

No. 35/1/72-R.U. (SCT.V)
Government of India/Bharat Sarkar
Ministry of Home Affairs/Grih Mantralaya

New Delhi-110001, *Dated, the 2nd May 1975*
12 Vaisakha, 1897

To

The Chief Secretaries of all State Governments and Union Territory Administration.

Subject: Issue of Scheduled Castes and Scheduled Tribes Certificate

Sir,

I am directed to state that complaints are often received that Scheduled Caste and Scheduled Tribe certificates are given to persons who do not in fact belong to a Scheduled Caste or Scheduled Tribe. It is necessary, therefore, that the Certificate issuing authorities should make a proper verification before they actually issue such a certificate.

2. In this connection a set of points which should be taken into account are enclosed for the guidance of those empowered to issue Scheduled Caste and Scheduled Tribe certificates. It is requested that these instructions may be circulated amongst them.

Yours faithfully,

Sd/-
(O. K. MOORTHY)
Director General, BCW.

No. 35/1/72-R.U. (SCT.V),

Dated New Delhi, the 2nd May 1975/12

Vaisakha,

1975

Copy forwarded for necessary action to:-

1. All Ministries/Departments of the Govt.of India.
2. All attached and subordinate offices of M.H.A
3. The Union Public Service Commission, Dholpur House, New Delhi-110011.
4. The Dept. of Personnel and Administrative Reforms, Estt. (SCT) Section, New Delhi.
5. The Commissioner for Scheduled Castes and Scheduled Tribes, Ramakrishnapuram, New Delhi.

Sd/-
(O. K. MOORTHY)
Director General, BCW

Issue of Scheduled Caste and Tribe Certificate—Points to be observed.

1. *General:* (Applicable in all cases)

Where a person claims to belong to a Scheduled Caste or a Scheduled Tribe by birth it should be verified: --

- (i) that the person and his parents actually belong to the community claimed;
- (ii) that this community is included in the Presidential Orders specifying the Scheduled Castes and Scheduled Tribes in relation to the concerned State
- (iii) that the person belongs to that State and to the area within that State in respect of which the community has been scheduled;
- (iv) if the person claims to be a Scheduled Castes, he should profess either the Hindu or the Sikh religion;
- (v) if the person claims to be a Scheduled Tribe, he may profess any religion.

2. *Cases of migration;*

- (i) Where a person migrates from the portion of the State in respect of which his community is scheduled to another part of the same State in respect of which his community is not scheduled, he will continue to be deemed to be a member of the Scheduled Caste or the Scheduled Tribe, as the case may be, in relation to that State;
- (ii) Where a person migrates from one State to another, he can claim to belong to a Scheduled Caste or a Scheduled Tribe only in relation to the State to which he originally belonged and not in respect of the State to which he has migrated.

3. *Claims through marriage:*

The guiding principle is that no person who was not a Scheduled Caste or a Scheduled Tribe by birth will be deemed to be a member of a Scheduled Caste or a Scheduled Tribe merely because he or she had married a person belonging to a Scheduled Caste or a Scheduled Tribe.

Similarly a person who is a member of a Scheduled Caste or a Scheduled Tribe would continue to be a member of that Scheduled Caste or Scheduled Tribe as the case may be, even after his or her marriage with a person who does not belong to a Scheduled Caste or a Scheduled Tribe.

4. *Cases of conversion and re-conversion:*

- (i) Where a Scheduled Caste person gets converted to a religion other than Hinduism or Sikhism and then reconverts himself back to Hinduism or Sikhism, he will be deemed to have reverted to his original Scheduled Caste, if he is accepted by the members of that particular caste as one among them.
- (ii) In the case of a descendent of a Scheduled Caste convert, the mere fact of conversion to Hinduism or Sikhism will not be sufficient to entitle him to be regarded as a member of the Scheduled Caste to which his forefathers belonged. It will have to be established that

such a convert has been accepted by members of the caste claimed as one among themselves and has thus become a member of that caste.

5. Cases of adoption:

Great care has to be exercised in dealing with cases where a person claims to be a Scheduled Caste on the ground that he has been adopted by a Scheduled Caste person. The validity of the adoption has to be clearly established before any caste certificate can be given. It is for the party to prove his claim by cogent and reliable evidence.

