WEST BENGAL COMMISSION FOR BACKWARD CLASSES

Tantuja Bhawan, 7th floor, 18/4, "DD" Block, Sector-1, Salt Lake City, Kolkata-700064
Telephone No. (033) 2337-9635 Website:https://wbcbc.in E-mail : mswbcbc@yahoo.co.in

No. 408-Estt. /WBCBC Date: 28-05-2025

From: Member Secretary,
West Bengal Commission for Backward Classes

To: The Secretary to the Govt. of West Bengal,
Backward Classes Welfare Department
Administrative Building
4th & 5th floor, DJ-4, Sector- II, Salt Lake City
Kolkata – 700091.

Sub: Decision and recommendations of the 466th meeting of the West Bengal Commission for Backward Classes

Sir,

In connection with the above subject, I am to enclose herewith the decision and and recommendations of the 466th meeting of the West Bengal Commission for Backward Classes for your information and necessary action.

Enclo: As stated

Yours faithfully,

22/5/25

Member Secretary
West Bengal Commission for Backward Classes

WEST BENGAL COMMISSION FOR BACKWARD CLASSES
Tantuja Bhawan, 7th floor, 18/4, "DD" Block, Sector-1,
Salt Lake City, Kolkata-700064, Email ID-mswbcbc@yahoo.co.in

No. 407 -Estt./WBCBC Date: 28/05/2025

To
The Secretary to the Govt. of West Bengal,
Backward Classes Welfare Department,
Administrative Building, DJ-4, Sector-II,
Salt Lake, Kolkata-91.

Subject: Report of 25 Classes of people-Recommendation thereof.

Sir,

I am to send herewith reports on 25 classes of people, as per the enclosed list, containing the recommendations of the Commission in terms of Section 9 (1) of the West Bengal Commission for Backward Classes Act, 1993 for their inclusion in the list of Backward Classes of the State. This has approval of Commission in its meeting dated 28.05.2025.

The Commission may please be apprised of the action taken on this recommendation.

Yours faithfully,

28/5/25
(Tanvir Afzal)
Member Secretary,
West Bengal Commission
for Backward Classes.

WEST BENGAL COMMISSION FOR BACKWARD CLASSES

Tantuja Bhawan, 7th floor, 18/4, "DD" Block, Sector-1, Salt Lake City, Kolkata-700064
Telephone No. (033) 2337-9635 Website:https://wbcbc.in E-mail : mswbcbc@yahoo.co.in

No. 401 -Estt. /WBCBC Date: 27-05-25

From: Member Secretary,
West Bengal Commission for Backward Classes

To: The Secretary to the Govt. of West Bengal,
Backward Classes Welfare Department
Administrative Building
4th & 5th floor, DJ-4, Sector- II, Salt Lake City
Kolkata – 700091.

Sub: Discussion on issue for consideration of reservation of percentage for OBCs in the State of West Bengal.
Ref: Your office memo no.1058/Secy-BCW/7P-54/2024(Pt.III) dated 27-05-25

Sir,

In connection with the above subject, I am to inform you that consultation with the State Government will be done in the 466th Meeting of the Commission to be held on 28.05.2025 at 5 PM at Tantuja Bhawan, 7th floor, 18/4, "DD" Block, Sector-1, Salt Lake City, Kolkata-700064 on the agenda noted below:

1. Discussion on issue for consideration of reservation of percentage for OBCs in the State of West Bengal.

I am, therefore, to request you to kindly make it convenient to attend the said meeting or send a well conversant representative of Backward Classes Welfare Department to attend the same.

Yours faithfully,

27/5/25

Member Secretary
West Bengal Commission for Backward Classes

GOVERNMENT OF WEST BENGAL
BACKWARD CLASSES WELFARE DEPARTMENT
ADMINISTRATIVE BUILDING, 4TH& 5TH FLOOR,
BLOCK- DJ-4, SECTOR-II, BIDHANNAGAR, KOLKATA-91
WEBSITE : www.anagrasarkalyan.gov.in

No.899/Secy–BCW/7P-54/2024 (Pt. III) Date: 17.04.2025

From: Sanjay Bansal, IAS
Secretary to the Govt. of West Bengal

To: The Member Secretary,
West Bengal Commission for backward Classes

Sub: Consultation regarding sub-classification/ sub-categorization of OBC Communities.

Sir,

With reference to the above, I would like to state that in the solemn judgment dated 22.05.2024 Hon'ble Division Bench of High Court at Calcutta in WPO 60 of 2011 and allied matters struck down sub-classification/ sub-categorization of OBC Communities in the State List of OBCs. Additionally, Hon'ble High Court also struck down OBC entitlement of 113 classes leaving 66 classes untouched.

