

Commission to go and inquire into the problems of Social and Educational backwardness of certain class, sections or groups of people in the State other than Scheduled Castes and Scheduled Tribes-Constitution of the—

GOVERNMENT OF GUJARAT

EDUCATION AND LABOUR DEPARTMENT

Resolution No. MBC-1572-67508-J

Sachivalaya, Gandhinagar, dated the 8th August, 1972.

The Scheduled Castes and Scheduled Tribes have been defined in Articles 341 and 342 of the Constitution of India respectively. Article 46 of the Constitution enjoins the State Government to promote with special care the educational and economic interest of the weaker section of the people and particularly of the Scheduled Castes and Scheduled Tribes and to protect them from social injustice and all forms of exploitation. Articles 15(4) and 16(4) enable the State to make special provision for the advancement of socially, educationally backward and other Weaker Sections of Citizens and Scheduled Castes and Scheduled Tribes. There are other Articles of the Constitution also which are intended to make special provisions for promoting welfare of Scheduled Castes and Scheduled Tribes.

2. These special provisions in the Constitution proceeds on the recognition of extreme social, educational and economic backwardness of Scheduled Castes and Scheduled Tribes and the need to make special efforts for their advancement and welfare. In pursuance of these provisions, the State Governments have made and are making special schemes for socio-economic uplift, health, housing, agriculture etc. for the welfare of Scheduled Castes and Scheduled Tribes.

3. The Nomadic and Denotified Tribes are also being treated as a distinct section and specific group of Backward Classes and as such the special provision is being made for them in the developmental plan under the fully centrally sponsored programme. In the very nature of things, the plan programme cannot, however, provide for protecting their interests in other fields i.e. recruitment in services, priority in allotment of land and such other activities falling outside the scope of developmental programmes. These Tribes are claiming to be socially an educationally backward and asking for benefits similar to those being extended to Scheduled Castes and Scheduled Tribes.

4. Besides the Scheduled Castes and Scheduled Tribes there are other categories of citizens or class or groups among them or parts thereof in the State who are also claiming to be educationally and socially backward and can be regarded as weaker sections of the community. These people have approached the State Government to grant them the concessions as are being granted to Scheduled Castes and Scheduled Tribes.

5. The preferential treatment and special concessions claimed for by them and Nomadic Tribes and Denotified Tribes are not possible to be complied with unless it is established that they are socially and educationally backward. Protection and preference in matters like entry into Government services, relaxation in age limit, reservation in posts, admission quota in educational institutions and similar other concessions being granted to Scheduled Castes and Scheduled Tribes cannot be granted to any person or group of persons solely on the consideration of caste, creed, race, religion or any of them in view of the prohibition of discrimination on grounds of religion, race, etc. made in Article 15(1) of the Constitution. Clause 4 of Article 15, however, constitutes an exception to the above provision and permits the State to make any special provision for the advancement of any socially and educationally backward classes of citizens or Scheduled Castes and Scheduled Tribes, notwithstanding anything contained in other clauses of Article 15 or Article 29 of the Constitution. The provision of Article 15(4) and directive principles of the State policy in Article 46 and the preamble to the Constitution are to secure to all citizens of the country justice; social, economic and political. In the light of the provisions of these Articles, the State can make any special provision for any class of citizen if it is convinced that it is socially, educationally and in other way backward and deserve of special treatment.

6. The State Government feels that the demands made by them deserves consideration but in order, however, to protect or grant of preferential treatment or concessions to any tribe, caste or section or group of people, it is necessary to ascertain whether they are socially, educationally and in other ways backward. It will have also to be assessed that their backwardness is comparable to the social and educational backwardness of Scheduled Castes and Scheduled Tribes. With a view to making a discrimination in favour of any class of citizen other than Scheduled Castes and Scheduled Tribes, the popular belief or general knowledge

of the backwardness would not be an adequate criteria. A detailed inquiry about social handicaps etc. an education level of all these communities and/or tribes is, therefore, necessary before considering grant of any concession to them similar to those being granted to Scheduled Castes and Scheduled Tribes.

