



GOVERNMENT OF KERALA

Abstract

SC/ST Development Department- Providing reservation in public appointments to Hindu Nadar and SIUC Nadars separately- the Report of Kerala State Commission for Backward Classes- Accepted - orders issued.

SC/ST DEVELOPMENT (F) DEPARTMENT

G.O.(Ms).104/2009/SCSTDD.

Dated, Thiruvananthapuram, 21.11.2009

- Read: 1. G.O.(Ms) No.34/03/SCSTDD dated 26/09/2003
2. G.O.(Ms) No.37/03/SCSTDD dated 03/04/2003
3. G.O.(Ms) No.52/04/SCSTDD dated 27/07/2004
4. G.O.(Ms) No.4/07/SCSTDD dated 18/01/2007
5. Judgment dated 13/07/2009 of Hon'ble High Court in W.P.(C) 5489/07.

ORDER

1. Government had amended the KS&SSR 1958 and clubbed together Hindu Nadars and SIUC Nadars as one class for the purpose of reservation in employment. Against this amendment, General Secretary, Hindu Nadar Corporation filed OP before the Hon'ble High Court of Kerala and in the judgment dated 28/08/2000 the Hon'ble High Court quashed the impugned orders/notification to the extent that it diluted the percentage of reservation for Hindu Nadar and it was made clear that Hindu Nadar should be continued to be treated as a separate class for the purpose of Art.16 (4) of the Constitution of India as it existed prior to the above decision of Government.

2. Government had filed appeal against this judgment before the Hon'ble Supreme Court. Since no stay was granted by the Hon'ble Supreme Court against the operation of the impugned judgment of the Hon'ble High Court, the matter had been examined by the Government and Orders issued as in G.O. read as 1st paper above restoring the position of Hindu Nadars under item No.49 and the SIUC Nadars separately under item 64 under the relevant provisions of the Kerala State & Subordinate Service Rules 1958 subject to the final decision in SLP (C) pending before the Hon'ble Court and with effect from 28/08/2000 vide G.O. read as second paper above. Later Government allowed all the SIUC candidates appointed from 28.08.2000 to 03.04.2003 to continue in service, vide Government Order read as 3rd paper above.

3. The Hon'ble Supreme Court in the two interim orders dated 24/02/2005 and 2.05.2005 in Civil Appeal No.3361/02, ordered that the Kerala State Commission

for Backward Classes may decide on the quota of reservation for Hindu Nadars and SIUC Nadars. The quota of reservation for Nadars (Hindu & SIUC Nadar together) is 3% for Last Grade Service and 2% for other posts. In compliance to the above Supreme Court Order, the Kerala State Commission for Backward Classes submitted its report to Hon'ble Supreme Court with a copy to Government on 29/7/2005. In this report Commission has recommended reservation at the rate of 2% for Hindu Nadars and 1% for SIUC Nadars in Last Grade Service and 1% each in Other Posts.

4. In the Civil Appeals the Hon'ble Supreme Court on 28/03/2006 passed orders directing Government to take a decision on the report of the Kerala State Commission for Backward Classes and Hon'ble High Court was directed to dispose of the case within three months.

5. Subsequently, the Hon'ble High Court in their judgment dt.8/6/2006 in WP(C) 1882/06 and 7004/04 directed the Government to consider the report submitted by Kerala State Commission for Backward Classes and to take appropriate decision in accordance with law after issuing notice to the petitioners and other affected parties. In compliance to the above judgment, Principal Secretary, SC/ST Development Department heard the petitioner and others on behalf of Government on 5/8/2006.

6. When the matter was placed before the Council of Ministers, the Council decided to appoint a Cabinet Sub Committee to study the proposal of the Commission for amending the existing pattern of reservation.

7. The Cabinet Sub Committee after examining the matter came to the conclusion that the report submitted by Kerala State Commission for Backward Classes is not sufficient and decided to refer the matter again to Kerala State Commission for Backward Classes for a detailed study and report that till then the existing reservation pattern adopted by PSC would continue vide Government Order read as 4th paper above.

8. Akhilendia Nadar Association filed W.P.(C) 5459/07 before the Hon'ble High Court challenging the decision of Cabinet Sub Committee and Hon'ble High Court ordered in the above W.P.(C) that the Hindu Nadar and Christian Nadar have to be treated separately as was being done in 2000 for the purpose of reservation and directed the Chief Secretary and all Heads of Departments to furnish materials to Kerala State Commission for Backward Classes.

9. Subsequently all Departments have furnished the details and Kerala State Commission for Backward Classes has submitted its report on 27/2/2009. As per the directions of the Hon'ble High Court in WP(C) 5459/07 dated 13/07/2009 Principal Secretary, Scheduled Castes and Scheduled Tribes Development Department heard the petitioner and third respondent in WP(C) 5459/07. Both of them agreed with the recommendations in the Commissions report. But the 4th respondent Shri.K.Sureshkumar has not attended the hearing.

