

**GOVERNMENT OF TELANGANA
BACKWARD CLASSES WELFARE (OP) DEPARTMENT**

Circular.Memo.No.1213/BCW/OP/2015,

Date:05.11.2015

Sub:- BCWD - Nalgonda District - Issue of BC-B, Caste Certificate to the people of Thogata Community who are converted to Christianity - Clarification - Reg

Ref:-1. From the District Collector, Nalgonda District, Lr.No.BCW /1/87/2015, Dt.28.05.2015
2. Law U.O.No.2901/98/D/2015, Dt.06.10.2015

The attention of all the District Collectors in the State of Telangana is invited to the reference 1st cited wherein the District Collector, Nalgonda District has sought clarification on the following:-

“మీరు క్రైస్తవ మతం స్వీకరించు కొన్నందున ఇవ్వము అని యస్.సి. యస్.టి. కులము నుండి కన్వర్ట్ అయినవారికి బిసి-సి ఇస్తున్నామని తెలిపినారు. ఇట్టి విషయములో పై సంఘం వారు ప్రభుత్వ జి.వో.లోని క్రమ సంఖ్య 20 ప్రకారము వీరికి బిసి-బి తొగట కులము సర్టిఫికెట్టు ఇప్పించవలసినదిగా కోరుతూ దరఖాస్తు చేసుకున్నారు.

కావున పై విషయములను పరిశీలించి తొగట కులమునకు చెందిన వీరు క్రైస్తవ మతము స్వీకరించినందున ప్రస్తుతము వీరికి బిసి-బి తొగట కులమునకు సంబంధించిన కుల ధ్రువీకరణ పత్రము ఇవ్వవచ్చా లేదా! అనే విషయములపై వివరణ ఇవ్వవలసినదిగా తమరిని కోరుతూ తమరి పరిశీలనార్థము యూనివర్సల్ తొగట సంఘము వారి దరఖాస్తును ఇందువెంట జతపర్చు చున్నాము.”

2. In this connection, it is informed that in the Anantharaman's Committee report dated.20.06.1970, in Appendix VII, page 199-200, para 67 relating to Weaver Communities there was a reference about Thogata, etc., which reads as follows :-

“Thogata is one of the Backward Classes Communities whose traditional occupation is weaving. Owing to competition from textiles mills, their occupation was greatly affected and their profession has become very un-remunerative. Even if the whole family works throughout the month, including the children aged 10-12 years, they are not able to get sufficient return to provide even a square meal a day. The textile mills have completely shattered their economy. Still

most of the families cling to their traditional occupation since they have acquired skill in weaving after several years of training and as such unable to take up to alternative trades or professions. They live in the hope that their profession would improve and become remunerative in course of time.

To supplement their income, men and women work as labourers or coolies. They live in small huts. A portion in the house is set apart for the loom. Their conditions of living are pitiable. Though their traditional occupation weaving is not unclean, they are looked down by other communities. They wield very little influence in society. they are educationally backward. a large number of children of school-going age being employed in weaving. Even in places where school exist, children are not sent to school as they are required to assist their parents in their occupation. the weaver communities as a whole are educationally backward. On account of the poverty of these communities and their un-remunerative and exacting occupation in which women and children also have to participate, they occupy a low social status in society. Very few of the families own lands and they do not therefore have any supplemental income. The job of a weaver being very arduous, it imposes heavy strain on his health. Many families do not have even one square meal a day. The Commission, therefore, feels that they should continue to enjoy the benefits of the Backward Classes list....."

3. In this regard, it is also relevant to refer to the observations relating to this issue from the judgement of the Supreme Court of India in WP (Civil) No.930 of 1990 in Indra Sawhney & Others Vs. Union of India & Others, delivered on 16th Nov 1992, the excerpts of relevant portions of the judgement (with paragraph numbers) are as under:

1) *The expression "backward class of citizens" is not defined in the Constitution of India and thus poses the single most difficult question. [Para 746]*

2) *The opinions of the Supreme Court in Venkataramana, Rajendran, Peeriakaruppan and Vasanth, emphasise the integral connection between caste, occupation, poverty and social backwardness. They recognise that in the Indian context, lower castes are and ought to be treated as backward classes. Rajendran and Vasanth Kumar (opinions of Chinnappa Reddy and Venkataramiah, JJ.) constitute important milestones on the road to recognition of relevance and significance of caste in the context of Article 16(4) and Article 15(4). [Paras 756 to 765]*

