

इतर मासवर्गीय जातींमधील उन्नत आणि प्रगत व्यक्ती/गट ( Creamy layer ) वगळून आरक्षणाचे फायदे देण्याबाबत निकष निश्चित करण्याबाबत...

**महाराष्ट्र शासन**

समाजकल्याण, सांस्कृतिक कार्य व क्रीडा विभाग,

शासन निर्णय, क्रमांक-सीसीटी-1094/प्र. क्र. 86/मायक-5,

मंत्रालय विस्तार भवन, मुंबई 400 032, दिनांक 16 जून 1994.

याचा :- 1) केंद्र शासन, मिनिस्ट्री ऑफ पर्सनल, पब्लिक ग्रिन्हेन्सेस अँड पेंशन्स (डिपार्टमेंट ऑफ पर्सनल अँड ट्रेनिंग) कडील कार्यालयीन जापन क्रमांक-36012/22/93-इएसटीटी (एस. सी. टी.) दिनांक 8 सप्टेंबर, 1993.

2) शासन निर्णय, सामान्य प्रशासन विभाग, क्रमांक-सीसीटी-1093/2167/सीआर-141/93/16-ब, दिनांक 23 मार्च, 1994.

**प्रस्तावना :-** शासन निर्णय, सामान्य प्रशासन विभाग, क्रमांक सीसीटी-1093/2167/सीआर-141/93/16-ब, दिनांक 23 मार्च, 1994 अन्वये मंडल आयोगाच्या शिफारशीनुसार इतर मासवर्गीयांना शासकीय व निमशासकीय सेवेत आरक्षण देण्याबाबत आदेश निर्गमित झालेले आहेत. मंडल आयोगाने त्यांच्या अहवालात सूचित केल्याप्रमाणे आणि सर्वांचे न्यायपालने याचिका क्रमांक (सिव्हील) 930/1990 इंदिरा सहानी व इतर विरुद्ध भारत सरकार व इतर, मध्ये निदेशित केल्यानुसार सामाजिक व शैक्षणिकदृष्ट्या मागासलेल्या वर्गातील (इतर मासवर्गीय) उन्नत आणि प्रगत व्यक्ती/गट ( Creamy layer ) निश्चित करून त्यांना आरक्षणाच्या आणि तदनुषंगाने इतर फायद्यांच्या कक्षेतून वगळण्यासाठी निकष ठरविण्याच्या दृष्टीकोनातून जो निर्णय राज्य शासनाने घेतलेला आहे त्याबाबतचे आदेश समाजकल्याण, सांस्कृतिक कार्य व क्रीडा विभागाकडून निर्गमित करण्यात यावेत असे सदर आदेशातील परिच्छेद क्र. 4 मध्ये निदेशित केले आहे. या निदेशानुसार इतर मासवर्गीयांतील प्रगत आणि उन्नत व्यक्ती/गट ( Creamy layer ) निश्चित करण्यासाठीचे निकष म्हणून खालीलप्रमाणे आदेश निर्गमित करण्यात येत आहेत :-

**शासन निर्णय :-** केंद्र शासनाने नियुक्त केलेल्या न्यायाधीश, राम नंदन प्रसाद यांच्या अध्यक्षतेखालील समितीने या संदर्भात ज्या शिफारशी दिनांक 10 मार्च, 1993 रोजी केंद्र शासनला दिल्या आणि केंद्र शासनाच्या कल्याण मंत्रालयाने त्या मान्य केल्या आहेत त्या सर्व शिफारशी खाली नमूद केलेल्या सुधारणांसह उन्नत व प्रगत व्यक्ती/गट ( Creamy layer ) निश्चित करण्याचे निकष राज्य शासन स्वीकृत करण्याचा निर्णय या आदेशाद्वारे घेत आहे.

