

## **Govt questions OBC status of many in UPSC list**

The Department of Personnel and Training (DoPT) has questioned the OBC certificates of many candidates who successfully cleared the civil services examination this year, prompting the National Commission for Backward Classes to step in. The Commission has asked the ministries of Social Justice and Empowerment and Personnel to “rectify” their interpretation of the criteria to determine the creamy layer under the OBC category.

With the DoPT maintaining that these candidates come under the creamy layer and are, therefore, not entitled to the benefit of reservation, the Commission, in a series of letters to the two ministries, has underlined that these candidates are indeed OBCs.

“If the misunderstanding of the officers in DoPT is not rectified,” wrote Commission chairperson Justice (retd) V Eswaraiah to Social Justice and Empowerment Minister Thaawar Chand Gehlot on July 8, it will cause “disheartening” among the OBCs and “affect the image of good governance”.

In the letter, Eswaraiah, former acting Chief Justice of the High Court of Andhra Pradesh, warned Gehlot that “if the criteria for determining creamy layer is not rectified”, “there will be agitation by OBCs” and the “situation may be taken advantage by opposition parties”.

Many candidates have approached the Commission since their appointments to IAS, IPS and IRS have been put on hold. After the matter was raised by some Opposition members, Home Minister Rajnath Singh told Lok Sabha that information has been sought “only to avoid that candidates do not face any litigation in future”. He said such notices have been sent for many years now and interests of OBC candidates will not be harmed.

But in his letter, Eswaraiah said this was the “first time” that the DoPT “scrutinized” and “misinterpreted” the income/wealth test category of “genuine OBC non-creamy layer”.

Speaking to The Indian Express, Gehlot said he was concerned, but he laid the onus on the DoPT. “This matter pertains to DoPT. I have asked Jitendra Singhji to resolve it soon. My officers and their officers have also held a meeting in this regard,” he said.

Gehlot was non-committal about retaining the OBC status of these candidates: “This matter pertains to the DoPT.”

In the first week of June, DoPT sent letters to these candidates questioning their OBC status. A letter to candidate Gowrisankar D, who obtained rank 457, stated: “It has been observed that your father is working in a private organization and his income is more than Rs 6,00,000 per annum for last three consecutive years. You are directed to clarify as to why your OBC (Non Creamy Layer) claim should not be rejected on the ground of more income than prescribed limit.”

The guidelines formulated by DoPT list certain categories that fall under the creamy layer. While categories like Constitutional posts, Group A/Class I and Group B/Class II are thoroughly enumerated, some categories are not.

These categories are merely defined in reference to Group A and Group B services, and include “officers holding equivalent or comparable posts” in PSUs, banks, insurance organisations, universities, and private employment”. The guidelines note that “pending the evaluation of the posts on equivalent or comparable basis”, wealth/income test will be applied to identify the creamy layer.

Since the central government has not yet identified comparable posts in these organisations, the income test comes into play. The wealth/income test enumerated in Clause VI of the guidelines caps the gross annual income at Rs 6 lakh for three consecutive years, but it adds a crucial rider that “income from salaries or agricultural land shall not be clubbed”.

This clause has been the bone of contention between the DoPT and the Backward Commission in the present case.

In its letters to candidates, the DoPT has taken note of the annual income of their parents. But in its letters to the DoPT and Ministry of Social Justice, the Commission has listed a series of government notes and circulars over the last two decades, pointing out that the income criteria cannot be applied in such cases.

Soon after receiving these letters, the candidates approached the Commission with their submissions and complaints. On June 28, the Commission convened a special meeting to discuss the issue and unanimously noted that “salary and agricultural income... shall not be taken into account while determining creamy layer”.

On July 4, Eswaraiah wrote to MoS Ministry of Personnel Jitendra Singh that the Commission has “received various representations (from candidates) expressing the grievance that they belong to the OBC non-creamy layer category”, and “as per OBC category, they are entitled to be allotted IAS, IPS, IRS etc as OBC”.

“But they have been treated as a creamy layer excluding them from the rule of reservation by comparing the scales of pay, posts and positions held by their parents comparing with that of” other Class I and Class II services “though the comparable posts and positions of their parents’ organisations have not been determined vis-a-vis the central and state government services,” he said.

He noted that the income limit of Rs 6 lakh was applicable to “professional class and those engaged in trade and industry”, doctor, lawyer, CA, author etc whose “income from other sources other than salary and agricultural income” exceeds Rs 6 lakh.

According to the Commission’s contention, since equivalent and comparable posts have not been identified in these categories so far, children of even a chairperson of a PSU or a top bank, who is drawing Rs 20 lakh salary per annum, cannot be excluded from reservation on the basis of the income criteria. The income criteria can be applied only when income from sources other than salary and agriculture exceeds Rs 6 lakh.

The 1993 report of the expert committee for specifying the criteria for identification of socially advanced persons among the Socially and Educationally Backward Classes also clarifies the income criteria. It also quoted a Supreme Court judgment that “the basis of exclusion should not be merely economic, unless of course the economic advancement is so high that it necessarily means social advancement.”