

REPORT

OF THE

COMMISSION TO STUDY

THE DEMANDS OF

MOST BACKWARD

COMMUNITIES FEDERATION

P.P GOPI, IAS (Retd.)

06-05-2013

Contents

		Page No.
	Introduction	1
Chapter-I	Name of Organisations and their demands.	3
Chapter-II	Demands of MBCF-Inclusion in O.E.C and Exclusion from Creamy-Layer - classification of Communities and the origin of O.E.C.	22
Chapter-III	Major issues came up for consideration and Schemes/Programmes to be implemented with Central Assistance.	94
Chapter-IV	Conclusion	121
	Acknowledgement	
	Annexures - 1 to XXV	
	References	

REPORT

Introduction

1.1 The Government have appointed the undersigned as One Man Commission as per GO (MS) No. 65/2012/BCDD dated 07/05/2012 to study and to submit report on the demands of the Most Backward Communities Federation (MBCF). The Government in the conference convened under the Chairmanship of the Hon'ble Chief Minister of Kerala with the representatives of MBCF, Officers of the department concerned on 19.08.2011 had decided to appoint an officer to study the memorandum of MBCF. In the said conference, Hon'ble Minister for Scheduled Castes Development and Tourism was also present. The relevant minutes of the meeting are the following:

1. MBCF -ൽ ഉൾപ്പെടുന്ന സമുദായങ്ങൾക്ക് ഒ.ഇ.സി. വിഭാഗത്തിൽപ്പെട്ട വിദ്യാർത്ഥികൾക്ക് നൽകുന്ന വിദ്യാഭ്യാസ ആനുകൂല്യങ്ങൾ നൽകുന്നതുവഴി ഉണ്ടായേക്കാവുന്ന അധിക സാമ്പത്തിക ബാധ്യത എത്രയെന്ന് തിട്ടപ്പെടുത്തുക.
2. MBCF -ൽ ഉൾപ്പെടുന്ന സമുദായങ്ങൾക്കും ഒ.ഇ.സി. ലിസ്റ്റിൽ ഉൾപ്പെട്ട സമുദായങ്ങൾക്ക് നൽകുന്ന ആനുകൂല്യങ്ങൾ നൽകുമ്പോൾ ഇപ്പോൾ പ്രസ്തുത ആനുകൂല്യം ലഭിച്ചു കൊണ്ടിരിക്കുന്ന സമുദായങ്ങൾക്ക് എന്തെങ്കിലും നഷ്ടം/ബുദ്ധിമുട്ട് ഉണ്ടാകുമോ എന്നുള്ള കാര്യം പരിശോധിക്കണം.
3. സ.ഉ.(പി.)നം.81/09.പജപവവിവ. പ്രകാരം ചില സമുദായങ്ങളെ ക്രീമി ലെയറിൽ നിന്നും ഒഴിവാക്കിയതുപോലെ MBCF -ൽ ഉൾപ്പെട്ട സമുദായങ്ങളെ ക്രീമിലെയറിൽ നിന്നും ഒഴിവാക്കുന്നതു കൊണ്ട് മറ്റു സമുദായങ്ങൾക്ക് ഉണ്ടായേക്കാവുന്ന പ്രശ്നങ്ങൾ പരിശോധിക്കണം.
4. MBCF -ൽ ഉൾപ്പെടുന്ന സമുദായങ്ങളുടെ ഉന്നമനത്തിനുവേണ്ടി എന്തെങ്കിലും പദ്ധതികൾ കേന്ദ്രത്തിനു സമർപ്പിക്കുവാൻ സാധിക്കുമോ എന്ന കാര്യം പരിശോധിക്കുവാൻ ബഹു. പട്ടികജാതി പിന്നോക്ക സമുദായ ക്ഷേമവും ടൂറിസവും വകുപ്പ് മന്ത്രി നിർദ്ദേശിച്ചു.

(Annexure-I)

1.2 The Commission started functioning on 26.05.2012. On assuming charge, the Commission moved the Government with the request to sanction a post of Section Officer/Court Officer and a Data Entry Operator in addition to bare minimum facilities required for the functioning.

There was no office accommodation available to the Commission. It was requested to make available, a convenient room in the office complex of “Ayyankali Bhavan”, Vellayambalam.

1.3 Awaiting orders on the above items, the Commission started functioning by referring to various reports relevant to the study. Commission has also moved the Government and discussed the issue with the Principal Secretary, SC/ST Development Department and officers of the Department. Government has, subsequently directed the Director, Backward Communities Development Department to provide sufficient space and other facilities for the functioning of the Commission. There upon, the Director, provided necessary facilities in the Directorate at “Ayyankali Bhavan”, Vellayambalam, Thiruvananthapuram.

Chapter-I

2.1 Most Backward Communities Federation (MBCF), according to the Office bearers, is an association of sixteen communities and eighteen organizations. The communities are included in the Other Backward Communities (OBC) included in group 8 of OBC list of the Government of Kerala. It consists of the following organizations-

- 1. Kerala Vanika Vaisya sangam**
- 2. Kerala Chetty Maha Sabha**
- 3. Udiyankulangara Chetty Samudaya Sangam**
- 4. All Kerala Reddiar's Federation**
- 5. Telugu Chetty Samudayam**
- 6. Vaniya Samudaya Samithi**
- 7. Ezhavathi Sahodara Samajam**
- 8. Vilakkithala Nair Maha Sabha**
- 9. All Kerala Chekala Samudaya Sangam Trust**
- 10. All Kerala Pandithar Mahajana Sabha**
- 11. Veluthedathu Nair Samajam**
- 12. Kerala Padmasaliya Sangam**
- 13. Akhila Kerala Vilkurup Mahasabha**
- 14. Kerala Ganaka Maha Sabha**
- 15. Kerala State Elur Chetty Samudayam**
- 16. Kerala Yadava Seva Samithi (Erumakkar)**
- 17. Wayanadan Chetty Service Society**
- 18. Vaniya/Ganiga Samaja Seva Sangam**

2.2 Even before getting official accommodation, the Commission has held three meetings with the representatives of the MBCF on 17.08.2012, 26.09.2012 and 28.09.2012 in the Chamber of the Director, Backward Communities Development Department. These meetings were to acquaint with the issues raised by the MBCF. In the initial meetings itself, the office bearers of different Organizations of MBCF have narrated their plight. They also requested that the issues raised in

the memorandum submitted before the Government may be considered for favourable recommendation.

2.3 They were unanimous in demanding the following:-

- a. The communities in the MBCF may be brought under the category of "Other Eligible Communities".
- b. These communities may be exempted from "Creamy Layer".
- c. The communities included in MBCF may be uplifted by introducing various developmental schemes with the assistance of Central Government on the lines of Sachar and Paloli Committee recommendations.

2.4 During the preliminary meetings, the representatives of various organizations under MBCF have stated that their social, economic and educational status is very low and they are almost like SC/ST communities. They, therefore, demanded that all the benefits allowed to SC/ST communities may be extended to them.

2.5 After the initial discussions with the office bearers/ representatives of the organizations, they appeared for tendering evidence before the Commission. All organizations who have submitted individual representations gave evidence. The hearings were on 07.11.2012, 08.11.2012, 09.11.2012, 15.11.2012, 16.11.2012, 23.11.2012, 14.12.2012, 15.12.2012, and 29.01.2013.

2.6 On completion of the sittings, the views and statements of organizations have been recorded, and the same are briefly mentioned below. (*The views expressed, and the statements made by them are their own views and statements.*)

2.7.1 Kerala Vanika Vaisya Sangham

This is an organization of Vanika Vaisya Community in Kerala. Shri. S. Kuttappan Chettiyar, General Secretary, spoke. According to him, oil pressing was the traditional occupation of Vanika Vaisya Community. With the mechanisation of that industry the traditional workers have lost their job and all of them, barring a few, are either without job or engaged in other works such as daily wage workers, Auto drivers, Head load workers etc. This Community does not have sufficient education because the adult members did their traditional job of oil pressing, and children helped them. Thus, traditional apathy for education because of occupational handicaps prevented them from having education and because of this disability-their economic and social status remained weak. Reservation allowed to the OBCs is a meagre 3% for employment and 5% for education following the implementation of Kumara Pillai Commission Report. It was 10% before. The 3 % job reservation is for 73 backward communities in Group 8 put together and it can be imagined the chance of getting a share to a community like this. It was in the year 1953 the communities were categorized and reservation allowed. At that time, there was no clear vision about the backward communities and hence 40% reservation was allowed by grouping backward communities, including Ezhava community. In that order it was held that, after studying the social status of different backward Communities reservation have to be restructured in proportion to their population. However, after six months without any such studies the percentage of reservation refixed. It is still in force. In 1953, the total number of backward communities under Group VIII was 58. Now it is 73, but the percentage of reservation lowered further. Since this is a very low level of reservation, the benefit accrued to the community is also very meagre. Admission to Medical and Engineering courses is also very nominal. At present, there are only 7 Doctors and 50 Engineers belonging to this community, which is having a total population of 10 lakh. There is no representation to this community in All India Services. At Government Secretariat level or in

the local bodies the representation is only very nominal. There is no MLA, or MP belonging to this community.

To a specific question, he replied that in the matter of job reservation, the PSC is now following communal rotation properly. He was very critical of the reduction in the percentage of reservation in employment. He is also of the view that reduction in quota for job reservation was because this Community is not properly organised and they do not have political power.

Following are the demands raised by him at time of hearing:-

- (1) Quota of reservation for education may be revised and updated and reduction in the percentage of reservation in the light of Kumara Pillai Commission report may be reviewed and the annual income limit may be raised from Rs.46, 000 to Rs 4.5 lakh.
- (2) Adequate representation may be given to the Community in the Kerafed, Coconut Development Board etc.
- (3) The Community may be exempted from 'Creamy Layer.'
- (4) For the development of this Community suitable schemes /projects may be proposed to the Government of India as was done following Sachar and Paloli Committee recommendations.
- (5) Vanika Vaisya Community may be included in the "OEC" list.

2.7.2 Kerala Chetty Maha Sabha

This organization consists of people belonging to Chetti Community. Shri V Sasidharan Pillai, President of the organization, appeared before the Commission to give evidence in respect to his Community. His statements are the following:-

People belonging to Chetty Community live mainly in Thiruvananthapuram, Kollam, Allapuzha, Pathanamthitta, Palakkad, Kottayam, Idukki, Trissur, Ernakulam, and other places. Their traditional occupation includes business in Pepper, Cashew and running of

provisional stores etc. They are not included in “Socially and Educationally Backward Communities” for reservation in educational institutions. The community did not take up this omission for rectification at the appropriate time. There is only 3% reservation for employment, shared by more than 73 similarly placed communities. The total population of Chetty Community is around two lakh. Sub-rotation may be introduced to get a chance for appointment of the candidates belonging to Chetty Community. They may be allowed participation in the Departments like Backward Communities Development Department. In Idukki and Palakkad districts, Tamil schools may be started for the benefit of Chetty Community. For the benefit of the youth of this Community Coaching Classes have to be started. Students of this Community may be included in OEC category. This Community may be included in SEBC and one percentage reservation in education allowed as in the case of Kudumbi Community. Caste-wise census may be conducted. This community may be allowed reservation in local bodies.

2.7.3 Udiyankulangara Chetty Samudaya Sangam.

This organization represents the people belonging to Udiyankulangara Chetty Community. Shri. R Vellappan Pillai, President, appeared before the Commission to give evidence. Udiyankulangara Chetty is having traditional occupation of Brass Vessels trade. The women folk of this Community is engaged in vegetable vending. This Community is mainly living in and around Neyyattinkara, Attingal, and Perumpazhuthoor of Thiruvananthapuram district. The total population of this Community is around 2000 only. Educationally this Community is very backward. In Government Service, there is not even a UD Clerk from this Community. The children of this Community may not reach even up to plus-two level. Their social standing is even below that of the forest dwellers. Even to obtain a certificate from the Village Office they seek the help of Panchayat member or any such person. The youth belonging to the Community trained to secure suitable jobs. They may

also be included in the OEC list. This community may be exempted from the operation of Creamy-Layer principle.

2.7.4 All Kerala Reddiar's Federation.

The All Kerala Reddiars Federation represents people belonging to Reddiar Community in Kerala. Shri R Sankara Reddiar, President of the Federation appeared before the Commission and gave evidence in support of their demands.

Shri. Sankara Reddiar informed that the total population of his Community is around twenty thousand only. They were traditionally engaged in agriculture trade, hotel business etc. Now they are engaged in hotel business, Jewelry shops and textile business. Educationally this Community is very backward and there is no representation to their Community in All India Services, Kerala State Civil Service or any other service. The total number of people belonging to this Community who are in Government service is only about 0.02%. They are not getting any reservation in entrance examination. Since there is no reservation in professional courses to this Community, no student is getting in the rank list for professional courses. Their students are not able to secure admission in professional courses through open competition also. They are therefore, going for other courses.

The Central Government is giving 27% reservation in employment, but in Kerala, the reservation to OBC is not enough. This Community is not included in SEBC. He demanded that Reddiar Community should be included in the list of Communities eligible for educational concessions on par with SC/ST. They may be included in the list of 'OEC'.

2.7.5 Telugu Chetty Samudayam

Shri N Velayudhan, President, appeared on behalf of this organization representing people of Telugu Chetty Community for giving evidence. The following are their submissions and demands:-

Majority of people of this Community are residing in Trivandrum and some of them in Kozhikode. In Thiruvananthapuram district Karamana, Thalayil, Poojappura etc. are the places where people belonging to this Community are living in large numbers. There are about 1500 families and the total population is around four thousand in Thiruvananthapuram. Their total population all over Kerala will be around one lakh.

The adult members of this Community are engaged in petty trade, vending of fruits and vegetables and selling the same to house-to-house. They are unable to pay attention to the education of their children and hence there is no progress to this Community. This Community did not get adequate representation in government service. No people's representatives are available from this Community. In all the spheres of life, this Community is very backward. They are also economically very poor.

Their main demands are-

- (1) Exemption from Creamy-Layer.
- (2) Inclusion of this Community in the list of OEC.
- (3) Submission of schemes and programs for the upliftment of their Community on Sachar and Paloli models.

They also held that among the other Communities included in MBCF, Telugu Chetty is the most backward one.

2.7.6 Vaniya Samudaya Samithy.

Shri K Vijayan, General Secretary, Vaniya Samudaya Samithy represented the organization. He has made the following submissions and demands at the time of hearing.

Oil pressing is their traditional occupation. When modern mechanized oil mills have come up the traditional Chucks used for oil pressing have come to a grinding halt causing loss of employment to a large section of this Community. Traditional oil pressing is a combined work of adults (including women) and children. When the traditional occupation faced competition, it has caused loss of employment. They remained without earning. Finding alternate employment was a difficult task and it has caused severe unemployment and poverty. Shri. Vijayan has stated that at present only a handful of families are doing the traditional oil pressing using Chucks.

Because of the peculiarity of the traditional occupation, the children of this Community were unable to persue of education, and, therefore, the educational attainment of this Community is very low.

The estimated population of this Community is around three lakh. Out of this, more than 75% are living under 'Below Poverty Line'. Only a very limited number of people of this Community are in government service.

There are about 108 temples belonging to this Community. The life of this community is being centered on these temples.

He has agreed to submit proposal on schemes on the lines of Sachar and Paloli Committees.

Their demands include inclusion of this Community in OEC list, exemption from Creamy-layer, removal of unscientific rotation rule for reservation, in proportion to population, reservation in election etc.

2.7.7 Ezhavathi Sahodara Samajam

This organization is that of the people belonging to Ezhavathi Community. Shri. P.S Sathyadevan, President of the Samajam was present for giving evidence. This community considered as the barbers of Ezhavas of Travancore. Kavuthiyar, another sub caste is also belonging to this Community, who are barbers of Thiyya Community in Malabar. Arayavathi, the barbers of Arayar get reservation benefits allowed to Aryas. Their total population is eight lakh. He has pointed out that they are not getting reservation benefits allowed to Ezhava Community although they were barber community serving Ezhavas. He has requested that from the reservation quota of 14% allowed to Ezhava Community, the proportionate share be given to Ezhavathi and Kavuthiyars.

This Community is far below in all respects compared to several communities included in OEC. **Their demands are:-**

- (1) Inclusion of this Community in the list of "OEC."
- (2) Exemption from Creamy-Layer.
- (3) At present, this Community is not having any educational institution of their own. Hence, sufficient land may be allotted for establishing educational institutions.
- (4) Financial assistance and Scholarships may be given for higher studies.
- (5) In order to secure employment, the young generation may be given sufficient support like special coaching, training etc.

2.7.8 Vilakkithala Nair Maha Sabha

Shri Venganoor Vijaya Kumar, State General Secretary, Vilakkithala Nair Maha Sabha, an organisation of people belonging to Vilakkithala Nair Community, was present for giving evidence. According to him, the total population of this Community all over Kerala is seventeen lakh. This Community is facing a lot of ridicule and derogatory remarks as some people call their caste name to harass them and others. The traditional occupation of barber is now facing challenges because of the coming up of establishments like “beauty parlor” and similar ventures. This has caused reduction in employment. Hence, a lot people belonging this Community are now unemployed. Many of them are compelled to seek other areas of employment.

Although 3% reservation in employment is available to OBC Communities, to which this Community also belongs, the possibility of getting employment in government service is very remote.

This Community may, therefore be included in the list of OEC’s.

2.7.9 All Kerala Chekala Samudaya Sangam Trust

Shri. Attukal Mohan Das, Vice President of the Trust representing people belonging to Chekkala Nair Community appeared on behalf of their President. The total population of this Community is around six lakh. Parassala, Vilappilsala, Navaikulam, Poovar, Manacaud, etc. are places where people belonging to this Community are largely settled. They live all over Kerala. Their traditional occupation is oil pressing and vending of oil. In the ancient times, they sold oil for the household use and community use. For this purpose, they purchased copra and extracted oil by traditional chuck. When modern oil mills using machinery came up, they lost employment and there by the Community suffered heavy economic depression. There upon some of the members of this Community turned to production of “Pappadam”. The educational attainment of this Community is very low. Nobody belonging to this Community is in the prestigious services of Central or State. Their upliftment is possible only through better education, which

is possible by including this Community in OEC list. Thunchathu Ezhuthachan, the father of Malayalam language belonged to this Community. However, the Trust founded in the name of that great person remains cut off from this Community. Nobody belonging to this Community is in that Trust. He demanded adequate representation on the Trust.

2.7.10 All Kerala Pandithar Maha Jana Sabha

This organization is that of people belonging to Pandithar Community. Shri V.N Anil Kumar, General Secretary represented the Sabha. The traditional occupation of this Community is barber. Vilakithala Nair, Ezhavathi etc are also doing this job. The present generation is considering the traditional occupation of barber as an inferior job because of the contemptuous treatment from other communities. Ridicule and contemptuous remarks using the name of job of this Community is a heart burning matter. Other people abuse them by calling the name of the job. This Community has several sub castes, namely, Shurakan, Maruthuar, Ambattan, Vilakithalavan, Pranopakari, Nashivan etc. Their total population all over the State is Eight Lakhs.

They have stated that their community stands exempted from the operation of Creamy-Layer principle as informed by Vide Lr. No. 7012/BCC3/2004 Leg dated 17.09.2008, **(Annexure-II)** from the Secretary, Legislature Secretariat. On verification of this case, it is found that no such orders are available. The Government in the Backward Classes Development Department has confirmed that no orders issued to the above effect, vide letter no. 100/A3/2013/BCDD dated 04.04.2013. **(Annexure-III)**

The Revenue authorities issuing Community certificate to the people belonging to this Community sometimes make mistakes by showing the name of job (Barber) as the name of the Community. This is causing many difficulties to the people.

Educationally this Community is very backward. No officer belonging to this Community is available in the All India Services. This Community does not have any educational Institution of their own. The present reservation quota is insufficient for securing employment to the people of this Community. No people's representatives belonging to this Community is available. They do not have representation in Government owned Corporations, Boards, and Federation etc. Reservation may be allowed on the Boards of these institutions.

The following are their demands:-

- (1) They may be recommended to be included in Scheduled Caste
- (2) May be included in "OEC" list
- (3) While issuing Community certificate the name of the Community may be correctly shown and the present practice of showing the name of the job may be discontinued.
- (4) OBCs may be divided into two, namely 'Most Backward' and 'Backward' and the former may be given special reservation.
- (5) Caste wise enumeration of all Government employers may be held.

2.7.11 Veluthedathu Nair Samajam

This Organization is that of Veluthedathu Nair Community, Shri T.G Gopala Krishnan Nair, General Secretary, All Kerala Veluthedathu Nair Samajam, gave evidence. This Community is traditionally the Washerman Community. Their population is around six lakh. They live across the State. Their traditional occupation is gradually declining following the coming up of modern equipments like washing machine. Decline in job opportunities compelled majority of the population to switch over to other employment avenues. This Community is educationally very backward. The representation of this Community in government service is only nominal. However, there are some teachers, clerks etc. in government service.

Some of the members of Veluthedathu Nair Community are reluctant to identify themselves as members of this Community and they prefer to join the Nair Service Society (NSS), the organization of Nair Community, but they are not getting adequate recognition from there.

Washerman community stands exempted from Creamy-Layer but Veluthedathu Nair is not. This Community may also be exempted from Creamy-Layer and they may be included in "OEC" list.

2.7.12 Kerala Padmasaliya Sangam

This organization is that of people belonging to Padmasalia Community. Shri. V.V Karunakaran, General Secretary, Kerala Padmasalia Sangam, was present for giving evidence. According to Shri Karunakaran, total population of this Community, including sub castes Saliya, Pattariya, Devanka etc is eight lakh. They are living mostly in the districts of Kozhikode, Kannur, Kasarkode, Alappuzha etc.

This Community came long ago from Andhra Pradesh. Their traditional occupation is Handloom weaving. The income from the traditional occupation is nominal and it is difficult to give proper education to their children.

In the 1970s, handloom was in much demand. Due to the influx of bogus handloom products and stiff competition from mill products, the demand for handloom products decreased. Thereupon, Government organized Handloom Co-operative Societies and many of the members of the Community abandoned their traditional occupation and joined the co-operatives. The societies did not show good progress, which ultimately landed many of the Community members in unemployment or under employment. He demanded that by giving attractive incentives Government should ensure proper working of the societies to protect job opportunities. In order to preserve traditional occupation government should constitute the High Power Committee

with the task of ensuring progress in the field. Participation of women also should be ensured.

There is not even an LP School owned by this Community. Girls are willing to go to schools and they should be encouraged to pursue studies by giving reservation and concessions / incentives.

There is no representation to this Community on the Board of Directors of Hantex, Handveev, different Welfare Boards, Spinning Mills, and Khadi Board etc. On the Advisory Board of the Backward Classes, no representative from this Community is included. Adequate representation is given to this Community on the above Boards and Committees.

Being a Community engaged in traditional occupation of weaving they may be exempted from Creamy-Layer.

The income limit Rs.44,500/- fixed for educational concessions may be raised. At present, the OBC Community is having only 3% reservation for jobs, which is not at all sufficient. 3% reservation was introduced when the number of communities was 50. Now it is 73. Non-increase of percentage of reservation in proportion with the increase in the number of communities is denial of justice.

2.7.13 Akhila Kerala Vilkurup Maha Saba

This organization represents Vilkurup community. Shri D. Sreedharan, President appeared for giving evidence. According to Shri Sreedharan, the total population of the Community is around six lakh. This Community is living mainly from Kollam to Kozhikode areas. Most of them live in Trissur and Malappuram districts. Their traditional occupation was Archery, but due to decline in job opportunities, many of the members of the Community are now doing masonry and other manual labour. Educationally they are very backward. There is no representation of this Community in All India Services. There is no people's representative from this Community. To a specific question he informed that their demand for exemption from Creamy-Layer is not

due to any current difficulty, but aimed at avoiding problems if any, that may arise in future.

Schemes on the lines of Sachar-Paloli recommendations may be implemented for the benefit of this Community.

“Thachushastram” and Astrology are the fields this Community can give much contribution.

For professional education, this Community may be given special consideration on the lines Government treated Kudumbi Community.

2.7.14 Kerala Ganaka Maha Sabha

This Sabha is that of members belonging to Ganaka Community. Advocate Rajesh. K. Ravi, President of Kerala Ganaka Maha Saba gave evidence on behalf of the organization. The total population of this Community is around seven lakh. They are included in OBC list and the total percentage of reservation of OBC for employment purpose is 3% only. Reservation for education is not sufficient. They are not getting reservation in Professional Courses. Students belonging to this Community experience difficulties in obtaining scholarships and such benefits and that is why they demand inclusion of this Community in OEC list. Once this Community is included in OEC there will be advancement in education. Though there is no difficulty reported so far, it is better to exempt this Community from Creamy-Layer.

Schemes on the lines of Sachar-Paloli Committee recommendation may be implemented. Traditionally this Community practises native medicines. Their knowledge and expertise can be much beneficial to the people, and hence steps may be taken to preserve the same.

2.7.15 Kerala State Elur Chetty Samudayam

This organization represents members of Elur Chetty Community. Shri K Subramanyan, President of the Samudayam was present for giving evidence. This Community came to Thiruvananthapuram and its suburbs from Eraniyal, Kulachal, Thiruvithamcode, Padmanabapuram, Parakka, Kottar, Ganapathipuram of Kanyakumari district of Tamilnadu in 1956. They are petty traders, manual labourers and accountants. The total population is around 12,000. Majority of them are living in Thiruvananthapuram. Educationally, they are the most backward. Efforts are under way to enhance the educational level of their children. Some persons of this Community are working as clerks. There are no Doctors, Journalists etc from this Community. They demanded inclusion of this community in “OEC” list, exemption from Creamy-Layer, and implementation of schemes on Paloli model.