- 3) Reliance may be placed on the Constituent Assembly debates to ascertain the original intent underlying the use of words "backward class of citizens", though these debates or even the speeches of Dr. Ambedkar are not being taken as conclusive on the meaning of the expression "backward classes". But one cannot ignore the speech of Dr. Ambedkar while ascertaining the meaning of the expression "backward class of citizens" in Art. 16(4). The speeches of Dr. Ambedkar and Shri K.M. Munshi show the need for the qualifying word "backward" to "class of citizens" to make clear that the "class of citizens ... not adequately represented in the services under the State" meant only those classes of citizens who were not so represented on account of their social backwardness. [Paras 772 to 774]
- 4) Dr. Ambedkar in his speech in the Parliament at the time the First Amendment to the Constitution said that backward classes "are nothing else but a collection of certain castes".
- 5) The speeches of Dr. Ambedkar have to be understood in the context of the ground realities, (a) that Hindus constituted 84% of the population amongst whom the caste system prevailed, (b) that the caste system had percolated to the non-Hindus, especially the converts from Hinduism, a fact which has been judicially recognised, and (c) the use of the wider expression "communities" and not "castes" in his speeches thereby showing concern for backward groups, classes and sections of the population other than Hindus. [Para 777]
- 6) The use of the word "caste" in Art. 16(4) instead of class would have excluded the non-Hindus who do not recognise caste and the backward classes that may emerge in the future. Hence from the use of the word "class" in Article 16(4), it cannot be concluded either that "class" is antithetical to "caste" or that a caste cannot be a class or that a caste as such can never be taken as a backward class of citizens. The word "class" in Article 16(4), is used in the sense of social class - and not in the sense it is understood in Marxist jargon.
- 7) Among non-Hindus, there are several occupational groups, sects and denominations, which for historical reasons, are socially backward. They too represent backward social collectivities for the purposes of Article 16(4). [Para 859(3)]
- 8) The word 'backward' is very wide bringing within its fold the social backwardness, educational backwardness, economic backwardness, political backwardness and even physical backwardness. The battery of tests that are recognised by the Courts in determining 'socially and educationally backward classes' are caste, nature of traditional occupation or trade, poverty, place of residence, lack of education and also the substandard education of the

candidates for the post in comparison to the average standard of candidates from general category. These factors are not exhaustive. [Paras 44 and 45]

- 9) Even among Sikhs, Muslims and Christians casteism prevails in varying degrees in practice, their preachings notwithstanding. Casteism has thus been the bane of the entire Indian society, the difference in its rigidity being of a degree varying from religion to religion and from region to region. [Para 399]
- 10) The expression "backward class of citizens" is wider and includes in it "socially and educationally backward classes of citizens" and "Scheduled Castes and Scheduled Tribes". [Para 441]
- 11) In the case of the other backward classes of citizens qualified for reservation, the burden is on the State to show that these classes have been subjected to such discrimination in the past that they are reduced to a state of helplessness, poverty and consequential social and educational backwardness as in the case of the Scheduled Castes and the Scheduled Tribes. In other words, reservation is meant exclusively for the Harijans, the Girijans, the Adivasis, the Dalits or other like "depressed" classes or races or tribes most unfortunately referred to in the past as the "untouchables" or the "outcastes" by reason of their being born in what was wrongly treated as demeaning occupations, or any other class of citizens afflicted by like degree of poverty and degradation caused by prior and continuing discrimination and exploitation, whatever be their professed faith, religion or caste. These classes of citizens, segregated in slums and ghettos and afflicted by grinding poverty, disease, ignorance, ill-health and backwardness, and haunted by fear and anxiety, are the constitutionally intended beneficiaries of reservation, not because of their castes or occupations, which are merely incidental facts of history, but because of their backwardness and disabilities stemming from identified past or continuing inequities and discrimination. [Para 323(4)]
- 12) Members of the Scheduled Castes or the Scheduled Tribes do not lose the benefits of reservation and other affirmative action programmes intended for backward classes merely by reason of their conversion from the Hindu or the Sikh or the Buddhist religion to any other religion, and all such persons shall continue to be accorded all such benefits until such time as they cease to be backward. [Para 323(5)]
- 13) The expression, 'any backward class of citizens' is of very wide import. Due weight has not been given in certain earlier decisions to 'class' and 'citizens'. The latter expression includes people irrespective of race, religion or caste under the provisions of the Constitution. Members of every community Hindu, Muslim, Christian, Sikh, Budh, Jain, etc. who are citizens of this country and are backward and are not adequately represented in services are to be

brought into the national stream by protective or benign measures. Provisions of the Constitution apply to all equally and uniformly. Yardstick of backwardness must necessarily, therefore, be of universal application. [Para 568]