7. The task of ascertaining the social and educational backwardness of any class of people is highly complexed one as besides the caste, a number of factors such as income-level, nature of occupation, mode of life, habitation, proportion of literacy of educated persons, etc., have to be taken into account. It might also be necessary to lay down criteria to serve as basis for comparing levels with Scheduled Castes and Scheduled Tribes and other sections in regard to relevant factors. As these tribes/communities comprise of numerous castes, sub-castes, groups among them assessment would have to be made of social and educational backwardness of individual caste or group of castes or parts among them. The classification of backwardness cannot be based solely or dominantly on the caste of the citizens though caste is also one of the factors that might have to be taken into account.

8. The Government has, therefore, decided to set up a high level Commission to go into the entire question and to investigate and ascertain social and educational backwardness of various people, castes, races, tribes or parts or groups within castes or races or tribes in the State other than Scheduled Castes and Scheduled Tribes and to recommend which of them can be regarded as socially, educationally and in any other way backward and deserve special treatment and grant of special concessions similar to those being granted to the Scheduled Castes and Scheduled Tribes in pursuance of the provision of various Articles of the Constitution.

9. The Commission should consist of the following persons:-

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| (1) Shri A. R. Baxi | Retired High Court Judge and Chairman of Law Commission. | Chairman. |
| (2) Prof. C. N. Vakil | Former Prof. & Head of Department of Economics, School of Economics and Social Sciences, Bombay University and former Vice-Chancellor of South Gujarat University. | Member |
| (3) Kum. Taraben N. Patel | Prof. and Head of Department of Sociology, Gujarat University, Ahmedabad. | Member |
| (4) Director of Social Welfare, Gujarat State, Ahmedabad. | | Member-Secretary. |

10. The terms of reference of the Commission should be as under:—

(i) The Commission shall enquire into social, educational and other relevant conditions of the people, castes, races, tribes or parts of or groups within castes or races or tribes in the State and report what section/sections of them (other than Scheduled Castes and Scheduled Tribes) should be treated as socially, educationally and in any other way backward, and, therefore, deserve of special treatment and grant of special concessions similar to those being granted to the Scheduled Castes and Scheduled Tribes in the State in pursuance of provisions of the various Articles of the Constitution of India;

(ii) the Commission should also recommend what should be quantum and extent of such a concession and assistance to them and the period during which it should remain in force; and

(iii) any other recommendation germane to the main terms of reference as may be deemed necessary by the Commission.

11. The Commission should submit its report to Government within a period of six months from the date of its constitution.

12. The orders about grant of honorarium and other facilities, if any, to the members of the Commission will be issued separately.

13. The cost on this account should be debited to "39-Misc-Social and Development Orgs. etc." and be met from the provision made thereunder during the current year.

By order and in the name of the Governor of Gujarat,

S. M. DUDANI,
Secretary to Government.
Education and Labour Department.

Copy To:-

Secretary to Governor.

Personal Secretary to Chief Minister,

Personal Secretary to all Ministers.

~~Personal Secretary to all Deputy Ministers.~~

Personal Assistants to all Deputy Ministers.

All Secretariat Departments.

All Heads of Departments.

Director of Social Welfare, Gujarat State, Ahmedabad.

Director of Information, with a request to issue a press note.

The Accountant General, Gujarat, Ahmedabad/Rajkot.

The Resident Audit officer.

All Brs. of E.&L.D.

The Secretary G.P.S.C., Ahmedabad.

The Registrar, Gujarat High Court, Ahmedabad.

* The Secretary G.P.S.C., Ahmedabad.

* The Secretary, Gujarat University, Ahmedabad.

* The Secretary to the Government of India,

Ministry of Education and Social Welfare,

New Delhi.

All Members of the Commission.

Select file.

The Commissioner for Scheduled Castes and Scheduled Tribes Shri R.K. Puram, Neww Delhi-22.

The Zonal Director (B.C.Welfare),

8, Mill Officers' colony,

Behind La Gajjar Chamber,

Ashram Road, Ahmedabad.

*By letter.