2.7.16 Kerala Yadava Seva Samithi (Erumakkar)

This is an organization of people belonging to “Erumakkar” Community. Adv. T Mony, President, Kerala Yadava Seva Samithi, Erumatheruvu, Mananthavady, Wayanad district gave evidence before the Commission. According to him, the “Erumakkar” belong to Yadava (OBC). They have migrated from different places like Kanchi, Nelloor, Tirupathi through Karnataka some 200 years ago. They are speaking ‘Telugu’ in their homes. In his opinion they are a minority Community residing in Kozhikode, Wayanad, Palakkad, and Kollam districts. In Wayanad, they are living mainly at Mananthavady town and Vythiri areas.

Cattle rearing are their traditional occupation. Their population is about 25,000. Though they are eligible for social and educational assistance envisaged in the Constitution, they are not getting the same. They are also not getting adequate share in the field of education and employment. Their educational status is very low. They need support and assistance for quality education and employment. Reservation of 3% allowed to OBCs, may not reach this Community in the near future.

As this Community is educationally most backward they may be included in the “OEC” list.

In their Community, there are no higher officers, MPs, MLAs, Councilors or not even a Panchayat President.

The benefits allowed to ST communities should be extended to the Yadava Community also as they are leading a Tribal life and their culture is similar to that of STs. Untouchability is prevalent in mild form in this community though it is illegal. The average educational qualification of most of the members in the Community is 4th standard only. They also need reservation in all fields. He demanded that his community may be exempted from Creamy-Layer. He also pointed out that there are a number of illiterate persons in the Community. As they are losing their traditional occupation of cattle rearing due to a number of reasons including non-availability of pastoral lands, coming up of modern milk procuring and processing plants, he demanded that each family may be given one acre of land free of cost by Government for cattle rearing for preservation of their traditional job. He concluded that his Community is the most backward one than any other community in the list of MBCF.

2.7.17 Wayanadan Chetties

Shri Kanivattam Kesavan Chetty, President for Wayanadan Chetty Service Society was heard on 15.12.2012 at Cheeral UP School, Sulthan Bathery, Wayanad. He stated that traditional occupation of his community is cattle rearing. According to him, the Wayanadan Chetties are educationally, socially, culturally and economically one of the most backward communities in the OBC list. For their community there is no representation in IAS, IPS, and IFS etc. No Doctors and not even a Panchayat President is in their community. There are only 75 persons in Government service from this community. Their total population according to him is 20,000. As they are educationally very backward, they need to be included in the “OEC” list in order to pursue better education.

He also demanded special reservation in Medical & Engineering Entrance Examination. They also requested to start a free coaching center at Bathery, in order to give coaching and guidance for competitive exams of Kerala Public Service Commission, Union Public Service Commission etc. He also demanded restoration of the percentage of reservation to OBCs.

Those who are suffering from “sickle cell anaemia” disease may be given reservation in employment as in the case of physically challenged persons and allowed all the benefits and concessions as allowed to physically handicapped persons. The families of Wayanadan Chetty Community who are dwelling in forest areas may be rehabilitated and they may be given land equal to the land in their possession together with compensation to their improvement. (കുഴിക്കുറുകൾ.)

He has stated that the reason for drop out in Schools is due to economic backwardness. If parents are educated, they will care for their children. At present, the young generation is not pursuing education in a systematic manner. He demanded that special reservation be given to the girl students. They are willing to start stitching center, Embroidery center and other job oriented training centers if Government help is available. He also demanded exemption from Creamy-Layer.

2.7. 18 Vaniya/Ganiga Samaja Seva Sangam.

Shri. K.M Patali, Secretary tendered evidence. This organization represents the people belonging Vaniya/Ganiga community. Their population is around 10,000. Their traditional occupation is oil pressing. It is not economical to continue oil pressing using conventional ‘chuck’ because modern oil mills are using machinery. Following the loss of employment opportunities members of the community are going for works like manual labour and other such jobs.

There are no high officials, Doctors, Engineers etc in their community. There are no political leaders also from their community.

Their children after completion of Std X usually quit studies. Educated parents, however send their children for better education. It is, therefore necessary to enlighten the people on the importance of education.

In their community, marriages are in mass ceremonies, that too twice in year-in March and November. There is no 'dowry'. Ornaments are not essential. Marriage feast is arranged by the temple authorities on payment of Rs. 1,000/- .

A large number of people of their community do not have land or house, and the same provided to all. There are educated unemployed people in the community. The school going children are around 1,200 only. He also demanded that their community be included in OEC. Exemption from creamy layer also is another demand.

He has requested that the name of the community be corrected as 'Ganiga' instead of 'Ganika'.

Chapter-II

3.1 The State of Kerala formed by the integration of Travancore and Cochin State and the addition of Malabar District and Kasargode Taluk of Madras State to the integrated State of Travancore and Cochin. Amelioration of Backward Communities began to receive the attention of Government in the three States as far as back in 1900. In Travancore, the department for the welfare of backward communities was functioning under 'Protector of Backward Communities'. In the Cochin State, 'Protector of Depressed Classes' was in charge. When the two States integrated to take from the "Travancore-Cochin State" in the year 1949, the department for the whole State was placed under the control of a 'Protector for Backward Communities' with Head Quarters at Trivandrum. His designation changed as 'Commissioner for the Advancement of Backward Communities' in the year 1950. Later this was re-designated as Director of Harijan Welfare in 1957.

3.2 The First Five Year Plan Schemes, which provided wider scope for ameliorative activities started implementation from the year 1951. New schemes also started especially in the field of education, small-scale industries, industrial training etc.

3.3 In order to extend various concessions and assistance, the communities are classified into several categories. In Travancore, the communities declared eligible for special concession including Hill Men were originally classified as 'the Depressed Classes'. The term "Depressed Classes" in its popular sense denote those who are considered as untouchables, or unapproachables. In the Cochin State, the communities that deserved award of special concessions were classified as "Depressed Classes". In the Cochin State, the communities placed in the lowest rungs of social order, economically and socially, were classified as 'depressed', whereas in Travancore the backward communities were listed based on literacy also.

3.4 In this context, it will be useful to examine the origin of classification of communities in the State. Before the formation of the Kerala State welfare activities for the amelioration of backward communities were in existence in the constituent states of Travancore and Cochin and also in Madras. In Travancore, the communities declared eligible for special concessions including Hillmen were originally classified as 'Depressed Classes'. The term "Depressed Class" in its popular sense does not include those who were considered as untouchables, or unapproachables. After the Temple Entry proclamation in 1936 (in Travancore) which rendered the term untouchables and unapproachable meaningless, the government ordered substitution of the term by "BACKWARD COMMUNITIES" to denote the communities which till then were classified as "depressed classes". In the Cochin State also the communities which deserved award of special concessions were classified as " Depressed Classes". The term continued until the integration to two states, Travancore and Cochin as TC state in 1949. After the integration, a change was effected in the system of work for amelioration of backwardness. The criteria followed in the two states for the classification of communities were not uniform. In the Cochin state the communities placed in the lowest rungs of the social order economically and socially were classified as depressed, where as in Travancore the backwardness were listed on the basis of literacy also. After the formation of the Travancore-Cochin State the government ordered that the backward classes will be classified under three categories, viz (i) Scheduled Castes (ii) Hill Tribes and (iii) Other Backward Communities.

3.5 The communities, which were considered as unapproachables, were socially, financially, and educationally quite backward. They were brought under the list of "Scheduled Castes". Hillmen in various areas were classified as Hill Tribes (Scheduled Tribes). Those communities, which were considered as backward, educationally and socially were classified as "Other Backward Communities ". In the Malabar area, the classification of communities and the welfare measures adopted were

more or less the same. For inclusion as “Other Backward Communities” educational, economic and social backwardness were taken into account. The term “Harijan” was commonly used to denote Scheduled Castes in the Malabar area and the Hill Tribes were referred to as Scheduled Tribes. These terms were accepted in Travancore Cochin area also. Thus, the classification adopted in Kerala State was as below:-

- (1) Scheduled Caste
- (2) Scheduled Tribes
- (3) Other Backward Communities

(Source: Handbook of Department of Harijan Welfare)

3.6 Under Article 341 (1) of the Constitution, the President by notification specified the castes, races or tribes to be deemed Scheduled castes under the Constitution, in the Constitution (Scheduled Castes) Order, 1950. Under Article 342 (1) of the Constitution, the President by notification specified castes, races or tribes deemed Scheduled Tribes under the Constitution, in the Constitution (Scheduled Tribes) Order, 1950. The President, subsequently in the Scheduled Caste and Scheduled Tribes (Modification) Order, 1956, modified these two orders. Further inclusion of any caste, race or tribe is within the powers of the Parliament. However, the State Government has decided to recommend to the Government of India inclusion of certain castes/communities, which they considered as living in the same footing as SCs/STs, in the list of Scheduled Castes & Schedule Tribes. To the Communities so listed by the State Government, all concessions extended to Scheduled Castes and Scheduled Tribes except statutory reservation to public services and reservation for election, were given pending their inclusion in the list of SCs & STs by the Government of India. In other words, the communities that are not included in the list of Scheduled Castes and Scheduled Tribes but considered to be living in conditions similar to Scheduled Castes and Scheduled Tribes are listed as “Other Eligible Communities”. The Kudumbi Community classified under Other Backward Classes and the Christian Converts, as a special

case, are treated as “Other Eligible Communities” for grant of educational concessions allowed to Scheduled Castes.

3.7 The main demands of Most Backward Communities Federation (MBCF) are following:-

- (1) The communities included in MBCF may be included in to the list of “Other Eligible Communities” (OEC).
- (2) These Communities may be exempted from Creamy-Layer principle.
- (3) For the overall development of these Communities schemes on the lines of Sachar-Paloli Committees recommendations may be implemented.
- (4) The communities under the OBC categories may be classified as “More Backward” and “Most Backward”.
- (5) The percentage of reservation for education and employment may be fixed in proportion to the population of OBCs, and shortage of representation may be made good.

There are also certain other demands also which will be discussed in due course.

3.8 The appointment of this Commission with the direction to examine the demands in the petition dated 31.05.2011 and forwarding of a copy of the minutes of the meeting held by the Hon’ble Chief Minister on 19.08.2011 is a little bit confusing. It is therefore, inferred that the demands in the petition and the points contained in the minutes of the meeting also have to be examined.

3.9 The petition dated 31.05.2011 from the MBCF contain, besides the above items included appointment of office bearers/representatives of Community Organizations on the Boards on different Corporations and Statutory Board. The Corporation, Statutory Boards mentioned above include Kerala State Backward Classes Development Corporation, Devaswom Board, Housing Board, Backward Classes Commission, Consumerfed, Thirur Thunchanparampu Trust, Handicap Development Corporation etc. The list of persons to be appointed also has been given

in the petition. This does not figure in the minutes of the meeting held by the Chief Minister on 19.08.2011.

3.10 The first point to be examined is the decision in the meeting appeared as serial No. 1, viz. estimate the financial commitment that may arise if the students belonging to the Communities included in MBCF are brought under OEC list. The above decision is to ascertain the financial liability that may accrue if the communities included in the MBCF are given benefits and concessions allowed to OECs. OEC is a separate category of Communities, which are eligible for educational concessions normally allowed to the students belonging to SC and ST Communities.

3.11 At present in this State, the following are the Communities included in the list of OEC's. (Category 'A' & Category 'B')

കാറ്റഗറി എ) പട്ടികജാതിക്കാർക്ക് സാധാരണഗതിയിൽ അനുവദനീയമായ വിദ്യാഭ്യാസാനുകൂല്യങ്ങൾക്ക് അർഹതയുള്ള സമുദായങ്ങൾ

1. ചാക്കമർ
2. പെരുവണ്ണാൻ
3. പുളളുവൻ *
4. തച്ചർ (ആശാരിയല്ലാത്ത) മുൻ മലബാർ പ്രദേശത്തൊഴികെ
5. വർണ്ണവൻ
6. മധിഗ
7. ചെമ്മാൻ/ചെമ്മാർ*
8. കുഡുംബി
9. ധീവര/ധീവരൻ (അരയൻ, വാലൻ, നുള്ളയൻ, മുക്കുവൻ, അരയവാത്തി, വലിഞ്ചിയർ, പണിയാക്കൾ, മൊകയ, ബോവി മെഗായർ, മൊഗവീര)
10. മതപരിവർത്തനം നടത്തിയ പട്ടികജാതിക്കാർ
11. കുശവൻ, കുലാലൻ, കുംബാരൻ, വേളാൻ, ഓടൻ, ആന്ധ്രാനായർ, ആന്ദ്രുനായർ
12. പുലയവേട്ടുവൻ (പഴയ കൊച്ചി സംസ്ഥാനം ഒഴികെ)

NOTE:-*(Pulluvan and Chemman/Chemmar are also included in the list of SC Communities. If they are included in the list of SC it is not necessary for them to be in OEC list.)

കാറ്റഗറി ബി. പട്ടികവർഗ്ഗക്കാർക്ക് സാധാരണഗതിയിൽ അനുവദനീയമായ വിദ്യാഭ്യാസകുലപ്പങ്ങൾക്ക് അർഹരായുള്ള സമുദായങ്ങൾ

1. അളളർ (ആളൻ)
2. മലയൻ (കൊങ്ങ മലയൻ, പനിമലയൻ)
(മുൻ മലബാർ പ്രദേശത്തുമാത്രം)
3. മലവേട്ടുവൻ *
4. മലമുത്തൻ
5. കുണ്ടുവടിയൻ
6. പതിയൻ (അലക്കുകാരല്ലാത്ത)
7. തച്ചനാടൻ മൂപ്പൻ *
8. വയനാട് കാടർ *
9. കലനാടി
10. ചിങ്ങത്താൻ
11. മലയാളർ
12. മലപണിക്കർ *
13. ഉരിണ്ടവൻ
14. മറാട്ടി

<p>Note *(These communities are included in the list of ST communities. If it is so, it is not necessary to include them in OEC list.)</p>

(Annexure-IV)

3.12 From the above it is seen that among the 80 plus Communities included in the list of Other Backward Communities only 12+14=26 Communities (subject to correction in the notes above) find place in the list of Other Eligible Communities. This would show that listing of Community under the category of OEC is very selective. What qualifies a Community to be in the list of OEC is examined in detail. Before that, we have to examine the history of categorization of a Community as OBC, SEBC and OEC.

3.13 The Government of Kerala as per order in GO (MS) 243/64/PD dated 08.07.1964 had appointed a Commission headed by Shri. G Kumara Pillai, Retired High Court Judge, with direction to inquire into social and educational conditions of the people and to report on what section of the people in the State (Other than SC and ST) should be treated as socially and educationally backward and therefore deserving of special treatment by way of reservation of seats in educational

institutions. The Commission also was required to recommend the quantum of such reservation. This Commission is popularly known as “Kumara Pillai Commission”. The Commission submitted its report to the government on 31.12.1965.

3.14 Justice Kumara Pillai Commission adopted the following tests for measuring the backwardness of the people:

- i. Social backwardness- economic factors and caste/ community.
- ii. Means-cum-caste/community.
- iii. Communities outside Hindu fold.
- iv. Occupational Test.
- v. Habitational Test.
- vi. Educational Backwardness.

3.15 Based on the application of the above tests, Kumara Pillai Commission identified 91 communities in Kerala as “Socially and Educationally Backward” (SEBC) for the purposes of Article 15(4) of the Constitution. Government has accepted the recommendations of the Commission with minor modification, and orders issued vide G.O (P) No. 208/66/Edn, dated 02.05.1966. This order is still in force.

The Commission however had clarified that –

“----- although names of castes and communities are mentioned in column (2) of Appendix VIII, Socially and Educationally Backward Classes of citizens include only the lower income groups (members of families having an aggregate income of less than Rs.4,200/- per annum) and not all the members of the castes and communities mentioned there in.”

This fact is emphasized in column of (IV) the appendix where in an approximate estimate of the population of the lower income group in each caste or community, which alone has been included in the Socially and Educationally Backward Classes of citizens, is given. This estimate has been made on the basis of the percentage figures relating to income groups given by the Bureau of Economics and Statistics and the population figures for the whole state given in appendix (XIV)”.

(Para 20, Chapter IV)

3.16 Appendix (VIII) referred to above which form part of the report contains 91 castes /communities starting from Serial “No-1. Ezhavas including Thiyyas,Ishuvan, Izhuvan, Illuvan and Billava” and ending with Serial “No. 91 Vattuvan-SC though out the State except Malabar district”.

In Para 29, Chapter IV of the report, the Commission further held that-

“No group of persons other than those specified in Appendix VIII need be included in the Socially and Educationally Backward Classes.

In our opinion there is no justification in including in the Socially and Educationally Backward Classes of citizens any group of persons other than those specified in Appendix VIII.”

Source: Report of the Commission

3.17 How the communities are categorized as “Other Backward Classes”? The first Backward Classes Commission (1953) headed by Shri. Kaka Kalelkar has formulated the following criteria for identifying socially and educationally backward classes:-

- I. Low social position in the traditional caste hierarchy of Hindu Society.
- II. Lack of general educational advancement among the major section of a caste or community.
- III. Inadequate or no representation in Government service.
- IV. Inadequate representation in the field of trade, commerce and industry.

(Source: Mandal Commission Report)

3.18 The Government did not accept the report of the first Backward Classes Commission. The IInd Commission headed by Shri. B.P Mandal was appointed in 1979. This Commission, known as “Mandal Commission” has evolved eleven ‘Indicators’ or ‘Criteria’ for determining social and educational backwardness, which are grouped under three major heads, ie.

A. Social

- i. Castes/Classes considered as socially backward by others.
- ii. Castes/Classes, which mainly depend on manual labour for their livelihood.
- iii. Castes/Classes where at least 25% females and 10% males above the State average get married at an age below 17 years in rural areas and at least 10% females and 5% males do so in urban areas.
- iv. Castes/Classes where participation of female in work is at least 25% above the State average.

B. Educational

- v. Castes/Classes where the number of children in the age group of 5-15 years who never attended school is at least 25% above the State average.
- vi. Castes/Classes where the rate of student drop-out in the age group of 5-15 years is at least 25% above the State average.
- vii. Castes/Classes amongst which the proportion of matriculates is at least 25% below the State average.

C. Economic

- viii. Castes/Classes where the average value of family assets is at least 25% below the State average.
- ix. Castes/Classes where the number of families living in Kuccha houses is at least 25% above the State average.
- x. Castes/Classes where the source of drinking water is beyond half a kilometer for more than 50% of the household.
- xi. Castes/Classes where the number of households having taken consumption loan is at least 25% above the State average.

(Source: Mandal Commission Report)

3.19 Though in the Constitution of India there is no guidelines or criteria prescribed for classifying or categorizing a class or

community as “Other Backward Communities”, different sections of the Constitution mention about the “Other Backward Communities” in the country. It was the Honorable Supreme Court of India which has spelt out the meaning of the term “Backward Communities” in judgment in *Indra Sawhney v. Union of India* (AIR 1993 SC 477), the court has declared as below:-

“Thus neither from the language of Article 16(4) nor the literal test of interpretation nor from the spirit or purpose of interpretation nor the present day social seeking, warrants construction of the expression backward class as backward Castes. Consequently what comes out of the examination from different aspects leads to conclusion that:

- (1) Back ward class in Article 16(4) cannot be read as Backward Castes.*
- (2) Expression ‘backward class’ is of wider import and there being no ambiguity or danger of unintended injustice in giving its natural meaning it should be understood in its broader and normal sense.*
- (3) Backward class under Article 16(4) is not confined to erstwhile sudras or depressed classes or intermediate Backward classes amongst Hindus only.*
- (4) Width of the expression includes in its fold any community Hindu, Muslim, Christian, Sikh, Budha, or Jain etc. as the expression is “Backward class of citizens”*

(para 661, AIR 1993 S.C 477)

3.20 One of most important demands of MBCF is that they should be included in OEC. At the initial stage, OEC categorization was by the Harijan Welfare Department for giving educational concessions. Government has later approved it. Certain orders issued by the government for including communities in the OEC list also are examined. In several cases, Government obtained the report of KIRTADS before taking decision in the matter, eg. GO (Ms) No.

80/86/SCSTDD dated 14.10.1986, GO (Ms) No. 40/91/SCSTDD, dated 04.11.1991 etc. But in certain cases the recommendation of the Director, Harijan Welfare alone is seen relied on by the Government for declaring a community as "Other Eligible Community".(eg. G.O (MS 697/64/RD dated 24/10/1964, G.O (MS) No. 41/85/HWD dated 29.06.1985,G.O(Rt) No. 53/87/ SCSTDD dated 23.10.1987 etc). This would show that inclusion of a community in the list of OEC is made after obtaining detailed enquiry report from KIRTADS, an institution established by the Government for conducting anthropological study and research. It is also seen that the communities/castes included in OEC are communities/castes living in social, economic and educational backgrounds similar to those belonging to SC and ST. In fact, these communities are eligible to be recommended for inclusion in the list of SC/ST. As per law, a caste /community can be included in the list of SC/ST only through the legislation by Parliament.

3.21. From the above, it may be seen that the demand for inclusion of a community /caste in the list of OEC has two dimensions, namely, (i) the caste /community should be placed in the same footing as that of SC /ST, (ii) once the caste /community is included in the list of OEC, they will qualify to be considered for inclusion in the list of SC /ST.

3.22 We have seen the origin of OEC for the grant of educational concessions in the State. In GO (MS) No. 629, Revenue Department dated 30.06.1961, Government have constituted an "Evaluation Committee" to assess the work done in connection with the up lift of Scheduled Castes, Scheduled Tribes and Other Backward Classes during the First and Second Five Year Plan periods and suggest ways and means to rectify the defects found in the working of the Department and the implementation of the Welfare Schemes. Shri K.K. Viswanathan, M.L.A., Mattancherry was the Chairman of the Committee. The terms of reference to the Committee were the following:-

(i) To evaluate the progress of Scheduled Castes, Scheduled Tribes and Other Backward Classes in the State during the First and Second Plan periods and to recommend to Government in what manner the

various Schemes now implemented for their welfare in educational, industrial, co-operative, medical, public health and other social and economic fields should be modified or improved so as to accelerate the pace of progress.

- (ii) To prepare a list of Communities among the Scheduled Castes and Scheduled Tribes who have not received adequate help under the First and Second Plan periods and to make recommendations to Government the steps to be taken to implement the welfare schemes so as to ensure that such backward groups shall have priority of attention in future, fixing the order of priority.*
- (iii) To prepare a list of communities who deserve to be included in the list of Scheduled Castes, Scheduled Tribes and Other Backward Communities but who have been left out. (The historical and cultural background of these communities, their approximate number and territorial distribution to be given.)*
- (iv) To make recommendation to Government to delete those groups among the existing list of Scheduled Castes Scheduled Tribes, and Other Backward Classes, which have already attained economic stability as per the recommendation of the report of the 48th Estimate Committee of the Parliament.*

3.23 The Committee submitted its report to the Government on 30.05.1962. In respect of item (iii) of the terms of reference, the Evaluation Committee made the following recommendation.

- a) There are at present three separate lists viz, a list of Scheduled Castes, a list of Scheduled Tribes and a list of Other Backward Communities. The list of Scheduled Castes and Scheduled Tribes are those issued by the President in the Scheduled Castes and Scheduled Tribes Lists (Modification) Order, 1956.*
- b) The Director of Harijan Welfare has furnished the Committee with a list of Scheduled Castes, Scheduled Tribes and Other*

*Backward Communities a copy of which is given in Appendix XVII.
This list contains four parts as follows:-*

*Part I-Scheduled Castes
Part II-Scheduled Tribes
Part III- Other Eligible Communities
(a) Scheduled Castes
(b) Scheduled Tribes, and
Part IV- Other Backward Communities/Classes.*

The Committee has been informed by the Government that the list furnished by the Director of Harijan Welfare is the one printed for reference in Educational Institutions and that it has not been published.