- (i) The requirements of valid adoption are given in section 6 to 11 of the Hindu Adoption and Maintenance Act, 1956 (relevant extracts of which are attached). The actual giving and taking of the child in adoption is a mandatory requirement and thereafter the adopted child is deemed to be the child of his adoptive father or mother for all purposes and the child severs all ties with the family of his or her birth. Ordinarily, no child who has attained the age of 15 years or who is married can be given in adoption unless there is a custom or usage applicable to the parties.
- (ii) In deciding whether an adoption is valid, the certificate issuing authority should satisfy himself that all the requirements of Law have been complied with. He should also take into account the behaviour of the child after adoption whether he physically lives with and is supported by his adoptive parents and receives no financial help from his original parents. In case these conditions are not satisfied, the certificate should be refused.
- (iii) Where the case relates to an adoption of a married person or of a person of the age of 15 years and above, the certificate shall be required to be given by the District Magistrate who shall, after making due enquiries as to the validity of the adoption and as to whether such adoption is permitted by a custom or usage applicable to the parties, make an endorsement to that effect on the certificate. Such custom or usage should have been continuously and uniformly observed for a long time and obtained the force of law among the Hindus of that particular area, or that community, group or family provided that the custom or usage is certain and not unreasonable or apposed to public policy and in the case of custom or usage in respect of a particular family, that the custom or usage has not been discontinued. In addition it should be verified that all other conditions for a valid adoption, including the physical transfer of the adopted, person to the family of the adoptive parents and that he has severed all ties with the original parents are fulfilled.

Extracts from ‘The Hindu Adoptions and Maintenance Act, 1956’

(78 of 1956)

CHAPTER II—Adoption

Requisites of a valid adoption

6. No adoption shall be valid unless—

- (i) The person adopting has the capacity, and also the right, to take in adoption;
- (ii) The person giving in adoption has the capacity to do so;
- (iii) The person adopted is capable of being taken in adoption; and
- (iv) The adoption is made in compliance with the other conditions mentioned in this chapter.

Capacity of a male Hindu to take in adoption

7. Any male Hindu who is of sound mind and is not a minor has the capacity to take a son or a daughter in adoption.

Provided that, if he has a wife living, he shall not adopt except with the consent of his wife unless the wife has completely and finally renounced the world or has ceased to be a Hindu or has been declared by a court of competent jurisdiction to be of unsound mind.

EXPLANATION: If a person has more than one wife living at the time of adoption, the consent of all the wives is necessary unless the consent of any one of them is unnecessary for any of the reasons specified in the preceding proviso.

Capacity of a female Hindu to take in adoption

8. Any female Hindu—

- (a) who is of sound mind,
- (b) who is not a minor, and
- (c) who is not married or if married, whose marriage has been dissolved or whose husband is dead or has completely and finally renounced the world or has ceased to be a Hindu or has been declared by a court of competent jurisdiction to be of unsound mind, has the capacity to take a son or daughter in adoption.

Persons capable of giving in adoption

9 (1) No person except the father or mother or the guardian of a child shall have the capacity to give the child in adoption.

(2) Subject to the provisions of sub-section (3) and sub-section (4), the father, if alive, shall alone have the right to give in adoption, but such right shall not be exercised save with the consent of the mother unless the mother has completely and finally renounced the world or has ceased to be a Hindu or has been declared by a court of competent jurisdiction to be of unsound mind.

(3) The mother may give the child in adoption if the father is dead or has completely and finally renounced the world or has ceased to be a Hindu or has been declared by a court of a competent jurisdiction to be of unsound mind.

(4) Where both the father and mother are dead or have completely and finally renounced the world or have abandoned the child or have been declared by a court of competent jurisdiction to be of unsound mind or where the parentage of the child is not known, the guardian of the child may give the child in adoption with the previous permission of the court to any person including the guardian himself.

(5) Before granting permission to a guardian under sub-section (4), the court shall be satisfied that the adoption will be for the welfare of the child, due consideration being for this purpose given to the wishes of the child having regard to the age and understanding of the child and that the applicant for permission has not received or agreed to receive and that no person had made or given or agreed to make or give to the applicant any payment or reward in consideration of the adoption except such as the court may sanction.

Explanation—For the purposes of this section—

- (i) the expression “father” and “mother” do not include an adoptive father and an adoptive mother.
- (ia) “guardian” means a person having the care of the person of a child or both his person and property and includes—
 - (a) a guardian appointed by the will of the child’s father or mother, and
 - (b) a guardian appointed or declared by a court;
- (ii) “court” means the city civil court or a district court within the local limits of whose jurisdiction the child to be adopted ordinarily resides.

