provided in the 1994 Act and in the 2006 Act.

**Explanation.**— For the purposes of this Act, "service under the State" includes the services under—

- (i) the Government;
- (ii) the Legislature of the State;
- (iii) any local authority;
- (iv) any Corporation or Company owned or controlled by the Government; or
- (v) any other authority in respect of which the State Legislature has power to make laws.

Reservation not to be affected.

5. Notwithstanding anything contained in sections 3 and 4 of this Act, the claims of the students or members belonging to the communities notified as Most Backward Classes and Denotified Communities under the 1994 Act shall also be considered for the unreserved seats, appointments, or posts which shall be filled up on the basis of merits and where a student or member belonging to a Part-MBC (V) Community or Part-MBC and DNC Community or Part-MBC Community, if selected on the basis of merits, the number of seats, appointments or posts reserved for Part-MBC (V) Communities or Part-MBC and DNC Communities or Part-MBC Communities, as the case may be, shall not in any way be affected.

Competent authority.

6. (1) The Government may, by notification, appoint any officer not below the rank of District Backward Class Officer to be the competent authority for the purpose of carrying out the provisions of this Act and the rules made thereunder in respect of private educational institutions.

(2) The competent authority shall exercise such powers and perform such functions as may be prescribed.

Power of Government to give direction.

7. (1) The Government may, in the public interest, by order, direct the competent authority to make an enquiry or to take appropriate proceedings under this Act in any case specified in the order, and the competent authority shall report to the Government the result of the enquiry made or the proceedings taken by him within such period as may be prescribed.

	<p>(2) On receipt of the report from the competent authority under sub-section (1), the Government shall give such direction as they deem fit and such direction shall be final and binding.</p>	
Central Act XLV of 1860.	<p>8. The competent authority appointed under section 6 shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.</p> <p>9. No suit, prosecution or other legal proceedings shall lie against the competent authority, Government or its Officers for anything, which is in good faith done or intended to be done under this Act or any rule or order made thereunder.</p> <p>10. (1) The Government may make rules for carrying out the purposes of this Act.</p> <p>(2) (a) All rules made under this Act shall be published in the <i>Tamil Nadu Government Gazette</i> and unless they are expressed to come into force on a particular day shall come into force on the day on which they are so published.</p> <p>(b) All notifications or orders issued under this Act shall, unless they are expressed to come into force on a particular day, come into force on the day on which they are so published.</p> <p>(3) Every rule made or notification or order issued under this Act shall, as soon as possible, after it is made or issued, be placed on the Table of the Legislative Assembly, and if, before the expiry of the session in which it is so placed or the next session, the Assembly makes any modification in any such rule or notification or order, or the Assembly decides that the rule or notification or order should not be made or issued, the rule or notification or order shall thereafter have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or notification or order.</p>	<p>Competent authority to be public servant.</p> <p>Protection of action taken in good faith.</p> <p>Power to make rules.</p>
	<p>11. If any difficulty arises in giving effect to the provisions of this Act, the Government may, by an order, published in the <i>Tamil Nadu Government Gazette</i>, make such provisions not inconsistent with the provisions of this Act as may appear to them to be necessary or expedient for removing the difficulty:</p> <p>Provided that no such order shall be made after the expiry of two years from the date of the publication of the Act in the <i>Tamil Nadu Government Gazette</i>.</p>	<p>Power to remove difficulties.</p>

**THE SCHEDULE**

[See section 2(f), (g) and (h)]

**PART – MBC (V)**

Sl. No.	Community Name
1.	Vanniakula Kshatriya (including Vanniyar, Vanniya, Vannia Gounder, Gounder or Kander, Padayachi, Palli and Agnikula Kshatriya)

