From:

Shri YS Jaganmohan Reddy,

Chief Minister of Andhra Pradesh.

To

Sri Narendra Modi Ji,

Hon’Ble Prime Minister of India,

New Delhi.

Most Honoured Sir,

Sub: Imperative Need to amend the Articles 243-D.(6) and Article 243-T.(6) of the Constitution of India to rectify gross injustice to Backward Class of Citizens depriving SEBCs of their fundamental right to reservation of seats in Panchayats and Municipalities and for the offices of Chairpersons – Reg.

\* \* \*

1. As you are aware, on 04-March-2021 in the case of Vikas Krishnarao Gawali v/s State of Maharastra, the Hon’ble Supreme Court of India quashed the election notifications dated 27.07.2018 and 14.02.2020 of the Maharashtra Government providing reservations of seats in Panchayats and Municipalities and for the offices of Chairpersons for Backward Classes (socially and educationally backward classes) SEBCs, BCs or OBCs as required under Articles 243-D(6) and Article 243-T(6) on the ground that 27% reservations provided in favour of OBCs results in aggregate reservations for SCs/STs/OBCs put together exceeding 50%. Earlier, in the case of Dr.K.Krishnamurthy & Ors. Vs. Union of India, the Hon’ble Supreme Court, by its judgement dated 11.05.2010, while upholding the Constitutional validity of Articles 243-D.(6) and 243-T.(6), established an upper ceiling of 50% vertical reservations in favour of SCs, STs and OBCs put together of seats in Panchayats and Municipalities and for the offices of Chairpersons.

2. As you know, a 50% limit on reservations in public employment was established by the Hon’ble Supreme Court of India in the Indra Sawhney judgment under Article 16(4) of the Constitution of India with respect only to public employment. The rationale and decision of the Court to apply the 50% ceiling is applicable only to public employment. The 50% aggregate ceiling has absolutely no application or relevance to reservation of elected positions under Articles 243-D(6) and Article 243-T(6) of the Constitution. The sole Constitutional principle set out expressly in the Constitution for determining the quantum of reservation , provided in Part XVI of the Constitution, is the proportion of the population of the class in relation to the total population. This standard of representation in proportion of the population of the class in relation to the total population is provided in the Constitution for reservation of elected seats. Therefore the only standard relevant and applicable to reservation of seats in Panchayats and Municipalities and for the offices of Chairpersons under Articles 243-D(6) and Article 243-T(6) of the Constitution is the proportion of the population of the class in relation to the total population.

3. It is therefore now imperative to amend the Constitution and correct the unjust and erroneous decision of the Supreme Court illegally applying the 50% ceiling to OBC reservations which was developed in an entirely different context, to reservations for Backward Class of Citizens under Article 243-D(6) and Article 243-T(6) of the Constitution of seats in Panchayats and Municipalities and offices of Chairpersons and depriving the OBCs of their fundamental right to reservations under Article 243-D(6) and Article 243-T(6).

4. The OBCs of our country therefore request and expect the Union Government to take necessary steps to rectify the grave injustice done to us by the judgments of the Supreme Court depriving the OBCs of our fundamental right to reservations under Article 243-D(6) and Article 243-T(6) by amending Articles 243-D(6) and Article 243-T(6) of the Constitution to expressly provide that reservation for OBCs under Articles 243-D(6) and Article 243-T(6) of seats in Panchayats and Municipalities and offices of Chairpersons shall be in proportion of the population of the OBCs (SEBCs) to the total population.

Thanking you,

Yours faithfully,

Chief Minister for the State of Andhra Pradesh

Date: 09.06.2021

Place: Vijayawada.