Persons who may be adopted.

10. No person shall be capable of being taken in adoption unless the following conditions are fulfilled, namely: --

- (i) he or she is a Hindu;
- (ii) he or she has not already been adopted;
- (iii) he or she has not been married, unless there is a custom or usage applicable to the parties which permits persons who are married being taken in adoption;
- (iv) he or she has not completed the age of fifteen years, unless there is a custom or usage applicable to the parties which permits persons who have completed the age of fifteen years being taken in adoption.

Other complied Conditions for a valid adoption

11. In every adoption, the following conditions must be complied with: --

- (i) if the adoption is of a son, the adoptive father or mother by whom the adoption is made must not have a Hindu son, son's son or son's son's son (whether by legitimate blood relationship or by adoption) living at the time of adoption;
- (ii) if the adoption is of a daughter, the adoptive father or mother by whom the adoption is made must not have a Hindu daughter or son's daughter (whether by legitimate blood relationship or by adoption) living at the time of adoption:
- (iii) if the adoption is by a male and the person to be adopted is a female, the adoptive father is at least twenty-one years older than the person to be adopted;
- (iv) if the adoption is by a female and the person to be adopted is a male, the adoptive mother is at least twenty-one years older than the person to be adopted.
- (v) The same child may not be adopted simultaneously by two or more persons;
- (vi) The child to be adopted must be actually given and taken in adoption by the parents or guardian concerned or under their authority with intent to transfer the child from the family of its birth or in the case of an abandoned child or a child whose parentage is not known, from the place or family where it has been brought up to the family of its adoption:

Provided that the performance of *datta homam* shall not be essential to the validity of an adoption.

No. BC, 12025/2/76- SCT.I
Government of India/Bharat Sarkar
Ministry of Home Affairs/Grih Mantralaya

New Delhi-110 001. *Dated, New Delhi, the 22nd March 1977*

To

The Chief Secretaries of All State Governments/Union Territory Administrations.
Subject:-- *Issue of Scheduled Caste and Scheduled Tribe certificates— Clarifications regarding.*

Sir,

I am directed to say that many instances have come to the notice of this Ministry wherein certificates of belonging to a particular Scheduled Caste/Tribe have not been issued strictly in accordance with the principles governing the issue of such certificates. This is presumably due to inadequate appreciation of the legal position regarding the concept of the term “residence” on the part of the authorities empowered to issue such certificates.

2. As required under Articles 341 and 342 of the Constitution, the President has, with respect to every State and Union Territory and where it is State after consultation with the Governor of the concerned State, issued orders notifying various Castes and Tribes as Scheduled Castes and Scheduled Tribes in relation to that State or Union Territory from time to time. The inter-state area restrictions have been deliberately imposed so that the people belonging to the specific community residing in a specific area, which has been assessed to qualify for the Scheduled Caste or Scheduled Tribe status, only benefit from the facilities provided for them. Since the people belonging to the same caste but living in different State/Union Territories may not necessarily suffer from the same disabilities, it is possible that two persons belonging to the same caste but residing in different States /U.Ts may not both be treated to belong to Scheduled Caste/Tribe or *vice-versa*. Thus the residence of a particular person in a particular locality assumes a special significance. This residence has not to be understood in the literal or ordinary sense of the word. On the other hand it connotes the permanent residence of a person on the date of the notification of the Presidential Order scheduling his caste/tribe in relation to that locality. Thus a person who is temporarily away from his permanent place of abode at the time of the notification of the Presidential Order applicable in his case, say, for example, to earn a living or seek education, etc., can also be regarded as a Scheduled Caste or a Scheduled Tribe, as the case may be, if his caste/tribe has been specified in that Order in relation to his State/UT. But he cannot be treated as such in relation to the place of his temporary residence notwithstanding the fact that the name of his caste/tribe has been scheduled in respect of that area in any Presidential Order.

