

ALL INDIA BACKWARD CLASSES FEDERATION

Regn.No. ROS/NORTH/SDM/NARELA/215/2018

JUSTICE V. ESWARAI AH
Former Chairperson NCBC, GOI.
PRESIDENT, AIBCF

HANSARAJ
WORKING PRESIDENT, AIBCF
Mobile No.82877 22988

To

Dated: 10.07.2020.

- 1. The Hon'ble President of India,**
Rashtrapathi Bhavan,
New Delhi.
- 2. The Hon'ble Prime Minister of India**
New Delhi.
- 3. The Hon'ble Minister for Social Justice &
Empowerment,** New Delhi.
- 4. SRI J.P. NADDA, President, BJP**
New Delhi.
- 5. The Chairperson,** National Commission for
Backward Classes, Trikoot-1, Bhikaji Cama Place,
New Delhi.
- 6. Sri Ganesh Singh, M.P.** Chairman of
Parliamentary Committee on Welfare of
Other Backward Classes, New Delhi.
- 7. The Hon'ble Minister for Law and Justice**
Government of India, New Delhi.
- 8. The Hon'ble Minister for Department of Personnel
and Training,** Government of India, New Delhi.

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Sir,

Sub: Stop De-reservation through proposed inclusion of Salary Income and Agricultural Income for determining the Creamy Layer Criteria.

The Constitutional scheme of reservation of appointments and posts is to secure *due share of representation of historically excluded and marginalized socially and educationally backward communities in the services under the State*. This is evident from Article 16(4) of the Constitution which provides for **“reservation of appointments or posts in favour of any backward class of citizens which is not adequately represented in the services under the State”**. The Constitutional scheme for reservations is thus not a poverty alleviation scheme.

Further, it is the goal of Socially and Educationally Backward Class (SEBC) communities that, all else being equal, reservation of appointments and posts for SEBCs should *first go to the most excluded sections of our communities*.

The 1992 Indira Sawhney judgment of the Hon’ble Supreme Court of India introduced the concept of “creamy layer” in SEBC reservations with a view to ensure that reserved appointments and posts go to weaker sections amongst SEBCs.

Unfortunately, however, what we have seen for the past 28 years of experience is that rather than ensuring that the reserved appointments and posts go to weaker sections, the creamy layer exclusion has been made to work as a tool for **“de-reservation”**; as eligible candidates are getting excluded as “creamy layer”, leaving the SEBC quota unfilled. Government’s data shows that only 11% of the posts (less than half of the 27% SEBC quota) have been filled in by SEBC candidates and the rest are being taken over by the other castes/classes through process of **de-reservation**. Genuine opportunities for SEBC communities to secure due representation in appointments have thus been unjustly denied to SEBCs.

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We are deeply concerned to understand now that the Government of India is planning to change existing policy and include salary income and agricultural income in total family income for the purposes of determining “creamy layer”. Such a change would *drastically reduce the opportunities of eligible SEBC candidates, and further increase “de-reservation” leaving the adequacy of representation deficit for ever.*

We therefore call up on the Government to desist from making the proposed change to the creamy layer criteria. We also urge the government to establish a high level committee to evolve a new policy of creamy layer *that will guarantee that the creamy layer mechanism will not be misused as a basis for de-reservation* while ensuring that reservation of appointments and posts for SEBCs should *first go to the most deserving sections of our SEBC communities.*

Thanking you

Yours Sincerely,



(National President)
JUSTICE V. ESWARAIYAH
ALL INDIA BACKWARD CLASSES FEDERATION



HANSARAJ
WORKING PRESIDENT, AIBCF