

Government of India
Ministry of Human Resource Development,
Department of Higher Education

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No.1-1/2005-U.1.A/847

New Delhi 20th April, 2008

Office Memorandum

As you are aware, the implementation of reservation in admission under the Central Educational Institutions (Reservation in Admissions) Act, 2006 [No. 5 of 2006] in respect of persons belonging to the socially and educationally backward classes (OBCs) had been 'stayed' by the Hon'ble Supreme Court of India, while hearing Writ Petition (Civil) No. 265 and a bunch of other writ petitions. You are also aware that the Apex Court has now finally disposed of the petitions on the 10th April, 2008, upholding the constitutional validity of the 93rd Amendment [Article 15(5)] of the Constitution in so far as the Central Educational Institutions, established, maintained or aided by the Central Government are concerned. The court has also upheld the CEI Act, 2006, with the directions that the OBCs shall not include socially advanced persons (commonly known as the "creamy layer"). Thus, all CEIs other than those mentioned in the Schedule of the CEI Act, have to implement the policy of reservation of 27% of seats for the OBCs apart from 15% seats for the SCs and 7.5% for the STs from the academic session commencing this year, in accordance with the phasing of the expansion of capacity necessitated in order to ensure that the seats available in the unreserved category are not reduced.

2. A detailed programme of phasing of the expansion has already been worked out by CEIs and approved by the Empowered Committee for implementing the recommendations of the Oversight Committee. In view of the 'stay orders' of the Hon'ble Supreme Court of India, the academic session commencing from the calendar year 2008 would, for all practical purposes, be the first year of implementation. This Ministry, after obtaining the approval of the competent authority, would revert on whether any modifications would be required in the programme of phased manner of expansion, if any, in respect of your institution and if so the authorization thereof.

3. This O.M. is intended to clarify the process of implementation of reservation for the OBCs as given below:-

I) The policy of reservation for the OBCs under the Central Educational Institutions Act is to be implemented from the forthcoming academic session itself.

II) This is applicable to all the CEIs, exceptions being only those institutions of excellence, research institutions of national and strategic importance specified in the Schedule to the CEI Act (copy of which is enclosed).

III) The policy of reservation for the OBCs/SCs&STs under the CEI Act is applicable to all programmes / courses of study at the undergraduate, graduate, Post graduate levels, etc. except courses or programmes at high levels of specialization, including at the post-doctoral level within any branch of study which the Central Government in consultation with the appropriate statutory authority (UGC / BCI/ MCI /AICTE, etc) may specify. This is to reiterate that there shall be no exemption from the policy of reservation except where the Central Government so specifies a course or programme covered under clause (d) of Section 4 of the Act.

IV) The reservation for the OBCs and SCs/STs under the CEI Act shall not apply to minority educational institutions as defined in section 2 (f) of the Act as well as on CEIs established in areas coming under 6th Schedule of the Constitution.

V) The Central Government is taking steps to ensure that CEIs are not put to difficulties in phasing of admissions under Section 6 of the Act, due to the deferment of reservation in admissions from the academic session in calendar year 2007, owing to the 'stay orders' of the Supreme Court.

VI) Each Central Educational Institution shall ensure that from among candidates belonging to the OBCs applying for admission against the seats reserved for the OBC category, information is collected from the candidates for exercising due diligence, so that no candidate belonging to the "creamy layer" is given the benefit of reservation for the OBCs.

VII) In order to identify and exclude candidates belonging to the "creamy layer" the criteria of exclusion / rules of exclusion have been provided in OM No. 36012/22/93-(SCT), dated 8th September, 1993 of the Ministry of Personnel, Public Grievance and Pension, Department of Personnel and Training as amended by that Department vide OM NO. 36033/3/2004-Estt. (Res) dated 9th March, 2004 and any other modifications that may take place from time to time in this regard.