**PART – MBC AND DNC****(A) MOST BACKWARD CLASSES**

Sl. No.	Community Name
1	Ambalakarar
2	Arayar (In Kanniyakumari District)
3	Bestha, Siviar
4	Bhatraju (other than Kshatriya Raju)
5	Boyar, Oddar
6	Dasari
7	Dommarar
8	Jambuvanodai
9	Jogi
10	Koracha
11	Latin Catholic Christian Vannar (in Kanniyakumari District)
12	Mond Golla
13	Mutlakampatti
14	Nokkar
15	Paravar (except in Kanniyakumari District and Shencottah Taluk of Tenkasi District where the Community is a Scheduled Caste)
16	Paravar converts to Christianity including the Paravar converts to Christianity of Kanniyakumari District and Shencottah Taluk of Tenkasi District.
17	Meenavar (Parvatharajakulam, Pattanavar, Sembadavar) (including converts to Christianity).
18	Mukkuvar or Mukayar (including converts to Christianity)
19	Punnan Vettuva Gounder
20	Telugupatty Chetty
21	Thottia Naicker (including Rajakambalam, Gollavar, Sillavar, Thockalavar, Thozhuva Naicker and Erragollar)
22	Valaiyar (including Chettinad Valayars)
23	Vannar (Salavai Thozhilalar) (including Agasa, Madivala, Ekali, Rajakula, Veluthadar and Rajaka) (except in Kanniyakumari District and Shencottah Taluk of Tenkasi District where the community is a Scheduled Caste)
24	Vettaikarar

Sl. No.	Community Name
25	Vettuva Gounder

**(B) DENOTIFIED COMMUNITIES**

Sl. No.	Community Name
1	Attur Kilnad Koravars (Salem, Namakkal, Cuddalore, Villupuram, Kallakurichi, Ramanathapuram, Sivaganga and Virudhunagar Districts)
2	Attur Melnad Koravars (Salem and Namakkal Districts)
3	Appanad Kondayam kottai Maravar (Sivaganga, Virudhunagar, Ramanathapuram, Madurai, Theni and Dindigul Districts)
4	Ambalakarar (Thanjavur, Nagapattinam, Mayiladuthurai, Tiruvarur, Tiruchirapalli, Karur, Perambalur, Ariyalur and Pudukottai Districts)
5	Ambalakkarar (Suriyanur, Tiruchirapalli District)
6	Boyas (Tiruchirapalli, Karur, Perambalur, Ariyalur, Pudukottai, The Nilgiris, Salem, Namakkal, Dharmapuri and Krishnagiri Districts)
7	Battu Turkas
8	C.K. Koravars (Cuddalore, Villupuram and Kallakurichi Districts)
9	Chakkala (Sivaganga, Virudhunagar, Ramanathapuram, Thanjavur, Nagapattinam, Mayiladuthurai, Tiruvarur, Pudukottai, Tiruchirapalli, Karur, Perambalur, Ariyalur, Madurai, Theni, Dindigul and The Nilgiris Districts)
10	Changyampudi Koravars (Tirupattur, Ranipet, Vellore and Tiruvannamalai Districts)
11	Chettinad Valayars (Sivaganga, Virudhunagar and Ramanathapuram Districts)
12	Dombs (Pudukottai, Tiruchirapalli, Karur, Perambalur and Ariyalur Districts)
13	Dobba Koravars (Salem and Namakkal Districts)
14	Dommars (Thanjavur, Nagapattinam, Mayiladuthurai, Tiruvarur, Pudukottai, Tirupattur, Ranipet, Vellore and Tiruvannamalai Districts)
15	Donga Boya
16	Donga Ur.Korachas
17	Devagudi Talayaris
18	Dobbai Korachas (Tiruchirapalli, Karur, Perambalur, Ariyalur and Pudukottai Districts)
19	Dabi Koravars (Thanjavur, Nagapattinam, Mayiladuthurai, Tiruvarur, Tiruchirapalli, Karur, Perambalur, Ariyalur, Pudukottai, Tirupattur, Ranipet, Vellore and Tiruvannamalai Districts)
20	Donga Dasaris (Chengalpattu, Kancheepuram, Tiruvallur, Tiruchirapalli, Karur, Perambalur, Ariyalur, Pudukottai, Chennai, Salem and Namakkal Districts)
21	Gorrela Dodda Boya
22	Gudu Dasaris
23	Gandarvakottai Koravars (Thanjavur, Nagapattinam, Mayiladuthurai, Tiruvarur, Tiruchirapalli, Karur, Perambalur, Ariyalur, Pudukottai, Cuddalore, Villupuram and Kallakurichi Districts)
24	Gandarvakottai Kallars (Thanjavur, Nagapattinam, Mayiladuthurai, Tiruvarur and Pudukottai Districts)
25	Inji Koravars (Thanjavur, Nagapattinam, Mayiladuthurai, Tiruvarur, Tiruchirapalli, Karur, Perambalur, Ariyalur and Pudukottai Districts)