- 14) The expression 'any backward class of citizen' is capable of being construed as class of backwards, backward among any class of citizens, backward class, etc. depending on for whom the reservation is being made and why. [Para 569]
- 15) Backward may be relative such as professional or occupational backwardness or it may be economic, social, educational or it may be racial such as in America or caste based as in Hindu social system or it may be natural such as physically handicapped or even of sex. Backwardness in such a vast country with divergent religions, culture, language, habits, social and economic conditions arising out of historical reasons, geographical locations, feudal system, rigidity of caste is bound to have regional flavour. A caste backward in one State may be advanced in another. [Para 570]
- 16) While Article 16(4) was framed to undo historical backwardness, that does not exclude backwardness arising due to different reasons such as natural calamities. [Paras 579 and 580].
- 17) Use of the word "any" before "backward class" in Article 16(4) is indicative of that the backward class was not visualised in singular. It implies States' discretion to pick out one or more than one from amongst numerous groups or collectively identified or accepted as backward class for purposes of reservation. Whether such picking is reasonable and satisfies the test of judicial-review is another matter. That explains the rationale for the non-obstante clause being discretionary and not mandatory. A State is not bound to grant reservation to every backward class. [Paras 579 and 580].
- 18) Backward Class under Article 16(4) is not confined to erstwhile Sudras or depressed classes or intermediate backward classes amongst Hindus only. Width of the expression includes in its fold any community Hindu, Muslim, Christian, Sikh, Buddhist, or Jain, etc. as the expression is 'backward class of citizens'. [Para 594]
- 19) Problems of identifying backward classes in other religions, communities, groups, classes or denominations can then be resorted to - Hence survey of individuals not covered - Occupations linked to backward castes amongst Hindus can be used for identification amongst non-Hindus - Occupation based identification of those who are also socially and educationally backward

irrespective of race or religion and satisfy the means-test would be the best method. 222222.

- 20) When caste, occupation, poverty and social backwardness are so closely intertwined in our society, there is nothing unconstitutional in beginning the process of identification with castes, which represent explicit identifiable social classes / groupings, more particularly when Article 16(4) seeks to ameliorate social backwardness. Such castes may be found amongst Hindus and others. It may be noted that individual survey is out of question, since Article 16(4) speaks of class protection and not individual protection. [Para 782]
- 21) The concept of 'caste' in this behalf is not confined to castes among Hindus. It extends to castes, wherever they obtain as a fact, irrespective of religious sanction for such practice. For example, it may take up the Muslim community. Similarly, Christians may also be considered. [Para 782]
- 22) For example, agricultural labourers, rickshaw-pullers / drivers, street-hawkers, etc. may well qualify for being designated as Backward Classes. [Para 800]
- 23) Neither the Constitution nor the law prescribes the procedure or method of identification of backward classes. Nor is it possible or advisable for the court to lay down any such procedure or method. It must be left to the authority appointed to identify. It can adopt such method / procedure as it thinks convenient and so long as its covers the entire populace, no objection can be taken to it. [Para 859]
- 24) The word 'caste' is not used in the Constitution as indicative of any section of people or community except in relation to 'Scheduled Castes' which is defined in Article 366 (24). The word 'Scheduled Caste' came into being only by the notification of President under Article 341. [Paras 63 and 64].
- 25) It cannot be irrefutably asserted that Islam, Christianity, Sikhism are all completely immune from casteism, especially amongst the converts. The converts to Islam, Christianity, Buddhism and Sikhism are included in the list of 'backward classes' or so considered in few States. [Paras 83 to 94]
- 26) A Commission appointed under Article 340 by the President is not to identify Hindu backwards only but the backward class within the territory of India which includes Hindu, Muslim, Sikh or Christian etc. born and residing in India within the meaning of Article 5 of the Constitution. [Paras 578, 591 and 593]