3. It is to ensure the veracity of this permanent residence of a person and that of the caste/tribe to which he claims to belong that the Government of India has made a special provision in the proforma prescribed for the issue of such certificate. In order that the certificates are issued to the deserving persons it is necessary that proper verification based primarily on revenue records and if need be, through reliable enquiries, is made before such certificates are issued. As it is only the Revenue Authorities who, besides having access to relevant revenue records are in a position to make reliable enquiries, Government of India insists upon the production of certificates from such authorities only. In order to be competent to issue such certificates, therefore, the authority mentioned in the Government of India (Department of Personnel and Administrative Reforms) letter No. 13/2/74-Est (SCT), dated the 5th August, 1975, (copy enclosed) should be the one concerned with the locality in which the person applying for the certificate and his place of permanent abode at the time of the notification of the relevant Presidential Order. Thus, the Revenue Authority of one District would not be competent to issue such a certificate in respect of persons belonging to another district. Nor can such an authority of one State/UT issue such certificates in respect of persons whose place of permanent residence at the time of the notification of a particular Presidential Order, has been in a different State/Union Territory. In the case of persons born after the date of notification of the relevant

Presidential Order, the place of residence for the purpose of acquiring Scheduled Caste or Scheduled Tribes status, is the place of permanent abode of their parents at the time of the notification of the Presidential Order under which they claim to belong to such a Caste/Tribe.

4. It is understood that some State Governments/Union Territory Administrations have empowered all their Gazetted Officers to issue such certificates and even Revenue Authorities issue certificates on the basis of the certificates issued by Gazetted Officers, M.P.s and M.L.A.s etc. If such a practice is followed, there is a clear danger of wrong certificates being issued, because in the absence of proper means of verification such authorities can hardly assure the intrinsic correctness of the facts stated in such certificates. In order to check the issuance of false certificates, the question of verification assumes all the more importance.

5. All the State Governments/Union Territory Administrations are, therefore, requested to streamline their respective procedures for issuing such certificates so as to conform to the above instructions as well as to those issued from time to time. Where Revenue Authorities have been empowered to issue certificates on the basis of a certificate issued by an M.P., M.L.A, Gazetted Officer, etc., they would do so only after having made proper verifications and after having satisfied themselves of the correctness of such certificates.

Yours faithfully,

Sd/-

(O.R. SRINIVASAN)

Under Secretary to the Government of India

Tel: 381843

No.BC.12025/2/76-SCT.I

March 1977

Phalguna, 1898

Copy to:-

1. The Department of Personnel and Administrative Reforms, Government of India, with reference to their U.O.No.D.2014/76-Est.(SCT), dated the 8th July 1976. They are requested to make necessary amendments to the brochure on the reservation for Scheduled Castes and Scheduled Tribes by incorporating, where necessary, the position stated in the foregoing paragraphs.

2. Director, Institute of Sectt. Training and Management, West Block No.1, Wing No.6, Ramakrishnapuram, New Delhi-110022 with reference to his letter No.12/4/76-ARRNG, dated the 21st February, 1976.

3. Secretary, Union Public Service Commission, New Delhi.

4. All Ministries/Departments of the Govt. of India.

5. All Zonal Directors/Deputy Directors.

6. Commissioner for Scheduled Castes and Scheduled Tribes, Ramakrishnapuram, New Delhi.

Sd/-

(O.R. SRINIVASAN)

Under Secretary to the Government of India

Tel: 381843

Copy

Letter No. 13/2/74-Est. (SCT)

Govt. of India/Bharat Sarkar
Cabinet Secretariat/Mantrimandal Sachivalay,
Deptt. of Personnel and Administrative Reforms
(Karmik Aur Prasashanik Sudhar Vibhag,

New Delhi-110 001, the 5th August, 1975

To

The Chief Secretaries of all State Governments and Union Territory Administrations.

Subject: - *Verification of claims of candidates belonging to Scheduled Castes and Scheduled Tribes—
Form of caste certificate—amendments to.*

Sir,

I am directed to say that candidates belonging to Scheduled Castes and Scheduled Tribes seeking employment to posts/services under the Central Government are required to produce a certificate in the prescribed form from one of the prescribed authorities in support of their claim. A list of the prescribed authorities in this regard is enclosed for information. The form of caste certificate has now been slightly revised. The revised form of caste certificate is enclosed. I am to request that the revised form of caste certificate may please be brought to the notice of the authorities under the State Government who are empowered to issue such certificates.

Yours faithfully,

Sd/-

(J.S. Ahluwalia)

Under Secretary to the Govt. of India

No. 13/2/74-Est. (SCT)

Dated, *the 5th August 1975*

Copy forwarded to U.P.S.C. for information with reference to their letter No. 26/43/74-EI (B), dated 28-1-1975.