3.24 Government has examined various recommendations of the Evaluation Committee. Decision on the recommendation on OEC Communities was the following:

Recommendation No.177 of the Evaluation Committee:

“Considering the extreme economic and educational backwardness we recommend that the following communities may be classified as other eligible communities in list III given in Appendix XVII and granted the same concessions:-

- 1. Aryan (Nulayan)*
- 2. Arya Vathi*
- 3. Dheevera*
- 4. Kudumbi*
- 5. Kulala*
- 6. Kumbaran*
- 7. Kusavan*
- 8. Mogaveera*
- 9. Mukkuvan or Kukayan alias Mogayan or Aryan (including Bovies)*
- 10. Odan*
- 11. Velan*
- 12. Veerasaiva (Pandaran, Vairavi, Vairagi, Yogeeswaran, Matapathi And Yogi)*

13. Christian converts from Scheduled Castes and Scheduled Tribes

(P 361 of the Report)

3.25 On the above recommendation government have decided as below:-

“In classifying certain communities under “Other Eligible Communities” Government have followed a definite principle. Some communities which have been declared as Scheduled Castes or Scheduled Tribe in Travancore-Cochin area are not Scheduled Castes or Scheduled Tribes in Malabar area and vice versa, although these communities are more or less identical in both the areas. Such communities cannot also be included under the Scheduled Castes or Scheduled Tribe list proper, unless such communities are notified as such by the Government of India and included in the list of Scheduled Castes or Scheduled Tribe. Although Government have recommended the inclusion of these communities in the Scheduled Castes or Scheduled Tribe list, the matter is still under consideration of Government of India. Pending their inclusion in the regular list, Government had already ordered to give them all the educational concessions of Scheduled Castes or Scheduled Tribes and a separate classification of “Other Eligible Communities” was made to accommodate these communities as they could not be put in the regular list of Scheduled Castes or Scheduled Tribes. The communities referred to in the above recommendation of the Committee do not satisfy the above principle. All along, they have been treated only as Other Backward Classes. If any of the communities referred to in the above recommendation is included in the “Other Eligible Communities” list, several other communities will put forward their claims, as the list of communities recommended by the Evaluation Committee was not drawn up after any detailed examination of economic and social status of all the communities now included in the Other Backward Classes list. Such a step would also result in additional financial commitments to Government

The recommendation of the committee cannot, therefore be accepted for the reasons detailed above. ”

(P 407 of the Report+ Orders, 1963)

- c) *The following communities have been included under the category of Other Eligible communities in the list of Scheduled Castes and Scheduled Tribes.*

(A) **Scheduled Castes:-**

- | | |
|----------------------------|---|
| 1. Chakkamar | -Throughout the State |
| 2. Mannan,Vannan, Pathiyan | - In Malabar area of the State |
| 3. Mogar | -In Kasargode Taluk |
| 4. Paravan | -Malabar area excluding Kasargode Taluk |
| 5. Peruvannan | -Throughout the State |
| 6. Pulaya (Cheramar) | -In Malabar area of the State |
| 7. Pulluvan | -Throught out the State |
| 8. Thachar | -Throughout the State except Malabar area |
| 9. Varnavar | -Throughout the State |
| 10. Velan | -Throughout the State excluding T.C area |
| 11. Vettuvan | -Throughout the State excluding T.C area |
| 12. Madiga | -Kasargode Revenue Division |

(B) **Scheduled Tribes:-**

1. Marati

-In Hosdurg Taluk of annanore
District

- d) *The Committee has to prepare a list of communities who deserve to be included in the list of Scheduled Castes, Scheduled Tribes and Other Backward Classes but who have been left out. The committee has received several representations urging the inclusion of various communities in the list of Scheduled Castes, Scheduled Tribes or Other Backward Communities as the case may be. A number of these representations are from communities already included in the list of Other Backward Communities for their inclusion in the list of Scheduled Castes and a few representations have been received from certain communities included in the Scheduled Castes list for inclusion in the list of Scheduled Tribes. There are also certain representations for inclusion of fresh communities in the three lists viz, lists of Scheduled Castes, Scheduled Tribes and Other Backward Communities.*
- e) *The ultimate aim is to bring about a classless and casteless society in our country. The country is engaged through a series of Five Year Plans in intensifying its efforts for the development and economic uplift of all classes of people and the reduction of disparities between different classes. If this goal is to be achieved, the aim should be to reduce the number of communities already included in the list of communities gradually and not to add fresh communities to the above lists. In considering whether any new community deserves to be included in the list of Scheduled Castes, Scheduled Tribes and Other Backward Communities, we have kept this objective in view but at the same time given due consideration to the special needs of certain communities which due to their extreme social, economic and educational backwardness deserve special attention. We have recommended only such communities for inclusion in the list of Scheduled Castes, Scheduled Tribes, Other Eligible Communities or Other Backward Communities.*

3.26 The recommendation of the Evaluation Committee was not accepted. In another order, Viz. GO (MS) No.763 dated 13.09.1963 **(Annexure No. V)** the Government have ordered to continue the system followed by the Department in extending concessions from the Harijan Welfare Department under Plan and Non- Plan Schemes to the students of OECs. This order was issued when the Director of Harijan Welfare reported that even though there are no specific orders for extending concessions other than educational concessions of OECs as given to Scheduled Castes and Scheduled Tribes, the District Welfare Officers (of Harijan Welfare Department) were treating them like Scheduled Castes and Scheduled Tribes. A close reading of this G.O would show that the Harijan Welfare Department was treating the OEC students on the same footing as that of SC/ST students.

3.27 In this context, it is seen that Government have further clarified the term the “Other Eligible Communities” in G.O (Rt) No 1072 dated 26.06.1961 (Issued by the Revenue Department) as follows:-

“NOTE: - By the term ‘Other Eligible Communities’ it is meant the communities which are provisionally declared as Scheduled Castes or Scheduled Tribes for the purpose of Educational concessions from the State.” A list of such communities will be published by Director of Harijan Welfare.

(Annexure-VI A).

3.28 The Hon’ble Supreme Court of India in Chattar Singh and others V State of Rajasthan and others (CA No. 13118 of 1996) has held that –

“Though OBCs are socially and educationally not forward, they do not suffer the same social handicaps inflicted upon SCs and STs. The objects of reservation for SCs and STs is to bring them into the mainstream of national life, while objectives in respect backward classes is to remove their social and educational handicaps. Therefore, they are always treated dissimilar and they do not form and integrated class with Dalits and Tribes. By process of interpretation, OBCs cannot be declared

alike the SCs and STs. It would, therefore, be illogical and unrealistic to think that omission to provide same benefits to OBCs as was provided to SCs and STs was void under Article 16 (1) and 14 of the Constitution”.

3.29 Some of the communities under MBCF had earlier moved the Legislature Committee and the Government with request to include them in SEBC or OEC. Chetty Maha Sabha, Yadava Samudayam including Erumakkar and Elur Chetty had raised this demand. The Backward Communities Welfare Committee replied to the Chetty Maha Sabha that:

“.....ജസ്റ്റിസ് കുമാരപിള്ള ചെയർമാനായിട്ടുള്ള കമ്മീഷന്റെ റിപ്പോർട്ട് അടിസ്ഥാനമാക്കിയിട്ടാണ് സർക്കാർ ഉത്തരവ് (പി) നമ്പർ 208/66/എഡ്യൂ തീയതി 02.05.1966 പ്രകാരം സോഷ്യലി ആന്റ് എഡ്യൂക്കേഷണലി ബാക്ക് വേർഡ് കമ്മ്യൂണിറ്റീസ് (എസ്.ഇ.ബി.സി) ലിസ്റ്റ് തയ്യാറാക്കിയിട്ടുള്ളത്.

അതിനുശേഷം മറ്റൊരു സമുദായത്തേയും എസ്. ഇ.ബി.സി ലിസ്റ്റിൽ ഉൾപ്പെടുത്തിയിട്ടില്ല. ഒരു സ്റ്റാറ്റ്യൂട്ടറി കമ്മീഷൻ തയ്യാറാക്കിയ ലിസ്റ്റിൽ ഭേദഗതി വരുത്തുന്നതിന് സർക്കാർ നിയമിക്കുന്ന അതേ പദവിയിൽ ഉള്ള മറ്റൊരു കമ്മീഷന്റെ ശുപാർശ പ്രകാരമേ സാധിക്കുകയുള്ളൂ.

ചെട്ടി സമുദായത്തെ എസ്.ഇ.ബി.സി യിലോ ഒ.ബി.സി യിലോ ഉൾപ്പെടുത്തണമെന്നാവശ്യപ്പെട്ട് കേരള ചെട്ടി മഹാസഭ പ്രസിഡന്റ് ശ്രീ കെ.വീരപ്പൻ സമർപ്പിച്ച നിവേദനത്തിന്മേൽ സമിതി നിർദ്ദേശ പ്രകാരം പട്ടികജാതി-പട്ടിക വർഗ്ഗ വികസന (എഫ്) വകുപ്പിൽ നിന്നും 26.09.2008 തീയതിയായി 9303/എഫ്2/08 പജ.പവ.വിവ കത്തു മുഖേന ലഭിച്ച റിപ്പോർട്ട് ഇപ്രകാരമായിരുന്നു. ”

“.....ജസ്റ്റിസ് കുമാരപിള്ള ചെയർമാനായിട്ടുള്ള കമ്മീഷന്റെ റിപ്പോർട്ട് അടിസ്ഥാനമാക്കിയിട്ടാണ് സർക്കാർ ഉത്തരവ് (പി) നമ്പർ 208/66/എഡ്യൂ തീയതി 02.05.1966 പ്രകാരം സോഷ്യലി ആന്റ് എഡ്യൂക്കേഷണലി ബാക്ക് വേർഡ് കമ്മ്യൂണിറ്റീസ് (എസ്.ഇ.ബി.സി) ലിസ്റ്റ് തയ്യാറാക്കിയിട്ടുള്ളത്.

അതിനുശേഷം മറ്റൊരു സമുദായത്തേയും എസ്.ഇ.ബി.സി ലിസ്റ്റിൽ ഉൾപ്പെടുത്തിയിട്ടില്ല. ഒരു സ്റ്റാറ്റ്യൂട്ടറി കമ്മീഷൻ തയ്യാറാക്കിയ ലിസ്റ്റിൽ ഭേദഗതി വരുത്തുന്നതിന് സർക്കാർ നിയമിക്കുന്ന അതേ പദവിയിൽ ഉള്ള മറ്റൊരു

കമ്മീഷന്റെ ശുപാർശ പ്രകാരമേ സാധിക്കുകയുള്ളൂ.”

Page 33, 4th report of the B.C.W.C, 12th KLA

3.30 Akhila Kerala Yadava Sabha had requested that they may be declared as Most Backward Community and allow educational concessions by including them in OEC category. On this demand Government replied that:

“മണിയാണി, കോലയൻ, മുവാതി, എരുമൻ, ഊരാളി നായർ, കോനാർ, ഗൊല്ല, എരുമകർ എന്നീ ഉപജാതികളെല്ലാം യാദവ എന്ന വിഭാഗത്തിൽ ഉൾപ്പെടുന്നതായി കിർത്താഡ്സ് നടത്തിയ പഠനങ്ങളിൽ നിന്നും തെളിഞ്ഞിട്ടുണ്ട്. കിർത്താഡ്സിന്റെ റിപ്പോർട്ടിനെ തുടർന്ന് യാദവ വിഭാഗത്തിനെ ഒ.ബി.സി പട്ടികയിൽ ഉൾപ്പെടുത്തി ആനുകൂല്യങ്ങൾ നൽകി വരുന്നുണ്ട്. കൂടാതെ യാദവ വിഭാഗത്തെ എസ്.ഇ.ബി.സി ലിസ്റ്റിൽ 76-ാമതായി ഉൾപ്പെടുത്തിയിട്ടുണ്ട്. കിർത്താഡ്സിന്റെ പഠനത്തിൽ നിന്നും യാദവ വിഭാഗത്തെ പട്ടികജാതിയിൽ ഉൾപ്പെടുത്തേണ്ട സാഹചര്യം നിലവിലില്ല. പട്ടികജാതിയിൽ ഉൾപ്പെടുത്തുന്നതിന് ശുപാർശ ചെയ്യപ്പെട്ട വിഭാഗങ്ങളെയാണ് ഒ.ഇ.സി വിഭാഗത്തിൽ ഉൾപ്പെടുത്താറുള്ളത്. അതിനാൽ യാദവ വിഭാഗത്തെ ഒ.ഇ.സിയിൽ ഉൾപ്പെടുത്തുവാൻ കഴിയുകയില്ല. യാദവ സഭയുടെ മറ്റൊരാവശ്യം യാദവ വിഭാഗത്തിനെ മോസ്റ്റ് ബാക്കവ് കമ്മ്യൂണിറ്റി വിഭാഗത്തിൽ ഉൾപ്പെടുത്തണമെന്നതാണ് (എം.ബി.സി). കേരളത്തിൽ എം.ബി.സി എന്ന വിഭാഗം നിലവിലാത്തതിനാൽ ഈ ആവശ്യം പരിഗണിക്കാൻ കഴിയില്ല.”

(Page 13 of the IVth Report of B.C.W.C (2009-2011)-12th KLA.)

3.31 Elur Chetty Samudayam has moved the Government complaining that the students belonging to that community are denied reservation of seats in professional courses. In order to get the above benefits the community may be included in SEBC. Against this demands Government replied as follows:-

“.....ജസ്റ്റിസ് കുമാരപിള്ള ചെയർമാനായിട്ടുള്ള കമ്മീഷന്റെ റിപ്പോർട്ട് അടിസ്ഥാനമാക്കിയിട്ടാണ് സർക്കാർ ഉത്തരവ് (പി) നമ്പർ 208/66/എഡ്യു തീയതി 02.05.1966 പ്രകാരം സോഷ്യലി ആന്റ് എഡ്യൂക്കേഷണലി ബാക്ക്

വേർഡ് കമ്മ്യൂണിറ്റീസ് (എസ്.ഇ.ബി.സി) ലിസ്റ്റ് തയ്യാറാക്കിയിട്ടുള്ളത്.

അതിനുശേഷം മറ്റൊരു സമുദായത്തേയും എസ്.ഇ.ബി.സി ലിസ്റ്റിൽ ഉൾപ്പെടുത്തിയിട്ടില്ല. ഒരു സ്റ്റാറ്റ്യൂട്ടറി കമ്മീഷൻ തയ്യാറാക്കിയ ലിസ്റ്റിൽ ഭേദഗതി വരുത്തുന്നതിന് സർക്കാർ നിയമിക്കുന്ന അതേ പദവിയിൽ ഉള്ള മറ്റൊരു കമ്മീഷന്റെ ശുപാർശ പ്രകാരമേ സാധിക്കുകയുള്ളൂ.”

(Page 33, 4th report of the B.C.W.C, 12 th KLA)

3.32 The stand taken by the Government and conveyed to the petitioners is clear. Their demand for inclusion in SEBC or OEC cannot be considered at present as the categorization ordered in GO (P) 208/66/Edn, dated 02.05.1966 was on the recommendation of a Statutory Commission. Any change in the list is possible only after getting recommendation of a similar Statutory Commission.

3.33 The above replies are an indication of the policy of the Government. As per law, including court decisions, it is not permissible to include new communities in the category of ‘OEC’. The demand of the MBCF to include them in OEC category cannot, therefore be, allowed.

3.34 It appears that their demand for inclusion in the OEC list originates from the desire to have educational concessions as allowed to SC and ST Communities. If that is the aim in raising this demand, we have to find alternate ways to fulfill their demand. For the overall development of any society, education is a key factor. In the case of Other Backward Communities their social, economic, educational and political status are far behind the advanced and developed communities. Proper education will make them qualify to compete with forward sections of the Society in the matter of employment, especially employment under Government.

3.35 Let us see what Justice Narendran Commission said about the importance of education in his report dated 09.11.2001.

“The Commission has drawn inferences from a detailed analysis of Appendices II to VI. It is clear from this analysis that almost all

the communities of the Backward Classes have improved their position or are improving their presence in the public services. Even as per Appendix II Ezhavas, a major community among the Backward Classes have secured better representation in more than one category by securing posts in the merit quota over and above the reservation quota. At the same time Muslims, another major community among the Backward Classes have not fared so well. The main reason for this is nothing but educational backwardness. Better educational standards of Ezhavas taken as a whole give them a good leverage in competing for Government jobs at least in the recruitment for lower categories. If the Muslim community and its leaders take more interest in the matter of education and make a concerted effort, this community can also reach a similar level of educational advancement in the not distant future. The other communities among the Backward Classes can also improve their presence in the public services by paying more attention for the education of their children”.

(para 8.1, chapter 8)

3.36 Inclusion of the communities in MBCF in the category of “Other Eligible Community is not legally permissible in view of the reasons discussed above. However, the attempt made to know the additional financial commitment that may arise if the students belonging to communities under MBCF are given educational concessions and benefits as allowed to OEC students did not succeed. At first, have to know the number of students class-wise studying in Schools, Colleges, Polytechnics and such other institutions. Nevertheless, the Director of Public Instruction has informed that the OBC caste wise details are not available in his Department, and the same will be compiled and made available, vide letter No. S4 (A)/2471/2013/DPI dated 04.03.2013.

(Annexure VII)

It will be a difficult task requiring a long time. Efforts to gather the details from Technical Education Department and other Departments also have not succeeded fully. Certain Departments have

furnished the data partially. In short, the total number of students belonging to OBC could not be ascertained. It is not possible to get the community wise population also. Hence, estimation of additional financial commitment in this regard is beyond comprehension. This is not an isolated case. Even the Central Government is unable to assess additional financial liability that may arise when new communities are included in the list of communities eligible for financial assistance in the absence of population data. This is evident from the Bill presented by the Central Government before the Parliament proposing amendment to SC/ST list. The Central Government has said that:-

“ The Bill seeks to include certain synonymous communities in respect of entries in the list of Scheduled Castes for the States of Kerala, Madhya Pradesh, Odisha and Tripura. This will entail some additional recurring and non-recurring expenditure on account of benefits of schemes meant for the development of the Scheduled Castes to which the persons belonging to the newly added communities will become entitled, as a result of this Bill.

2. It is not possible to estimate with any degree of precision the likely expenditure, which would have to be incurred on this account due to non-availability of caste-wise data”.

(Vide Bill No. 60 of 2012)

(Annexure-VIII)

3.37, Eventhough the attempt to calculate the possible additional expenditure when 16 communities are added has failed, the data on expenditure under OEC head-wise made available by the Director, Scheduled Castes Development Department is extracted below.

PRE-MATRIC (OEC)		
YEAR	TOTAL EXPENSE (Rs. in crore)	No. OF STUDENTS
2007-2008	3.56	130005
2008-2009	4.63	137293
2009-2012	4.80	101730
2010-2011	4.96	126364
2011-2012	5.02	161869
STATUS REPORT DURING THE FINANCIAL YEAR 2009-2012 POST-MATRIC (OEC)		
YEAR	TOTAL EXPENSE (Rs. in crore)	No. OF STUDENTS
2009-2010	30.54	35905
2010-2011	39.68	41329
2011-2012	48.02	42845

(Vide Letter No. Edu. B2/26237/2012 dated 06.11.2012
from the Director, SCDD).

(Annexure-IX)

3.38 The Scheduled Castes Development Department, which is sanctioning and disbursing Pre metric Scholarship to OBC/OEC students has furnished the Caste-wise and district wise details of students for the following periods.

- i) 2009-2010
- ii) 2010-2011
- iii) 2011-2012

The abstract of the statement is given in (Annexure-X)

3.39 From the above data it is seen that during the period from 2007-08 to 2011-12, there has been steady increase in the number of students except during the period 2009-10. Similarly, the expenditure for the last three years shows steady increase. In the first year it was Rs. 30.54 Crore and in 2010-11 it was 39.68 Crore and in 2011-12 it was Rs.48.02 Crore. Number of students also has increased substantially. At present, there are 26 castes /communities included in OEC list. (It may be 20 if duplication is reduced –see para 3.11) another 16 castes /communities are added to the list it can reasonably be estimated that the expenditure will be many fold. Exact details could not be worked out in the absence of student population figures of 18 communities covered under MBCF. The commission expected that the population figures will be available from the Socio- Economic –Caste- Census 2012 now being conducted by the Government of India. But the Rural Development Department, which is the nodal agency for the conduct of the above Census in Kerala has informed that they are unable to furnish the data because the census data being collected are directly transferred to the computer server of the Registrar General of Census, Government of India and hence the same cannot be given to any other agency (Lr.No:8841/SECC/12/CRD dated 14.12.2012 from the Commissioner, Rural Development Department). (Annexure-XI)

An attempt has made to compile the data from the 1931 Census of India, to ascertain the population of different ‘OBCs’ in the State. The Census report do contain details of several castes and communities but sub caste wise figures, either are difficult to cull out or not available in some cases. It is true that the Mandal Commission has relied on 1931 Census report for their report on Other Backward Communities. But in the present context reliance of the figures in 1931 Census report does not appear to be practical or advisable. The reason for this difficulty is that the figures in the 1931 census are not updated subsequently in any of the census that followed. Let us see what the Hon’ble Supreme Court held in Mandal case when the Mandal Commission relied on the census data of 1931 for their study-

“The Mandal Commission has estimated the population of other backward classes in the country in the country as 52%. To say the least, the exercise to reach the figure of 52% is wholly imaginary.

It is in the realm of conjecture. The conclusion arrived at in Para 12.22 of the Mandal Report to the effect that backward classes constitute nearly 52% of the Indian population is based on 1931 census. It is wholly arbitrary to count the population of backward classes in the country on the basis of census which took place fifty years before the report was submitted. In order to reach the conclusion of 52% Mandal has added up the population of Scheduled Castes, Scheduled Tribes, non-Hindu communities (Muslims, Christians, Sikhs, Buddhists, Jats, Vashya-Baniya etc. Kayastha, other forward Hindu Castes/groups) which make 56.30% of the total population. Mandal has assumed that the residual population of 43.70% (100 minus 56.30% equivalent to 43.70%) consists of backward classes. It is difficult to imagine how anybody can accept such an illusory and wholly arbitrary calculations. It is pity that half of the country is being deprived of their fundamental right under Article 16(1) on the basis of the census exhumed from a sixty year old grave and the calculations which are unknown to logic and fair-play. Mandal further assumed, erroneously, that relative population growth of various communities at the time of Mandal Report was the same as at the time of 1931 census. It is absurd to think that there was no change in their population growth during the long period of 50 years. It is pertinent to observe that India of 1931 comprised of present India, Pakistan, Bangladesh, Burma and Sri Lanka and as such it would be wholly erroneous to relate the Castes-based population situation of 1931 to that of 1980".

(para 622.viii, page 722,AIR 1993 SC 477)

3.40 The communities/castes under MBCF have given population figures of their respective communities based on their own estimation. All the communities have given the population of their communities. Their estimation is 82,89,000.

(Annexure-XII).

3.41 In the light of the data furnished by the associations cross verification was necessary. A Survey was conducted in 1968 by the Economics and Statistics Department for the use of Nettur commission

who was directed to study the factors leading to backwardness, basis for classifying people into backward and non-backward etc. That Department was requested to make available the data. They have furnished the following information:

എം.ബി.സി.എഫ്-ൽ ഉൾപ്പെട്ട ജാതി/ഉപജാതികൾ

ജാതി		ആകെ എണ്ണം	
1	വാണിക വൈശ്യ	-	ലഭ്യമല്ല
	വൈശ്യ	-	1217
2	ഉദിയൻകുളങ്ങര ചെട്ടി	-	ലഭ്യമല്ല.
3	ഏലൂർ ചെട്ടി	-	ലഭ്യമല്ല.
4	വയനാടൻ ചെട്ടി	-	ലഭ്യമല്ല
5	വാണിയ ചെട്ടി	-	ലഭ്യമല്ല.
6	ചെട്ടി	-	ലഭ്യമല്ല.
7	തെലുങ്ക് ചെട്ടി	-	ലഭ്യമല്ല.
8	വാണി/വാണിക	-	ലഭ്യമല്ല.
9	യാദവ	-	ലഭ്യമല്ല.
10	പത്മശാലിയ	-	ലഭ്യമല്ല.
	ശാലിയ	-	ലഭ്യമല്ല.
11	ഗണക	-	ലഭ്യമല്ല.
12	റെഡ്യാർ	-	2769
13	വെളുത്തേടത്ത് നായർ	-	43144
14	വിളക്കിത്തല നായർ	-	72183
15	ഇഴുവാത്തി	-	32927
16	വിൽക്കുറുപ്പ്	-	ലഭ്യമല്ല.
17	ചക്കാല നായർ	-	ലഭ്യമല്ല.
	ചക്കാല (ചക്കാലൻ)		146747
18	പണ്ഡിതർ	-	ലഭ്യമല്ല.

(Vide letter no: PB(3) 40723/2012/DES dated, 02.02.2013)

(Annexure -XIII)

3.42 The data furnished is incomplete. The available figures pertain to 44 years before. It will not serve meaningfull purpose. The population figures of the 18 communities are not officially available. The figures furnished by them will be more than the actual number.

3.43 The total population of Kerala as per Census 2011 is 3.33 crore. During 2012-2013 year there were 39,86,138 students in std I to X. The student's population during 2012 was the following:

Std I-X	-	39,86,188
Higher Secondary	-	3,29,674
VHSE	-	26,702
BA, BSc, B Com	-	52,525
MA	-	2,951
MSc	-	3,322
M.Com	-	980
Total		44,02,342

(Source: Economic Survey-2012)

The MBCF have repeatedly argued that the educational progress of their community is very poor. Their children do not get admission to educational institutions especially in professional educational institutions. In order to assess the student population of communities under MBCF all the Universities in Kerala were addressed. The replies from the Universities show not a bad picture. See the details below:-

No. of OBC students who are studying in Post Graduate/ Under Graduate Courses during 2011-12 list.