Sl. No.	Community Name
26	Jogis (Chengalpattu, Kancheepuram, Tiruvallur, Chennai, Cuddalore, Villupuram, Kallakurichi, Tirupattur, Ranipet, Vellore and Tiruvannamalai Districts)
27	Jambavanodai
28	Kaladis (Sivaganga, Virudhunagar, Ramanathapuram, Madurai, Theni, Dindigul, Thanjavur, Nagapattinam, Mayiladuthurai, Tiruvarur, Pudukottai, Tiruchirapalli, Karur, Perambalur and Ariyalur Districts)
29	Kal Oddars (Chengalpattu, Kancheepuram, Tiruvallur, Ramanathapuram, Sivaganga, Virudhunagar, Madurai, Theni, Dindigul, Pudukottai, Thanjavur, Nagapattinam, Mayiladuthurai, Tiruvarur, Tiruchirapalli, Karur, Perambalur, Ariyalur, Tirunelveli, Tenkasi, Thoothukudi, Salem and Namakkal Districts)
30	Koravars (Chengalpattu, Kancheepuram, Tiruvallur, Ramanathapuram, Sivaganga, Virudhunagar, Pudukottai, Thanjavur, Nagapattinam, Mayiladuthurai, Tiruvarur, Tiruchirapalli, Karur, Perambalur, Ariyalur, Tirunelveli, Tenkasi, Thoothukudi, Chennai, Madurai, Theni, Dindigul and The Nilgiris Districts)
31	Kalinji Dabikoravars (Thanjavur, Nagapattinam, Mayiladuthurai, Tiruvarur and Pudukottai Districts)
32	Kootappal Kallars (Tiruchirapalli, Karur, Perambalur, Ariyalur and Pudukottai Districts)
33	Kala Koravars (Thanjavur, Nagapattinam, Mayiladuthurai, Tiruvarur, Tiruchirapalli, Karur, Perambalur, Ariyalur and Pudukottai Districts)
34	Kalavathila Boyas
35	Kepmaris (Chengalpattu, Kancheepuram, Tiruvallur, Pudukottai, Tiruchirapalli, Karur, Perambalur and Ariyalur Districts)
36	Maravars (Thanjavur, Nagapattinam, Mayiladuthurai, Tiruvarur, Pudukottai, Ramanathapuram, Sivaganga, Virudhunagar, Tirunelveli, Tenkasi and Thoothukudi Districts)
37	Monda Koravars
38	Monda Golla (Salem and Namakkal Districts)
39	Mutlakampatti (Tiruchirapalli, Karur, Perambalur, Ariyalur and Pudukottai Districts)
40	Nokkars (Tiruchirapalli, Karur, Perambalur, Ariyalur and Pudukottai Districts)
41	Nellorepet Oddars (Tirupattur, Ranipet, Vellore and Tiruvannamalai Districts)
42	Oddars (Thanjavur, Nagapattinam, Mayiladuthurai, Tiruvarur, Tiruchirapalli, Karur, Perambalur, Ariyalur, Pudukottai, Madurai, Theni and Dindigul Districts)
43	Pedda Boyas (Tiruchirapalli, Karur, Perambalur, Ariyalur and Pudukottai Districts)
44	Ponnai Koravars (Tirupattur, Ranipet, Vellore and Tiruvannamalai Districts)
45	Piramalai Kallars (Sivaganga, Virudhunagar, Ramanathapuram, Madurai, Theni, Dindigul, Pudukottai, Thanjavur, Nagapattinam, Mayiladuthurai and Tiruvarur Districts)
46	Peria Suriyur Kallars (Tiruchirapalli, Karur, Perambalur, Ariyalur and Pudukottai Districts)
47	Padayachi (Vellayan Kuppam in Cuddalore District and Tennore in Tiruchirapalli District)
48	Punnan Vettuva Gounder (Tiruchirapalli, Karur, Perambalur, Ariyalur and Pudukottai Districts)
49	Servai (Tiruchirapalli, Karur, Perambalur, Ariyalur and Pudukottai Districts)
50	Salem Melnad Koravars (Madurai, Theni, Dindigul, Coimbatore, Tiruppur, Erode, Pudukottai, Tiruchirapalli, Karur, Perambalur, Ariyalur, Salem, Namakkal, Tirupattur, Ranipet, Vellore and Tiruvannamalai Districts)

