GOVERNMENT OF ODISHA
ST & SC DEVELOPMENT, MINORITIES & BACKWARD CLASSES
WELFARE DEPARTMENT

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No. 22420 /ST&SC, Bhubaneswar, Dtd. 8.12.2016
OBC-22/2014

From

Sri Surendra Kumar, IAS
Commissioner-cum-Secretary to Government.

To

The Principal Secretary to Government,
Revenue & Disaster Management Department.

Sub: Determination of creamy layer status at the time of issue of OBC/SEBC Certificate by Tahasildars.

Madam,

With reference to the subject mentioned above, I am to say that Government of India, Ministry of Personnel, Public Grievances and Pension (DoPT) vide their letter No.36011, dtd.08.09.1993 have prescribed certain criteria to determine the creamy layer status of a candidate for issue of OBC Certificate. This has been communicated to all Collectors and other Certificate Issuing Authorities in this Department letter No.4030, dtd.29.01.1994. Subsequent clarification of the Ministry of PPGP in this regard also have been communicated vide this Department letter No.32652, dtd.03.10.2013 to all concerned for better understanding of the matter. But it has come to the notice of this Department that different field functionaries especially the Certificate Issuing Authorities are interpreting the guidelines in a wrong manner, while considering the creamy layer status of a candidate.

A close scrutiny of the above guideline and clarification reveals that there have been two separate parameters suggested by the Ministry for two separate categories of candidates to determine their creamy layer status. The first category

candidates are those whose parents are in Civil Services both at Central & State Government, PSU, Banks, Insurance Organization, Universities etc. and also holding equivalent or comparable post in Private Sector. The other category candidates are belong to parents, who are self employed or are the employees of an organization where evaluation of the post on equivalent or comparable basis with the Government, PSU etc. has not been made.

For the 1st category of candidate, it is prescribed among other that, if the parents (both father and mother) of the candidate are directly recruited Class-I/Group-A/Class-II/Group-B Officer or either of is a directly recruited Class-I Officers, he or she shall be treated as falling in creamy layer.

For the 2nd category of candidate whose parents are employed in an organization where there have been no comparable posts as in 1st category, the determination of the creamy layer status shall be made on the basis of Income/Wealth Test.

It has come to notice that while deciding the creamy layer status of Government servants particularly those belonging to Class-II , the Certificate Issuing Authorities are not referring to the clarifications issued at Note-6 at P.26 of the said clarification. Despite instructions to the contrary, Certificate Issuing Authorities are including the Annual Income from salaries of Class-II and Class-III employees and thereby denying the applicants the SEBC/OBC Certificate on the grounds that they fall under creamy layer category. This is not in accordance with the guideline and as a result many deserving candidates are debarring from getting the benefit in time. This is also causing undue harassment to service seekers due to ignorance of law by the concerned authorities.

The Hon'ble High Court, Odisha, Cuttack also while disposing of W.P. (C) No.10353/2015 filed by Ashis Pradhan Vrs. State in their order dtd.04.03.2016 have taken a view that the amount of gross salary received by the father of the petitioners for the purpose of grant of benefit of OBC Certificate is irrelevant (copy enclosed), which clearly speaks about the misinterpretation of law by the Tahasildar, Bheden. In another case also the Tahasildar, Kalahandi has rejected

the application of one Ashis Kumar Bhoi of Golkela, Kalahandi for issue of non creamy layer OBC Certificate on the ground that the annual income of the father of the applicant is more than Rs.6.00 lakhs who was initially appointed as a Class- III Asst. Teacher now working as Headmaster. Besides, a good number of representations have also been received in this Department regarding non issuance of OBC/SEBC Certificate by the Tahasildars on the above ground.

In view of the above, I would therefore request you to please intervene in the matter and issue suitable instructions to all Tahasildars and Certificate Issuing Authorities to follow instructions/guidelines meticulously in the matter of issue of OBC/SEBC Certificate. Further, it is also requested to take necessary action against the Tahasildars for erroneous interpretation of Govt. guidelines and non issue of OBC/SEBC Certificate to the eligible candidates.

Yours faithfully,

8/12/16

Commissioner-cum-Secretary to Government

Government of Odisha
Revenue & Disaster Management Department.

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Memo No. GOEB-Misc.-32/2015- 39831 */RDM., dt.* 19-12-2016

Copy forwarded to All Collectors for information and necessary action.

He is impressed upon all concerned that guidelines /instructions issued on the matter of issuance of OBC/SEBC Certificate from time to time may be meticulously followed and strictly adhered to and follow up action may be taken accordingly.

The Tahasildars /Certificate Issuing Authorities under your control may be informed of accordingly.

17/12/16

Addl. Secretary to Government.

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