Sl. No	Name of University	Years	Level	No. of OBC students	Remarks
01	Gandhi University	2011-12	U.G	18489	

	(Detailed list attached)		P.G	2356	
02	University of Calicut (UGC Special Cell) (Detailed list attached)	2011-12	U.G P.G	27 11	
03	Kerala Agricultural University. College of Co-operation Banking & Management	2011-12	BSc (C&B) Hon MSc (C&B) MBA	15 4 20	
04	Kerala Agricultural University, Agricultural College, Padannekkadu	2011-12	BSc (Agri)	4	
05	Kerala Agricultural University, Agricultural College, Vellayani	2011-12	BSc (Agri) UG ,, PG ,, Phd ,, Biotech integrated (5 year course)	13 2 3 4	
06	Cochin University of Science & Technology (Detailed list attached)	2011-12	MSc MCA M-Tech MA MBA LLB LLM B-Tech M.Phil	20 13 7 2 11 1 2 4 1	(Vaniya) (Pandithar) (Vilakkithal a Nair + Pandithar) (Ganaka)
07	Kerala University	2011-12	U.G.C (Three years) PG.C (Two Years)	14911 1599	

**Subcaste wise Statistics of Students Admitted to UG &PG courses in
Arts & Science Colleges in M.G University.**

Sl.No	Subcaste	No. of Students admitted during 2012- 13	
		UG	PG

1	Vanika Vysya Chetty	-	-
2	Udiyan Kulangar Chetty	-	-
3	Elur Chetty	-	-
4	Wyanadan Chetty	-	-
5	Vaniya Chetty	-	-
6	Chetty	-	
7	Sadhu Chetty including Telugu Chetty or 24 Manai Telugu Chetty and Wynadan Chetty	8	2
8	Vaniya including Vanika, Vanika Vaisya, Vaisya Chetty , Vanibha Chetty Ganika including Nagavamsom	87 20	22 2
9	Yadava including Kolaya, Ayar, Mayar, Maniyani Eruman, Golla and Kolaries	4	5
10	Padmasaliya-Saliyas	11	12
11	Ganaka	44	11
12	Reddiyar	-	-
13	Veluthedath Nair	69	17
14	Vilakkithala Nair	149	26
15	Ezhavathi	24	6
16	Vilkurup, Thattan, Pandithattan, Thachan, Asari,Villasan,Viswbrahmana	24	1
17	Chakkala Nair	6	1
18	Pandithar	-	2

Students Admitted to UG &PG courses in M.G University.

Sl.No	Name of Department	No. of Students	
		UG	PG
1	Arabic	Nil	Nil
2	Biotechnology	Nil	1 (Ezhava)
3	Botany	Nil	Nil

6	Pattarya	2	2							
7	Saliya	8	4	3		1			2	
8	Telungu Chettitar					1				
9	Vaisya		1							
10	Vanika Vysya					2				
11	Vaniya	3	3	1	2	1				
12	Vayanad Chetty	1								
13	Veluthedathu Nair					1				
14	Vilakkithala Nair	3	1	2		1		1	1	
15	Vilkurup	1	1							
16	Yadava		1							
Total		20	13	7	2	11	1	2	4	1

Students belonging to Most Backward Communities Federation (MBCF) studying in Aided programmes run by the University:

- (Ref: 1. Lr. No.15874/Acd B2/2012 dated, 12.02.2013.
from the Registrar, Sree Sankaracharya University of Sanskrit, Kalady, Ernakulam
2. Lr.No. DLIS/MLISc/55/2012 dated, 19.02.2013.
from the Associate Professor and Head, Department of Library and Information Science,
University of Calicut
3. Lr.No USU/108/OBC data/2013 dated, 26.02.2013
from the Registrar, Mahatma Gandhi University, Priyadarsini Hills P.O , Kottayam
4. Lr.No. Acad.Ag(1)/2165/13 dated, 06.03.2013.
from the Administrative Officer, Kerala Agricultural University, Vellayani, Thiruvananthapuram.
5. Lr.No.CBM/Acad(1)/299/2013 dated 08.03.2013.
from the Kerala Agricultural University, College of Co-operation banking and management,
Vellanikkara, Trissur
6. Lr.No USU/108/OBC data/2013 dated 15.03.2013.
from the Registrar, Mahatma Gandhi University, Priyadarsini Hills. P.O Kottayam
7. Lr. No. 7693/UGC-SPL-ASST-2/2013/CU dated 23.03.2012
from the Registrar, University of Calicut, Calicut University P O
8. Lr. No. Nil dated 27.03.2013
from the Registrar in Charge, University of Kerala, Thiruvananthapuram-34
9. Lr. No. PL.(Stat)Misc.Data/2012 dated, 02.04.2013,
from the Registrar, Cochin University of Science and Technology, Cochin-22)

A good number of students belonging to OBCs including those under MBCF are studying in various courses. Their number also is in a satisfactory level. Yet much more is required. Various expert committees and commissions have highlighted the importance of education. Some of such recommendations are quoted in this report

also. This is mentioned here just to show that the progresses and development of any community depends on the level at which the community reaches at the educational sphere.

The discussion on the first point can be ended with the observation that estimation of additional financial commitment need be made only when the communities under MBCF are qualified to be included in the category of 'Other Eligible Communities'. We have seen that as per law this is not possible. Consequently, estimation of additional financial commitment is not attempted.

4.1 The next point for consideration is whether there would be any loss/difficulty to the communities, which are now enjoying the benefits in OEC category if Communities/Castes in MBCF are brought in the list of OEC. At present, there are 12 Communities under Category A and 14 Communities under Category B in the OEC list. (Subject to the correction in para 3.11)

4.2 OEC list came into existence as per the decision of the Government to extend educational concessions and benefits to the students of certain Communities/Castes who are living under the same conditions as that of SC/ST. They are also intended to be recommended for inclusion in the list of SC/ST. Pending inclusion of these Communities/Castes in SC/ST category the concessions and benefits are allowed. The crucial question is whether the communities now enjoying the concessions/benefits will be adversely affected if the communities included in the MBCF are included in the category of "Other Eligible Communities". Certain Organisations representing OECs were contacted and their oral/written statements obtained. The KRITADS also was consulted. The organizations are the following-

- (1) Kerala Manpathra Nirmana Sabha (representing castes who are makers of pottery.) represented by Shri. V.Subash Bose, President.

(2) Akhila Kerala Dheevara Sabha (representing fishermen community.) represented by Shri. V Dinakaran, Ex. MLA, General Secretary.

(3) Council of Dalit Christians (Kerala) (representing people belonging to Dalit communities converted to Christianity.) represented by Sri. V.J George, General Convener.

4.3 Although an intensive effort was taken to obtain the views of some organisations of OECs enjoying the benefits allowed to the ST Communities, they were not ready to give any comments in writing. However, it is inferred that the oral /written statements already received will serve as an expression of the general view in the matter. The statements are examined below-

a. **KIRTADS**

The Director, KIRTADS has informed as follows:

എം.ബി.സി.എഫിൽ ഉൾപ്പെടുന്ന സമുദായങ്ങൾക്ക്, നിലവിൽ ഒ. ഇ.സി ലിസ്റ്റിൽ ഉൾപ്പെട്ടവർക്ക് നൽകുന്ന ആനുകൂല്യങ്ങൾ നൽകുമ്പോൾ, ഇപ്പോൾ പ്രസ്തുത ആനുകൂല്യം അനുഭവിക്കുന്ന സമുദായങ്ങൾക്ക് അനുപാതികമായ നഷ്ടവും ബുദ്ധിമുട്ടുകളും ഉണ്ടാകും.

(Annexure-XIV)

b. **Kerala Manpathra Nirmana Samudaya Sabha**

The above Sabha is the Organisation of different sub castes of Velan, the Pottary makers, namely, Velan, Odan, Kumbaran, Kulalan, Kusavan, Andhra Nair, Anthuru Nair etc. According to its President, the living conditions of this community are even below of that of SC. They are not opposed to extend OEC benefits to others provided, Government assure that the existing benefits are not lost/forefeited.

In this connection, he has complained that the OEC benefits are not being distributed at the appropriate time due to the shortage of funds. He has therefore requested that more funds may be earmarked in proportion to the proposed addition to the OEC list.

c. Akhila Kerala Dheevera Sabha

Dheevera Community and its 10 sub- Castes were included in OEC on 13.03.1984 after considering the detailed study report of KIRTADS. In respect of the Communities/Castes under MBCF, no such study is seen to have been made. He has reminded that, inclusion of communities in OEC is the first step for their inclusion in SC/ST list and hence the study report of the KIRTADS has the authenticity.

Dheevera Community and its 10 sub-castes were proposed to be included in the SC list by the Cabinet on 09.10.1986 and the same was forwarded to the Government of India on 14.10.1986. However, the caretaker ministry, which held its meeting on 14.06.1991, has decided to cancel that recommendation. They have stated that inclusion of the MBCF communities in OEC may be done after ensuring the inclusion of Dheevera community and its 10 sub castes and the other six communities in SC list. If the above conditions are satisfied, Deevera Sabha has no objection in including the communities under MBCF in the OEC list.

d. Council of Dalit Christians (Kerala)

The above organisation has strongly opposed the demand for inclusion of communities in OEC. Following are the reasons adduced by them. OEC means they are eligible to be treated as SC. The communities mentioned here had never subjected to untouchability or experienced backwardness due to untouchability or experienced backwardness either in social, educational or economic fronts. Since the communities under MBCF were never victims of untouchability they had never subjected to social, educational and economic backwardness, they are not eligible to be treated as OEC. These communities and their sub castes lived mingling with the forward communities and they have no backwardness either in economic or social sector.

All the above arguments have been examined. The picture emerges as follows:

- i) OEC is a provisional SC/ST community. Their living

- conditions are almost similar to that of SC/ST.
- ii) Till they are officially/legally included in the list of SC/ST, they are eligible for all concessions and benefits extended to SC/ST.
 - iii) OEC categorization is for extending educational concessions and benefits.

Kerala Manpathra Nirmana Sabha is not opposed to the inclusion of the communities in MBCF if the existing benefits are not lost or forfeited.

Akhila Kerala Dheevara Sabha does not have any objection in the inclusion of the castes/Communities in MBCF provided the Dheevara Community and its 10 sub castes (who were proposed and recommended to the Government of India in 1986 by the State cabinet for inclusion in the list of SC, but subsequently cancelled the caretaker Ministry in 1991) plus six communities recommended for inclusion in the SC list, are included by the Central Government.

Council of Dalit Christians (Kerala) oppose the proposal because-

- a) The Communities under MBCF never experienced untouchability and related backwardness and they were not victims of untouchability. Instead, they lived mingling with forward castes.
- b) Business, agriculture, industries etc were the areas of their occupation.
- c) The Dalit Christians will have to face stiff competition from them.
- d) The proposed move to include more communities is without proportionately increasing the quota of reservation. It will adversely affect the existing beneficiaries.

4.4 On going through the remarks/response of the above organizations, it can be seen that three different views are aired. The first one is that there is no objection provided the existing benefits are not lost/forfeited. The views of Dheevara Community are more rigid. They have no objection provided Government

ensure their community and its 10 sub castes together with six other communities recommended for inclusion in the list of SC list are included in that list. The stand taken by the Council of Dalit Christians (Kerala) is clear and firm. They oppose the proposal tooth and nail.

4.5 Assessing all the aspects of the issue, the following position can be taken. The castes/communities in MBCF are not victims of untouchability and its adverse impacts, socially, economically or educationally. OEC are treated provisionally as SC/ST pending formal inclusion by the Parliament in the list of SC/ST. They cannot be equated with SC/ST. The quota of reservation for SC/ST is only 10% for employment and 20% for education. If all the communities in MBCF are inducted in OEC list without corresponding increase in reservation quota the communities already in the list will face stiff competition from the new entrants who are socially, educationally and economically more advanced. Besides, in the matter of availing of vacant seats in educational institutions more claimants will compete for admission. At present, the seats unavailed by SC/ST will be distributed to OEC candidates applying for such seats. Naturally, the highest ranked students will get it. The scare of a section of the present OEC people is that the proposed new entrants will be in a better position than them.

4.6 Based on different views expressed by the present beneficiaries and the report of KIRTADS the issue is examined in detail. The OEC category came into existence when government decided that pending inclusion of certain Castes/Communities in the list of SC or ST, the benefits and concessions as allowed to SC/ST are allowed on the plea that such communities are backward in all respects requiring special treatment for their development. Government has further clarified in G.O (Rt) 1072 dated 26.06.1961 that OEC is a provisional SC/ST community.

4.7 From the above it is clear that communities in OEC category are declared provisionally as SC or ST. A community, caste, or race can be included in the list of SC or ST only by an Act of the Parliament. Proposals for inclusion for SC or ST can be made only after detailed

anthropological studies. The Director, KIRTADS in her report No.245/13 dated 12.02.2013 clarified as follows:-

1965 വർഷത്തിൽ കേന്ദ്രസർക്കാർ നിയമിച്ച ശ്രീ. ബി.എൻ ലോക്കുർ കമ്മീഷൻ, ഒരു സമുദായത്തെ പട്ടിക ജാതി ലിസ്റ്റിൽ ഉൾപ്പെടുത്തുന്നതിന് നിശ്ചയിച്ചിട്ടുള്ള മാനദണ്ഡം പ്രസ്തുത സമുദായം അയിത്താചരണത്തിന്റെ ഭാഗമായി അനുഭവിച്ച തീവ്രമായ തൊട്ടുകൂടായ്മയുടെ പരിണിതഫലമായ സാമൂഹിക സാമ്പത്തിക വിദ്യാഭ്യാസ പിന്നോക്കാവസ്ഥയാണ് അടിസ്ഥാനമാക്കിയിരിക്കുന്നത്. അതു പോലെ തന്നെ ഒരു സമുദായത്തെ പട്ടിക വർഗ്ഗ ലിസ്റ്റിൽ ഉൾപ്പെടുത്തുന്നതിനുള്ള മാനദണ്ഡങ്ങളായി നിശ്ചയിച്ചിരിക്കുന്നത് ആ സമുദായത്തിന്റെ പ്രാക്തനസ്വഭാവം, പ്രത്യേക സംസ്കാരം, പൊതു സമൂഹവുമായി ഇടപഴകുന്നതിനുള്ള വൈമനസ്യം, ഭൂമിശാസ്ത്രപരമായ ഒട്ടപ്പടൽ സാമൂഹ്യ സാമ്പത്തിക പിന്നോക്കാവസ്ഥ എന്നിവയാണ് മേൽ സൂചിപ്പിച്ച മാനദണ്ഡങ്ങൾ ഉള്ള സമുദായങ്ങളെ പട്ടികജാതി പട്ടികവർഗ്ഗ ലിസ്റ്റിൽ ഉൾപ്പെടുത്തുവാൻ ശുപാർശ ചെയ്യപ്പെടുകയും ആയത് പാർലമെന്റ് ഭരണഘടനാ ഭേദഗതി ചെയ്ത് ബഹുമാനപ്പെട്ട ഇന്ത്യൻ പ്രസിഡന്റ് അംഗീകരിച്ച് പ്രഖ്യാപിക്കുന്നതുവരെയുള്ള കാലയളവിൽ അപ്രകാരം ശുപാർശ ചെയ്യപ്പെട്ട സമുദായങ്ങൾക്ക് നിലവിൽ പട്ടികജാതി പട്ടികവർഗ്ഗ സമുദായങ്ങൾ അനുഭവിച്ചു വരുന്ന വിദ്യാഭ്യാസത്തിനുവേണ്ടിയുള്ള സാമ്പത്തിക ആനുകൂല്യങ്ങൾ നൽകുന്നതിനു വേണ്ടിയാണ് കേരള സർക്കാർ മറ്റു അനർഹ സമുദായ ലിസ്റ്റ് (ഒ.ഇ.സി) പ്രാബല്യത്തിൽ കൊണ്ടു വന്നത്.

4.8 The above clarification is sufficient to understand that inclusion of a caste, community or race can be considered only after considering various parameters mentioned above. Inclusion of a caste, community or race in OEC category is a provisional admittance in the list of SC or ST. In the above background, point No.2 acquires special significance. At present certain castes or

communities are included in the list of OEC, which are included as category A and category B. Category A is the list of OEC are eligible for educational concessions allowed to Scheduled Castes. Category B consists of communities eligible for educational concession allowed to ST. As per Scheduled Communities Development Guide issued by the SC/ ST Development Department of Government, category A consists of 12 communities and category B consists of 14 communities. (On scrutiny of the said list, it is found that category A consists of serial number 3 'Pulluvan' and serial number 7 'Chemman/Chemmar'. These two Communities are included in the list of Scheduled Castes appearing in the same Development Guide. Similarly, of the 14 Castes in Category 'B' serial number 3 'Malavettuan', serial number 7 'Thachanadan Moopan', serial number 18 'Wayanadan Kadar, and serial number 12 'Malapanikkar' have already been included in the list of Scheduled Tribe as per the Scheduled Castes and Scheduled Tribes (Amendment) Act 2002 (Act 10 of 2003). Thus under category A, there are only 10 communities and in category B, there are only 10 communities. Therefore, the effective strength of OEC is 20.

4.9 The expenditure towards educational concession is from the allocation of SC and ST Departments. During 2011-2012 for pre metric studies of OEC students Rs. 5.02 Crore was spent for 1,61,869 students. In post-metric sector for 42,845 students, the total expense was Rs. 48.02 crore. The above expense of more than Rs.53 Crore is to 20 communities in the OEC list. If another 18 communities, which are more populous than the present OECs, are brought in OEC, list the number of students additionally joining the category for pre- metric and post- metric studies will be heavy. This will have adverse impact on the overall allocation for SC and ST Development Departments. If more and more students are added to OEC without corresponding increase in the allocations the net result will be inadequacy of funds to extend educational concession to all eligible students. Even now, some of the communities in OEC complain that there is delay in sanctioning the benefits. If all the above factors are considered, it is clear that including more communities in the OEC list will have adverse effect in more than one count.

- (1) More beneficiaries mean more budgetary allocation
- (2) In case of inadequate allocation timely disbursement of Financial assistance may not happen which will lead to wide spread complaints and dissatisfaction.
- (3) The State funds are scarce and many fold increase in allocation to the Departments may not be possible.

4.10 Thus, the position is clear. As a matter of routine, the position of castes cannot be altered. No new caste/community can be included in the category of OEC. OEC benefits and concessions cannot be given to any caste/community without including them to the category of OEC. Hence, answer to the point No.2 (MBCF -ൽ ഉൾപ്പെടുന്ന സമുദായങ്ങൾക്കും ഒ.ഇ.സി. ലിസ്റ്റിൽ ഉൾപ്പെട്ട സമുദായങ്ങൾക്ക് നൽകുന്ന ആനുകൂല്യങ്ങൾ നൽകുമ്പോൾ ഇപ്പോൾ പ്രസ്തുത ആനുകൂല്യം ലഭിച്ചുകൊണ്ടിരിക്കുന്ന സമുദായങ്ങൾക്ക് എന്തെങ്കിലും നഷ്ടം/ബുദ്ധിമുട്ട് ഉണ്ടാകുമോ എന്നുള്ള കാര്യം പരിശോധിക്കണം.) is that there will definitely be loss/difficulty to the communities now under the category of OEC.

5.1 The third point for examination is given below:

“സർക്കാർ ഉത്തരവ് പി നമ്പർ 81/09/പ.ജ.പ.വ.വി.വ (26.09.2009) പ്രകാരം ചില സമുദായങ്ങളെ ക്രീമിലെയറിൽ നിന്നും ഒഴിവാക്കിയതു പോലെ എം.ബി.സി.എഫിൽ ഉൾപ്പെട്ട സമുദായങ്ങളെ ക്രീമിലെയറിൽ നിന്നും ഒഴിവാക്കുന്നതുകൊണ്ട് മറ്റ് സമുദായങ്ങൾക്ക് ഉണ്ടായേക്കാവുന്ന പ്രശ്നങ്ങൾ പരിശോധിക്കണം”

5.2 The MBCF has demanded that the Castes/Communities included in their organisation should be excluded from the operation of Creamy-Layer. Creamy layer means the affluent section of the society who is on par with the forward community. The creamy layer is rich and the non-creamy layer is poor. The subject ‘creamy layer’ was the core issue in the famous case entitled ‘Indra Sawhney V Union of India’ (known as Mandal case). In that case the Supreme Court has held that even among Other Backward Communities there are economically well off -people who are not entitled for reservation in appointments. The court has left the decision to find out the creamy layer to the State

Governments or the Commissions they appoint for the purpose. The State Governments and the Union Territories were directed to do the above exercise within the time limit fixed by the Court. Creamy-Layer is to exclude those persons who are not eligible for reservation in employment and education purposes from among Other Backward Communities.

5.3 The historical background of the introduction of Creamy-Layer in the country is that based on the Mandal Commission Report the V.P.Singh Government introduced 27% reservation in employment in Government Service for Backward Classes of citizens by Official Memorandum, dated 13.08.1990. This led to wide spread agitations especially in North India by the anti-reservation sections of the population and V.P. Singh Government had to resign. After the general elections, the new Government issued Official Memorandum, dated 25.09.1991, modifying the earlier Official Memorandum. The reservation of Backward Classes citizens has been challenged before the Supreme Court of India. The Court in its judgment (in 1999) held that Creamy-Layer among the backward classes of citizens must be excluded by fixation to proper income, property or status criteria. In the judgment, the Supreme Court had made it clear that the State Governments are also to take steps for exclusion of the Creamy-Layer among the Backward Classes from the benefits of reservation under Article 16(4) for appointment in the State Government Services. The Central Government appointed a commission for this purpose- Justice Ram Nandan Prasad, former Judge of Patna High Court (Vide Resolution No. 12011/16/93-BOC (C) dated 22.02.1993). However, the State Government did not take action as directed by the Supreme Court.

5.4 Later, when the State Government had to face Contempt of Court proceedings against the Chief Secretary they were compelled to pass "The Kerala State Backward Classes" (Reservation of Appointments of posts in the services under the State) Act 16 of 1995 declaring that having regard to known facts in existence in the State of Kerala there are no socially advanced sections in any Backward Classes who have acquired capacity to compete with forward classes, that the Backward Classes in the State were not adequately represented in the services

under the State and they would continue to be entitled for reservation under clause (4) of Article 16 of the Constitution.

5.5 The Nair Service Society challenged the above Act in the Supreme Court. Thereafter, the Supreme Court requested the Chief Justice, High Court of Kerala, to appoint a retired Judge of the High Court to be the Chairman of a High Level Committee to gather necessary information regarding Creamy-Layer and forward its report to the Supreme Court within 3 months. Accordingly, Justice K.J. Joseph Committee was appointed and it submitted its report on 27.05.1997 to the Supreme Court. The Supreme Court finally disposed of the writ petition on the subjects by its common judgment dated 13.12.1999 (Indra Sawhney v. Union of India 1999 (AIR 1993 Supreme Court 477)). In the said judgment the Supreme Court held that the provisions of sections 3,4 and 6 of the Kerala Act 16 of 1995 are unconstitutional. The Supreme Court also held that the guidelines and criteria for determination of Creamy Layer fixed by Justice Joseph Committee are reasonable as far as the State of Kerala is concerned. Thereupon the Supreme Court directed the exclusion of the Creamy-Layer as stated in Justice Joseph Committee report applicable from 13.12.1999, the date of the Judgment. The said judgment also permitted the State of Kerala to make such provision as it may deem fit for exclusion of Creamy-Layer among the Backward Classes in accordance with law and in a manner consistent with the Constitution and the Judgment in Mandal Case and in Ashok Kumar Takkur and in accordance with the principles laid down in the Judgment rendered.

5.6 After the Judgment dated 13/12/1999 of the Supreme Court the State Government as per GO (MS) No 4/2000/SC/ST DD dated 13.01.2000 appointed Rtd Justice Shri K.K Narendran as One Man Commission to suggest maximum benefits to candidates belonging to Other Backward Classes, within the limits laid down by the Supreme Court in its Judgment.

5.7 Justice K.K Narendran submitted his report to the Government on 11.04.2000. The summary of the relevant recommendations of the Commission is as below.

1.Term(b) of the terms of reference

Only persons of a backward class traditionally engaged in the hereditary occupation of that Backward Class will be excluded from Creamy-Layer. There will not be any unblock exclusion of any backward class on the basis of the hereditary occupation of that backward class.

1. Terms of reference (a) & (c) of the terms of reference:-

The gross annual income for exclusion of backward classes as Creamy-Layer is fixed as Rs. 3 lakhs or above. The Scheme of Criteria for exclusion as Creamy-Layer is that under categories I, II,III, and VA, the exclusion is on the basis of status and not in terms of gross annual income. In the case of a category for which the gross annual income as mentioned in category VI is the criterion income from salary or income from agricultural holdings should not be taken into account.

On the ground of social backwardness, persons traditionally engaged in the hereditary occupation of all backward classes are excluded from Creamy Layer.

On the ground of educational backwardness, all backward classes who have not successfully completed Lower Primary education are excluded from Creamy Layer.

Recruitments to all posts where the salary is paid from the consolidated fund of the State will be governed by the principles of reservation for backward classes.

5.8 Government have issued orders on the recommendation of the Narendran Commission as per GO (P)No.34/2000/SC ST DD dated

27.05.2000. The guidelines to identify the Creamy Layer among the Backward Classes in Kerala, as suggested by the Commission, with certain modifications have been issued. The modifications were the following-

- (a) The guidelines for the identification of the Creamy Layer will apply only to posts in Government services, Public Sector Undertakings and other institutions to which the principles of reservation apply.*
- (b) These guidelines will apply to all posts the selection for which has not been completed.*
- (c) There will be no restriction, as proposed by the Commission, that for exclusion from the creamy layer, member of Backward Classes with hereditary occupations like blacksmiths, goldsmiths, etc....should be actually engaged in such occupations.*

5.9 The modified guidelines in Annexure I to GO(P)No 34/2000/SC STDD dated 27/05/2000 are as follows:-

- 1. These guidelines are called the guidelines to identify the Creamy Layer among the Other Backward Classes in the State of Kerala*
- 2. These guidelines shall come into force from a date to be notified by the State Government in the Kerala Gazette. It will be published in the Kerala Gazette immediately for the information of the public.*
- 3. These guidelines will not apply to vacancies for which selection has already been made by the Kerala Public Service Commission.*
- 4. The list of 78 Castes/communities including sub-Castes notified by the State Government as Other Backward Classes in the State of Kerala is appended to these guidelines as Annexure-A*
- 5. The 40 percent of the vacancies of civil posts and service under the Government of Kerala and its Institutions and Organisations is to be filled up by direct recruitment for the Other Backward Classes notified in Annexure-A*

- 6. Candidates from the Other Backward Classes recruited on the basis of merit in open competition shall not be adjusted against the percent reservation quota. If any of the rules in the Kerala State and Subordinate Service Rules 1958 stand in the way, necessary amendment will be made forthwith. The 40% reservation shall not apply to persons/sections mentioned in the column 3 of the scheduled attached to these guidelines.**
- 7. The rule of exclusion made mention in the schedule attached to these guidelines will not apply to persons working as artisans or engaged in hereditary occupations, calling and included in Annexure-B appended herewith and person/group of persons coming within the definition of the expression "Fishermen Community" in Annexure-C appended to these guidelines.**
- 8. The rule of exclusion contained in the Schedule will not apply:-**
 - (i) To persons in a Backward Classes who are traditionally engaged in the hereditary occupations of that Backward Class.**
 - (ii) Persons belonging to all Backward Classes who are illiterate (not passed 4th Standard)**
- 9. A certificate to the effect that the applicant does not belong to the Creamy Layer in the light of the guidelines and the schedule for identification of Creamy Layer attached Annexure-II. This certificate need only be produced before the Public Service Commission at the time of preparation of the Short list/Rank List as the case may be.**

5.10 The State Government order contained the list of communities excluded from the operation of Creamy Layer. They are the following.