Sl. No.	Community Name
51	Salem Uppu Koravars (Salem and Namakkal Districts)
52	Sakkarathamadai Koravars (Tirupattur, Ranipet, Vellore and Tiruvannamalai Districts)
53	Saranga Palli Koravars
54	Sooramari Oddars (Salem and Namakkal Districts)
55	Sembanad Maravars (Sivaganga, Virudunagar and Ramanathapuram Districts)
56	Thalli Koravars (Salem and Namakkal Districts)
57	Telungapatti Chettis (Tiruchirapalli, Karur, Perambalur, Ariyalur and Pudukottai Districts)
58	Thottia Naickers (Sivaganga, Virudunagar, Ramanathapuram, Chengalpattu, Kancheepuram, Tiruvallur, Thanjavur, Nagapattinam, Mayiladuthurai, Tiruvarur, Tiruchirapalli, Karur, Perambalur, Ariyalur, Pudukottai, Tirunelveli, Tenkasi, Thoothukudi, Salem, Namakkal, Tirupattur, Ranipet, Vellore, Tiruvannamalai, Coimbatore, Tiruppur and Erode Districts)
59	Thogamalai Koravars or Kepmaris (Tiruchirapalli, Karur, Perambalur, Ariyalur and Pudukottai Districts)
60	Uppukoravars or Settipalli Koravars (Thanjavur, Nagapattinam, Mayiladuthurai, Tiruvarur, Pudukottai, Madurai, Theni, Dindigul, Tirupattur, Ranipet, Vellore and Tiruvannamalai Districts)
61	Uruli Gounders (Tiruchirapalli, Karur, Perambalur, Ariyalur and Pudukottai Districts)
62	Wayalpad or Nawaipeta Korachas
63	Vaduvarpatti Koravars (Madurai, Theni, Dindigul, Ramanathapuram, Sivaganga, Virudunagar, Tirunelveli, Tenkasi, Thoothukudi, Tiruchirapalli, Karur, Perambalur, Ariyalur and Pudukottai Districts)
64	Valayars (Madurai, Theni, Dindigul, Tiruchirapalli, Karur, Perambalur, Ariyalur, Pudukottai, Erode, Coimbatore and Tiruppur Districts)
65	Vettaikarar (Thanjavur, Nagapattinam, Mayiladuthurai, Tiruvarur and Pudukottai Districts)
66	Vetta Koravars (Salem and Namakkal Districts)
67	Varaganeri Koravars (Tiruchirapalli, Karur, Perambalur, Ariyalur and Pudukottai Districts)
68	Vettuva Gounder (Tiruchirapalli, Karur, Perambalur, Ariyalur and Pudukottai Districts)