Subsequently, as resolved in the 460th meeting of the Commission, a fresh survey on inclusion of backward classes is underway. Given that the 66 OBC communities and other classes under survey do not exhibit uniform levels of backwardness, the State Government believes that sub-classification/ sub-categorization of OBC communities is necessary to address the varying degrees of inequalities faced by them.

Now, given the legal framework established by the aforesaid judgments as well as landmark ruling in Indra Sawhney & Others v. Union of India (1992), sub-classification/ sub-categorization of OBC communities can be done by the State in consultation with the Commission.

Hence, you are hereby requested to convene a meeting to discuss the implementation of sub-classification/ sub-categorization for both the existing 66 OBC communities and those currently under survey.

Yours sincerely,

Secretary to the Govt. of West Bengal

GOVERNMENT OF WEST BENGAL
BACKWARD CLASSES WELFARE DEPARTMENT
ADMINISTRATIVE BUILDING, 4TH& 5TH FLOOR,
BLOCK- DJ-4, SECTOR-II, BIDHANNAGAR, KOLKATA-91
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Hence, you are hereby requested to convene a meeting to discuss the implementation of sub-classification/ sub-categorization for both the existing 66 OBC communities and those currently under survey.

Yours sincerely,

Secretary to the Govt. of West Bengal

Backward Classes Welfare Department
Government of West Bengal
File No. 7P-54/2024 (Pt.IV)

In reference to the observation of the Law Deptt. at Nsp.10,(marked as 'X')

It may be stated that:

- Hon'ble Division Bench of High Court at Calcutta passed an Order on 22.05.2024 in the cases vide WPO 60 of 2011 with WPA 22145 of 2010 with WPA 8844 of 2020 with WPO 1160 of 2013 with WPO 578 of 2012, severely affecting the State OBC List as well as reservation policy undertaken by the State Government to facilitate various OBC communities of the State. In the verbatim order, 113 OBC classes enlisted in the State OBC List by incorporating in Schedule I of the West Bengal Backward Classes (Other than Scheduled Castes and Scheduled Tribes) (reservation of Vacancies in Services and Posts) Act, 2012 was struck down. [Flag-A]
- By challenging the said order A Special Leave Petition has been filed before the Supreme Court of India vide SLP(C) No. 17751/017755/2024 registered on 07-08-2024 (Diary No. -27287/2024 filed on 18-06-2024] which is still pending and expected to be listed in the month of July,2025. [Flag-B]
- Thereafter the West Bengal Commission for Backward Classes (WBCBC) has undertaken an exercise to conduct fresh survey for inclusion of various Classes in the State OBC list after intimating the Hon'ble Supreme Court of India on 21.03.2025 about the same.
- Thereafter on recommendation of the WBCBC the State Govt. in the Backward Classes Welfare Department has notified a total of 140 Classes for inclusion in the State OBC list either as More Backward (Category- A) or Backward (Category-B) vide Gazette Notification No. 917-BCW/MR-33/2025 Dated 08.05.2025,Notification No. 1056-BCW/MR-33/2025(Pt-I) Dated 27.05.2025,No.1057-BCW/MR-38/2025 Dated 27.05.2025 ,Notification No. 1106 -BCW/MR-33/2025 Dated 03.06.2025 and Notification No. 1107 - BCW/MR-38/2025 Dated 03.06.2025 along with Corrigendum Gazette Notification No. 1172 -BCW/MR-38/2025 Dated 12.06.2025.
- In the meantime, Hon'ble High Court at Calcutta has passed an interim order on 17.06.2025 in the matter of WPA(P) 111 of 2025 and other allied matters, staying the operation of the above mentioned all Notifications, thereby affecting the above mentioned Notified OBC Classes except the 64 classes which were included prior to 2010. [flag-C]
- Therefore delisted OBC as per Hon'ble Court's order of 22.05.2024 and 17.06.2025 can't avail benefit of reservation of OBC and may apply for EWS reservation as per the eligibility vide OM No.325-PAR(AR)/3P-1/2019 Dated 09.07.2019 read with Memorandum No. 959-BCW/MR-52-2019 Dated 18.05.2023.[Flag-D & E]
- As marked 'X' on page 10 the OBC as a whole will not be treated as EWS.
- Since these communities can't avail OBC reservation, they may fall within General Caste criteria and may be treated as eligible for applying for EWS certificate based on eligibility.

The matter may be sent to the Law Deptt. for their valued opinion.