1. Arya
2. Arayavathi
3. Mukkuvan
4. Mukaya
5. Mogaveera
6. Valan

7. Bovis
8. Valinjar
9. Paniakel
10. Nulayan
11. Latin Catholic Mukkuva
12. Latin Catholic Anjutikar
13. Distinct sections of Muslim Community who are traditionally engaged in fishing operations, as certified by the competent authority.

5.11 The Nair Service Society filed WP(C) 598/2000 in Supreme Court against the order in GO(P) No.34/2000/SC STDD dated 27/05/2000. The Hon'ble Court as per judgment dated 23/02/2007 in WP (C)No 598/2000 has set aside the report of Justice Narendran Commission on Creamy Layer among OBCs with direction to the State Government of appoint a fresh commission who should go into all the aspects on the Creamy Layer and submit their report. The State Government there upon appointed Shri Justice R Rajendrababu (Rtd) as Chairman of the Commission for suggesting Criteria for identifying the Creamy Layer among OBCs. The terms of reference to the commission were the following:-

(a) What should be the Criteria to be adopted for identifying the Creamy Layer among Backward Classes in tune with the observations in the judgment dated 23.02.2007 of the Supreme Court and whether in making such identification, the classes should be equated with other socially and economically forward classes.

(b) What should be the criteria to be adopted for identifying persons of Backward Classes with hereditary occupation who are actually engaged in such occupation.

(c) What are the factors to be considered and what not to be in fixing the income limit so as to make the manner of fixation scientific.

(d) --- Etc.

12 The said Commission has submitted its report on 30.06.2009. Its findings were the following-

“ Terms of reference 1&3:- Social and educational factors are the main criteria for identification of Creamy Layer among OBCs and economic advancement or affluence is a natural consequence of social advancement and the above social advancement should be such as to put that persons at par with the forward classes and then only be placed in the Creamy Layer.

The economic growth of the country, change in the money value cost of living index, the increase in the per capita national and State income, consumer price index etc. are some of the main criteria for fixing the income limit for exclusion of Creamy Layer for OBCs under the Income/Wealth Test. The commission suggests the Government to fix the annual income under category VI (Income/Wealth Criteria) at Rs. 4.5 lakhs. Considering the scheme of classification of persons in six categories, while determining the Creamy Layer status of a person on the basis of the income, the income from the salaries or agricultural land shall not be taken into account and hence the explanation “ the income from salaries or Agricultural land shall not be clubbed” should be there in the criteria.

Terms of Reference 2: There are still certain minor communities (minor in population) among OBCs, very backward, socially and educationally, a vast majority of whom are even now engaged in the traditional hereditary occupations and such communities need be exempted from the application of Creamy Layer. The exemption from the application of Creamy Layer

granted to the hereditary occupation/calling and the Castes of fishermen community as per Annexure B &c in GO (P) No. 36/2000/SC ST DD date 27.07.2000 can be continued and any change in the above system need be made only on the basis of the report of the Socio economic survey. The identification of the backward communities on the basis of the hereditary occupation has to be on the basis of their hereditary community.

5.13 Government accepted the recommendations of Justice Rajendrababu commission and ordered as follows:-

- (i) Rs. 4.5 lakhs is fixed as annual income for determining the Creamy Layer among the OBCs*
- (ii) The guidelines and the criteria to be adopted for identifying the Creamy Layer made by Justice Rajendra Babu Commission are accepted and shall be observed.*
- (iii) The existing system of exempting the hereditary occupation/calling and the sub Castes of fishermen community as per Annexure B&C in G.O (P) No 36/00 SCSTDD dated 27.05.2000 from the application of Creamy Layer shall be continued”.*

**HEREDITARY OCCUPATIONS/CALLING IN KERALA
EXCLUDED FROM THE CREAMY LAYER**

1. Blacksmith
2. Mason
3. Carpenter
4. Goldsmith
5. Pottery Maker
6. Cobbler
7. Copper & Bronze Smith
8. Kudumbi

**SUB CASTES OF FISHERMEN COMMUNITY EXCLUDED
FORM THE CREAMY LAYER**

1. Arya

2. Arayavathi
3. Mukkuvan
4. Mukaya
5. Mogaveera
6. Valan
7. Bovis
8. Valinjir
9. Paniakel
10. Nulayan
11. Latin Cathilic Mukkuva
12. Latin Catholic Anjutikar
13. Distinct sections of Muslim community who are traditionally engaged in fishing operations, as certified by the competent authority.

(G.O(P)No. 81/09/SCSTDD dated 26.09.2009.)

5.14 It can be seen that creamy-layer among the OBCs is nothing but upper strata of the community who are not considered as economically weaker or poor enough to get protective treatment of reservation in the matter of appointment to Government Service. In other words, they are capable of competing with general candidates for securing employment in government services. On this basis Government are excluding those ineligible persons from securing reserved post for the poor among the OBCs. This exclusion will benefit those sections of OBC Community who are below the Creamy Layer level.

5.14.1. Let us see what different Commissions have said above the exemption from creamy layer. Justice Joseph Commission held that-

“-----Since the Honorable Supreme Court has accepted the said Rule of Exclusion regarding persons working as Artisans or engaged in hereditary occupations, calling the said Rule of Exclusion can be accepted in the state of Kerala also and those persons can be excluded from the purview of the principles of “Creamy Layer”.

(Para 22.F.5)

- (i) *More over, the State Government had formed the Kerala Artisans Development Corporation Ltd. to look after the interest of persons having hereditary occupations/calling in the State of Kerala. The Corporation is under the administrative control of the Principal Secretary, Department of Industries, Secretariat, Thiruvananthapuram. They have accepted seven occupations as hereditary occupations in the State of Kerala. A true copy of the above list is appended along with the guidelines prescribed to identify the 'Creamy Layer'. The Committee considers just and proper to accept the said list of persons included in the said list as persons engaged in hereditary occupations/calling in the State of Kerala and exclude them from the purview of 'creamy layer' among the backward classes of citizens, since they continue to be socially, economically and educationally backward and hence unable to compete with forward classes of citizens in the State for Government employment.*

(Para 22.F.6)

- (ii) *Persons traditionally engaged in fishing operations continues to be socially, economically and educationally backward in the State. The Committee accepts the definition given to the expression 'fishermen community by the State Government in their order referred to above for the purpose of excluding them from 'creamy layer' principle and considers proper to include those persons included in the said order also along with the list of traditional occupations and calling as persons entitled to get exemption from the purview of the principle of 'creamy layer'.*

(Para 22.F.7)

5.14.2 Justice Narendran Commission (2000) which dealt with the Creamy Layer issue held that-

"So it goes without saying that exclusion from Creamy Layer is permissible on the ground of social

backwardness and educational backwardness. A member of a backward class who is still traditionally engaged in the hereditary occupation of the backward class cannot at all be said that his social status is the same as other members of that backward class who are fortunate to get into Government Service. The same is the case as far as all Backward Classes are concerned. More the backward class is more backward the number of persons who engages themselves in hereditary occupations of that backward class will be more, while in the case of some backward classes who have improved their positions, the number of persons engaged in hereditary occupations will be less. Irrespective of the fact whether the backward class is more backward or not the status of persons engaged in hereditary occupations is very much below that of those who are lucky to enter into Government Services. This being the position there is nothing wrong in excluding persons traditionally engaged in the hereditary occupations in a backward class from the Creamy Layer. The Commission accordingly excludes these persons of all backward classes from the Creamy Layer.

Regarding the hereditary occupations of persons belonging to the different backward classes, a list is there in the report dated 23.03.2000 submitted by the Director, KIRTADS, examined as witness No.72. The list is given in part II of this Report as Appendix-C. The list is not exhaustive. The State Government is to have some machinery to determine the hereditary occupations of the different backward classes. The determination no doubt should be with notice to the Backward Class concerned. A list of designated Other Backward Classes in the State of Kerala is given in Part II as Appendix-B.

Illiteracy has a stigma attached to it. A person who could not even pass 4th Standard and discontinues

his education cannot be considered on a par with the educated people in the Backward Class to which he belongs. Not only that he will have an inferiority complex. This is nothing but educational backwardness mentioned in Article 16(4) of the Constitution. He cannot claim that he is on a par with the educated persons of his class or on a par with forward classes. So educational backwardness can be a criteria for exclusion from Creamy Layer. The Commission excludes all persons in all Backward Classes who have not successfully completed lower primary education from Creamy Layer”.

(Para 12.1, para12.2 and para 13 of the Report date 11.04.2000)

5.14.3 Finally, Justice Rajendra Babu Commission (2009) examined the issue and recommended that-

“There are still certain minor communities (minor in population) among OBCs, very backward, socially and educationally, a vast majority of whom are even now engaged in the traditional hereditary occupations and such communities need be exempted from the application of Creamy Layer. The exemption from the application of Creamy Layer granted to the hereditary occupation/callings and the sub castes of fishermen community as per Annexure B&C in GO (P) No.36/2000/SC ST DD dated 27.07.2000 can be continued and any change in the above system need be made only on the basis of the report of the Socio-economic survey. The identification of the backward communities on the basis of the hereditary occupation has to be on the basis of their hereditary community”.

(Summary on page 48 of the Report dated 30.06.2009)

5.15 The MBCF demanded exclusion of the communities/ Castes under their fold from the operation of Creamy Layer. Government has exempted several castes/communities from the operation of Creamy

Layer based on the recommendation of the Commissions appointed by them.

5.16 Identification of persons belonging to OBC who are in the Creamy Layer is for excluding them from enjoying reservation earmarked for persons in OBC category. That means when the PSC or other agencies conduct competitive examination/ selection for appointment they have to exclude the persons belonging to OBC communities who are in "Creamy Layer". Identification of creamy layer is also required for admission to educational institutions under reservation quota. From this point of view, the demand for exclusion from Creamy Layer of all the communities of MBCF does not appear to be a reasonable one. There are certain communities in the MBCF in which well to do and wealthy persons exist. That means even among the communities/castes in MBCF there are wealthy individuals who will come in the fold of "Creamy Layer". Such persons should not be allowed to grab government jobs and seats in educational institutions earmarked for poorer sections of OBCs. The Supreme Court of India on several occasions in their judgments have reiterated that the cream of the society should not be allowed to take away the opportunity that are due to poorer sections of OBC communities. This being the position, the demand for complete exemption of these communities from Creamy Layer is not advisable. It will be worth mentioning that at the time of taking evidence from the organisations under MBCF none of the castes/communities could say that because of the operation to Creamy Layer principle they have lost chance for appointment in Government Service. The Commission thereupon asked them why they are raising the demand for complete exemption. Nobody has given a specific or satisfactory explanation justifying this demand. Some of them have stated that they have not faced any such problems so far but wanted exemption to avoid possible problems that may arise in future. This is not a correct stand.

5.17 The Social and Educational and Economic factors being the main criteria for identification of Creamy Layer among the OBCs. However, MBCF consists of only 16 castes/communities whereas the total number of OBCs in the State, as on today is 83. Whether there are any other community/ communities, which are more or most backward than those included in MBCF? Even the Rajendra Babu Commission has mentioned that *at that time also there was no clear data about the socio economic position in the society.* The Commission has held that:-

“In the representations filed by the forward communities, there was a demand to hold a Socio economic survey for ascertaining the present Socio economic position of the backward communities. The Commission had addressed to the Chief Secretary to hold a socio economic survey involving all the communities, both Forward and Backward to find out their socio economic position in the society. Very recently, the Government have taken steps to hold a Socio economic survey. As it will take a lot of time to get its report, the commission would like to submit the report with the recommendation to continue the presents system whereby certain socially very backward communities were excluded from Creamy layer. It would be only proper and fair to wait for the report of the socio economic survey, before making any change. Whether certain extreme backward communities will have to be exempted from Creamy Layer or any change in the existing system has to be made can properly be answered, only on the basis of the report of the above survey and hence it would be desirable to continue the present system till the report of the socio economic survey is obtained and any change, if necessary, can be made later”. (emphasis given).

(Para 46 of the report)

5.18 The socio economic survey referred to above by the Commission is yet to start even though Government have issued an order entrusting the Planning and Economic Affairs Department /the Economics and Statistics Department as per GO (MS)

No.24/2007/SCSTDD dated 13.04.2007 (**Annexure-XV**) as amended by GO (MS) 44/2007/SCSTDD dated 27.07.2007(**Annexure-XVI**).

The Socio economic survey, if done will reveal the true state of affairs in respect of living conditions of the people belonging to OBC also. **This being the position, exemption of MBCF communities from creamy layer principle is not advisable at present.** We may wait for the data from the socio-economic survey.

5.19 Exemptions from the operation of Creamy-Layer principle cannot be given to any community, including those in the MBCF because of the Court decisions and findings of different commissions on the subject. This being the position, the demand for exemption of the communities made by the MBCF is not recommended. As no exemption is considered, difficulty to other communities is non-existent. Point No. 3 is answered accordingly.

6.1 The fourth point for consideration is given below-

MBCF -ൽ ഉൾപ്പെടുന്ന സമുദായങ്ങളുടെ ഉന്നമനത്തിനുവേണ്ടി എന്തെങ്കിലും പദ്ധതികൾ കേന്ദ്രത്തിനു സമർപ്പിക്കുവാൻ സാധിക്കുമോ എന്ന കാര്യം പരിശോധിക്കുവാൻ ബഹു. പട്ടികജാതി പിന്നോക്ക സമുദായ ക്ഷേമവും ടൂറിസവും വകുപ്പ് മന്ത്രി നിർദ്ദേശിച്ചു.

6.2 The MBCF have demand implementation of welfare programmes on the lines of Justice Rajindar Sachar Commission recommendations. The above Commission was setup for studying and suggesting redressal measures on the backwardness of Muslim Community in India. Following the submission of that report, Government of Kerala constituted a Study Committee on Sachar Commission report chaired by

Sri. Paloli Muhammedkutty, the then Minister for LSGD. This study committee was constituted to recommend the measures to be adopted in Kerala on the basis of Sachar Commission report. This Committee is known as "Paloli Commission".

6.3 The Paloli Commission recommended several measures for the development of Muslim Community in Kerala. The measures recommended were grouped under different major heads like, General Education, Social Security, Educational-Employment Reservation, Employment and Economic groups, Attainment of Efficiency, Scholarships, Infrastructural Facilities etc.

6.4 Though the MBCF communities are not minority communities, in the matter of backwardness most of them are very close to them. Hence, welfare measures initiated for the Muslims can be suitably replicated for the welfare of other backward communities also. Some of such measures are suggested in the following paragraphs. Before listing out the measures some more points may further be considered.

6.5 The recommendations contained in the reports of certain other States may be perused. In the Report of the Backward Classes Commission 1982 of the Andhra Pradesh, it is stated that-

The lot of the Backward Classes cannot be improved solely by making reservations in employment and in educational institutions. It is also necessary to chalk out an economic programme to provide avenues for self-employment. According to Article 46 of the Constitution, "the State shall promote with special care the educational and economic interests of the weaker sections of the people". Thus, it is one of the duties of the State to devise all necessary measures to promote the economic interests. During our tours several witnesses have stated that the Government has not drawn up a specific programme for the improvement of the lot of the Backward Classes. The Backward Classes Commission, 1970 observed as follows:

“A majority of the people who appeared before us have stated that the present deplorable condition of the backward communities is due to economic backwardness and proposed that the only way to remove backwardness is to improve the economic condition of the Backward Classes”.

6.6. The above stand is further emphasized in the Report of the Karnataka Third Backward Commission 1990, which reads:

“We have seen that ‘Educational and Social Backwardness’ is the outcome of economic underdevelopment, educational unawareness and Caste degradation. The three villains not only cause backwardness but also sustain each other with remarkable mutuality. Each of the villains has to be vanquished. However, Caste is a burden acquired at birth. It is a sort of ‘Original Sin’. The best way to fight Caste is to fight the other two evils from which it draws sustenance in abundance. It follows that the real key towards the solution of the problem of backwardness are the eradication of poverty and the removal of illiteracy and not the mere reservation of a few seats in Professional Colleges and a few posts in Government Service. Such reservation is of avail to the socially and educationally Backward Classes, large sections of whom can never hope in the existing order to acquire even the minimum qualification necessary to seek admission to Professional Colleges or aspire for a post under the Government, leave alone acquiring that degree of proficiency to stand out in competition, among their peers. Such reservation may help but it can only touch the fringe of the problem. Such reservation may wipe a few tears but not the gnawing away at the heart. For that more action, much more, is necessary. Literacy and Poverty-eradication Programmes are vital to any programme for the advancement of the Socially and Educationally Backward Classes and reservation cannot be made a substitute or used as an alibi for such programmes.”

(Vide page 176)

6.7 During the course of taking evidence, some communities in the MBCF have stated that there are no government employees from their community. Some of them have stated that only a handful of persons

belonging to their community are in Government Service, that too in the lower levels of Public Service.

6.8 From the above, it may be noticed that the Communities, which are not adequately represented in Public Service should first educate their children and train them to compete in tests for selection to various posts.

6.9 Justice K. K. Narendran Commission which has studied the adequacy or otherwise of representation of the Backward Classes in the services of under the State Government, Public Sector Undertakings, Autonomous bodies and Institutions under the State Government including the Universities in its report dated 09.11.2011, has concluded that-

“In Chapter 7, the Commission has drawn inferences from a detailed analysis of Appendices II to VI. It is clear from this analysis that almost all the communities of the backward classes have improved their position or are improving their presence in the public services. Even as per Appendix II Ezhavas, a major community among the backward classes have secured better representation in more than one category by securing posts in the merit quota over and above the reservation quota. At the same time Muslims another major community among the backward classes have not fared so well. The main reason for this is nothing but educational backwardness. Better educational standards of Ezhavas taken as a whole give them a good leverage in competing for Government jobs at least in the recruitment for lower categories. The Muslim community and its leaders take more interest in the matter of education and make concerted effort; this community can also reach a similar level of educational advancement in the not distant future. The other communities among the backward classes can also improve their presence in the public services by paying more attention for the education of their children”.

(Para 8.1 of Chapter 8)

6.10 Another area of concern is the status of women belonging to OBCs. Their educational and employment status require detailed study. Their position in those sectors may not be bright.

6.11 There is no data available about the representation of women belonging to OBCs in Public Service. It is, therefore necessary to gather the details of women representation of OBCs in public service. This information is very crucial for implementation of Women Development programmes. The Backward Communities Development Commission or a separate agency may be directed to compile this data immediately with the financial assistance from Government of India. If it is found that, the OBC women representation in public service is inadequate in proportion of their population adequate measures may be taken to bring their representation at a satisfactory level.

6.12 Justice O Chinnappa Reddy who headed the Third Backward Commission of Karnataka in its report dated 07.04.1990 has, among other things, published the caste-wise, sex-wise break up of each group (A,B,C or D) of employees in each Department in Karnataka State. Representations of different communities also are mentioned. The statement published in that report is given as (**Annexure-XVII**)

6.13 Similar exercise in this State is also necessary because if there are communities having no representation or under representation in public service they may be suitably and adequately accommodated by special intervention. This recommendation is in the light of submissions made by several organizations while tendering evidence.

6.14 After considering all the aspects of the case, it is found advisable to propose the following matters for taking up for the development of the OBCs.

6.15.1 Micro Enterprises

Traditionally other backward communities were following one or more vocations. For example, oil pressing, weaving, astrology, barber, washing, practice of medicine etc. Over a period due to various reasons, these traditional jobs became not attractive and in several areas, mechanisation and modernisation have reduced employment opportunities. This has caused unemployment or under

employment. Many of the members of such Communities have landed in poverty also. The Mandal Commission in its Report has highlighted the problem, viz

“Vocational communities following hereditary occupations have suffered heavily as a result of industrialisation. Mechanical production and introduction of synthetic materials has robbed the village potter, oil crusher, blacksmith, carpenter, etc of their traditional means of livelihood and the pauperisation of these classes is a well-known phenomenon in the countryside”.

(Para 13.27 of Mandal Report)

In the circumstances, many of them have gone for other employment opportunities such as Head load work, Autoriksha driving, manual work, Street hawking etc. Their economic status has not improved and they landed in Below Poverty Line. They are unable to give proper education to the children. Their womenfolk are the worst affected lot. In short, the overall status of the OBCs has changed to the worse.

In the above background, we have to think about uplifting them by suitable alternate employment opportunities, which are not traditional jobs. The Industries Department has a wide range of programmes for the development of Small Scale Enterprises. They have entrepreneurship development programme, Prime Ministers Employment Generation Programme (PMEGP), Gender Sanities Programme (for women). Rajeev Gandhi Udhya Mitra Yojana (RGUMY), Skill Development Programme, Credit Guarantee Scheme etc. In order to promote Khadi and Village Industries Schemes, the Khadi & Village Industries Board is functioning.

6.15.2 In order to promote new enterprises the Department of Backward Communities has to work in liaison with the Industries Department and other departments in the field. The services of that Department may be availed for the initiatives of Backward Communities Development Department. Their services in the following areas can be utilized.

- 1) Entrepreneurship Development Training

- 2) Counseling with subject experts.
- 3) Skill oriented development training, and
- 4) Grant in Aid to the Enterprises.

6.15.3 Besides the Industries Department, the services of Khadi & Village Industries Board, SIDCO, Animal Husbandry Department, Agriculture Department, KINFRA, Fisheries, Horticulture, Rubber Board, Plantation Corporation, Tea Board, Poultry Development Corporation, K.L.D.B, KELTRON, Kudumbasree, Food Craft Institute, Hantex, Sericulture, KITCO, Kerala Institute of Tourism and Travel Studies (KITTS), Kerala State Nirmithi Kendra, Kerala Livestock Development Board, Kerala State Backward Classes Development Corporation Ltd etc. also can be effectively utilised.

6.15.4 Some of the enterprises may be Apparel and Fashion Designing, Embroidery, Cement Products, Food Processing, Eco-friendly Carry Bags, Rexine bags, Soft Toys, Saree/Fabric Painting, Artificial Ornaments, Umbrella making, TV Service & Repair, Mobile Phone Service & Repair, Vehicle Service & Repair (Auto Riksha, Scooter, Bike, Car etc.), Service & Repair of House-hold Articles, Bee keeping, Inland fisheries, Ornamental fisheries, Mushroom cultivation, Soap and detergent making, Furniture manufacturing (Wood, Steel, Plastic etc.) Aluminum Fabrication, Welding, Upholstery etc.

6.15.5 The Industries Department is having many industrial Estates, Development Areas, Development Plots etc across the State. It is seen that many Industrial Estates are allotted to General, SC/STs Categories. Government may earmark a small percentage of Mini Industrial Estates, Development Areas/Development Plots etc to OBCs. At present there is no provision to allocate the facilities in those areas to OBCs. Since we are aiming at the overall development of OBCs, they deserve special attention.

6.15.6 Likewise, there were reports about the KINFRA resuming land remaining unutilized for long periods because of the failure of the allottees to start units. Government may direct the KINFRA to allocate sufficient land in KINFRA parks in favour of the entrepreneurs belonging

to the Other Backward Communities recommended by the Director of Backward Communities Development Department.

6.15.7 The above are only indicative. Further areas, services and products may be identified with the help of the officers of the Department concerned and Experts, Professionals and Bankers.

6.16 Constructions of Houses.

1. The representatives of various organizations have stated that landless and houseless families belonging to their communities are looking for the aid of the government to secure house sites and houses. This is a vital aspect, and government should take steps to provide house sites and house to those poor people belonging to OBCs. The new “Zero landless” programme launched by the Government is a right step in this direction. House construction is another major challenge.
2. The experience in the tribal sector should be a warning for new housing schemes for the backward and down trodden sections of the people. Huge amounts are earmarked and distributed to the beneficiaries of ST Communities for housing schemes, but a large number of houses are yet to be completed owing to different reasons. Inability of the beneficiaries, presence of middleman or agent, lack of materials, inaccessible areas, insufficient funds, indifference of the beneficiaries, low quality materials, poor quality construction etc are some of the problems plagued the housing schemes of tribal communities. When we undertake large scale housing schemes for OBCs we have to ensure that the problems confronted housing schemes of SC & ST are not repeated. It is suggested that liberal loan and subsidy may be allowed in collaboration with Kerala State Backward Classes Development Corporation for construction of houses. A suitable name also may be given to the Housing Schemes of OBCs. This may be one of the projects to be posed to the Government of India for assistance.

