

**(b) The National Commission for Backward Classes Act, 1993
(No. 27 of 1993)**

[2nd April, 1993]

An Act to constitute a National Commission for Backward Classes other than the Scheduled Castes and the Scheduled Tribes and to provide for matters connected therewith or incidental thereto.

Be it enacted by Parliament in the Forty-fourth Year of the Republic of India as follows:

CHAPTER I PRELIMINARY

1. Short Title, Extent and Commencement

- (1) This Act may be called the National Commission for Backward Classes Act, 1993.
- (2) It extends to the whole of India except the State of Jammu and Kashmir.
- (3) It shall be deemed to have come into force on the 1st day of February, 1993.

2. Definitions

In this Act, unless the context otherwise requires,-

- (a) “backward classes” means such backward classes of citizens other than the Scheduled Castes and the Scheduled Tribes as may be specified by the Central Government in the lists;
- (b) “commission” means the National Commission for Backward Classes constituted under Section 3;
- (c) “lists” means lists prepared by the Government of India from time to time for purposes of making provision for the reservation of appointments or posts in favour of backward classes of citizens which, in the opinion of that government, are not adequately represented in the services under the Government of India and any local or other authority within the territory of India or under the control of the Government of India;
- (d) “Member” means a Member of the Commission and includes the Chairperson;
- (e) “prescribed” means prescribed by rules under this Act.

CHAPTER II

THE NATIONAL COMMISSION FOR BACKWARD CLASSES

3. Constitution of the National Commission for Backward Classes

(1) The Central Government shall constitute a body to be known as the National Commission for Backward Classes to exercise the powers conferred on, and to perform the functions assigned to it, under this Act.

(2) The Commission shall consist of the following Members nominated by the Central Government;

- (a) a Chairperson, who is or has been a Judge of the Supreme Court or of a High Court;
- (b) a social scientist;

- (c) two persons, who have special knowledge in matters relating to backward classes;
- (d) a Member-Secretary, who is or has been an officer of the Central Government in the rank of a Secretary to the Government of India.

4. Term of Office and Conditions of Service of Chairperson and Members

(1) Every member shall hold office for a term of three years from the date he assumes office.

(2) A Member may, by writing under his hand addressed to the Central Government, resign from the office of Chairperson or, as the case may be, of Member at any time.

(3) The Central Government shall remove a person from the office of Member if that person—

- (a) becomes an undischarged insolvent;
- (b) gets convicted and sentenced to imprisonment for an offence which, in the opinion of the Central Government, involves moral turpitude;
- (c) becomes of unsound mind and stands so declared by a competent court;
- (d) refuses to act or becomes incapable of acting;
- (e) is, without obtaining leave of absence from the Commission, absent from three consecutive meetings of the Commission;
- (f) has, in the opinion of the Central Government, so abused the position of Chairperson or Member as to render that person's continuance in office detrimental to the interests of backward classes or the public interest;

Provided that no person shall be removed under this clause until that person has been given reasonable opportunity of being heard in the matter.

(4) A vacancy caused under sub-section (2) or otherwise shall be filled by fresh nomination.

(5) The salaries and allowances payable to, and the other terms and conditions of service of, the Chairperson and Members shall be such as may be prescribed.

5. Officers and Other Employees of the Commission

(1) The Central Government shall provide the Commission with such officers and employees as may be necessary for the efficient performance of the functions of the Commission under this Act.

(2) The salaries and allowances payable to, and the other terms and conditions of service of, the officers and other employees appointed for the purpose of the Commission shall be such as may be prescribed.

6. Salaries and Allowances to be paid out of Grants

The salaries and allowances payable to the Chairperson and Members and the Administrative expenses, including salaries, allowances and pensions payable to the officers and other employees referred to in section 5, shall be paid out of grants referred to in sub-section (1) of section 12.

7. Vacancies, etc. not to invalidate Proceedings of the Commission

No act or proceeding of the commission shall be invalid merely on the ground of the existence of any vacancy or defect in the constitution of the Commission.

8. Procedure to be regulated by the Commission

(1) The Commission shall meet as and when necessary and shall meet at such time and place as the Chairperson may think fit.

(2) The Commission shall regulate its own procedure.