Submitted.

28/6/25

ADLS (Law)

Seen

In absence of c.c. issued to the erstwhile OBC after 2010, all OBCs cc holders are now deemed to be 'General' and may be treated as so.

In view of the above, the higher authority has decided to give EWS certificate if the other criterias are fulfilled for EWS and if they apply for so, subject to the outcome of the SLP pending before the Apex Court.

We may send the proposal to the Law Deptt for their valued opinion.

Submitted.

25/6/25

Seen

Note at pre-page:–

9. Reservation is an instrument of affirmative action by state so as to ensure an all inclusive approach. It is held that the Government has come out with the amendment for the development of EWS categories. It is an affirmative action by the Parliament which aims to benefit the EWS class. EWS is a category of disadvantage of its own. They are at a disadvantage compared to the people who are well off. This satisfies the reasonable classification doctrine under article 14.

10. If the order of Hon'ble High Court under challenge is set aside, OBC community will get his previous status and in that case certificate of EWS should be discarded and if any job or admission is secured on the basis of EWS reservation that should be protected. The judgment of Hon'ble High Court, if upheld, EWS reservation would be in operation subject to compliance of clause (6) of article 15 and clause (6) of article 16 of the Constitution of India.

11. 'Economically Weaker Sections' shall be such as may be notified by the State from time to time on the basis of family income and other indications of economic disadvantages.

12. That being so, the criteria for declaring a community as 'EWS' as laid down in the should be strictly complied within its entirety.

Sd/- Dr. Md. Salim Ansari
Additional Secretary,
Law Deptt.,
04.03.2025

'X'

I have perused the proposal made by the Administrative Department and the notes at NSP-1 or 2 made by AS (S.A).

It is not clear to be as to how the administrative Department can treat an OBC community as a whole as EWS where the basic thing is the economic condition of a particular family.

It appears that the State Government has preferred an SLP being aggrieved by and dissatisfied with the verdict by the Hon'ble High Court. But during pendency of that SLP, if the State Government treat an OBC community as EWS then the proposition will be that the State Government itself is treating the said community as General Category and thereby the SLP itself will become meritless. The State Government cannot take such dual stand at the same time.

However, the above observations made by me are subject to approval of the Hon'ble MIC.

Now, the mater is placed before the H.M. MIC for his kind perusal and also for necessary approval, if any.

Sd/- Pradip Kumar Panja
Principal Secretary,
Law Deptt.,
04.03.2025

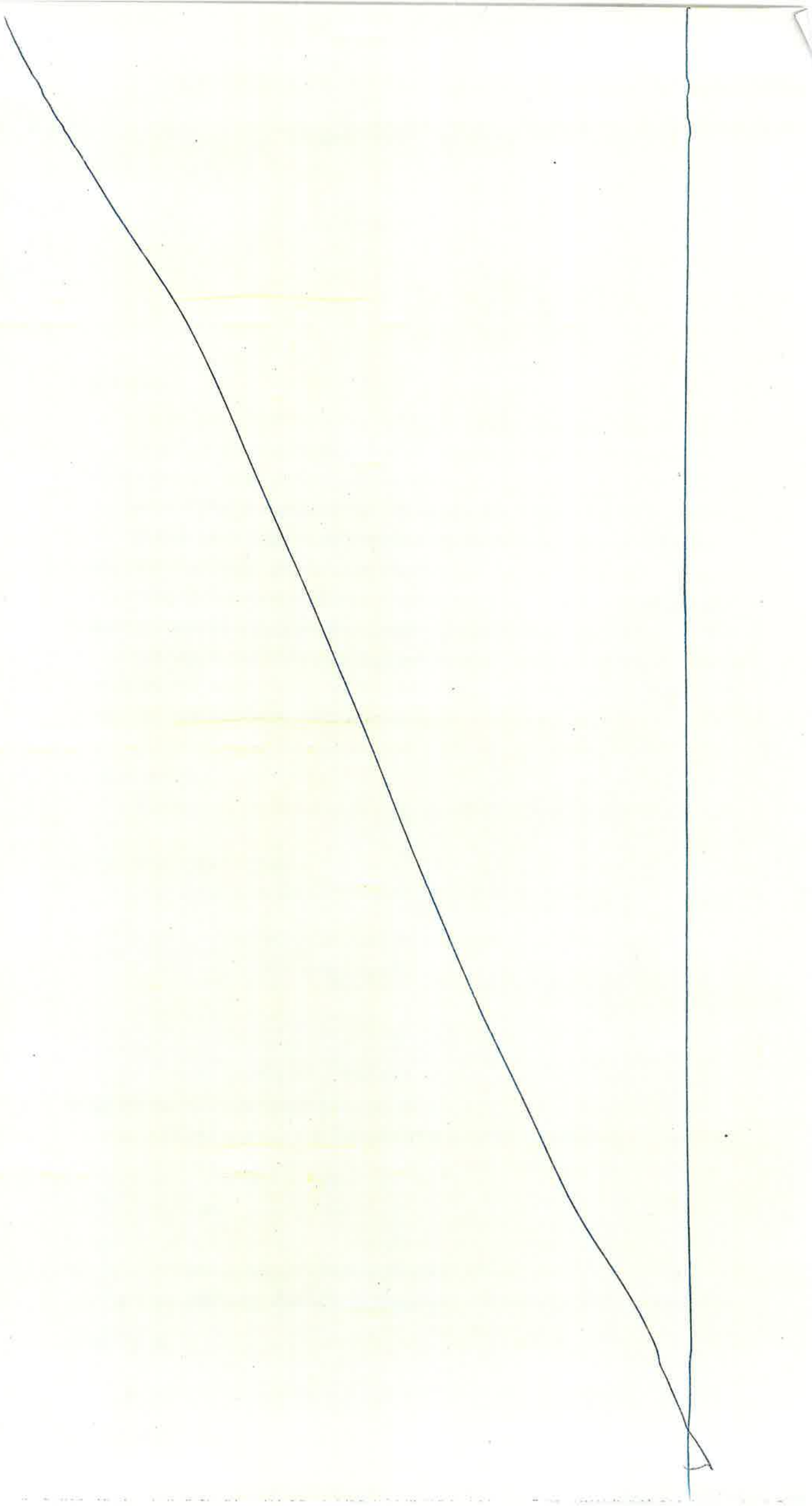
Sd/- Moloy Ghatak
Hon'ble MIC,
Law & Judicial Deptts.,
05.03.2025