1. कमाल शेती धारणा संदर्भातील अधिनियमातील बागायत क्षेत्र धारणेच्या पात्र मर्यादेच्या 85 टक्के पर्यंत क्षेत्र धारण करणा-या व्यक्तींना उन्नत आणि प्रगत व्यक्ती अथवा गट म्हणून वगळे जाणार नाही.
2. ज्या व्यक्तींच्या धारण केलेल्या क्षेत्रात विहिर बागायत क्षेत्र आहे त्या व्यक्तीबाबत असे विहिर बागायत क्षेत्र बागायत न धरता जिरायत धरले जाईल, कारण सर्वसाधारणतः विहरीमधून मुबलक स्वरूपात पाणी उपलब्ध होत नाही.
3. ग्राम स्तरावरील कलुतेदार यांना वंशपरंपरागत उद्योग किंवा धंदा करणारी व्यक्ती समजण्यात येऊन त्यांना उन्नत आणि प्रगत व्यक्ती/गट धरले जाणार नाही.

4. हाशी सोळाडू आणि क्रीडा क्षेत्रातील धंदेवाईक सोळाडू व्यक्ती यांना उन्नत आणि प्रगत व्यक्ती अथवा गट म्हणून वगळत जाणार नाही.

हे आदेश भटक्या जमाती (क) घनवर व उत्सम जाती, भटक्या जमाती (ड) वंगारी व तत्सम जाती आणि इतर मामासवर्गीय यांना लागू राहतील.

वरीलप्रमाणे निर्णय घ्याव्यात अशीन राहून ग्या व्यक्ती उन्नत आणि प्रगत व्यक्ती अथवा गट म्हणून वगळल्या जातील त्याबाबतचे निकष या आदेशाखोबतच्या अनुसूचीमध्ये विहित केलेले आहेत.

महाराष्ट्राचे राज्यपाल यांच्या आदेशानुसार वृ. बांकाणे.

(संदीप बानूची)

सचिव (समाजकल्याण व क्रीडा)

प्रति,

- राज्यपालांचे सचिव/मुख्यमंत्र्यांचे सचिव,
- सर्व मंत्री/राज्यमंत्री यांचे खाजगी सचिव,
- अपर मुख्य सचिव/प्रधान सचिव/सचिव, सर्व मंत्रालयीन विभाग,
- सर्व विभागीय आयुक्त/सर्व जिल्हाधिकारी,
- सर्व जिल्हा परिषदांचे मुख्य कार्यकारी अधिकारी,
- प्रबंधक, उच्च न्यायालय (मूल शाखा)/अपिल शाखा, मुंबई,
- प्रबंधक, लोकसुखा आणि उपलब्धता यांचे कार्यालय, मुंबई,
- सचिव, महाराष्ट्र लोकसेवा आयोग, मुंबई,
- सचिव, स.प्र.वि. (16-ब), मुंबई,
- सचिव, सर्व प्रादेशिक निवड मंडळे/सचिव, राज्य निवड मंडळ,
- संचालक, समाजकल्याण, पुणे/आयुक्त, अदिवासी विकास, नाशिक,
- संचालक, अदिवासी संशोधन व प्रशिक्षण संस्था, पुणे/संचालक, सेवायोजन, मुंबई,
- महालेखापाल, महाराष्ट्र-1/2 (लेखा व अनुषंगक), मुंबई/नगरपूर,
- महालेखापाल, महाराष्ट्र-1/2 (लेखा परीक्षा), मुंबई/नगरपूर,
- अभिदान व लेखाधिकारी, मुंबई/निवासी लेखापरीक्षा अधिकारी, मुंबई,
- सर्व मंत्रालयीन विभागांच्या अधिपत्याखालील विभाग प्रमुखा व कार्यालय प्रमुखा,
- सर्व मंत्रालयीन विभाग,
- निवड मंत्री, मावक-5.

X पत्राचे प्रत आदिवासी संशोधन व प्रशिक्षण संस्था, पुणे/संचालक, सेवायोजन, मुंबई, संचालक, अदिवासी संशोधन व प्रशिक्षण संस्था, पुणे/संचालक, समाजकल्याण, पुणे/आयुक्त, अदिवासी विकास, नाशिक, महालेखापाल, महाराष्ट्र-1/2 (लेखा व अनुषंगक), मुंबई/नगरपूर, महालेखापाल, महाराष्ट्र-1/2 (लेखा परीक्षा), मुंबई/नगरपूर, अभिदान व लेखाधिकारी, मुंबई/निवासी लेखापरीक्षा अधिकारी, मुंबई, सर्व मंत्रालयीन विभागांच्या अधिपत्याखालील विभाग प्रमुखा व कार्यालय प्रमुखा, सर्व मंत्रालयीन विभाग, निवड मंत्री, मावक-5.