6.17. Construction of Community Halls

Although people belonging to OBCs are living scattered across the State, there is concentration of these people in many parts. For example, Telugu Chetties in Karamana, Thiruvananthapuram district, Erumakkar in Mananthavady, Wayanad district etc. They are living in very congested places. They do not have sufficient minimum facilities for living. Government may, therefore, take steps for providing basic amenities, Community Hall, Library & Reading rooms etc wherever possible. The Backward Communities Development Department may identify suitable places and land for the purpose and prepare projects for being presented to the Government of India for assistance.

6.18 Renovation of Streets ('theruv')

Several communities among OBC's are living in very congested locations, which are generally called Streets("theruv") where, bare minimum facilities for living may not be available. The houses are very old requiring urgent maintenance and repair. Some of them are in a very dilapidated condition. Water supply, road, sanitation facilities etc are not available in a satisfactory level in many such places. Since the availability of land is a serious problem providing of more facilities will be a challenge. Government may therefore survey the streets (*thervu*) which require urgent maintenance and repair in addition to other basic facilities for the people. Thereafter a detailed action plan may be prepared for renovation of streets (*theruv*) and the same presented before the Government of India for assistance. A suitable name also may be given to this scheme.

6.19 Scholarships

In the case of students belonging to OBCs, there is no data available even in the Education Department. In reply to the letter requesting Caste wise number of students of Other Backward Communities, the DPI has reported that Caste wise population of students is not readily available in the Department. He has informed that the data required by the Commission is being collected from the sub offices of that Department, which is a time consuming effort. In the absence of the above data, a clear- cut proposal is not possible. This situation coupled with the non-availability of Caste wise data of Other Backward Communities a definite proposal is also not possible. However, in the matter of education some innovative measures are inevitable for the

all-round development of these Communities. Apart from the existing conventional assistance, the following further measures are proposed:-

- (1) Most backward OBC students in primary classes, Std I to VII may be given uniform allowance @ Rs. 500/-
- (2) Free cycles may be distributed to the students in standard VIII belonging to most backward communities under OBCs.
- (3) Hostels may be started on a pilot basis in all the Districts for students belonging to most backward communities, where students from STD VIII to XII may be accommodated giving free lodging and boarding facilities.
- (4) Career guidance may be given to students of STD X and XII.
- (5) Those who acquired Technical qualifications like ITI, ITC etc may be arranged Apprentice training. They may be assisted to secure placement also.
- (6) Those children who are talented in sports and games may be identified and persuaded to join Sports Schools at the appropriate age.
- (7) Those children who are talented in Fine Arts/Traditional Arts may be identified and admitted in institutions which impart studies in those disciplines.
- (8) Students belonging to the most backward OBCs who secure 1st Rank in Degree, PG etc may be given cash award @ Rs. 25,000/-
- (9) Free coaching classes either through Government Institutions or reputed private Institutions may be given to most backward OBCs students from plus two courses onwards.
- (10) All Medical & Engineering students belonging to most backward OBCs may be allowed free lodging and boarding facilities.
- (11) Day scholars, both Medical & Engineering students may be given conveyance allowance @ Rs. 500/- per month.

- (12) Students may be guided to join the courses in Aviation, Marine, Interior Decoration, Animation, and such other high profile courses.
- (13) Para Medical Courses have good potential, and hence eligible students may be encouraged to join those courses.
- (14) Eligible students belonging to most backward OBCs may be guided to join high profile courses like MBA, MCA etc.
- (15) For the benefit of professionally qualified and unemployed youth, finishing school may be started where they may be given free lodging and boarding.

6.20 Training.

(i) There are thousands of unemployed persons in the society. Most of them may not have higher educational qualifications. Housewives and unmarried women constitute a major chunk of this category (in respect of qualified persons, especially professionally qualified persons separate action plan has been mentioned previously) In order to enable the above category of persons new schemes have to be introduced. For example, those who are interested in sewing, Embroidery and design appropriate short-term training programmes may be arranged. For this purpose, agencies like Apparel Training Center Kazhakuttam (a Government of India Institution), Kerala Institute of Travel and Tourism, Keltron etc. may be approached. There are private institutions also in the field that can also be associated with the scheme. On successful completion of these training courses those who are not interested in accepting the placement provided with the help of the training Institutes self-employment enterprises may be arranged. For the purpose, necessary furniture, fixtures, and equipments may be provided. There is much scope for beauty parlours.

(ii) The State Government in the Scheduled Castes and Scheduled Tribes Development has brought out a Booklet containing a list of projects, which are appropriate and could be undertaken by the Micro level Enterprises even at the habitat level with low investment. That Department has listed the project under different

categories consisting of traditional industries (coir, Pottery etc) Fruits and Vegetables, Food processing, organic fertilizer and manure, stationery and writing instruments, Virgin Oil, Recycling of waste, milk and meat etc. This can be used for the benefit of the communities now under consideration also.

(iii) Another similar initiative is that of the Industries Departments of the State. The Entrepreneurs guide of that Department gives the list of services and schemes for the prospective entrepreneurs

(iv) The above are only a few samples quoted for information. The Backward Communities Development Department may compile the services and schemes/programmes of all departments of the State and Central Governments and appropriate ones used for the benefit of OBCs.

6.21 There are certain communities like Padmasalia who are engaged in traditional cloth making (weaving) using traditional looms. Their products have high quality and brand value even in the age of mechanisation. This is a heritage industry. It may be protected.

6.22 All the training programmes, as far as possible, shall be residential and free. During the period of training, they may be given some pocket money. In respect of other trainees who are interested in own enterprises all the help and assistance may be provided.

6.23 Special Coaching.

Students belonging to OBCs are not getting sufficient coaching or tuition for their advancement in studies. Although the teaching in the schools and colleges may be satisfactory, the general tendency is to get special tuition privately. This is routinely followed everywhere, but students belonging to poorer sections of society are not able to spend huge amounts towards this. It is, therefore suggested that as in the case of students belonging to SC/ST, the students of OBCs may also be given special tuition. Initially, this programme may be limited to High School and Secondary School level only. This is an expensive initiative and hence Central assistance may be obtained.

6.24 Book Bank Scheme.

In some States like Gujarat Book bank Scheme is in existence. Under the scheme, Textbooks, mainly for Medical and Engineering courses are provided to the students after obtaining 10% the cost of the books. On completion of the course, the students are required to return the books in good condition. Then 5% of the cost may be refunded to the students. A similar scheme may be introduced in the State also with assistance of the Central Government.

6.25 Loan for study outside the State/Abroad.

At present commercial banks are extending loan for study purposes but the interest rate and the conditions of sanctions are not student friendly. In the circumstances for the study of students belonging to Other Backward Community who are desirous of studying New Generation Courses and High Profile Professional Courses may be given liberal loans at nominal or nil interest. For study in prestigious institutions outside the State or abroad may be given loans.

6.26 Starting of Schools.

In our State educational facilities are available almost everywhere. However, if any community is facing difficulty in teaching their children the Government may start of new schools. One Organisation has demanded starting of Tamil Medium Schools in Idukki and Palakkad Districts where the community has substantial presence. If this demand is reasonable, Government may consider it favourably. Similarly if there are no ITIs, ITCs such institutions may be started wherever necessary. If it is found necessary to start such Institutions, detailed proposals may be submitted to the Central Government for sanction.

6.27 Starting of Finishing Schools.

Most of the organizations of MBCF have complained that they are not having adequate representation in public service. Lack of education especially Higher Education and Professional Education is one on of the reasons for this state of affairs. Even the educated are not getting employment as they are not well equipped to face competitive

examinations. In order to address this problem Government may start finishing schools so that educated unemployed persons in OBCs are trained properly to secure employment according to their qualification and aptitude. A detailed proposal may be prepared by the Backward Communities Development Department for presentation before the Central Government.

6.28 Marriage Assistance.

Vaniya/Ganiga in Kasargode district is a constituent of Most Backward Communities Federation. At the time of tendering evidence the representatives of that community have stated that their community is having a peculiar system of marriage. They follow mass marriage functions. It is conducted twice in a year, in March and November. The marriages are held in the temple premises. For each marriage, the couple need spend Rs.1000/- only. There is no other expense to the family. Marriage feast is arranged by the temple authorities. There is no system of dowry, and ornaments are not compulsory. In November 2012, 44 marriages were held. In March 2013 it was 696. All these marriages are held in a single place.

The above mass marriage ceremony is unique and peculiar to Vaniya/Ganiga community. (There are occasional mass marriage ceremonies in other parts of the State also, but they are arranged by certain religious organizations or Non-Governmental Organizations. It is mostly multi-religious, not like the one under discussion.) In contrast to the luxurious and dowry-ridden marriages in other communities, the above mentioned marriages are held in simple way without emptying the purse of the girl's family and without pushing them into debt trap. Government may encourage this system and monetary assistance allowed. In States like Tamilnadu, Gujarat etc Government are giving monetary assistance for the marriage of poor girls. In some states, the organizations under whose auspices marriages are held are given financial assistance for each marriage. They are giving financial assistance to the bride and to the organizers. On the above lines Government may grant Rs. 10,000/- to each poor girl and Rs. 2000/- to the organizers.

At present no other community/caste is known following this peculiar system of marriage. This is a model that can be followed by any other community. If any such move is initiated they may also be encouraged and financial assistance on the above lines granted to them.

6.29 Protection and maintenance of burial grounds.

Several community organizations have raised the issue of their traditional burial grounds. They have stated that sufficient land was available to them for using as burial grounds, over the years, in several cases, other people have encroached upon parts such lands and thereby the available area at present is very little. Government have to come to the rescue of the communities by taking appropriate preventive action against the loss of land kept by them as their traditional burial grounds. Otherwise these lands will be lost to the genuine holders. Some of the organizations have pointed out locations where the burial grounds face encroachment. However, for obvious reasons the locations are not listed in this report. The Backward Communities Development Department may, in consultation with the organizations identify the said lands and take suitable remedial measures.

In this connection, they have also pointed out that due to several reasons, including encroachment by other people, the land available now for burial is very limited in extent. They are ready to switch over to electric crematorium also if conventional burial facility also is available. For this purpose, a detailed survey may be conducted by the Backward Communities Development Department and detailed project reports prepared for posing for financial assistance from the Central Government.

In several cases, the caste/community, which possessed the burial grounds, the ownership of land is not secured. They hold it as the property of the caste/community for decades. In such cases, the record of right (Patta) of the land may be given to the caste/ community, which possess the land subject to the terms and conditions the Revenue Department may like to prescribe.

Some community organizations have also pointed out that in several places the burial grounds are sufficiently large in extent. Only a

small portion is required for burial purposes. The remaining area can be utilized for other purposes, say, construction of community halls, training centres and such other utilities. They say that otherwise such vacant lands may be prone to encroachment. This is a good suggestion and Government may consider the proposal favourably and move the Central Government for assistance.

6.30 Incentive to students securing first class/ranks in examinations.

The students belonging to SC & ST communities are given incentive in the following manner.

<u>Course</u>	<u>First Class/Grade</u>	<u>Distinction/Grade</u>
SSLC	Rs. 750/-	Rs. 1500/-
Plus 2, TTC, Polytechnic, VHSC	Rs. 1000/-	Rs. 2000/-
Degree	Rs. 1500/-	Rs. 3000/-
PG/Professional Courses	Rs. 2000/-	Rs.4000/-

6.31 In Tamilnadu, Gujarat etc there are schemes for giving incentive to students belonging to OBCs who secure ranks at District and State level. A similar scheme is advisable in our State also.

6.32 Scheduled Caste and Scheduled Tribes candidates who secure first rank in the Entrance Examination for Medical and Engineering Courses, are awarded gold medal (4 grams). This medal is given in a grand function and the same is proved a big appreciation. Likewise, the student who secures first rank in the Entrance Examination from their community, may be awarded a gold medal. Separate medals, may be given for Engineering and Medical Entrance. There are similar other entrance examinations like MBA, MCA etc. If any student belonging to OBCs secure rank, such students, also may be awarded medals on the above lines.

6.33 The Government may consider the above proposals and the Department of Backward Communities directed to implement the programmes in a time bound manner. For that purposes the Department has to be expanded. The Department of Backward

Communities was created in 2009. Its official function commenced only in 2011. Different posts for the functioning of the Department were sanctioned vide G.O (MS) No. 116/2011/SC ST DD dated 19.11.2011.

(Annexure-XVIII)

The following posts were created.

01	Director	
02	Senior Finance Officer	
03	Senior Superintendent	- 1
04	Confidential Assistant	- 1
05	Data Entry Operator/UDC	- 1
06	Lower Division Clerk	- 2
07	Driver	- 1
08	Peon	- 1
09	P.T. Sweeper	- 1

A Department which has to look after the welfare and development of Other Backward Communities numbering over 80, this skeleton staff is quite insufficient. Shri. E.Ayyappan, IAS who was appointed as Special Officer to study the structure of the proposed new Department had recommended the following posts.

01	Director IAS	- 1
02	Joint Director	- 1
03	Plg. Officer	- 1
04	Admn. Officer	- 1
05	Finance Officer	- 1
06	Sr. Superintendent	- 1
07	Jr. Superintendent	- 2
08	Research Assistant	- 1
09	L.D Compiler	- 1
10	L.D Clerks	- 12
11	Confidential Assistant	- 1
12	Typist	- 3
13	Driver	- 1
14	Peons	- 5

15	Record Attendant	-	1
16	Night Watchman	-	1
17	Part-Time Sweeper	-	1
	Total posts	-	35

For the districts the following posts were recommended.

- 01 Dist. Development Officer
- 02 P.A to D.D.O
- 03 Typist
- 04 Compiler
- 05 Driver
- 06 Record attendant
- 07 Peons
- 08 Night Watchman
- 09 Part Time Sweeper (400-800 Sq.M)

(Annexure-XIX)

As against a full-fledged department, what is available now is only a skeleton one. In order to undertake major welfare and developmental activities full complement of staff is required. Government may consider this matter.

Chapter III

Major issues came up for consideration

7.1 When the problems raised by the communities under MBCF, several associated or related issues also have come up for consideration. Some of such issues are discussed here.

There is a general feeling among some of the backward communities that their problems are not being properly considered by the Government . For example, the demand for reservation in Aided Schools and Colleges, Primary Cooperative Societies etc. In Public Service, only 3% reservation is allowed to OBCs in Group 8. This is very low. It was fixed in 1979. If it is not possible to raise this quota immediately, they demand tapping of more avenues which are yet to open their doors for statutory reservation . If more avenues are opened up for reservation, proportionate share would be available to them. Recommendation for reservation in aided schools/colleges has been

made by Justice Narendran Commission in 2001, and the Backward Communities Welfare Committee of the State Legislature in 2002 & 2003. These recommendations are yet to receive a positive nod.

Another area of concern is that the recommendations of the Backward Communities Welfare Committee of the State Legislature are not getting proper and timely attention from most of the Departments. The Committee instituted in 1993 for ensuring the welfare and development of OBCs. The purpose for which the Committee is constituted is mentioned below-

“സ്വാതന്ത്രാനന്തര ഭാരത സമൂഹത്തിൽ പിന്നോക്ക വിഭാഗങ്ങളുടെ ക്ഷേമം മുൻ നിർത്തി നിരവധി പദ്ധതികൾ ആവിഷ്കരിച്ച് നടപ്പിലാക്കിയെങ്കിലും പിന്നോക്ക വിഭാഗത്തിൽപ്പെട്ട സമുദായങ്ങളുടെ സാമൂഹ്യമായും വിദ്യാഭ്യാസ പരമായും സാമ്പത്തികമായും ഉള്ള പിന്നോക്കാവസ്ഥ പൂർണ്ണമായും പരിഹരിക്കപ്പെടാനായിട്ടില്ല. ഈ സാഹചര്യത്തിൽ കേരളത്തിലെ പിന്നോക്ക സമുദായങ്ങളിൽപ്പെട്ടവരുടെ സർവ്വതോമുഖമായ പുരോഗതിയും ക്ഷേമവും മുൻനിർത്തി കേരള നിയമസഭയുടെ നടപടിക്രമവും കാര്യനിർവ്വഹണവും സംബന്ധിച്ച ചട്ടം 261-ഇ പ്രകാരം 1993-ൽ രൂപീകരിച്ച സമിതിയാണ് കേരള നിയമ സഭയുടെ പിന്നോക്ക സമുദായ ക്ഷേമസമിതി”.

(1st report of the Committee 2011-14 of 13th KLA)

സാമൂഹികമായും സാമ്പത്തികമായും വിദ്യാഭ്യാസപരമായും ബഹുദൂരം പിറകിലായ വിവിധ പിന്നോക്ക വിഭാഗങ്ങളുടെ ജീവിത നിലവാരം സ്വാതന്ത്രാനന്തരവും മാറ്റമില്ലാതെ തുടരുന്ന ഒരു സ്ഥിതി വിശേഷമാണ് ഇന്നും നിലനിൽക്കുന്നത്. പിന്നോക്കക്കാരായ വിവിധ സമുദായങ്ങളുടെ സർവ്വതോമുഖമായ പുരോഗതി മുൻനിർത്തി അവർക്ക് അർഹമായ ആനുകൂല്യം ലഭ്യമാക്കേണ്ടതും അവകാശങ്ങൾ സംരക്ഷിക്കേണ്ടതും, അവരുടെ ക്ഷേമത്തിനും, ഉന്നമനത്തിനും വേണ്ടിയുള്ള കർമ്മ പദ്ധതികൾ നടപ്പിൽ വരുത്തേണ്ടതും ഏതൊരു ജനാധിപത്യ സർക്കാരിന്റേയും കടമയാണ്. പിന്നോക്ക സമുദായക്കാർക്കായി ആവിഷ്കരിച്ചിട്ടുള്ള പല ക്ഷേമ പദ്ധതികളും വെറും കടലാസിൽ അവസാനിക്കുന്ന ഒരു സാഹചര്യമാണ് നിലനിന്നിരുന്നത്. ഈ അവസ്ഥയ്ക്ക് ഒരു വിരാമം ഇടുന്നതിനും, ഇത്തരം ക്ഷേമ പദ്ധതികൾ ഫലപ്രാപ്തിയിൽ എത്തേണ്ട ആവശ്യകത മുൻനിർത്തിയാണ് 1993, ഫെബ്രുവരി 4ാം തീയതി കേരള നിയമസഭ പിന്നോക്ക സമുദായ ക്ഷേമ സമിതി രൂപീകൃതമായത്. പ്രസ്തുത സമിതിയിൽ ചെയർമാൻ

ഉൾപ്പെടെ ഒൻപത് അംഗങ്ങളാണ് ഉള്ളത്. ഒൻപത് അംഗങ്ങളിൽ ആറു പേർ പിന്നോക്ക വിഭാഗക്കാർ ആയിരിക്കണമെന്ന് പ്രത്യേകം നിഷ്കർഷിക്കുന്നുണ്ട്.

(IIIrd Report of the Committee 2006-2008 of 12th KLA)

The Committee has further observed in the same report as below:-

പിന്നോക്ക സമുദായ ക്ഷേമ സമിതി മുൻപാകെ വ്യക്തികളും സംഘടനകളും സമർപ്പിക്കുന്ന ഹർജികളിൽ ഭൂരിഭാഗവും, പിന്നോക്ക സമുദായക്കാർ നേരിടുന്ന, അവഗണന, നീതിനിഷേധം എന്നീ പ്രശ്നങ്ങളിൽ അധിഷ്ടിതമായതും ലഭിക്കേണ്ട ആനുകൂല്യങ്ങളെപ്പറ്റിയും ക്ഷേമ പദ്ധതികളെപ്പറ്റിയും അവർക്കുള്ള അജ്ഞത വെളിവാക്കുന്നതുമാണ്.

പിന്നോക്ക സമുദായ ക്ഷേമ സമിതിയിൽ നിന്നും നീതി ലഭിക്കുമെന്ന വിശ്വാസത്തിൽ സമർപ്പിക്കപ്പെടുന്ന ഹർജികളിന്മേൽ ഗവൺമെന്റിൽ നിന്ന് മറുപടി ലഭിക്കുന്നതിൽ നേരിടുന്ന കാലതാമസം സമിതി ഗൗരവപൂർവ്വം വീക്ഷിക്കുന്നു. അഡീഷണൽ സെക്രട്ടറി തലത്തിൽ അയയ്ക്കുന്ന അർദ്ധഔദ്യോഗിക കത്തുകൾക്ക് പോലും സമയ ബന്ധിതമായി മറുപടി ലഭ്യമാക്കാത്തത് സമിതിയുടെ ഉദ്ദേശ്യ ലക്ഷ്യങ്ങൾക്ക് കടിഞ്ഞാണിടുന്ന ഘടകമായി സമിതി കരുതുന്നു. ഇത്തരം കാലതാമസം പരാതിയുടെ കാലിക പ്രസക്തി തന്നെ നഷ്ടപ്പെടുത്തുമെന്നു മാത്രമല്ല സമിതിക്ക് പല അവസരങ്ങളിലും നിവേദകന്റെ പ്രശ്നം സമയോചിതമായി പരിഹരിക്കുന്നതിനും നടപടി സ്വീകരിക്കുന്നതിനും നിർവ്വാഹമില്ലാത്ത അവസ്ഥ ഉളവാക്കുകയും ചെയ്യുന്നു. അർഹതപ്പെട്ട നിയമനം ലഭിക്കണമെന്നാവശ്യപ്പെട്ട് സമിതിക്ക് സമർപ്പിക്കപ്പെടുന്ന നിവേദനത്തിന്മേൽ റിപ്പോർട്ട് ലഭിക്കുമ്പോൾ നിയമനത്തിനായി പ്രസിദ്ധീകരിച്ച പി.എസ്.സി ലിസ്റ്റിന്റെ തന്നെ കാലാവധി അവസാനിച്ചിരിക്കുക, അർഹതപ്പെട്ട പ്രൊമോഷൻ ഉൾപ്പെടെയുള്ള ആനുകൂല്യങ്ങൾ നിഷേധിക്കപ്പെടുന്ന എന്നു കാണിച്ച് സമർപ്പിക്കുന്ന പരാതിയിൽ റിപ്പോർട്ട് ലഭിക്കുമ്പോൾ നിവേദകൻ ടി ആനുകൂല്യങ്ങളൊന്നും ലഭിക്കാതെ തന്നെ സർവ്വീസിംഗിൽ നിന്നും വിരമിച്ചിരിക്കുക, വിദ്യാഭ്യാസ ആനുകൂല്യ

ങ്ങൾ അനുവദിച്ചു കൊണ്ടുള്ള ഉത്തരവ് നടപ്പിലാക്കുമ്പോൾ അതിനായി അപേക്ഷ നൽകിയ ഉദ്യോഗാർത്ഥി ടി ആനുകൂല്യം ലഭിക്കാത്തതിനാൽ പഠനം തന്നെ ഉപേക്ഷിച്ചിരിക്കുക എന്നിവ ചില ഉദാഹരണങ്ങൾ മാത്രം. സമിതിയുടെ ഇടപെടൽ മൂലം ഗവൺമെന്റ്, നിവേദകന്റെ പരാതിക്കാ സ്പദമായ വിഷയം പരിശോധിച്ച് പ്രശ്ന പരിഹാരം നടത്തിയെങ്കിലും പ്രസ്തുത വിവരം സർക്കാർ വകുപ്പുകൾ യഥാസമയം സമിതിയെ അറിയിക്കുന്നതിൽ വീഴ്ച വരുത്തിയത് മൂലം, സമിതി വീണ്ടും അതേ വിഷയം പരിഗണനയ്ക്കെടുക്കേണ്ടി വന്ന സന്ദർഭങ്ങളും ഉണ്ടായിട്ടുണ്ട്. സർക്കാരിന്റെ ഈ അനാസ്ഥയെ തുടർന്ന് മറ്റു പ്രധാന വിഷയങ്ങൾ കൈകാര്യം ചെയ്യേണ്ടുന്ന സമിതിയുടെ സമയവും പ്രയത്നവും വ്യഥാവിധവുകയാണ്. താഴെത്തട്ടിലുള്ള ആഫീസുകളിൽ നിന്നും മറുപടി ലഭിക്കുന്നതിനുള്ള കാലതാമസമാണ് പലപ്പോഴും ഗവൺമെന്റ് റിപ്പോർട്ടുകൾ ലഭ്യമാക്കാൻ വൈകുന്നതിനുള്ള കാരണമായി വകുപ്പ് അധികൃതർ ചൂണ്ടിക്കാട്ടുന്നത്. വൈകിയെത്തുന്ന നീതി നീതിനിഷേധത്തിനു തുല്യമാണ് എന്ന ആപ്തവാക്യം ഇത്തരൂണത്തിൽ സ്മരണീയമാണ്.

The observations are self-explanatory. Government may take remedial action.

7.2 Socio-Economic Survey Ordered in 2007

The above Committee in its report commented about the socio economic and educational surveys ordered by the government in GO(MS)No.24/2001/SCSTDD dated 13/04/2007 as amended in GO(MS)No. 44/07/SCSTDD dated 27/07/2007. They have also warned that the orders should not remain as orders on the paper and should conduct the said survey to serve as a key to the progress of OBCs. They have recommended that the said survey may be conducted as quickly as possible (Para 20 of the report).The apprehension of the Committee proved to be correct because even in 2013 the said GOs remain silently on paper.