(3) All orders and decisions of the Commissions shall be authenticated by the Member-Secretary or any other officer of the Commission duly authorised by the Member-Secretary in this behalf.

CHAPTER III

FUNCTIONS AND POWERS OF THE COMMISSION

9. Functions of the Commission

(1) The Commission shall examine requests for inclusion of any class of citizens as a backward class in the lists and hear complaints of over-inclusion or under-inclusion of any backward class in such lists and tender such advice to the Central Government as it deems appropriate.

(2) The advice of the commission shall ordinarily be binding upon the Central Government.

10. Powers of the Commission

The Commission shall, while performing its functions under sub-section (1) of section 9, have all the powers of a civil court trying a suit and in particular, in respect of the following matters, namely;

- (a) summoning and enforcing the attendance of any person from any part of India and examining him on oath;
- (b) requiring the discovery and production of any document;
- (c) receiving evidence on affidavits;
- (d) requisitioning any public record or copy thereof from any court or office;
- (e) issuing commissions for the examination of witnesses and documents; and
- (f) any other matter which may be prescribed.

11. Periodic Revision of Lists by the Central Government

(1) The Central Government may at any time, and shall, at all expiration of ten years from the coming into force of this Act and every succeeding period of ten years thereafter, undertake revision of the lists with a view to excluding from such lists those classes who have ceased to be backward classes or for including in such lists new backward classes.

(2) The Central Government shall, while undertaking any revision referred to in sub-section (1), consult the Commission.

CHAPTER IV

FINANCE, ACCOUNTS AND AUDIT

12. Grants by the Central Government

(1) The Central Government shall, after due appropriation made by Parliament by law in this behalf, pay to the commission by way of grants such sums of money as the Central Government may think fit for being utilised for the purposes of this Act.

(2) The Commission may spend such sums as it thinks fit for performing the functions under this Act, and such sums shall be treated as expenditure payable out of the grants referred to in sub-section (1).

13. Accounts and Audit

(1) The Commission shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed by the Central Government in consultation with the Comptroller and Auditor-General of India.

(2) The accounts of the Commission shall be audited by the Comptroller and Auditor-General at such intervals as may be specified by him and any expenditure incurred in connection with such audit shall be payable by the Commission to the Comptroller and Auditor-General.

(3) The Comptroller and Auditor-General and any person appointed by him in connection with the audit of the accounts of the Commission under this Act shall have the same rights and privileges and the authority in connection with such audit as the Comptroller and auditor-General generally has in connection with the audit of Government accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the offices of the Commission.

14. Annual Report

The Commission shall prepare, in such form and at such time, for each financial year, as may be prescribed, its annual report, giving a full account of its activities during the previous financial year and forward a copy thereof to the Central Government.

15. Annual Report and Audit Report to be laid before Parliament

The Central Government shall cause the annual report together with a memorandum of action taken on the advice tendered by the Commission under Section 9, and the reasons for the non-acceptance, if any, of any such advice, and the audit report to be laid as soon as may be after the reports are received, before each House of Parliament.

CHAPTER V

MISCELLANEOUS

16. Chairperson, Members and Employees of the Commission to be Public Servants.

The Chairperson, Members and employees of the Commission shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

17. Power to make Rules

(1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the following matters, namely:

- (a) salaries and allowances payable to, and other terms and conditions of service of, the Chairperson and Members under sub-section (5) of section 4 and the officers and other employees under sub-section (2) of section 5;
- (b) the form in which the annual statements of account shall be prepared under sub-section (1) of section 13;
- (c) the form in, and the time at, which the annual report shall be prepared under section 14;
- (d) any other matter which is required to be, or may be, prescribed.

(3) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

18. Powers to remove difficulties

(1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act as appear to it to be necessary or expedient for removing the difficulty:

Provided that no such order shall be made after the expiry of the period of two years from the date of commencement of this Act.

(2) Every order made under this section shall, as soon as may be after it is made, be laid before each House of Parliament.

19. Repeal and Savings

(1) The National Commission for Backward Classes Ordinance, 1993 is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the said Ordinance, shall be deemed to have been done or taken under the corresponding provisions of this Act.