List of authorities empowered to issue certificates of verification.

1. District Magistrate/Additional District Magistrate/ Collector/ Deputy Commissioner/ Additional Deputy Commission/Deputy Collector/1st Class Stipendary Magistrate/City Magistrate/*Sub-Divisional Magistrate/Taluka Magistrate/Executive Magistrate/Extra Assistant Commissioner.
(*not below the rank of 1st Class Stipendary Magistrate)
2. Chief Presidency Magistrate/Additional Chief Presidency Magistrate/Presidency Magistrate.
3. Revenue Officers not below the rank of Tehsildar.
4. Sub-Divisional Officer of the area where the candidate and/or his family normally resides.
5. Administrator/Secretary to Administrators/Development Officer (Lakshadweep Islands)

Form of certificate to be produced by a candidate belonging to a Scheduled Caste or Scheduled Tribe in support of his claim.

Form of Caste certificate

This is to certify that Shri/Shrimati*/Kumari*..... son/daughter* of..... Village/town.....
In District/Division*.....of the State/Union Territory*.....belonging to the.....Caste/Tribe* which is recognised as Scheduled Caste* /Scheduled Tribe* under:-

The Constitution (Scheduled Castes) Order, 1950;

The Constitution (Scheduled Tribes) Order, 1950;

The Constitution (Scheduled Castes) (Union Territories) Order, 1951; [as amended by the Scheduled Castes and Scheduled Tribes Lists (Modification) Order, 1956, the Bombay Reorganisation Act, 1960, the Punjab Reorganisation Act, 1966, the State of Himachal Pradesh Act, 1970 and the North Eastern Areas (Reorganisation) Act, 1971]

The Constitution (Jammu and Kashmir) Scheduled Castes*Order, 1956;

The Constitution (Andaman and Nicobar Islands) Scheduled Tribes *Order, 1959;

The Constitution (Dadra and Nagar Haveli) Sch. Castes *Order, 1962;

The Constitution (Dadra and Nagar Haveli) Sch. Tribes *Order, 1962;

The Constitution (Pondicherry) Scheduled Castes *Order, 1964;

The Constitution (Scheduled Tribes) (Uttar Pradesh) *Order, 1967;

The Constitution (Goa, Daman and Diu) Scheduled Caste *Order, 1968;

The Constitution (Goa, Daman and Diu) Scheduled Tribes *Order, 1968;

The Constitution (Nagaland) Scheduled Tribes *Order, 1970.

2. Shri/Shrimati/Kumari*.....and his/her* family ordinarily reside(s) in village/town..... of..... District/Division* of the State/Union Territory* of.....

Signature.....
Designation.....
(With seal of Office)

Place.....State/Union Territory*
Date.....

*Please delete the words which are not applicable.

Note: - The term “Ordinarily resides” used here will have the same meaning as in Section 20 of the Representation of the Peoples Act, 1950.

No. 39/37/73-SCT. I
Government of India/Bharat Sarkar
Ministry of Home Affairs/Grih Mantralaya

New Delhi-11001, the 21 May, 1977/31Baisak, 1899

To

The Chief Secretaries of all the State Governments & Union Territory Administrations.

Subject: --Caste status of the offspring of inter-caste married couples.

Sir,

I am directed to say that enquiries about the caste status of the offsprings of the inter caste married couples have been sought from this Ministry by various State Governments/Union Territory Administrations from time to time. Accordingly, this question has been receiving the attention of this Ministry for quite some time. A set of legal views on the caste status of such offsprings was already brought out vide this Ministry's letter of even number dated the 4th March 1975. The matter has, however, been further examined and the comprehensive legal position about the status of the offsprings born to couples where one or both of the spouses is/are member(s) of Scheduled Castes and or Scheduled Tribes, is given in the enclosed Annexures (A to D).

2. It is requested that these instructions may be circulated among all the authorities empowered to issue Scheduled Caste and Scheduled Tribes certificates.

Yours faithfully

Sd/-

(O.R. Srinivasan)

Under Secretary to Government of India

No. 39/37/73-SCT. I,

Dated, the 21 May, 1977/31Baisak, 1899

Copy to:-

1. All Ministries/Deptts. of the Govt. of India.
2. All attached and subordinate offices of M.H.A
3. The Union Public Service Commission, Dholpur House, New Delhi-110011.
4. The Subordinate Services Commission, R.K. Puram, New Delhi-110022.