VIII) The Socially and Educationally Backward Classes / OBCs who are eligible for availing the benefits of reservation is to be ascertained from the Central lists of SEBCs/OBCs as per Resolution No. 12011/68/93-DCC (C) of the Ministry of Welfare (now the Ministry of Social Justice & Empowerment) as modified from time to time by that Ministry based on the advice of the National Commission for Backward Classes (NCBC). For an updated list of state-wise OBCs eligible for availing the benefit of reservation, please see the list maintained by the NCBC at its website <http://ncbc.nic.in/backward-classes/index.html>. You may also access information in

respect of the creamy layer at <http://ncbc.nic.in/html/creamyayer.html> as well as the clarifications issued by the Department of Personnel & Training on the definition of creamy layer and income criteria at http://persmin.gov.in/WriteData/WMS/ScanDocument/36033_5_2004_01April2005.htm. The Supreme Court judgements are also available at the NIC website <http://www.judis.nic/supremecourt/CaseRes1.aspx>. A copy of the Resolution No. 1-1/ 2005-U.1A/846 dated 20th April, 2008 of the Ministry of Human Resource Development, Department of Higher Education, adopting the Central Lists of SEBCs/OBCs as per Resolution No. 12011/68/93-DCC(C) dated 10.9.1993 of the Ministry of Welfare (now the Ministry of Social Justice & Empowerment) as modified by that Ministry from time to time and the rules/criteria of exclusion of socially advanced persons/sections as per the O.M.No. 36012/22/93-Estt.[SCT] dated 8.9.1993 as amended by O.M.No. 36033/3/2004- Estt.(Res.) dated 9.3.2004 by the Ministry of Personnel, Public Grievance and Pensions (Department of Personnel & Training) and as may be amended by that Ministry from time to time, for the purposes of implementing reservation in admission to Central Educational Institutions as defined in the CEI Act, 2006, is also attached for your reference and use.

IX) CEIs which have completed the process of admission test and selection of candidates in the SC,ST and unreserved categories, should identify the 'creamy layer' on the basis of the above mentioned information from among the successful wait-listed candidates belonging to the OBCs as per the Central List and, thereafter, offer admission to eligible candidates. For the purpose of identification, candidates would be required to furnish information on each of the criteria as per the prevailing rule of exclusion of the socially advanced persons (creamy layer). Please ensure that no ineligible person belonging to the 'creamy layer' derives the benefit of reservation. After completion of this process, information in respect of successful and eligible candidates belonging to the OBC category being offered admission may also be intimated to this Ministry.

X) Each CEI is also authorized to fix cut off marks for admission / selection through admission test, etc. for the OBC candidates with such differential from the cut-off marks for the unreserved category as each institution may deem appropriate for maintaining the standards of education and at the same time ensuring that sufficient number of eligible OBC candidates are available in keeping with the directions / observations of the Hon'ble Supreme Court of India in this regard. This authorization by the Central Government to the CEIs to fix the cut-off marks is in compliance with the Apex Court's direction asking the Central Government to examine the feasibility of determining such cut-off marks. The Central Government believes that each CEI would ensure that the directions / observations of the Hon'ble Court are followed.

XI) CEIs which are in the process of conducting admission tests may decide on the cut-off marks for the OBC category well in time, so that consistent with the standards of education of the CEIs, sufficient number of eligible OBC candidates are available for selection on the basis of inter-se merit against the reserved seats. Such institutions may also obtain information pertaining to the background of students who may have indicated as belonging to the OBC category in the application form, so as to identify those belonging to the 'creamy layer' from among them for exclusion from the counseling / interviews / group discussions / offer of admissions.

XII) CEIs which are yet to come out with application forms for admission may expeditiously insert the rule of exclusion / criteria of exclusion for the creamy layer, so that at the application stage itself the creamy layer could be identified, and only eligible candidates belonging to the OBC category are considered for the subsequent selection process and admissions against the reserved seats.

XIII) Central Educational Institutions which are yet to advertise the process of selection and admissions, shall ensure that the attention of candidates intending to apply against the reserved seats is directed to the mechanism mentioned in the preceding sub-paragraphs.

4. While the above clarification is in respect of reservation in admission against the seats for the OBCs, CEIs may also bear in mind that there may be a proportionate increase in the seats for the categories of SCs and STs also, where the extant procedure of selection or cut off marks for these categories shall continue to be in force.

5. This issues with the approval of the competent authority.

(Sunil Kumar)
Joint Secretary to the Government of India

To all Central Educational Institutions