7.3 Reservation in Aided Education Sector and Co-operative Sector.

The recommendation of the Committee on Backward Communities (IInd Report of Backward Communities Welfare

Committee (2001-2003) of XIth KLA) pertains to the introduction of reservation in aided educational institutions. The Commission on Creamy Layer- Justice K.K.Narendran Commission-also has considered the subject. The recommendation was that those institutions receiving aid from the Consolidated Fund of the State must follow the rules of reservation.

Aided Education Sector and Co-operation Department (Primary Co-operative level) are not covered under reservation rules. In the Education sector there were 12,644 schools in Kerala during 2010-11. Out of this 7277 are Aided Schools. (57.55%). The total strength of teachers in schools including TTI teachers during 2010-11 was 1,68,062. Out of this 1,01,965 teachers were working in Aided Schools.

Similarly, there were 1907 Higher Secondary Schools in the state during 2011. Out of this 686 (35.97%) are Aided Schools. In the Vocational Higher Secondary Sector there are 389 V.H.S. Schools, of which 128 are in the Aided Sector. The number of Arts and Science Colleges in the State is 189. Out of this 150 is in Aided Sector. The total number of teachers in Arts and Science College in 2011 was 8880 (vide letter No. Stat.9302/2013/DCE dated 16.03.2013) **(Annexure-XIX-A)** Under Technical Education sector, there are three Private Aided Engineering Colleges and there are 6 private Aided Polytechnics.

Justice K.K Narendran Commission appointed by the Government as per GO(MS 4/2000/SCSTDD dated 13.01.2000 in its report dated 11.04.2000 has held that:-

“There is another aspect also to be considered. For the last ever so many years salary of the staff, working in a number of Institutions not owned or run by the State Government, is being paid by the Government from the Consolidated Fund of the State. One instance is the private educational institutions in the State. The Backward Classes do not get proper representation in the Services of these educational Institutions. It is also common knowledge that all is not well with the appointments made in these Institutions.

There is a saying that he who plays the piper shall determine the tune. This should be so in the matter of all posts where the salary is being paid from the Consolidated Fund of the State, irrespective of the fact whether recruitment is made by the Kerala Public Service Commission or by those who form control and manage these Institutions. Then only the backward classes whom the majority of State's population will get their due share in the appointments in these Institutions. Necessary changes are to be made in the agreements if any, the management of these institutions have made with the State Government or in the Statutes of any, which govern the working of these Institutions. If the Government wants to retain the freedom of making appointments in private educational Institutions with the Managements of these Institutions, they will continue to have it, but it will be subject to the reservation for backward classes.

Ultimately, the position will be this. Recruitments to all posts where the salary is being paid from the Consolidated Fund of the State will be governed by the principles of reservation for backward classes. It is for the Government to pass appropriate orders and make the necessary legislation."

(Para 15.2-15.4, page 39-40 of the Report, 2000)

Yet another recommendation failed to fructify relates to the introduction of reservation in Primary Cooperative Societies. (Recommendation in the IXth Report of the Committee (1999-2000) of Xth KLA.) The Committee recommended that-

“.....ഇനിയും താമസിയാതെ സഹകരണ വകുപ്പിന്റെ കീഴിൽ പ്രവർത്തിക്കുന്നതും മറ്റു വകുപ്പുകളുടെ കീഴിൽ പ്രവർത്തിക്കുന്നതുമായ എല്ലാ സഹകരണ സ്ഥാപനങ്ങളിലും നടക്കുന്ന നിയമനങ്ങളിൽ പിന്നോക്ക വിഭാഗക്കാർക്ക് സർക്കാർ സർവ്വീസിൽ അനുവദിച്ചിട്ടുള്ളതു പോലെ സംവരണതത്വം പാലിക്കുന്നതിനുള്ള ഉത്തരവ് സർക്കാർ പുറപ്പെടുവിക്കണമെന്ന്, അതിനായി സഹകരണ നിയമം ഭേദഗതി വരുത്തുന്നതിനുള്ള നടപടി സ്വീകരിക്കണമെന്ന് സമിതി ശക്തമായി ശുപാർശ ചെയ്യുന്നു.”

There are co-operative institutions which are also not covered under reservation rules. At present there are 13,478 Co-operatives under the Registrar of Co-operative Societies. Of which 10241 are functional as detailed below:

Sl.No	Type of Societies	YEAR 2011	
		Number of Societies	Of which working
01	Apex, Federal, Central Societies	28	27
02	Credit Co-operatives	3299	2988
03	Marketing Co-operatives	557	235
04	Consumer Co-Operatives	4697	4066
05	Processing Co-Operatives	28	12
06	Housing Co-Operatives	376	272
07	SC/ST Co-Operatives	812	407
08	Health Co-Operatives	187	96
09	Women Co-Operatives	1003	748
10	Other Co-Operatives (Miscellaneous)	2491	1390
Total		13478	10241

Of the above Sl.No.1, Apex Federal and Central Societies are covered by the reservation rules. Sl. No. 6, SC/ST Co-operatives also may be excluded. The remaining 9812 functional Co-operatives may also be brought under reservation pools. If it is presumed that a functional society has at least 10 employees the total number of employees in those societies will be around 98,000. Efforts to gather the number of posts in these societies did not succeed. Even the Co-operative Department was unable to furnish the details.

The Registrar of Cooperative Society in his letter no. EM (1) 430/2013 dated 29.01.2013 has reported that-

‘എല്ലാ സഹകരണ സ്ഥാപനങ്ങളിലും നടക്കുന്ന നിയമനങ്ങളിൽ പിന്നോക്ക വിഭാഗക്കാർക്ക് സർക്കാർ സർവ്വീസിൽ അനുവദിച്ചിട്ടുള്ളതു പോലെ സംവരണ തത്വം പാലിക്കുന്നതിനുള്ള സർക്കാർ ഉത്തരവ് പുറപ്പെടുവിച്ചിട്ടില്ലാത്തതാണ്. എന്നാൽ നേരിട്ടുള്ള നിയമനം കേരള പബ്ലിക് സർവ്വീസ് കമ്മീഷനു വിട്ട സംസ്ഥാനത്തെ സഹകരണ സ്ഥാപനങ്ങളായ ജില്ലാ സഹകരണ ബാങ്കിലെയും അപ്പെക്സ് സഹകരണ സ്ഥാപനങ്ങളിലേയും നിയമനങ്ങളിൽ, 1958-ലെ കേരള സ്റ്റേറ്റ് ആന്റ് സബോർഡിനേറ്റ് സർവ്വീസ് റൂൾസിലെ ചട്ടം 14 മുതൽ 17 വരെയുള്ള സംവരണ തത്വ വ്യവസ്ഥകൾ ബാധകമാക്കി കൊണ്ട് സർക്കാരിന്റെ 28.04.2010 ലെ 14953-ലെ ജി.ബി2/09/ലാ നം വിചാരണ പ്രകാരം കേരള സഹകരണ സംഘ നിയമത്തിലെ വകുപ്പു നമ്പരിൽ ഭേദഗതി വരുത്തിയിട്ടുണ്ട്.

നേരിട്ടുള്ള നിയമനം കേരള പബ്ലിക് സർവ്വീസ് കമ്മീഷനു വിട്ടതും കേരള സഹകരണ സംഘം നിയമത്തിലെ വകുപ്പ് 80(3) ന്റെ ഷെഡ്യൂളിൽ പ്രതിപാദിച്ചിട്ടുള്ളതുമായ ജില്ലാ സഹകരണ ബാങ്കുകളിലേയും അപ്പെക്സ് സഹകരണ ബാങ്കുകളിലേയും പ്യൂൺ തസ്തിക മുതലുള്ള തസ്തികകളിലെ നേരിട്ടുള്ള നിയമനങ്ങൾ പി.എസ്.സി മുഖേനയാണ് നടത്തപ്പെടുന്നത്. പി.എസ്.സിയുടെ പരിധിയിൽ വരാത്ത സഹകരണ സ്ഥാപനങ്ങളിൽ പട്ടിക ജാതി/പട്ടികവർഗ്ഗ സംവരണവും വികലാംഗ സംവരണവും പാലിക്കുന്നതിന് വ്യവസ്ഥ ഉണ്ട്. എന്നാൽ ടി പ്രാഥമിക തലത്തിലുള്ള ഭൂരിഭാഗം സംഘങ്ങളിലേയും ജീവനക്കാരുടെ എണ്ണം പത്തിൽ കുറവുള്ളതിനാലാകാം പിന്നോക്ക വിഭാഗ സംവരണ തത്വം പാലിക്കുന്നതിനുള്ള വ്യവസ്ഥ നിലവിലില്ലാത്തത്. പി.എസ്.സിയുടെ പരിധിയിൽ വരാത്ത സഹകരണ സ്ഥാപനങ്ങളിൽ പിന്നോക്ക വിഭാഗക്കാർ ജോലി ചെയ്തു വരുന്നുണ്ടെങ്കിലും ടി സ്ഥാപനങ്ങളെ അപ്രകാരം സംവരണ തത്വം പാലിക്കുവാൻ നിലവിൽ നിയമം ഇല്ലാത്തതാണ്. 1958-ലെ കെ.എസ്.& എസ്.എസ്.ആർ ചട്ടം 14 മുതൽ 17 വരെയുള്ള വ്യവസ്ഥകൾ അനുസരിച്ചുള്ള മറ്റു സാമുദായിക സംവരണം സഹകരണ സ്ഥാപനങ്ങളിലെ നിയമനങ്ങൾക്ക് ബാധകമാക്കി കൊണ്ട് സർക്കാർ തലത്തിൽ തീരുമാനം കൈ കൊണ്ട് ആയതിനനുസൃതമായി സഹകരണ നിയമത്തിൽ ഭേദഗതി വരുത്തി ടി സ്ഥാപനങ്ങളിലെ നിയമനങ്ങളിൽ പിന്നോക്ക വിഭാഗ സംവരണം നടപ്പിലാക്കുന്നത് സംബന്ധിച്ച അഭിപ്രായം 09.05.2011-ലെ ഇ.എം(1)/18439/2011-ാം നമ്പർ കത്തു മുഖേന സർക്കാരിനെ അറിയിച്ചിട്ടുള്ള വിവരവും അറിയിക്കുന്നു.’

(Annexure-XX)

The recommendation advising reservation in primary cooperative societies is still remain without further progress.

There are Co-Operative Societies under other Departments also, such as Industries Department, Animal Husbandry Department, and Coir Department etc. If the total number of posts in those societies is also reckoned the total number of posts will be more than 100,000. In the absence of reservation, it is not known as to how many persons belonging to the communities, eligible for reservation have got berths in those institutions. In the absence of data no inference can be made. However it is reasonably assumed had there been reservation in those sectors at least one lakh families belonging to the communities eligible for reservation would have secured income security.

7.4 Other Backward Communities especially the communities in MBCF fold are demanding OEC status mainly for getting their children educated so that they may get employment in various sectors including Government Service. The petitioners demand reservation in those aided sectors because Government is funding them from the consolidated fund of the state. Even in Cooperative Sector Government funds are released towards share capital contribution, subsidies etc.

7.5 It may not be possible to allow any reservation afresh immediately. Government has to come to the help of those who are in distress. The Supreme Court of India in its Judgment in Mandal Case has held that-

“-----It is open to the State to adopt any valid affirmative action programme, Otherwise than by reservation, for amelioration of the disabilities of all disadvantaged persons, including Backward Classes of Citizens”.

(para 555 E, AIR 1993 SC 477)

Those disadvantaged persons in other backward communities may be uplifted by suitable welfare and development measures. Details will be discussed in due course.

Appropriate welfare and development schemes have to be implemented for the benefit of the people belonging to the OBCs.

7.6 Survey of OBCs

The 4th Report of the Backward Communities Welfare Committee (2009-2011) of Eleventh Kerala Legislature recommended that –

“ പിന്നോക്ക സമുദായക്കാരുടെ നിലവിലെ സ്ഥിതി മനസ്സിലാക്കുന്നതിന് സാമൂഹിക സാമ്പത്തിക സർവ്വേ അനിവാര്യമായതിനാൽ പ്രസ്തുത സർവ്വേ ഏതേയും വേഗം ആരംഭിക്കുന്നതിനും സമയ ബന്ധിതമായി പൂർത്തിയാക്കുന്നതിനും സർക്കാർ നടപടി സ്വീകരിക്കണമെന്ന് സമിതി ശുപാർശ ചെയ്യുന്നു.”

Government may consider the recommendation on a priority basis.

7.7 Expansion of Activities of KSBCDC

Kerala State Backward Classes Corporation Ltd. (KSBCDC) is a Corporation established in the year 1995. They have a lot of schemes for the welfare of the Backward Classes such as :-

- ❖ സ്വയം തൊഴിൽ പദ്ധതി
- ❖ വിദ്യാഭ്യാസ വായ്പ പദ്ധതി
- ❖ പെൺകുട്ടികളുടെ വിവാഹ വായ്പ
- ❖ സാക്ഷര (പ്രൊഫഷണൽ വിദ്യാഭ്യാസം നേടിയിട്ടുള്ളവർക്ക്)
- ❖ ന്യൂസ്പാർണ്ണിമ (വനിതകൾക്കായുള്ള പ്രത്യേക സ്വയം തൊഴിൽ പദ്ധതി)
- ❖ പ്രവർത്തന മൂലധന വായ്പ
ശില്പ സമ്പദ (കരകൗശല മേഖലയിൽ പ്രവർത്തിക്കുന്നവർക്കുള്ള പ്രത്യേക പദ്ധതി)

- ❖ സുവർണ്ണശ്രീ വായ്പ പദ്ധതി
- ❖ വിദ്യാശ്രീ വായ്പ പദ്ധതി
- ❖ വിദ്യാർത്ഥികൾക്ക് കമ്പ്യൂട്ടർ വാങ്ങുന്നതിനുള്ള വായ്പ പദ്ധതി
- ❖ ഭവനശ്രീ വായ്പ പദ്ധതി
- ❖ ലഘുവായ്പ പദ്ധതി (മൈക്രോ ഫിനാൻസ്)
- ❖ മഹിളാ സമൂഹി യോജന (വനിതകൾക്കുള്ള ലഘു വായ്പ)
- ❖ കൃഷി സമ്പദ് (കർഷകർക്കുള്ള ലഘുവായ്പ)
- ❖ സർക്കാർ/അർദ്ധ സർക്കാർ ജീവനക്കാർക്കുള്ള വാഹന വായ്പ
- ❖ സർക്കാർ/അർദ്ധ സർക്കാർ ജീവനക്കാർക്കുള്ള ഗൃഹപുനരുദ്ധാരണ വായ്പ
- ❖ സർക്കാർ/അർദ്ധ സർക്കാർ ജീവനക്കാർക്കുള്ള കൺസ്യൂമർ ഡ്യൂറബിൾ വായ്പ
- ❖ വിദേശത്ത് ജോലി തേടി പോകുന്നവർക്കുള്ള വായ്പ
- ❖ ബിസ്നസ് ഡെവലപ്മെന്റ് വായ്പ

In this context the recommendation No:16 contained in the IV report of the Backward Communities Welfare Committee (2009-2011) of the Kerala Legislature is worth mentioning. In their report they have recommended as follows:-

പിന്നോക്ക വിഭാഗക്കാരുടെ സാമ്പത്തിക ബുദ്ധിമുട്ടുകൾ പരിഹരിക്കാനും അവർക്ക് ഒട്ടേറെ ക്ഷേമ പദ്ധതികൾ നടപ്പിലാക്കാനും പിന്നോക്ക വിഭാഗ വികസന കോർപ്പറേഷൻ കഴിയും എന്ന് സമിതി വിശ്വസിക്കുന്നു. 1995 ഫെബ്രുവരി 28-ാം തീയതി കമ്പനീസ് ആക്ട് പ്രകാരം നിലവിൽ വന്ന ഈ കോർപ്പറേഷൻ 14 ജില്ലകളിലും ജില്ലാ ആഫീസുകൾ പ്രവർത്തിക്കുന്നുണ്ടെങ്കിലും സാധാരണ ജനങ്ങൾ പിന്നോക്ക വിഭാഗ വികസന കോർപ്പറേഷന്റെ വിവിധ സ്വയം തൊഴിൽ/ക്ഷേമ പദ്ധതികളെപ്പറ്റി അജ്ഞരായെന്നതാണ് വാസ്തവം. അതുകൊണ്ടുതന്നെ ഈ കോർപ്പറേഷന്റെ ഗുണഫലങ്ങൾ അധികം പേർക്കും ലഭിക്കുന്നില്ല. ആയതിനാൽ ദാരിദ്ര്യത്തിൽ നിന്നും പിന്നോക്കാവസ്ഥയിൽ നിന്നും മോചനം എന്ന ലക്ഷ്യം കൈവരിക്കുന്നതിന് വായ്പയെടുക്കുന്നതിനുള്ള വ്യവസ്ഥകൾ ലഘൂകരിച്ചും, കുറഞ്ഞ പലിശ നിരക്കിൽ വായ്പ അനുവദിച്ചും, പിന്നോക്ക വിഭാഗ വികസന കോർപ്പറേഷന്റെ പ്രവർത്തനം കൂടുതൽ വിപുലപ്പെടുത്തണമെന്ന് സമിതി ശുപാർശ ചെയ്യുന്നു.

(Annexure-XXI)

The Corporation was requested to make available the number of beneficiaries belonging to the communities included in MBCF. They have furnished the data pertaining to 01.01.2002 to 17.02.2012. They have also been requested to furnish the data relating to some major

communities in OBC category including Muslims for the above period. On verification of the data furnished by them shows that the following communities in MBCF have utilised the loan facility provided by the Corporation.

Sl.No	Name of Community	Number of beneficiaries	Amount (Rs)
01	Telugu Chetty	79	60,71,500
02	Manai Chetty	37	34,45,000
03	Chetty	414	3,20,57,500
04	Devanka Chetty	01	45,000
05	Nagarathar Chetty	01	33,91,350
06	Pandara Chetty	03	1,29,000
07	Parakka Chetty	01	50,000
08	Sadhu Chetty	48	40,10,000
09	Sri Pandara Chetty	9	9,35,000
10	Udiyankulangara Chetty	1	40,000
11	Vanibha Chetty	18	16,80,000
12	Vaniya Chetty	12	7,54,000
13	Vellala Chetty	01	50,000
14	Wayanadan Chetty	138	88,59,300
15	Chekkala	100	81,44,300
16	Chettiyar	12	7,23,000
17	Ezhavathi	22	1,19,900
18	Ganaka	382	2,98,35,724
19	Ganika	46	33,91,350
20	Padmasaliya	03	1,29,000
21	Pandithar	93	1,75,000
22	Reddiar	02	1,50,000
23	Vanika	12	10,55,000
24	Vanika Vaisya	266	2,07,92,900
25	Vaniya	468	2,53,73,400
26	Vilakkithala Nair	712	5,56,80,040

27	Vilakithalavan	39	37,50,000
28	Veluthedathu Nair	247	1,94,14,050
29	Vilukurup	46	33,98,000
30	Yadava	122	93,65,000
Total			24,30,14,314

The above data shows that most of the communities in MBCF also have utilised the services of KSBCDC. It is also seen that out of the 16 communities in the MBCF some communities have not availed of the services of the Corporation, may be because of their unwillingness to take loan or because of their ignorance about the services of the Corporation.

The data furnished by the Corporation in respect of some forward sections of OBC show that Ezhava/Thiyya Viswakarma, Muslim, Latin Catholic etc have utilised the services of KSBCDC in a better way. Let us see the details:

Loans advanced by the KSBCDC from 01.01.2002 to 17.12.2012

SL. No.	Community	No. of loanees	Amount (Rs)
1	Ezhava/Thiyya	53898	385,89,76,037
2	Muslim	23277	191,01,47,217
3	Latin Catholic	7635	62,09,08,702
4	Viswakarma (includes sub castes)	7572	54,66,16,589
5	SIUC Nadar	836	6,88,14,698
<u>Total</u>		<u>93218</u>	<u>700,54,63,243</u>

Members of the Communities in MBCF numbering about **3335** only have availed of the services of the KSBCDC during 01.01.2002 to 17.12.2012, whereas members belonging to Ezhava/Thiyya, Muslim, Viswakarma, Latin Catholic & SIUC Nadar Communities numbering

about 93218 have availed of the services to the tune of **Rs.700,54,63,243/-**

Recommendation No. 16 of the Legislature Committee quoted above is relevant even now as a lot of the members of the community are still unaware of the services of the Corporation and there by they are not utilising the loan/service facilities effectively. The above-mentioned Committee has recommended in another context that the Department may conduct district wise seminars for popularising the functions and the activities of the Corporation. This may be undertaken immediately because in the matter of self-employment the Corporation can do many help to the OBCs. This is particularly very important as the Corporation itself is established exclusively for the benefit of OBCs and the minority communities.

7.8 Reservation in Appointments-Unit System

The recommendation of Backward Communities Welfare Committee of the 12 the Kerala Legislature in its 3rd report tabled on December 17, 2008 recommended-

“നിലവിലുള്ള പി.എസ്.സി നിയമന നിർദ്ദേശ രീതി പൂർണ്ണമായും സംവരണതത്വങ്ങൾക്ക് വിധേയമായി വേണമെന്ന കേരള ഹൈക്കോടതി സിംഗിൾ ബഞ്ച് പുറപ്പെടുവിച്ച് ഉത്തരവ് സമിതിയുടെ ശ്രദ്ധയിൽപ്പെടുകയായി. ഒഴിവുകളെ ഇരുപതിന്റെ യൂണിറ്റുകളാക്കി നിയമന നിർദ്ദേശം നടത്തുന്ന രീതി ഒഴിവാക്കി നേരിട്ടുള്ള നിയമനവും സംവരണവും 50:50 അനുപാതത്തിലാക്കണമെന്നാണ് ഹൈക്കോടതി ഉത്തരവിട്ടിരിക്കുന്നത്. ആയുർവേദ മെഡിക്കൽ ഓഫീസർ തസ്തികയിലെ നിയമന രീതിയുമായി ബന്ധപ്പെട്ടാണ് ആദ്യമായി പ്രസ്തുത കോടതി വിധി വന്നതെങ്കിലും 23.05.2008 മുതൽ മുൻകാല പ്രാബല്യത്തോടെ എല്ലാ തസ്തികകളിലേക്കുമുസസ നിയമനങ്ങളിൽ ടി വിധി ബാധകമാക്കണമെന്ന് ഹൈക്കോടതി സിംഗിൾ ബഞ്ച് പിന്നീട് ഉത്തരവായി. നേരിട്ടുള്ള നിയമനവും സംവരണവും 50:50 അനുപാതത്തിലാക്കിയാൽ സംവരണതത്വം പൂർണ്ണമായി പാലിക്കാൻ കഴിയുമെന്നും പി.എസ്.സി നിയമനങ്ങളിൽ ടി അനുപാതം നടപ്പിൽ വരുത്തുവാൻ നടപടി സ്വീകരിക്കണമെന്നും സമിതി ശുപാർശ ചെയ്യുന്നു.”

The issue has further been referred to by the Backward Communities Welfare Committee (XXII KLA) in its fourth report as below:-

20-ന്റെ യൂണിറ്റായി നിയമന നിർദ്ദേശം നടത്തുന്ന രീതി അവസാനിപ്പിച്ച് ഓരോ സമയത്തും റിപ്പോർട്ട് ചെയ്യുന്ന ഒഴിവുകൾ ഒറ്റ യൂണിറ്റായി കണക്കാക്കി നിയമനവും സംവരണവും 50:50 എന്ന അനുപാതത്തിൽ നടത്തണമെന്ന് 1697/07 നമ്പർ റിട്ട് അപ്പീലിന്മേൽ 23-5-2008-ലെ വിധിന്യായത്തിലൂടെ ബഹു: ഹൈക്കോടതി ഉത്തരവിട്ടിരുന്നു. പ്രസ്തുത ഉത്തരവിന്റെ വെളിച്ചത്തിൽ നിയമനവും സംവരണവും 50:50 എന്ന അനുപാതത്തിലാക്കാൻ വേ നടപടി സ്വീകരിക്കണമെന്ന് 2008 ഡിസംബർ 17-ാം തീയതി നിയമസഭയിൽ സമർപ്പിച്ച സമിതി (2006-2008) യുടെ മൂന്നാമത് റിപ്പോർട്ടിലും ആവശ്യപ്പെട്ടിരുന്നതാണ്. സർക്കാർ പ്രസ്തുത ആവശ്യത്തിന് അനുകൂലമായി പ്രതികരിച്ചെങ്കിലും പി.എസ്.സി നിയമനം സംബന്ധിച്ച ഹൈക്കോടതി വിധിക്കെതിരെ പി.എസ്.സി ബഹു. സുപ്രീം കോടതിയിൽ അപ്പീൽ ഫയൽചെയ്തതിനെ തുടർന്ന് കെ.എസ്.എസ്.ആർ സർവ്വീസ് ചട്ടങ്ങളിലെ നിലവിലുള്ള കെ.എസ്.എസ്.ആർ സർവ്വീസ് ചട്ടങ്ങളിലെ നിലവിലുള്ള വ്യവസ്ഥ തുടരാൻ ബഹു: സുപ്രീംകോടതിയുടെ 30.03.2009-ലെ 1991/2009-ാം നമ്പർ സിവിൽ അപ്പീലിന്മേൽ വിധിയായിട്ടുള്ളതാണ്. നിലവിലുള്ള കെ.എസ്.എസ്.ആർ-ലെ നിയമന ചട്ടങ്ങൾ 50:50 എന്ന അനുപാതത്തിൽ നിയമനം നടത്താൻ പര്യാപ്തമായതല്ല എന്നതിനാലാണ് ബഹു. സുപ്രീംകോടതി ഇത്തരത്തിൽ വിധി പുറപ്പെടുവിക്കാനിടയായത് എന്ന് സമിതി മനസ്സിലാക്കുന്നു

7.9 Filling up of Backlog in representation in service.

“.....വിവിധ കാറ്റഗറികളിൽ പ്രാതിനിധ്യക്കുറവായിട്ടുള്ള വിഭാഗങ്ങളുടെ പ്രാതിനിധ്യ കുറവ് പരിഹരിക്കുവാൻ ആവശ്യമായ നടപടി സ്വീകരിക്കണമെന്ന് സമിതി ശുപാർശ ചെയ്യുന്നു.”