Sd/-

(O.R. SRINIVASAN)

Under Secretary to the Government of India

Tel: 381843

Legal views on the status of the offspring of a couple where one of the spouses is a member of a Scheduled Caste.

The general position of Law as to that effect of marriage between parties who are Hindus and one of whom belongs to the Scheduled Castes in that under the ancient Hindu law, generally, inter-caste marriage was looked down upon by the propounders and commentators. Some of the authorities, however, reluctantly permitted marriage between a male caste Hindu with a Shudra female and included it in the list of Anuloma marriages although it was stated that in the wedding with a Shudra wife, the ceremony should be performed without Mantras. The children born out of such marriage by a caste Hindu with a woman of an inferior caste had neither the caste of the father nor the status of his Savarn Aurasas—meaning the son born of a caste Hindu wife. They were termed as Anulomaja and belonged to an intermediate caste higher than that of their mother and lower than that of their father. Yajnavalkya omits the son of Brahmin by a Shudra wife from the list of sons mentioned by Manu. Pratiloma marriages, i. e. marriages between a woman of a superior caste with a man of an inferior caste, were altogether forbidden and no rites were prescribed for them in Grihya Sutra and persons entering into such marriages were degraded from the caste.

2. After the passing of various statutory enactments relating to Hindu law, such as, the Hindu Marriages Act, 1955, the Hindu Succession Act, 1956 and the Hindu Minority and Guardianship Act, 1956 customary ban on inter caste marriages in either way, has been lifted by the statutory enactments. Under the Hindu Marriage Act, any two Hindus of different sex, irrespective of their caste may enter into a valid marriage unless such marriage is prohibited by the Statute itself. According to the above three Statutes, all children either legitimate, or illegitimate, one of whose parents is a Hindu, a Buddhist, a Jain or a Sikh by religion and who are brought up as members of the tribe, community, group or family to which their parents belong or belonged, are to be treated as Hindus. In view of the above, the off-springs of marriage between the caste Hindu and a member of the Scheduled Caste community, are Hindus and like the off-spring of marriage in the same caste, are entitled to succeed to the properties of their parents. But the status of his or her parent belonging to the higher caste or a question arises as to whether such a child will acquire the property that of the parent belonging to the Scheduled Caste. On this point we have not come across any direct case law. But we feel that the ratio of the decision in *Wilson Read vs. C. S. Booth* reported in AIR 1958 Assam 128 would apply to such cases. It is stated at p.182, —

“The test which will determine the membership of the individual will not be the purity of blood, but his own conduct in following the customs and the way of life of the tribe; the way in which he was treated by the community and the practice amongst the tribal people in the matter of dealing with the tribal people in the matter of dealing with the persons whose mother was a Khasi and father was a European.”

Similarly, in the case of *Muthusamy Mudaliar v Masilamam Mudaliar*, reported in ILR 33, Madras, 342, the Court held—

“It is not uncommon process for a class or tribe outside the pale of caste to another pale and if other communities recognised their claim, they are treated as of that class or castes. The process of adoption into the Hindu hierarchy through caste is common both in the North and in the South India. As we have already pointed out, in the past there have been cases where people who judge from the purity of blood could not be Khasis, were taken into their fold or the orthodoxy did not stand in the way of their assimilation into the Khasi community.”

3. The Supreme Court in *V.V. Giri v D. S. Dora* reported in AIR 1959 SC 1318 (1327) held, --

“...The caste-status of a person in the context would necessarily have to be determined in the light of the recognition received by him from the members of the caste into which he seeks an entry. There is no evidence on this point at all. Besides the evidence produced by the appellant merely shows some acts by respondent 1 which no doubt were intended to assert a higher status; but unilateral acts of this character cannot be easily taken to prove that the claim for the higher status which the said acts purport to make is established. That is the view which the High Court has taken and in our opinion the High Court is absolutely right.”