Guidelines for consideration of requests for inclusion and complaints of under-inclusion in the Central List of Other Backward classes.

The Commission, after studying the criteria/indicators framed by the Mandal Commission and the Commissions set up in the past by different State Governments and other relevant materials, formulated the following guidelines for considering requests for inclusion in the list of Other Backward Classes:-

A. SOCIAL

1. Castes and communities, generally considered as socially backward.
2.
 - (a) Castes and communities, which mainly depend on agricultural and/or other manual labour for their livelihood and are lacking any significant resource base.
 - (b) Castes and communities, which, for their livelihood, mainly depend on agricultural and/or other manual labour for wage and are lacking any significant resource base.
 - (c) Castes and communities, the women of which, as a general practice, are for their/family's livelihood, engaged in agricultural and/or other manual labour, for wage.
 - (d) Castes and communities, the children of which, as a general practice, are, for family's livelihood or for supplementing family's low income, mainly engaged in agricultural and/or manual labour.
 - (e) Castes and communities, which in terms of the caste system, are, identified with traditional crafts or traditional or hereditary occupations considered to be lowly or undignified.
 - (f) Castes and communities, which in terms of the caste system, are identified with traditional or hereditary occupations considered to be 'unclean' or stigmatized.
 - (g) Nomadic and semi-nomadic castes and communities.
 - (h) Denotified or Vimukta Jati castes and communities.

Explanation : This term refers to castes/communities which had been categorised as Criminal Tribes under the Criminal Tribes Act, 1924, Act No. VI of 1924, passed by the Indian Legislature and repealed by the Criminal Tribes (Repeal) Act, 1952, Act No. XXIV of 1952 and subsequently referred to as Denotified or Vimukta Jatis.

3. Castes and communities, having no representation or poor representation in the State Legislative Assembly and/or district-level Panchayati Raj institutions during the ten years preceding the date of the application.

Explanation : This is only intended to measure, as an indicator, the presence of a caste or community in these bodies.

The term "poor representation" may be taken to refer to a caste or community whose presence in the body is less than 25% of its proportion in the population.

B. EDUCATIONAL

1. Castes and communities, whose literary rate is at least 8% less than the State or district average.

2. Castes and communities of which the proportion of matriculates is at least 20% less than the State or district average.
3. Castes and communities, of which the proportion of graduates is at least 20% less than the State or district average.

C. ECONOMIC

1. Castes and communities, a significant proportion of whose members reside only in Kaccha houses.
2. Castes and communities, the share of whose members in number of cases and in extent of agricultural lands surrendered under the Agricultural Land Ceiling Act of the State, is nil or significantly low.
3. Castes and communities, the share of whose members in State Government posts and services of Groups A & B/Classes I & II, is not equal to the population-equivalent proportion of the caste/community.

Illustration:

Population-equivalent proportion

Population of a State	10,00,0000
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Population of the caste/community	
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under consideration in the State	1,00,000
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Proportion of the population of
the caste/community under
consideration to the total

population of the State	10%
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Number of posts in Class-I in the State	1,000
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Therefore, population-equivalent

proportion of Class-I posts in the

State in respect of the caste/

community under consideration	100
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Explanation-1: In the case illustrated above, if members belonging to the caste/community under consideration hold 100 Class-1 posts or more, its share is equal to or more than its population-equivalent proportion.

In that case that caste/community will not be considered to have fulfilled this indicator of backwardness.

In the case illustrated above, if the members of the caste/community under consideration have 99 Class-1 posts or less, its share is less than its population-equivalent proportion and will, therefore, be considered to have fulfilled this criterion of backwardness.

Explanation-2: This guideline is only an indicator to assess backwardness or its absence and has no relation to the condition of inadequacy under Article 16(4).

Explanation-3: The population-equivalent proportion of posts may be composed of posts secured through merit only or through reservation only or through both – figures need to be furnished separately for posts secured through merit/posts secured through both – figures need to be furnished separately for posts secured through merit/posts secured through reservation.

D. In addition to the above, arising from Article 16(4) the following condition has also to be fulfilled:-

Castes and communities, which are not/are inadequately represented in the Central Government posts & services of Groups A & B

Each Group/Class should be taken separately.