- 27) In the Mandal Commission Report caste was adopted as the sole criterion for determining social and educational backwardness of Hindus. For members of other communities test of conversion from Hinduism was adopted.
- 28) Caste system which is peculiar to Hindus infiltrated even amongst Muslims, Christians, Sikhs or others although it has no place in their religion. [Para 602].
- 29) Identification of backward class of citizens cannot be caste-based. Nor it can be founded, only, on economic considerations as 'mere poverty' cannot be the test of backwardness. With these two negative considerations stemming out of constitutional constraints two positive considerations, equally important and basic in nature flow from the principle of constitutional construction one that the effort should, primarily, be directed towards finding out a criteria which must apply uniformly to citizens of every community, second that the benefit should reach the needy. [Para 603]
- 30) Advantage of occupational-based identification would be that it shall apply uniformly irrespective of race, religion and caste. It is immaterial if caste has given rise to occupation or vice versa. [Para 605]
- 31) If the collectively satisfies both the tests then apply the test of education. [Para 607].
- 32) After applying these tests the economic criteria or the means-test should be applied. Therefore, even if a group or collectivity is not educated or even socially backward but otherwise rich and affluent then it cannot be considered backward. [Para 608]
- 33) Thus occupation should furnish the starting point of determination of backward class. And if in ultimate analysis any Hindu caste is found to be occupationally, socially, educationally and economically backward it should be regarded as eligible for benefit under Article 16(4) because it would be within constitutional sanction. [Para 608]
- 34) Whether the backwardness in Article 16(4) should be both social and educational? - It gave precedence to social backwardness - Backward class is composed of persons with backwardness in degree and nature comparable to SCs / STs irrespective of religion and despite conversion - Must bear the stamp of historical discrimination and its continuing ill effects - In determining social backwardness regard be had to social mobility and shift in power.

35) A class which is not socially and educationally backward though economically or even educationally backward is not a backward class for the purposes of the said clause. [Para 492]

36) The backward class mentioned in Article 16(4) is a synonym for the classes mentioned in Article 15(4). These two provisions read with the President's Order of 1950 (as amended in 1976) show that the benefit of Article 15(4) and Article 16(4) extends to the Scheduled Castes (which expression is confined to those professing the Hindu, the Sikh or the Buddhist religion) and the Scheduled Tribes as well as the backward classes of citizens who must necessarily be such backward classes of citizens who would have, but for their not professing the Hindu, the Sikh or the Buddhist religion, qualified to be notified as members of the Scheduled Castes. Backward class is composed of persons whose backwardness is in degree and nature comparable to that of the Scheduled Castes and the Scheduled Tribes, whatever be their religion.

37) As society moves forward at least some individuals and families in the backward classes, however small in number, gain sufficient means to develop their capacities to compete with others in every field. That is an undeniable fact. Legally, therefore, they are not entitled to be any longer called as part of the backward classes whatever their original birthmark. To continue to confer upon such advanced sections from the backward classes the special benefits, would amount to treating equals unequally violating the equality provisions of the Constitution. [Para 520]

38) So long as the individuals belonging to the backward classes do not develop sufficient capacities of their own to compete with others, they can hardly be classified as forward. The moment, however, they develop requisite capacities, they would cease to be backward. If the adequacy of representation in the services is to be evaluated in terms of qualitative and not mere quantitative representation, which means representation in the higher rungs of administration as well, the competitive capacity should be determined on the basis of the capacity to compete for the higher level post also. Till that time, they cannot be called forwards among the backward classes, and taken out of the backward classes. [Paras 520, 521 and 522]"

4. From the above, it is evident that the persons belonging to Thogata caste, BC-B, Serial.No.20, who got converted into Christianity can be issued BC-B certificate irrespective of the fact that they were converted to Christianity long back as per the observations of the Supreme Court of India in the aforesaid case law.

5. Therefore, all the District Collectors in the State of Telangana are requested to issue BC-B certificate to the persons belonging to Thogata caste, who got

converted into Christianity irrespective of the fact that they were converted to Christianity long back duly following the procedure as detailed in TS (SCs, STs and BCs) Regulation of Issue of Community Certificates Act, 1993 (Act No.16 of 1993) and Rules 1997 (Telangana Adaptation) Orders, 2014, issued by Government of Telangana vide G.O.Ms.No.5, SC (POA.A2) Dept., Dt.08.08.2014. They are further requested to communicate the same to all the Village Level functionaries in the Revenue Department namely, VROs, RIs, DTs, Tahasildars, RDOs, DROs for information.