“.....ഈ വകുപ്പിൽ അർഹമായ പ്രാതിനിധ്യം ലഭിക്കാത്ത പിന്നോക്ക സമുദായങ്ങൾക്ക് ആയത് ലഭ്യമാക്കുവാൻ നടപടി സ്വീകരിക്കണമെന്ന് സമിതി ശുപാർശ ചെയ്യുന്നു.”

“സംസ്ഥാന സർക്കാർ സർവ്വീസിൽ പിന്നോക്ക വിഭാഗക്കാരുടെ പ്രാതിനിധ്യക്കുറവ് പരിഹരിക്കുന്നതിലേയ്ക്കായി പ്രത്യേക നിയമനം നടത്തണമെന്ന പിന്നോക്ക സമുദായ ക്ഷേമ സമിതിയുടെ ശുപാർശയിൽ മേൽ അനന്തര നടപടികൾ സ്വീകരിക്കുന്നത് ആസൂത്രണ സാമ്പത്തിക കാര്യ വകുപ്പ് നടത്തുന്ന സർവ്വേയുടെ റിപ്പോർട്ടും പിന്നോക്ക വിഭാഗ കമ്മീഷൻ ശേഖരിക്കുന്ന സർക്കാർ ഉദ്യോഗസ്ഥന്മാരുടെ ജാതി തിരിച്ചുള്ള കണക്കുകളും ലഭ്യമായ ശേഷം മതി എന്ന് മന്ത്രി സഭാതലത്തിൽ തീരുമാനമെടുത്തിട്ടു്.”

7.10 Starting Coaching Centres for Civil Service Examination.

“ഈ സാഹചര്യത്തിൽ ഐ.എ.എസ് തുടങ്ങിയ സിവിൽ സർവ്വീസിൽ എത്തപ്പെടുന്ന പിന്നോക്ക സമുദായാംഗങ്ങളുടെ എണ്ണം മെച്ചപ്പെടുത്താനുള്ള മാർഗ്ഗങ്ങളെപ്പറ്റി ഗൗരവമായി ആലോചിക്കേണ്ടത്. കഴിഞ്ഞ ഏതാനും വർഷങ്ങളായി കേരളത്തിൽ നിന്നും ഐ.എ.എസ്സിന് നേരിട്ട് തെരഞ്ഞെടുക്കപ്പെട്ട ഉദ്യോഗാർത്ഥികളുടെ എണ്ണം വളരെ പരിമിതമാണ്. അതിൽ പിന്നോക്ക സമുദായങ്ങളിൽപ്പെട്ടവരുടെ എണ്ണം നാമമാത്രവും. ഇത് പരിഹരിക്കുന്നതിനായി പിന്നോക്ക സമുദായങ്ങളിലെ വിദ്യാഭ്യാസനവനരായ യുവജനങ്ങളെ പ്രാപ്തരാക്കുന്നതിനുവേണ്ട പദ്ധതികൾ ആവിഷ്കരിച്ച് നടപ്പിലാക്കേണ്ടത് ഒരു ജനാധിപത്യ സർക്കാരിന്റെ പരമ പ്രധാനമായ കടമയാണെന്ന് സമിതി കരുതുന്നു. അതിനാൽ കേന്ദ്ര സർവ്വീസുകളായ ഐ.എ.എസ്, ഐ.പി.എസ് മറ്റു അനുബന്ധ സർവ്വീസുകൾ എന്നിവയിലേക്കുള്ള പരീക്ഷയ്ക്ക് തയ്യാറെടുക്കുന്ന പിന്നോക്ക വിഭാഗങ്ങളിലെ ഉദ്യോഗാർത്ഥികൾക്ക് പ്രത്യേക പരിശീലനം നൽകുന്നതിന് സുസജ്ജമായ സ്ഥാപനങ്ങൾ ആരംഭിക്കുകയും, അവർക്ക് ഈ പരീക്ഷകളിൽ ഉന്നതമായ സ്ഥാനം നേടിയെടുക്കുന്നതിനായി പട്ടികജാതി-പട്ടികവർഗ്ഗ വിദ്യാർത്ഥികൾക്ക് നൽകി വരുന്ന തലത്തിലുള്ള പ്രത്യേക പരിശീലന പദ്ധതികൾ ആവിഷ്കരിച്ച് നടപ്പിലാക്കുകയും, കാലാകാലങ്ങളിൽ അവയുടെ നേട്ടങ്ങളേയും കോട്ടങ്ങളേയും വിശകലനം ചെയ്ത് അതിനനുസരിച്ച് യുക്തമായ മാറ്റങ്ങൾ വരുത്തി കൂടുതൽ പിന്നോക്ക സമുദായ വിദ്യാർത്ഥികൾ ഇന്ത്യൻ സിവിൽ സർവ്വീസിലേക്ക് തെരഞ്ഞെടുക്കപ്പെടുന്നതിനുള്ള വിധത്തിലുള്ള പരിശീലന പദ്ധതികൾ ആവിഷ്കരിക്കുകയും ചെയ്യുന്നതിന് അടിയന്തിര നടപടി സ്വീകരിക്കണമെന്ന് സമിതി ശുപാർശ ചെയ്യുന്നു.”

The recommendation of the Committee is very important and crucial in the interest of the people belonging to OBC's. It is unfortunate that the recommendations remain without action even after a decade.

7.11 Classification of OBCs into 'Backward' and 'Most Backward' Communities.

Another demand raised by some of the communities in MBCF is that the Backward Classes may be further divided as 'Backward', 'Most Backward' etc. In this connection, it may be noted that there are several such classifications in some other States, eg. Andhra Pradesh, Karnataka, Tamil Nadu etc. Even the National Backward Classes Commission in its report published in 1955 had classified certain communities as "Most Backward." In Andhra Pradesh, Backward Classes have been divided into four categories, namely, Group A, Group

B, Group C, and Group D. In Tamil Nadu, the classification is 'Backward', 'More Backward' and 'De notified' Communities. Although the demand for further classification of Backward Classes in Kerala into Backward, Most Backward etc had been raised in the past, the stand taken by the Government was that there is no such classification exists in the State. This issue was a matter for consideration by the Supreme Court in "Mandal Case". The Court held that:-

"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 categorisation, 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., gold-smiths and vaddes (traditional stone-cutters in Andhra Pradesh) both included within Other Backward Classes. None can deny that gold-smiths are far less backward than vaddes. If both of them are grouped together and reservation provided, the inevitable result would be that gold-smiths would take away all the reserved posts leaving none for vaddes. In such a situation, a State may think it advisable to make a categorisation 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 categorisation obtaining in Andhra Pradesh.

The Backward Classes have been divided into four categories. Group-A comprises of "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 of 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 categorisation was justified in Balram [1972] 3 S.C.R. 247 AT 286. This is merely to show that even among backward classes, there can be a sub-classification on a reasonable basis.

There is another way of looking at this issue. Article 16(4) recognises only one class viz., "backward class of citizens". It does 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 a 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, O.B.Cs. will take away all the vacancies leaving Scheduled Castes and Scheduled Tribes high and dry. The same logic also warrants categorisation 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."

(Para 92A, in judgement in WP(C) No.930 of 1990)

7.12 The Supreme Court has left to the discretion of the State to do it or not. This issue accrues importance in Kerala context. In this State, there exists, at present much developed communities as any other forward communities, but several communities are far behind the race.

Some of the communities included in MBCF have pleaded that they may be classified as Most Backward among OBCs. They have raised this plea for the reason that their community does not have enough educated or employed people. Several reasons attribute to this state of affairs and they cannot be blamed for this pitiable situation. Some of the constituents of MBCF have pointed out that they do not have even a UD Clerk in Government Service. They also do not expect fair representation in Government services unless they are classified separately and specially by classifying them as 'Most Backward' even among OBCs. 3% reservation in public service may not reach these communities easily. It is therefore, suggested that Government after a detailed study of all the communities in the category of OBCs may divide and categorise them as "Backward" and "Most Backward" Communities among OBCs. Several other communities in the category of OBCs in the State who are still a marginalised and neglected lot. This Commission is concerned only with the communities under MBCF. The Supreme Court has clearly pointed out the above aspects in the judgment quoted above.

7.13 If the Government classify OBCs as 'Backward' and 'Most Backward' ones, as suggested above, the rotation of posts earmarked in the Kerala State and Subordinate Service Rules, 1958 should be amended to give preference to the "Most Backward" OBCs in the matter of appointment in Government Service. For admission in educational institutions, the relevant rules also have to be amended. This will ensure proper treatment to the lowest strata of OBCs.

Restructuring of the percentage of reservation and revision of unit system

In the report of the Backward Classes Commission, 1982 of Andhra Pradesh the distribution of posts under reservation quota is revised following the classification of Backward Communities into four groups. The relevant abstract of the report is as follows. *"There shall be a cycle for every 25 vacancies and group-wise placement shall be as follows:-*

1. O.C
2. SC
3. BC-A
4. BC-B
5. BC-C
6. PH
7. OC
8. ST
9. BC-D
10. OC
11. BC-E
12. OC
13. BC-A

14. OC
15. BC-B
16. SC
17. BC-C
18. OC
19. BC-B
20. OC
21. BC-D
22. SC
23. OC
24. BC-B
25. OC"

Several Organisations under MBCF have pleaded that they are not getting adequate representation in Public Service. One of the reasons they have pointed out was that the unit system of reservation now in vogue is unscientific. They have demanded change of this system.

The unit system they refer is the one that exist in Rule 17 (1) of Part II KS & SS Rules, 1958. Under this rule OBCs are grouped into eight viz.

1. Ezhava, Thiyya, Billava
2. Muslims
3. Latin Catholics & Anglo-Indians
4. Nadars (Hindu Nadars & Nadars in S.I.U.C
5. Christian converts
6. Viswakarmas
7. Dheevara
8. Other Backward Communities.

Of the above eight groups the last group consists of 73 castes/sub-castes. They are given 3% reservation in employment. They

have complained that many of the castes/sub castes in group 8 may not get a post in the recruitment.

In the above background, their demand for restructuring the reservation quota may be examined. The recommendation in the report of the Backward Classes Commission, 1982 of Andhra Pradesh is relevant in such situation. In that report, the Commission has grouped the OBCs into four groups, Viz A,B,C and D. In our State also recategorization of people belonging to OBCs is found necessary because at present all the communities under OBC category are grouped as a single unit, irrespective of the fact that some are minor (minor in population) and backward, more backward, and most backward. If with a categorisation on the above lines is ordered and if the percentage of reservation is restructured and redistributed as proposed on the lines of the example given above the backward and most backward will be benefited. This is in respect of reservation for appointment in public services. A similar exercise will be required in the matter of educational concessions and reservations. The above suggestions are made for the consideration of the government.

7.14 Formation of OBC policy

It is found that even after more than sixty years, lot of people belonging to backward communities and other depressed classes remain without much progress inspite of the fact that a lot of schemes and welfare measures were implemented. It is therefore found necessary to consolidate and co-ordinate activities of different departments for the welfare of OBCs. Inorder to facilitate such activities as a pre condition it would be advisable to have an OBC Policy of the State. Government may consider this proposal favourably.

7.15 Political Reservation

The next important demand raised by the communities is the political representation. They have not demanded reservation for seats in the State Legislature or in the Parliament. Their demand is limited to

the local bodies and co-operative bodies only. At present, the reservation is available in the local bodies only to SC, ST and women. As we know, elections to the local bodies are in almost all cases, on party/political basis. Normally castes/communities may not find a place in the election race, although caste, community, religions etc. play a crucial role in election. Small communities among the Backward Classes may not even get a place at the Gram Panchayat level. This does not mean that members belonging to OBCs are not got elected. The complaint is that several communities do not get representation or adequate representation. What is demanded is that they should be given reservation for election to the local bodies. This was a subject matter considered by the Backward Classes Commission of Andhra Pradesh headed by Shri N.K Muralidhara Rao, IAS. In his Report (1982) the Commission, made the following recommendation:-

Political Participation

The Andhra Pradesh Backward Classes Commission, 1970 dealt with political participation also for Backward Classes and observed as follows in para 135 of the report :-

“Effective use by all the classes, of the gramasabha and village panchayats would give a sense of participation. There is at present a deep sense of frustration among Backward Classes that they are not allowed to participate effectively in the management of even the local panchayats. The representatives of almost all the communities have urged that political participation at different levels-Legislature, Zilla Parishads, Panchayat Samithis, Municipalities will go a long way in inspiring confidence in the minds of all the communities that their interests are properly understood and safeguarded. Healthy conventions to ensure such representations should be established.”

*A study of the history of any Nation reveals that those who are politically free have made substantial advancement in all spheres. Similarly, communities, which have political power, have an edge over other communities and have consequently progressed socially, educationally and economically. Active participation in political life now is confined mainly to some advanced communities, and the Backward Classes do not have adequate share in the political power. Today we**

are informed unofficially that out of a total of 392 M.L.As, there are only 46 belonging to Backward Classes, whereas on population basis there should be at least 196 M.L.As. Similarly, out of 87 M.L.Cs, there are only 4 belonging to Backward Classes whereas there should be at least 44 M.L.Cs. On the face of it, it is clear that gross injustice is done in political field to Backward Classes. Reservations either in employment or in educational institutions or educational institutions or economic sphere cannot be properly enforced unless the backward classes also have a share in the political power. It is sad to note that several communities go unrepresented in the Legislature. Zilla Parishads, Panchayat Samithis and other Local Bodies and they, therefore, are not in a position to ventilate their groevamces dorectly. Unless and until there is reservation of certain seats in the Legislative Assembly, Council, Zilla Parishads, Panchayat Samithis, Municipalities, etc. It is not possible to foresee active participation of the Backward Classes, in the near future. It is gratifying to note that recently the State Government to this aspect is paying attention. However, the Commission strongly feels that reservations should be provided based on population for Backward Classes, in the Legislature and all other elected bodies. If there is effective representation and participation by the Backward Classes, in the elected bodies, it will also help in the implementation of welfare schemes for Backward Classes. This is clear from the evidence given by the public before this Commission.

Note: The letter sent to the Secretary, Legislature on 05.07.1982 and the reminder on 07.08.1982 for the list of Backward Class. Legislators have not been replied.*

It is true that certain statutory amendments including amendment to the Constitution are necessary to earmark certain political offices and to provide for separate electorates in favour of Backward Classes. It is time that this step is taken because of the present state of affairs where communities who have population in lakhs like Rajakas or Boyas do not have a single Legislator to represent their cause. It is no exaggeration to say that in certain hearings before the Commission some of the Backward Classes leaders have expressed that while votes are from the Backward Classes the seats are for Forward Classes. The sooner this frustration is removed from the minds of the backward communities, the better it is for the stability of the Society. People cannot be continued under constant suppression and domination without endangering the stability of the society. Therefore,

the Commission strongly recommends that 50% of the seats in Legislature and 50% of the seats in Zilla Parishads, Panchayat Samithis, Municipalities, Gram Panchayats, etc., shall be earmarked to backward Classes, which will be in proportion to their population.

(Para 9.1 to 9.3, Chapter IX of the Report)

This is an important matter in the Kerala context also. In the past also, some communities have raised this demand. In the IIIrd report of Backward Communities Welfare Committee (2006-2008) of the 12th Kerala Legislature the request of Vilakkithala Nair Samudayam has been mentioned as follows:

“ഭരണ പങ്കാളിത്തം ഉറപ്പാക്കാൻ തദ്ദേശസ്വയംഭരണ സ്ഥാപനങ്ങളിലേക്കും സഹകരണ സംഘങ്ങളിലും ഉള്ള തെരഞ്ഞെടുപ്പിൽ നിശ്ചിത ശതമാനം സീറ്റുകൾ വിളക്കിത്തല നായർ സമാജം ഉൾപ്പെടുന്ന മോസ്റ്റ് ബാക്ക് വേഡ് കമ്മ്യൂണിറ്റിസിന് സംവരണം ചെയ്യണം.”

The reply given by the Government on that request was that-

“തദ്ദേശസ്വയം ഭരണ സ്ഥാപനങ്ങളിലേക്കുള്ള തിരഞ്ഞെടുപ്പിൽ നിലവിൽ വിഭാവനം ചെയ്തിരിക്കുന്ന രീതിയിൽ പട്ടികജാതി പട്ടികവർഗ്ഗ വിഭാഗങ്ങൾക്ക് സീറ്റ് സംവരണം ചെയ്തിട്ടുണ്ട്. ഓരോ ജാതിക്കും പ്രത്യേകം സംവരണം ഏർപ്പെടുത്തുന്നത് പ്രായോഗികമല്ല.”

Although the reply given is in the negative, a careful analysis of the demand will reveal that it is not an absurd one. What is demanded is not unconstitutional also. Attention is invited to the Constitution (73rd Amendment) Act-1992 and Constitution (74th Amendment) Act-1992. The relevant sections of the Act are given below-

“(1) Nothing in this Part shall prevent the Legislature of a State from making any provision for reservation of seats in any Panchayat or offices of Chairpersons in the Panchayats at any level in favour of backward class of citizens.”
(The Constitution 73rd Amendment-1992)

“(2) Nothing in this Part shall prevent the Legislature of a State from making any provision for reservation of seats in any Municipality or office of Chairpersons in the Municipalities in favour of backward class of citizens.”

(The Constitution 74rd Amendment-1992)

In the light of the above mentioned facts, Government may consider the issue favourably especially in view of the fact that even in the Constitution there is a provision empowering the State Government to reserve seats in the local bodies in favour of the OBCs. The suggestion is that reservation be given obly to “Most Backward” OBCs.

7.17 Revision of Reservation Quota.

The ‘MBCF’ have demanded reservation in proportion to their population. At present, there is 5 % reservation in education and 3% of reservation in employment (3% reservation to the communities under Group 8). The Commission searched the population figures of castes in MBCF, but the population figures on a caste wise basis was unavailable. The last Census, which contained the caste wise enumeration, was that of 1931. The Statistics of 1931 cannot be relied on for the reason that in the Supreme Court have censured the Mandal Report for relying on the figures of that census. The next available data is from the sample survey of 1968 conducted by the Economics & Statistics Department. However, the Economics & Statistic Department was requested to make available the data with them for academic purpose. In their report that Department has furnished the available data pertaining to the communities in the MBCF. They furnished data in respect of only 6 communities out of 16 communities in MBCF.

It is evident that there are no correct population figures of different Communities in the State.

In the above background attention is invited to the GO (MS) No.24/2007/SC ST DD dated 13.04.2007 and GO (MS)No. 44/2007/SC ST DD dated 27.07.2007. In the above Government orders sanction accorded for a comprehensive Socio Economic Survey of the status of various Communities included in the list of OBCs by the Planning & Economics affairs Department.

After the issuance of the above orders, Government in numerous occasions assured the petitioners as well as the Backward Communities

Welfare Committee of the State Legislature that grievances in respect of backlog of representation in Public Services will be rectified on getting the result of the Socio Economic Survey. The 4th Report of the Backward Communities Welfare Committee (2009-2011) of Eleventh Kerala Legislature recommended that –

“ പിന്നോക്ക സമുദായക്കാരുടെ നിലവിലെ സ്ഥിതി മനസ്സിലാക്കുന്നതിന് സാമൂഹിക സാമ്പത്തിക സർവ്വേ അനിവാര്യമായതിനാൽ പ്രസ്തുത സർവ്വേ എത്രയും വേഗം ആരംഭിക്കുന്നതിനും സമയ ബന്ധിതമായി പൂർത്തിയാക്കുന്നതിനും സർക്കാർ നടപടി സ്വീകരിക്കണമെന്ന് സമിതി ശുപാർശ ചെയ്യുന്നു.”

(ശുപാർശ നമ്പർ. 14)

In fact, even in earlier reports also there has been mention about such a survey.

But unfortunately in spite of the caution given by the Backward Welfare Committee, orders issued in GO (MS) No.24/2007/SCSTDD dated 13.04.2007 and GO (MS) No.44/2007/SCSTDD dated 27.07.2007 are still hybernation. There is no data on caste wise population of different communities in the State and there is no caste wise representation in public service. All these failures are seen by the people belonging to OBCs as deliberate attempts to ignore them. This has led to disappointment.

7.18 General observation.

While examining various issues raised by the OBCs, recommendation No. 105 made by the Estimate Committee in their 48th Report submitted to the Parliament assumes importance. It is as below:

“Keeping in view the recommendation made by the Commissioner for Scheduled Castes and Scheduled Tribes, in his report for 1957-58, that if the ultimate goal of classless and casteless society

is to be attained, the list of Scheduled Castes and Scheduled Tribes and even Other backward Classes will have to be reduced from year to year and replaced, in due course, by a list based on the criteria of income-cum-merit and the requirements of the Article 46 of the Constitution, which cast special responsibility of safeguarding the interests of the weaker sections of the society, especially Scheduled Castes and Scheduled Tribes, the Committee recommend that weaker sections of the society should be defined and criteria for special assistance laid down, on the basis of economic status and educational and social backwardness."

This recommendation quoted here is to show that the ultimate goal conceived by the Commissioner for Scheduled Castes and Scheduled Tribes of Government of India, in his report for 1957-58 still remains as a wild and distant dream. Instead of reducing the list of SC, ST and OBCs, we are almost inflating the said lists even after 55 years of that report. It is really a bad state of affairs.

Chapter-IV

Conclusion

The four points posed for examination are clarified/replied as below:

- (i) About the additional financial commitment when the castes/communities in MBCF are allowed OEC benefits. As per law, the demand for inclusion of the communities under MBCF under OEC category cannot be entertained. Hence, calculation of additional financial commitments does not arise.
- (ii) Whether there will be any loss/difficulty to the communities who are already in OEC category when the communities under MBCF are included along with them. There will be loss/difficulty to the communities already in the OEC category if more communities are added to that category.
- (iii) If the communities under MBCF are exempted from the operation of creamy-layer principles, there may not be any problems to other communities, but, as per law, exemption as demanded cannot be allowed.
- (iv) For the welfare and development of the communities under MBCF (and other communities who are more or most backward) a number schemes are proposed.

Eg:- Opening of new schools, opening of hostels, financial assistance to school children, supply of cycles, special tuition/coaching, award to rank holders, starting of finishing schools, starting of micro-enterprises, construction of community halls and training centres, renovation of streets (*'theruv'*), loan for construction of houses at subsidised rate, financial support for mass marriage ceremonies, protection of Traditional Burial grounds etc are some of the items proposed for Central assistance.

Important Issues

Apart from the above issues, some more matters also came up for consideration/ reference. There is a general feeling among some of the organisations that Government are not sympathetic to their problems. For example, several vital recommendations of the Backward Communities Welfare Committee of the State Legislature are neglected by the Departments. Even after decades many important recommendations remain without follow up action. Recommendations for reservation in aided education sector, and primary cooperative sector are prominent ones. The people belonging to OBCs see all such neglect and inaction with agony.

The demand for political reservation in Panchayat Raj Institutions which is backed by the Constitution is still not considered. Another major recommendation relates to the change in reservation rules. The communities under 'Group 8' of KS&SSRS, Part II are eligible for reservation to the tune of 3% only. The unit system in KS&SSRS sometimes works against the interests of the weaker sections of OBCs. OBCs may be further categorised as 'Backward' and 'Most Backward'. The second category may be considered on a priority basis for admission to educational institutions, and also for employment.

Thiruvananthapuram:
06.05.2013

P.P.GOPI, IAS (Retd.)

Acknowledgement

This Commission was appointed by the Government as per G.O(MS) No.65/12/BCDD dated 07.05.2012. The initial term was three months. As the work was not completed by that time, Government was pleased to give periodical extensions, the last of which would end by 6th May,2013.

For the successful completion of the study assistance from several officials, Departments have been received. The first and foremost was Shri. V.Joshi, Director, Backward Classes Development Department. He along with his staff was very cooperative and helpful. I extend my sincere thanks.

My search for related Reports, Judgments, reference books etc. would not have been successful had the assistance from the Secretary, Legislature Secretariat was not available. The Librarian and staff of Legislature Library were really very helpful. Photo copying of hundreds of pages from various reports, judgments, books etc was a tiresome job. The staff of that Library has done that job without hesitation. I express my heartfelt thanks.

Shri. V.Vijayakumar, Librarian of IMG has also helped me by giving a lot of information on the subject of study. I express sincere gratitude to him.

The Chairman and members of Backward Classes Commission also gave me support in my endeavour. The Registrar and other officers and staff of the Commission also were helpful. All of them deserve special thanks.

The Director of Public Instruction, and the Director of Collegiate Education, also was very helpful. I extend my gratitude to them. Officers of the Backward Communities Development Department of the Secretariat extended whole hearted support during my tenure. I express my sincere thanks to them.

The services rendered by Shri. K. Sainulabdeen Kunju, Section Officer/Court Officer are invaluable. All the data entry works were neatly executed by Smt. Anisha C.S, Data Entry Operator. I extend sincere thanks to her.

Thiruvananthapuram

6-05-2013

P.P.Gopi