SCHEDULE

Description of category

To whom rule of exclusion will apply

CONSTITUTIONAL POSTS

- Son(s) and daughter(s) of
- (a) President of India;
  - (b) Vice President of India;
  - (c) Judges of the Supreme Court and of the High Courts;
  - (d) Chairman & Members of UPSC and of the State Public Service Commission; Chief Election Commissioner; Comptroller & Auditor General of India.
  - (e) Persons holding Constitutional positions of like nature.

SERVICE CATEGORY

1. Group A/Class I officers of the All India Central and State Services (Direct Recruits)

- Son(s) and daughter(s) of
- (a) parents, both of whom are Class I officers;
  - (b) Parents, either of whom is a Class I Officer
  - (c) parents, both of whom are Class I officers, but one of them dies or suffers permanent incapacitation.
  - (d) parents, either of whom is a Class I officer and such parent dies or suffers permanent incapacitation and before such death or such incapacitation has had the benefit of employment in any International Organisation like UN, IMF, World Bank, etc. for a period of not less than 5 years.
  - (e) parents, both of whom are Class I officers die or suffer permanent incapacitation and

Description of category

To whom rule of exclusion will apply

before such death or such incapacitation of the both, either of them has had the benefit of employment in any International Organisation like UN, IMF, World Bank, etc. for a period of not less than 5 years.

(q) Provided that the rule of exclusion shall not apply in the following cases:

(a) Sons and daughters of parents either of whom or both of whom are Class-I officers and such parent(s) dies/die or suffer permanent incapacitation.

(b) A lady belonging to OBC category has got married to a Class-I officer, and may herself like to apply for a job.

B. Group B/Class II officers of the Central & State Services (Direct Recruitment)

Son(s) and daughter(s) of

(a) Parents both of whom are Class II officers;  
(b) Parents of whom only the husband is a Class II officer and he gets into Class I at the age of 40 or earlier.

(c) Parents, both of whom are Class II officers and one of them dies or suffers permanent incapacitation and either one of them has had the benefit of employment in any International Organisation like UN, IMF, World Bank, etc. for a period of not less than 5 years before such death or permanent incapacitation.

(d) parents of whom the husband is a Class I officer (direct recruit or pre-forty promoted) and the wife is a Class II officer and the wife dies or suffers permanent incapacitation and;

Description of category

(e) parents, of whom the wife is a Class I officer (Direct recruit or promoted) and the husband is a Class II officer and the husband dies or suffers permanent incapacitation.

Provided that the rule of exclusion shall not apply in the following cases

Sons and daughters of

(a) Parents both of whom are Class II officers and one of them dies or suffers permanent incapacitation.

Sons and daughters of

(a) Parents, both of whom are Class II officers and both of them die or suffer permanent incapacitation, even though either of them has had the benefit of employment in any International Organisation like UN, IMF, World Bank, etc. for a period of not less than 5 years before their death or permanent incapacitation.

To whom rule of exclusion will apply

(e) parents, of whom the wife is a Class I officer (Direct recruit or promoted) and the husband is a Class II officer and the husband dies or suffers permanent incapacitation.

Provided that the rule of exclusion shall not apply in the following cases

Sons and daughters of

(a) Parents both of whom are Class II officers and one of them dies or suffers permanent incapacitation.

Sons and daughters of

(a) Parents, both of whom are Class II officers and both of them die or suffer permanent incapacitation, even though either of them has had the benefit of employment in any International Organisation like UN, IMF, World Bank, etc. for a period of not less than 5 years before their death or permanent incapacitation.