**PART - MBC**

Sl. No.	Community Name
1	Andipandaram
2	Eravallar (except in Kanniyakumari District and Shencottah Taluk of Tenkasi District where the community is a Scheduled Tribe)
3	Isaivellalar
4	Jangam
5	Kongu Chettiar (in Coimbatore, Tiruppur and Erode Districts only)
6	Kulala (including Kuyavar and Kumbarar)
7	Kunnuvar Mannadi

Sl. No.	Community Name
8	Kurumba, Kurumba Gounder
9	Kuruhini Chetty
10	Maruthuvar, Navithar, Mangala, Velakattalavar, Velakatalanair and Pronopakari
11	Moundadan Chetty
12	Mahendra, Medara
13	Narikoravar (Kuruvikars)
14	Panisaivan/Panisivan
15	Pannayar (other than Kathikarar in Kanniyakumari District)
16	Sathatha Srivaishnava (including Sathani, Chattadi and Chattada Srivaishnava)
17	Sozhia Chetty
18	Thondaman
19	Thoraiyar (Nilgiris)
20	Thoraiyar (Plains)
21	Transgender/Eunuch (Thirunangai / Aravani)
22	Yogeeswarar

(By order of the Governor)

C. GOPI RAVIKUMAR,  
Secretary to Government.  
Law Department.

  
Time copy

Annexure P/20

IN THE HIGH COURT OF JUDICATURE AT MADRAS

530

DATED: 25.8.2021

W.P.Nos.15679, 5642, 6011, 17286, 7848, 6429, 6594, 6179, 6878, 7412, 7455, 7644, 13688, 14211, 7836, 10670, 11011, 9508, 7632, 7765 of 2021 and W.P.(MD).Nos.5615, 7869, 5182, 4877, 5207, 6616, 6619, 6758, 6202, 7537, 5762, of 2021 and W.M.P.Nos.17962, 17873, 17870, 17311 of 2021

CORAM

The Hon'ble Mr. Justice M.M.SUNDRESH, and  
The Hon'ble Mrs. Justice S.KANNAMMAL

[Order of the Court was made by  
the Hon'ble Mr. Justice M.M.SUNDRESH]

In all these writ petitions, a challenge has been made to the constitutionality of the Act, (hereinafter called as 'Act 8 of 2021'). Pending the writ petitions, interim orders have been sought for, both for stay and injunction. Petitions have been filed seeking to implead various parties. Now, the writ petitioners seek interim orders while the impleading petitioners seek to implead themselves.

2. Learned Senior Counsel appearing for the respective petitioners made the following submissions:

2.1 As held by the Apex Court in Dr. Jaishri Laxmanrao Patil v State of Maharashtra, Through Chief Minister and another reported in (2021) 2 SCC 785, the Constitutional Court is not denude of the power to consider granting appropriate interim orders when challenges have been laid to the Constitutionality of an Act. The State does not have the power or authority to introduce enactment notwithstanding the 127th Constitutional amendment. Equities are in favour of the petitioners. Mere pendency of the

civil writ petitions filed before the Apex Court without interim orders will not take away the right of the petitioners in seeking interim orders vis-a-vis the powers of this Court.

3. Learned Advocate General and the learned Senior Counsel appearing for the respondents made the following submissions:

3.1 There is a presumption towards the constitutionality of the Act. The 127th constitutional amendment would facilitate the validity of the Act. The question of the power available to the State along with the issues governing adequacy of the material and legal malice, if any, can only be decided in the writ petitions. The respondents are ready with the final hearing of the matter. Attempts have been made to get the interim orders before the Apex Court. Therefore, it cannot be said that there was no occasion to seek interim order at the earlier point of time. Ultimately, it is for the Court to decide the appropriate relief. For some Institutions, the admission process is over and the same is in progress for the others. Hence, these petitions filed seeking interim orders will have to be dismissed.