The Addl. Secy
B C W. Deptt
7.3.25

As (Law)

'X' may be clarified

10/03



Law Department U/O Reference No. 44 of 2025

Notes of the administrative Department at n.s.p. 8 may kindly be perused.

2. The administrative Department propose to provide benefit of reservation to the persons belonging to the category of Economically Weaker Sections of the citizens as the reservation for Backward Classes communities have been struck down by the Hon'ble High Court.

3. EWS certificate shall be operational till the disposal of the SLP that has been filed before the Hon'ble Supreme Court assailing the order of the Hon'ble High Court revoking the OBC certificates issued to 113 communities.

4. In the discourse, clause (6) of article 15 of the Constitution of India is quoted hereinbelow for brevity:–

"Nothing in this article or sub-clause (g) of clause (1) of article 19 or clause (2) of article 29 shall prevent the State from making,—

(a) any special provision for the advancement of any economically weaker sections of citizens other than the classes mentioned in clauses (4) and (5); and

(b) any special provision for the advancement of any economically weaker sections of citizens other than the classes mentioned in clauses (4) and (5) in so far as such special provisions relate to their admission to educational institutions including private educational institutions, whether aided or unaided by the State, other than the minority educational institutions referred to in clause (1) of article 30, which in the case of reservation would be in addition to the existing reservations and subject to a maximum of ten per cent. of the total seats in each category.

Explanation.—For the purposes of this article and article 16, "economically weaker sections" shall be such as may be notified by the State from time to time on the basis of family income and other indicators of economic disadvantage.".

5. Pursuant to the constitutional animation, the State Government in the Backward Classes Welfare Department, issued a Memorandum *vide* 959-BCW/MR-52/2019 dated 18.05.2023, issued guideline for issuance of certificate and strengthening of reservation system for EWS.

6. The Constitutional mandate is that the state can make special provision for any economically weaker citizen other than the classes mentioned in clauses (4) & (5) of article 15 i.e. Scheduled Castes and Scheduled Tribes, and other socially and educationally backward classes citizens.

7. The said memo provides for quantum of reservation for EWS in direct recruitment for civil post and services including admission in the educational institution in the State of West Bengal.

8. Article 15(6) enables the state to make special provisions for the advancement of any economically weaker section of the citizens including reservation in educational institutions. Article 16(6) similarly enables the state to make special provisions for the advancement of any economically weaker section of the citizen including reservation in public sector employment.

P.T.O.

