

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

No. 17-1/2011-U1

New Delhi, 25th May, 2012

Office Memorandum

- Ref: 1) Resolution No. 12011/68/93-DCC (C) dt. 10/9/93 of Ministry of Welfare/
Social Justice & Empowerment & subsequent amendments
2) OM No. 36012/22/93-Estt. (SCT) dt. 8/9/1993 of Ministry of Personnel,
Public Grievances and Pensions (Department of Personnel and Training)
3) OM No. 36033/3/204-Estt. (Res) dt. 9/3/2004 of Ministry of Personnel,
Public Grievances and Pensions (Department of Personnel and Training)
4) Resolution No. 1-1/2005-U1.A/846 dt. 20/4/2008 of this Department
5) OM No. 1-1/2005-U1A/847 dt. 20/4/2008 of this Department
6) OM No. 1-1/2008-(III)-U1A dt. 17/10/2008 of this Department
7) OM No. F.1-1/2005-U.1 A/846 dt. 22/12/2011 of this Department

Your attention is invited to the OM of this Department dated 22nd December, 2011 in which it was requested to ensure that reservations in admissions to the educational institutions as elucidated in the OM dated 20th April, 2008 would continue to apply subject to a sub-quota of 4.5 percent (four point five percent) for Minorities, as defined in clause (c) of section 2 of the National Commission for Minorities Act, 1992 out of the 27 percent reservation for Other Backward Classes, in accordance with the Office Memoranda as issued by the Ministry of Welfare/ Social Justice and Empowerment and Ministry of Personnel, Public Grievances and Pension (Department of Personnel and Training), as applicable for the purposes of implementing reservation in admission to Central Educational Institutions (CEIs) as defined in CEI Act, 2006.

2. Clarifications have been requested by some Institutions on the provisions of this Ministry's OM dated 22/12/2011 referred to in the previous paragraph. Further, directions have to be also issued in the light of Hon'ble Supreme Court's direction in the matter of cut-off marks for admission [Judgement in Civil Appeal No. 7084 of 2011 *P V Indiresan Vs Union of India* hereinafter referred to as the judgement and Order dated 14/10/2008 in *P.V. Indiresan & Ors. V. Union of Indian* –(2009) 7 SCC 300 hereinafter referred to as the order]. Therefore, the following clarifications/directions are issued:

- a) The 4.5 per cent reservation referred to in the first paragraph of this communication, is included in the 27 percent reservation for Other Backward Classes (OBC) which means that out of a total 27% seats reserved for the OBC category, 4.5% of the seats shall be filled up by OBC (Minorities & non-creamy layer) and the balance 22.5% shall be filled up by OBC (non-minority and non-creamy layer).

b) Candidates belonging to Minorities, as defined in clause (c) of Section 2 of the National Commission for Minorities Act, 1992, and also belonging to the Socially and Educationally Backward Classes/ OBCs in the Central lists of SEBCs/ OBCs as per Resolution No. 12011/68/93-DCC(C) of the Ministry of Welfare/ Social Justice and Empowerment as modified from time to time by that Ministry, based on the advice of the National Commission for Backward Classes (NCBC), are eligible for admission to CEIs under this quota.

c) The Apex court has clarified in its judgement dated 18/8/2011 (read with its order dated 14/10/2008) that the "*extent of cut off marks*", in first sentence of second para of the order, refers to the 'minimum eligibility marks' / 'minimum qualifying marks' for admission of OBC candidates and that "*the maximum cut-off marks for OBCs*", in the first part of second sentence of order, refers to the percentage of marks by which the eligibility / qualifying marks could be lowered from the minimum eligibility/ qualifying marks prescribed for general category students. In other words, it refers to the difference between the minimum eligibility/ qualifying marks for general category and minimum eligibility / qualifying marks for OBCs. It has also been directed by the Apex Court that such difference should not be more than 10% of the minimum eligibility/ qualifying marks prescribed for general category candidates. It has further been clarified by the Apex Court that "*cut-off marks of general category candidates*", in the latter part of the second sentence of the order, refers to the minimum eligibility marks (or to the minimum qualifying marks if there is an entrance examination) prescribed for general category candidates, and not to marks secured by the last candidate to be admitted in general category or in any particular category, or to the minimum marks to be possessed by OBC candidates, determined with reference to the marks secured by the last candidate to be admitted under general category.

d) CEIs will have the discretion to fix minimum eligibility marks/qualifying marks separately for OBC Candidates eligible under 4.5% sub-quota (in case sufficient candidates are not available) and for the remaining 22.5% quota (i.e. 27% - 4.5%) subject to the limits on the differential already mentioned above, and which are somewhere midway between those for SC/ST and the unreserved category. The minimum eligibility marks refers to the minimum marks a candidate is required to have in the last qualifying examination (for example, 10+2 examination for admissions to a Bachelor's degree programme or the graduation examination for admissions to a post graduate programme). The qualifying marks refer to the minimum marks in an entrance examination. The seats for the Candidates belonging to the Central lists of SEBCs / OBCs are to be filled up on the basis of *inter-se* merit amongst them. The definition of *inter-se* merit is very clear and therefore, any attempt to determine the merit of SC/ST/OBC with reference to general merit list would go against the spirit of Hon'ble Supreme Court order. Only when OBC candidates (including Minorities covered within the quota) possessing the minimum eligibility marks / qualifying marks are not available in the OBC merit list the OBC seats shall be converted into general category seats. Similarly, the seats meant for OBC (Minority non-creamy layer) should not be diverted to other categories if eligible candidates are available.

e) Some people are under the impression that general category means non SC/ST/OBC category and therefore, SC/ST/OBC candidates who qualify in general merit list can be shown against reserved seats. Nothing could be more illogical than

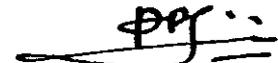
this interpretation. The SC/ST/OBC candidates who qualify in general merit list must be considered and counted as general candidates and not as reserved candidates.

f) CEIs which are in the process of conducting admission tests may decide on the minimum eligibility marks/qualifying marks for the Candidates eligible under 4.5% quota and remaining 22.5% quota (ie. 27% - 4.5%) as explained in preceding paragraphs, 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 such reserved seats. Such institutions may also obtain information pertaining to the Minority status of the students who may have indicated as belonging to the OBC category in the application form, so as to identify those belonging to the Minorities for consideration during counselling/interviews/group discussions/ offer of admissions. Similarly, the income status of the candidate must also be ascertained beforehand to ensure that he/ she belongs to 'non-creamy' layer.

g) CEIs which are yet to advertise the process of selection and admissions shall ensure that the attention of candidates intending to apply against the 4.5% reserved seats is invited to the information required to be furnished by them as mentioned in previous paragraph.

h) All the provisions relating to 'creamy layer' as mentioned in the OM dated 20th April, 2008 would continue to apply.

3. This issues with the approval of Competent Authority.


(R.P. Sisodia)

Joint Secretary to the Government of India

To all Central Educational Institutions