4. Learned counsel appearing for the impleading petitioners submitted that inasmuch as the writ petitions have been filed challenging the validity of the Act, they should be permitted to implead as party respondents. No prejudice would be caused by their impleadment as the right which is otherwise available to the petitioners in filing the writ petition will have to be applied ipso facto to those who are defending the orders of the Government.

5. There are two sets of activities which are being undertaken by the State pursuant to the implementation of the enactment. By way of letter from the Deputy Secretary Letter No.4903/A2/2021-1, dated 01.04.2021, a decision was made proceeding to fill up the seats in the Educational

Institutions by following the impugned enactment. Thereafter, another Government Order was passed in G.O.Ms.75, Human Resources Management (K) Department, dated 26.07.2021 seeking to adopt the enactment for the purpose of filling up the post.

6. When a challenge is laid to the constitutionality of an enactment, the Court is weighed with the principle governing presumption. Such a presumption though be termed as "shall", after notice and if the Court is of the view that there is a need to grant appropriate interim orders then the same can be done. Similarly, the mere pendency of the cases before the Apex Court may not act as a bar since notice was issued at the time of hearing the petitioners alone. It has also been informed that due indication has been given to the petitioners to seek appropriate remedies before the High Court. We do not wish to say anything more on this aspect.

7. Upon hearing the parties, we are of the view that it would only be appropriate to adjudicate the matter one way or the other finally. In fact, that was the arrangement and understanding leading to the process of completion of the pleadings. Even otherwise, it would only be appropriate to decide the writ petitions one way or the other so that a finality could be arrived at. Having said so, the parties concerned who are already beneficiaries of the enactment and who are likely to be the beneficiaries will have to be informed sufficiently on the pendency of the other writ petitions. While observing so, we clarify that it is ultimately for the Court to decide the appropriate relief based upon its final decision on the validity of the enactment by issuing appropriate directions. We do feel that it would only serve the interest of one and all if it is made clear that any admissions made, likely to be made or appointments made or likely to be made pursuant to the impugned enactment will be subject to the result of the final order to be

passed in the writ petitions. We have already clarified that this interim order will always be subject to the final order and, therefore, the Court can pass appropriate orders even at that point of time notwithstanding the ultimate conclusion arrived at.

8. In such view of the matter, we are inclined to pass the following interim orders while allowing the petitions filed for impleadment. Since all the counsel appearing for the parties are ready with the final hearing, we are also willing to fix an early date to resolve the issue one way or the other. Accordingly, the following orders are passed:-

- i. Admissions made or to be made in tune with the impugned enactment (Act 8 of 2021) would be subject to the result of the final order to be passed.
- ii. It is clarified that it is well open to the Court to pass appropriate orders on the admissions made in the interregnum and also the appointments as this order is only by way of interim arrangement.
- iii. It is well open to the persons to get either admissions or appointments being the beneficiary of the enactment to file appropriate applications before this Court seeking to implead themselves.
- iv. The impleading petitions filed are accordingly allowed.
- v. The newly impleaded respondents can file their pleadings within a period of two weeks from the date of receipt of a copy of this order.
- vi. The petitioners shall make a publication in any one of the leading Daily both in vernacular and English indicating the

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pendency of the Writ Petitions which are likely to be taken up on the 14th September, 2021.

Taking into consideration the issue involved, Registry is directed to post all the writ petitions for final hearing on 14.09.2021.

(M.M.S., J.) (S.K., J.)  
25.08.2021

  
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IN THE SUPREME COURT INDIA  
CIVIL APPELLATE JURISDICTION

535

I.A. No. of 2021

IN

SPECIAL LEAVE PETITION (CIVIL) NO.....of 2021

**IN THE MATTER OF**

The Government of Tamil Nadu  
Represented by its Secretary,  
Backward Class Commission

...Petitioners

Vs.