- Now, in the wake of the aforesaid verdict of Hon'ble High Court, as a considerable number of aspirants from the aforesaid struck down 113 no. of OBC communities have been debarred from any sort of reservation facilities under the State Govt.
- In this context it is also worthy to be mentioned that Central List of OBC Classes for the State has not been challenged in any of the aforesaid Writ Petitions and Hon'ble High Court also had not passed any direction affecting Central List of OBCs for West Bengal. However issuance of NCL certificate is also in question after passing the above mentioned verdict of the Hon'ble High Court.
- In light of the above cited scenarios, valued opinion of the Law Department may be solicited regarding issuance of EWS Certificates to the persons who belong to any of the struck down 113 classes or not in terms of Memorandum No. 325-PAR (AR)/3P-1/2019 dated 09.07.2019 issued by P & AR Department read with Memorandum No. 959–BCW/MR-52/2019 dated 18.05.2023 issued by BCW Department, wherein Economically Weaker Sections (EWSs) is a term that describes the persons who are not covered under the scheme of reservation for Scheduled Castes, Scheduled Tribes and Other Backward Classes with income and assets below the criteria as set by the Government. The persons belonging to EWS also enjoy 10% reservation in direct recruitment in civil posts and services under the Government of West Bengal and also in admission to Educational Institutions in the state of West Bengal.
- In this context mentioned above, that the benefit of EWS reservation to the struck down 113 no. of OBC communities may be given until the disposal of the SLP filed the State or as per validity period of an EWS certificate as mentioned in point no. 07 of the Memorandum No. 959–BCW/MR-52/2019 dated 18.05.2023 issued by BCW Department, whichever is earlier.

The opinion of the Law Dept. May kindly be sought.

27/2/25

27/2/25

Principal Secretary, Law

Backward Classes Welfare Department
Government of West Bengal
File No. 7P-54/2024(Pt. IV)

Clarification regarding eligibility of candidates from struck down OBCs to be entitled as EWS under State Govt. i-c-w Order of the Hon'ble High Court in WPO 60 of 2011 with WPA 22145 of 2010 with WPA 8844 of 2020 with WPO 1160 of 2013 with WPO 578 of 2012

Hon'ble Division Bench of High Court at Calcutta passed an Order on 22.05.2024 in the cases vide WPO 60 of 2011 with WPA 22145 of 2010 with WPA 8844 of 2020 with WPO 1160 of 2013 with WPO 578 of 2012, severely affecting the State OBC List as well as reservation policy undertaken by the State Government to facilitate various OBC communities of the State in recruitment/admission under the State Govt. In its final judgment Hon'ble High Court categorically directed as follows:-

1. OBC entitlement of 113 classes enlisted in the State OBC List by incorporating in Schedule I of the West Bengal Backward Classes (Other than Scheduled Castes and Scheduled Tribes) (reservation of Vacancies in Services and Posts) Act, 2012 was struck down;
2. 66 classes included prior to 2010 in State OBC List were not touched;
3. Those who are already in employment were not touched;
4. Section 16 of Act of 2012 providing power to the State Govt. to amend or alter any Schedule of the said Act was struck down;
5. OBC categorization/sub-classification was struck down;
6. Section 2(h) of Act of 2012 to specify classes as OBCs by the State Govt. was struck down;
7. Sec 5 of Act of 2012 consisting separate reservation provision of 10% for the OBC-A was struck down leaving only 7% OBC reservation for untouched 66 classes;
8. Section 11 of Act of 2012 was struck down;
9. 1993 Act of OBC Commission has been given all powers to include and exclude classes in State OBC List.

The State Govt. decided to prefer an appeal before the Apex Court against the verdict of Hon'ble High Court. Accordingly, Special Leave Petition has been filed before the Hon'ble Supreme Court with Diary No. 27287/2024 dated 28.06.2024.

In this context, it is to be mentioned that a number of recruitment processes in various State Government services are underway and admission processes in some important higher educational courses are also going on.

Law Department U/O Reference No. 257 Ast 2024

Opinion is solicited by the Backward Classes Welfare Department regarding issuance of EWS certificate in favour candidates belonging to OBC communities whose categories are stuck down by the order of Hon'ble High Court dated 22.05.2024 in connection of WPO 60 of 2011 etc.

2. Before any opinion is rendered by this Department we would request the Administrative Department to place the views of Additional Secretary (Law) posted in their Department and to resubmit the file for opinion of this Department.

Sd/- Dr. Md. Salim Ansari
Additional Secretary,
Law Deptt.,
24.09.2024

Sd/- Pradip Kumar Panja
Principal Secretary,
Law Deptt.,
25.09.2024

To
The Secretary,
BCW Department,
Govt. of West Bengal.
25-09-2024

DS (Law)