PROCEDURAL CLARIFICATION ON GUIDELINES

1. The above social, educational and economic guidelines for consideration of requests for inclusion in the list of Other Backward Classes are intended to aid the Bench/Commission to identify Castes and communities which deserve to be included in the list of OBC in terms of the National Commission for Backward Classes Act and not to fetter due exercise of discretion by it.

2. The term ‘local’, wherever used, is intended to mean State level or intra-State regional level or district level, as appropriate, in the light of the demographic distribution of the caste/community concerned.

However, wherever the Bench/Commission has adequate reasons, the sub-district level positions may be taken into account.

In some guidelines State or local, or State or district have been given as alternatives. In such instances the appropriate alternative may be chosen depending on the circumstances such as demographic distribution, ready availability of data etc.

3. Some of the guidelines are capable of quantification but data are not available in every State. In respect of States, where such data are readily available (e.g. specific percentage, figures), the Bench/Commission may examine the cases before it in terms of such quantifiable data and their own observations as well and other relevant materials that may be available to it. In respect of States where such quantifiable data are not available, the Bench/Commission may consider casts/communities on the basis of their own observations and other relevant materials that may be available to it.

4. Under each of the categories A, B & C, of guidelines, there are 3 or 4 guidelines. They are not necessarily cumulative. Cumulative data would not doubt be advantageous. But where data-base does not readily permit, each caste or community may be considered in terms of such of the guidelines under each of the categories A, B & C as are practicable.

5. Regarding the condition at D, till information regarding the position of each caste in the Government of India’s services becomes readily available, it may be presumed that this factor is fulfilled by a caste/community/sub-caste/synonym/sub-entry, in case it is found that it fulfills the guideline in C 3.

6. Wherever a caste or community fulfills the guidelines 2 (e) or (f) or (g) or (h), the Bench/Commission may take it as adequate evidence of backwardness. In such cases, the Bench shall take into account such other data/information that may be made available to it or comes to its notice, and it may make such further inquiry as it deem proper and necessary. Having done so and being satisfied that there are no sufficient grounds to take a contrary view regarding the

backwardness of the caste or community making the request, the Bench may, after examining the matter of inadequacy of representation as indicated in D, proceed to formulate its findings.

7. Occupations mentioned at guideline 2(e) and 2(f) may include traditional artesialan crafts, fishing, hunting, bird-snaring; agricultural labour on the lands of others; earth work, stone-breaking, salt manufacturing, lime-burning; toddy-tapping; animal rearing; butchery; hair-cutting; washing of clothes; ferrying by boat; safai (i.e. “scavenging”); knife grinding, grain roasting; entertaining though song and dance, acrobatics jugglery, snake-charming, acting; begging or mendicancy.

Explanation: This refers only to castes or communities which traditionally depended on begging or mendicancy in the past i.e. until it was prohibited by law.

The Bench/Commission may take into account any other occupation which may be similar to these occupations.

8. In respect of any case of request, found to be one of apparent “clerical” error, or factual mistakes at the state of preparation of the common lists and if there is no contrary view expressed and data furnished before or otherwise available to/in the notice of the Bench/Commission such castes/communities may be included and findings/advice formulated to that effect.

9. In case of synonyms/sub-castes/different names of the same caste or community/local variants of the same caste or community, if and after it is established that, they are, in fact, such synonyms/sub-castes/different names of the same caste/local variants, etc. and if there are no contrary views expressed and data furnished before or otherwise available to/in the notice of the Bench/Commission and the Bench/Commission does not find any ground to take a contrary view, such synonyms/sub-castes/different names of the same caste/local variants of the same caste, such cases may be included, and findings/advice formulated to that effect.

10. In all cases, publicity regarding the date and venue of the sitting of the Commission’s bench and the castes/communities etc. to which the sitting pertains may be made through mass media and all those who have any views to express or data to furnish to the bench may be invited to do so, in addition to addressing the State Governments and applicants to furnish all material and data in their possession.

11. These guidelines of identification and procedure will be applicable to all categories of States/UTs and all categories of castes/communities whether included in the State list but in the Mandal List or included in the Mandal list but not in the State list, or included in neither.