C. Vijayakumar

...Respondent

**APPLICATION FOR EXEMPTION FROM FILING CERTIFIED  
COPY OF THE IMPUNGED ORDER**

To

The Hon'ble the Chief Justice of India and His  
companion Justices of the Supreme Court of  
India.

The humble petition of the  
Petitioner above named.

**MOST RESPECTFULLY SHOWETH:**

1. The present Special Leave Petition is filed seeking leave to appeal against and order dated 01.11.2021 in W.P. No. 6429 of 2021 passed by the Hon'ble Madurai Bench of Madras High Court wherein the Hon'ble High Court has erroneously allowed the Writ Petition holding "Tamil Nadu Special Reservation of seats in educational Institutions including

Private Educational Institutions and appointments or posts in the services under the State within the Reservation for the Most Backward Classes and De-notified Communities Act, 2021" [Act 8 of 2021] as ultra vires the provisions of the Constitution of India and accordingly, the same was quashed.

2. For the sake of brevity, the petitioners herein do not repeat the averments made in the Special Leave Petition but crave leave of this Hon'ble Court to treat the averments made therein as part and parcel of this application.
3. The Petitioner is filing the instant application requesting for grant of an exemption from filing the certified copy of the impugned judgment in view of the urgency.
4. That the present application is made bona fide and in the interest of justice, and the petitioner will suffer irreparable loss and injuries if the prayer made herein below is not allowed.

#### P R A Y E R

In the above premises, it is most respectfully prayed that this Hon'ble Court may be pleased to:

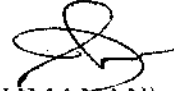
- a) Exempt the Petitioner from filing the certified copy of the against the impugned judgment order dated 01.11.2021 in W.P. No. 6429 of 2021 passed by the Hon'ble Madurai Bench of Madras High Court; and

- b) Pass such further order or other orders or orders as this Hon'ble Court may deem fit and just in the above facts and circumstances of the case.

AND FOR THIS ACT OF KINDNESS THE PETITIONERS AS IN DUTY BOUND SHALL EVER PRAY

Filed on:  
New Delhi :

Filed by



(D.KUMANAN)

ADVOCATE FOR THE PETITIONER

NOT LISTED WITHIN FIVE DAYS

LISTED ON: \_\_\_/\_\_\_/20\_\_\_

IN CASE NOT TO BE CIRCULATED

SECTION: XII

**IN THE SUPREME COURT OF INDIA  
CIVIL/CRIMINAL APPELLATE/ORIGINAL JURISDICTION**

**SLP/TP/RP/WP (C /GRL) No. \_\_\_\_\_ of 2021**

**BETWEEN**

*The Govt. of Tamil Nadu rep. by its Secretary  
Backward class Commission ...PETITIONER*

**VERSUS**

*C. Vignayabharan ...RESPONDENT*

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✓ 1.	Synopsis & List of Dates	_____	_____
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✓ 3.	<i>SEP</i> with Affidavit	_____	_____
✓ 4.	Annexures - P1 to P <i>20</i>	_____	_____
5.	Application for Condonation of delay	_____	_____
✓ 6.	Application for exemption from filing certified copy	_____	_____
✓ 8.	Vakalat & Memo of Appearance	_____	_____
9.	Proof of Service	_____	_____
		<b>Total</b>	_____

**SURESH,  
Clerk, I.D 6233  
9582461980**

**Filed by**



**(D. KUMANAN)**

Advocate-on-record

Appellant (s) / Petitioner (s)

Room No.3, Old Tamil House,

Chanakyapuri, New Delhi.

Mobile: 9582461980

**STANDING COUNSEL FOR STATE OF TAMIL NADU**

**(COMPUTER CODE: 2777)**

Filed on \_\_\_/\_\_\_/\_\_\_

VAKALATHNAMA  
IN THE SUPREME COURT INDIA  
CIVIL APPELLATE JURISDICTION  
SPECIAL LEAVE PETITION (CIVIL) NO.