Dr.T.RADHA
PRINCIPAL SECRETARY TO GOVERNMENT

To
The Chief Commissioner of Land Administration, Telangana State
The District Collector, Nalgonda, Telangana State
The Commissioner, Printing, Stationery and Stores Purchase (Ptg. Wing) Department, Telangana, Hyderabad with a request to publish it in the extraordinary gazette and send 10000 copies to this Department immediately)
The Chairperson, National Commission for Backward Classes, Ministry of Social Justice & Empowerment, GOI, New Delhi
The Member-Secretary, National Commission for Backward Classes, Ministry of Social Justice & Empowerment, GOI, New Delhi
The Chief Secretary to Government, Telangana State
The Advocate General, High Court of Judicature at Hyderabad for the State of Telangana, Hyderabad
The Principal Secretary to Government, Finance Department, Telangana State
The Principal Secretary to Government, Revenue Department, Telangana State
The Secretary to Government, Higher Education Department, Telangana State
The Principal Secretary to Government, Scheduled Castes Development Department, Telangana State
The Principal Secretary to Government, BC Welfare Department, Telangana State
The Principal Secretary to Government, Tribal Welfare Department, Telangana State
The Principal Secretary to Government, Minorities Welfare Department, Telangana State
The Secretary to Government, Law Department, Telangana State
The Chairman, State Council of Higher Education, Telangana State, Hyderabad
The Secretary to Government, Intermediate Education Department, Telangana State
The Secretary to Government, School Education Department, Telangana State
The Secretary to Government, HM&FW Department, Telangana State
The Secretary to Government, Technical Education Department, Telangana State
The Secretary to Government, Agriculture and Co-Operation Department, Telangana State
The Secretary to Government, Animal Husbandry and Fisheries Department, Telangana State

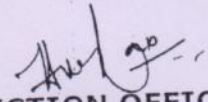
The Prl. Secretary to Government, PR & RD Department, Telangana State
The Prl. Secretary to Government, General Administration Department
Telangana State
All the Secretaries/Prl.Secy/Spl. CS of the Government of Telangana State
All the HODS, Government of Telangana State
All the District Collectors/ Supdt. of Police, Telangana State
All the Registrars of Universities in Telangana State
The Registrar, High Court of Judicature at Hyderabad
The Secretary APAT, Hyderabad
The Secretary Telangana Public Service Commissioner TS,
The Commissioner, Backward Classes Welfare, Telangana, Hyderabad
All the Special Chief Secretary's/Principal Secretary's/Secretary's to
Government of Telangana State.
All the Telangana State Pubic Sectors undertakings
The GA(Cabinet)Department

Copy to:-

Sri Madhann Bala Showry, The President, Universal Thogata Christian Society,
H.No.7-16, Narsiagudem Village, Aroor Post, Valigonda Mandal, Nalgonda
District - 508 112 (8985682239)
The Commissioner of I&PR, Telangana State
Jwala99@gmail.com , Vadanrv@gmail.com, lefttelana@gmail.com
P.S. to all Cabinet Minister in the Telangana
P.S. to the Principal Secretary to CM
P.S. to the Additional Secretary to CM
P.S. to the Advisor of Scheduled Caste Development Department
P.S. to Principal Secretary (Higher Education)
P.S. to Principal Secretary (TW)
P.S. to Principal Secretary, Fin. (Expr.SW) Department
P.S. to Principal Secretary (SW)
P.S. to Principal Secretary (BCW)
P.S. to Principal Secretary (Minorities Welfare)
P.S. to Principal Secretary (Disabled Welfare)
P.S. to Principal Secretary (School Education)
The Commissioner of Higher Education TS. Hyderabad
The Commissioner of Intermediate Education, TS, Hyderabad
The Commissioner of School Education, TS, Hyderabad
The Commissioner of Technical Education, TS, Hyderabad
The Commissioner of College Education, TS, Hyderabad
The Commissioner, Agriculture and Co-Operation, TS, Hyderabad
The Commissioner of Social Welfare, TS, Hyderabad
The Secretary, TSWREIS, TS, Hyderabad
The Commissioner of Tribal Welfare, TS, Hyderabad
The Commissioner of B.C. Welfare, TS, Hyderabad with a request to
mail a copy of this to all the Colleges/Institutions/Schools which
are availing Post-Matric Scholarship for information and necessary
action
The Commissioner of Minorities Welfare, TS, Hyderabad
The Director of Medical Education, TS, Hyderabad
The Director of Adult Education, TS, Hyderabad
The Director of Government Examinations, TS, Hyderabad
The Director, Government Textbook Press, TS, Hyderabad

The Director, State Institute of Educational Technology, TS, Hyderabad
The Director, State Council of Education Research & Training, TS,
Hyderabad
The Director, Animal Husbandry, TS, Hyderabad
The Director, Fisheries, TS, Hyderabad
The Director, Welfare of Disabled and Senior Citizens, TS, Hyderabad
The Director-General, Centre for Good Governance, TS, Hyderabad
The Deputy Director (PMU), o/o CSW, TS, Hyderabad
All the Deputy Secretary's/Assistant Secretaries/ Section
officers/Assistant Section officers in B.C. Welfare, Scheduled castes
development department, Tribal Welfare department
The Vice Chairman and Managing Director, Backward Classes
Cooperative Finance Corporation Ltd., Telangana
The Secretary MJPBCWREIS TS,
The Director Telangana BC Study Circle
SF/SC

//FORWARDED::BY ORDER//


SECTION OFFICER
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