10. In the report, Commission has advised as follows:

"From the data available in the tabulation statements Annexures II, IV, VII, IX, XI & XIII also we find that SIUC Nadars, one of the Major Christian Backward Communities in Kerala, is not adequately represented in the Last Grade Posts in the Services under the State. We have already noted that the representation of SIUC Nadars in the Last Grade Post in the Government Departments is 429 only while the Hindu Nadars have got 689 Posts. Similarly in the Public Sector Undertakings, SIUC has got only 329 Posts in the Lower Grade while Hindu Nadars have got 408 Posts in the said grade. Thus Hindu Nadars have secured 339 Posts more than Nadars included in the SIUC. Further the Hindu Nadars have got 31 Posts more in the Last Grade in Universities, Devaswam Boards and High Court together. In the co-operative organisations SIUC has been 27 Posts in the Last Grade and Hindu Nadars only 15 Posts. On the whole, Hindu Nadars have got 358 Posts more in the Last Grade. This being the actual position, it is only proper to give a higher percentage in the Last Grade to SIUC Nadars. However this can be subjected to review while undertaking the revision of OBC list by the Government under Section 11 of the Kerala State Commission for Backward Classes Act, 1993 and evaluation of degree of Backwardness of the Backward Classes by the Commission under Section 5 of the Kerala State Backward Classes (Reservation of Appointments or posts in the Services under the State) Act, 1995 after obtaining education and socio economic survey of the Castes and Communities in Kerala already ordered by the Government in July, 2007."

11. In the above circumstance, Kerala State Commission for Backward Classes has recommended to fix the quota of reservation for Hindu Nadars and SIUC Nadars as follows:-

"The Hindu Nadars will be allotted a reservation quota of 1 out of every 40 appointments for direct recruitment to posts included in the Kerala Last Grade Service and 1 out of every 40 appointments for direct recruitment to posts other than those included in the Kerala Last Grade Service. Nadars included in the SIUC will be allotted a reservation quota of 2 out of every 40 appointments for direct recruitment to posts included in the Kerala Last Grade Service and 1 out of every 40 appointments for direct recruitment to posts other than those included in the Kerala Last Grade Service."

The Government will amend item No.49 of List III of the Schedule to Part I, KS & SSR, 1958 by splitting it in to two as

- Item No.49 - Hindu Nadars
- Item No.49A - Nadars included in the SIUC

Similarly Item No.64 will be amended as follows:

- 64. SIUC (Excluding Nadars specified in item 49 A)

Rule 17 (2) (a) (i) and (ii) of Part II KS & SSR, 1958 will be substituted as follows:

- (i) For direct recruitment to posts included in the Kerala Last Grade Service.

Out of every 40 appointments, 11 shall be given to Ezhavas, Thiyyas and Billavas, 10 to Muslims or Mappila, 4 to Latin Catholics and Anglo Indians, 1 to Hindu Nadars, 2 to Nadars included in the SIUC, 2 to Scheduled Castes converts to Christianity, 2 to Viswakarmas, 2 to Dheevaras and 6 to Other Backward Classes puts together.

- (ii) For direct recruitment to posts other than those included in the Kerala Last Grade Services.

Out of every 40 appointments, 14 shall be given to Ezhavas, Thiyyas and Billavas, 12 to Muslims, 4 to Latin Catholics and Anglo Indians, 1 to Hindu Nadars, 1 to Nadars included in SIUC, 1 to Scheduled Caste Converts to Christianity, 3 to Viswakarmas, 1 to Dheevaras and 3 to Other Backward Classes put together.

Consequential amendments in Rule 17 (2) (b) (i) and (ii) of Part II of KS & SSR, 1958 in regard to rotation has also to be made."

12. Government examined the various aspects of the matter in detail and are pleased to accept the above recommendations of Kerala State Commission for Backward Classes.

13. It is also ordered that the above pattern of reservation will continue till the backwardness of various Backward Communities is reviewed based on the Socio Economic Survey to be conducted as per Section 5 of the Kerala State Backward Classes Commission Act.

14. The Personnel & Administrative Reforms Department in Government will make necessary amendments in KS & SSRs accordingly.

15. This Order will not have retrospective effect.

16. The direction in the judgment dated 13/07/2009 of Hon'ble High Court in WP(C) 5459/07 is hereby disposed of accordingly.

(By Order of the Governor)

PAUL ANTONY
Principal Secretary to Government

To

The Secretary, Kerala State Public Service Commission, Pattom,
Thiruvananthapuram (with C.L.).

Shri.N.K.Bhasy, General Secretary, Akhilendia Nadar Association,
Central Office, Mukkola, Mulloor P.O., via. Vizhinjam-695 521,
Thiruvananthapuram.

Rt.Rev.Dr.J.W.Gladstone, President, S.I.U.C., Bishop House, L.M.S.
Compound, Thiruvananthapuram:

Shri.K.Sureshkumar, Panavinna Veedu, Kaniramkulam, Thiruvananthapuram.

The Advocate General, Ernakulam. (with C.L.).

The Registrar, Kerala State Commission for Backward Classes, Pattom,
Thiruvananthapuram

The Director, Scheduled Castes Development Department

The Director, Scheduled Tribes Development Department

All District Collectors.

The Director, Institute of Management in Government, Thiruvananthapuram.

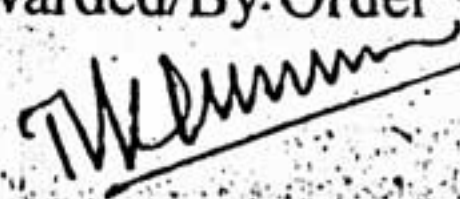
The Director of Information & Public Relations, Thiruvananthapuram

The Personnel & Administrative Reforms (Rules) Department
(vide U.O. No.14207/R1/09/P&ARD dated 24.10.2009.

The General Administration (SC) Department.

Stock file/ Office copy.

Forwarded/By Order



Section Officer