C. Employee in Public Sector Undertakings etc.

The criteria enumerated in A & B above in this Category will apply mutatis mutandi to officers holding equivalent or comparable posts in PSUs, Banks, Insurance Organisations, Universities, etc. and also to equivalent or comparable posts and position under private employment, pending the evaluation of the posts on equivalent or comparable basis in these institutions, the criteria specified in Category VI below will apply to the officers in these institutions.

Description of category

D. ARMED FORCES INCLUDING PARA-MILITARY FORCES

(Persons holding civil posts are not included.)

To whom rule of exclusion will apply

son(s) and daughter(s) of parents either both of whom is or are in the rank of Colonel and above in the Army and to equivalent posts in the Navy and the Air Forces and the Para Military Forces;

Provided that:-

(i) if the wife of an Armed Forces Officer is herself in the Armed Forces (i.e. the category under consideration) the rule of exclusion will apply only when she herself has reached the rank of Colonel;

(ii) the service ranks below Colonel of husband and wife shall not be clubbed together;

(iii) If the wife of an officer in the Armed Forces is in civil employment, this will not be taken into account for applying the rule of exclusion unless she falls in the service category under item No. II in which case the criteria and conditions enumerated therein will apply to her independently.

PROFESSIONAL CLASS AND THOSE ENGAGED IN TRADE AND INDUSTRY

(1) Persons engaged in profession as a

doctor, lawyer, chartered Accountant, Income-Tax Consultant, financial or management consultant, surgeon, engineer, architect, computer specialist, film artist and other film professional, author, playwright, Media professional or any other vocations of like status.

Criteria specified against Category VI will apply:-

Description of category

To whom rule of exclusion will apply

(II) Persons engaged in trade, business and

Industry

Criteria specified against Category VI will apply:

Explanation:

(i) Where the husband is in some profession and the wife is in a Class II or lower grade employment, the income/wealth test will apply only on the basis of the husband's income.

(ii) If the wife is in any profession and the husband is in employment in a Class II or lower rank post, then the income/wealth criterion will apply only on the basis of the wife's income and the husband's income will not be clubbed with it.

Son(s) and daughter(s) of persons belonging to a family (father, mother and minor children) which owns

(a) only irrigated land which is equal to or more than 85% of the statutory ceiling area, or

(b) both irrigated and unirrigated land, as follows:

The rule of exclusion will apply where the pre-condition exists that the irrigated area (having been brought to a single type under a common denominator) 40% or more of the statutory ceiling limit for irrigated land (this being calculated by excluding the unirrigated portion). If this pre-condition of not less than 40% exists, then

PROPERTY OWNERS

Agricultural holdings

Description of category

To whom rule of exclusion will apply

only the area of unirrigated land will be taken into account. This will be done by converting the unirrigated land on the basis of the conversion formula existing, into the irrigated type. The irrigated area so computed from unirrigated land shall be added to the actual area of irrigated land and if after such clubbing together the total area in terms of irrigated land is 85% or more of the statutory ceiling limit for irrigated land, then the rule of exclusion will apply and disentitlement will occur.

(ii) The rule of exclusion will not apply if the land holding of a family is exclusively unirrigated.

Plantations

- (i) Coffee, tea, rubber, etc.
  - (ii) Mango, citrus, apple plantations etc.
- Vacant land and/or buildings in urban area or urban agglomerations.

INCOME/WEALTH TEST :

Son(s) and daughter(s)  
(a) Persons having gross annual income of Rs.1 lakh or above or possessing wealth above the exemption limit as prescribed in the wealth Tax Act for a period of three consecutive years.

Explanation : Building may be used for residential, industrial or commercial purpose and the like two or more such purposes.



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Description of category  
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To whom rule of exclusion will apply  
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(b) Persons in categories I, II, III and VA who are not disentitled to the benefit of reservation but have income from other sources of wealth which will bring them within the income/wealth criteria mentioned in (a) above.

Explanation :

- (i) Income from salaries or agricultural a land shall not be clubbed;
- (ii) The Income criteria in terms of rupees will be modified taking into account the changes in its value every three years. If the situation, however, so demands, the interregnum may be less.

Explanation : Wherever the expression "permanent incapacitation" occurs in this schedule, it shall mean incapacitation which results in putting an officer out of service.  
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