OF 20

IN THE MATTER OF:

The Govt. of Tamil Nadu rep. by its Secretary  
Backward classes Commission  
...PETITIONER

..RESPONDENT

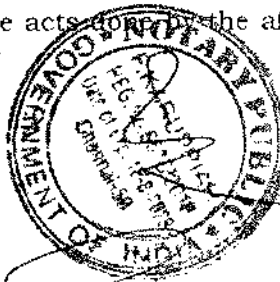
C. V. S. G. S. Kumar

I, C. Kamaraj, S/o. Chinnapaiyan aged about 58 years working as the Member Secretary, Tamil Nadu Backward Classes Commission, Mylapore, Chennai - 600 004, appellants in the above Suit/appeal/petition/Reference do hereby appoint and retain Thiru D.KUMANAN, Tamil Nadu Government Advocate on Record, Supreme Court of India, to act and appear for me/in the above matter and on behalf of my/our to contact and defend the same and all proceedings that may be taken in respect of any application connected with the same and any decree or order passed thereon, including proceedings in taxation and applications for review to file, obtain and return of documents and to receive money on behalf of my/our in the same matter and to represent me/us and to take all necessary steps on behalf of my/our in the above matter.

I/we agreed to ratify all the acts done by the aforesaid advocate on Record in pursuance of the authority.

Dated this day of \_\_\_\_\_ 2021  
Accepted & Certified & Identified

D.KUMANAN  
Advocate - on - Record



*[Signature]*  
Appellant/Petitioner

MEMBER SECRETARY  
TAMIL NADU BACKWARD CLASSES  
COMMISSION CHENNAI - 600 004

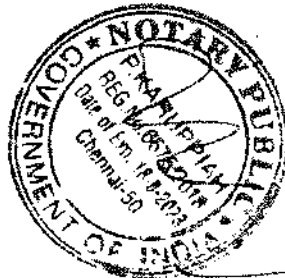
Identified by me  
**MEMO OF APPEARANCE**  
**P. KARUPPIAH, M.A., B.L.**  
**ADVOCATE & NOTARY PUBLIC**  
**GOVT. OF INDIA**  
**\*0, AVVAI NAGAR, CHENNAI-50**

To,  
The Registrar,  
Supreme Court of India,  
New Delhi.  
Sir,

Kindly enter my appearance in the aforementioned the case on behalf of the  
Petitioner(s) /Appellant(s) /Respondent(s) /Caveator(s).  
Thanking You

Yours Faithfully,

*[Signature]*  
D.KUMANAN,  
Advocate-on-Record  
Code 2777  
Counsel for Appellant/Petitioner



Date: .11.2021

*[Signature]*  
**P. KARUPPIAH, M.A., B.L.**  
**ADVOCATE & NOTARY PUBLIC**  
**GOVT. OF INDIA**  
**\*0, AVVAI NAGAR, CHENNAI-50**

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**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**W.P. NO.5642 OF 2021**

**MEMO OF PARTIES**

**IN THE MATTER OF**

P. Vijayakumar  
S/o S. Palanivel,  
No.1/55, North Street,  
K.Kamatchipuram, Kattakkamanpatti Post,  
Batlagundu Village,  
Nilakottai Taluk,  
Dindigul District-624202,  
Tamil Nadu.

.... Petitioner

VERSUS

1. State of Tamil Nadu,  
Rep. by its Secretary,  
Law Department,  
Fort St. George,  
Chennai-600 009,  
Tamil Nadu.

2. State of Tamil Nadu,  
Rep. by its Secretary,  
BC, MBC and Minority  
Welfare Department,  
Fort St. George, Chennai,  
Tamil Nadu-600 009.

.. Respondents

Filed on:

Filed by



(D.KUMANAN)

Advocate for the Petitioners