In view of the above observations by superior Courts, it can safely be concluded that the crucial test to determine is to whether a child born out of such a wedlock has been accepted by the Scheduled Caste community as a member of their community and has been brought up in that surrounding and in that community or not. The nexus between the child and the community or class or caste is a real test irrespective of the fact whether the accommodating class or caste or community is Scheduled Caste community or a caste Hindu community. Even if the mother of the child is a member of the Scheduled Caste community, it is possible that the child is accepted by the community of his father and brought up in the surroundings of his father's relations. In that case, such a child cannot be treated as a member of the Scheduled Caste community and cannot get any benefit as such. Similarly, when the mother belongs to a higher caste and the father is a Scheduled Caste, the father may remain away from the Scheduled Caste Community and the child may be brought up in a different surrounding under the influence of his mother's relations and her community members. In such cases also, the child cannot be said to be a member of the Scheduled Caste community. In the alternative, where the child irrespective of the fact whether the father or the mother is a member of Scheduled Caste community, is brought up on the Scheduled Caste community as a member of such community, then he has to be treated as a member of the Scheduled Caste community and would be entitled to receive benefits as such.

4. As regards the marriages not registered and marriages not legally valid, it may be pointed out that registration is not mandatory for marriages under the Hindu law. Even under the Hindu Marriage Act, 1955, registration under Section 8 is optional and subsection (5) provides that the validity of any Hindu marriage shall, in no way, be affected by the omission to make entry in the Marriages Register maintained under this Section. Section 7 provides that Hindu marriages may be solemnised in accordance with the customary rites and the ceremonies of either party thereto and, if such ceremony includes the Saptapadi, the marriage becomes complete and binding when the seventh step is taken. In view thereof, all those marriages though not registered by which have been solemnised in accordance with the procedure mentioned in this Section, are to be treated as valid marriages and our opinion mentioned in para 3 above will apply to the children born out of such valid but undersigned marriages.

5. As regards marriages which are not legally valid, it is clear that such children are illegitimate unless invalidity of marriages is due to grant of a decree of nullity by a Court in which case, provisions of Section 16 of the Hindu Marriage Act, 1955, will apply. Under Section 6(b) of the Hindu Minority and Guardianship Act, 1956 the natural guardian of a Hindu minor has been stated to be—

“in case of an illegitimate boy or an illegitimate girl—the mother and after her the father”

6. It can be derived from this that the illegitimate children are generally brought up by the mother and in her own surroundings. Therefore, if the mother belongs to the Scheduled Caste and brings up the child within a Scheduled Caste community, the child can be taken as a member of the Scheduled Caste community. But in this case also the major factor for consideration is whether the child has been accepted by the Scheduled Caste community as a member of their community and he has been brought up as such.

7. The above are the general observations, however, each case has to be examined in the light of the circumstances prevalent in that case and final decisions has to be taken thereof.

Legal views on the status of the off-springs of a couple where one of the spouses is a member of a Scheduled Tribe

The question has arisen whether the Off-spring born out of wedlock between a couple one of whom is a member of Scheduled Tribe and other is not, should be treated as a Scheduled Tribe or not.

2. It may be stated at the outset that unlike members of Scheduled Castes the members of Scheduled Tribes continue as such even after their conversion to other religion. This is because while Constitution (Scheduled Castes) Order, 1950 provides in clause 3 that only a member of Hindu or Sikh religion shall be deemed to be a member of Scheduled Caste, the Constitution (Scheduled Tribes) Order, 1950 does not provide any such condition. This view has been upheld by the Supreme Court in the case reported in AIR 1964 S.C. at p.201.

3. It may be stated that unlike members of Scheduled Castes, members of Scheduled Tribes remain in homogenous groups and quite distinct from any other group of Scheduled Tribes. Each Tribe lives in a compact group under the care and supervision of the elders of the Society whose words are obeyed in all social matters. A member committing breach of any prescribed conduct is liable to be ex-communicated. The social custom has a greater binding force in their day-to-day life.

4. In the case of marriage between a tribal with a non-tribal, the main factor or consideration is whether the couple were accepted by the tribal society to which the tribal spouse belongs. If he or she, as the case may be, is accepted by the Society then their children shall be deemed to be Scheduled Tribes. But this situation can normally happen when the husband is a member of the Scheduled Tribe. However, a circumstance may be there when a Scheduled Tribe woman may have children from marriage with a non-Scheduled Tribe man. In that event the children may be treated as Scheduled Tribes only if the members of the Scheduled Tribe Community accept them and treat them as members of their own community. This view has been held by the Assam High Court in *Wilsom Read v. C.S. Booth* reported in AIR 1958 Assam at p. 128, where it has been held—

“The test which will determine the membership of the individual will not be the purity of blood, but his own conduct in following the customs and the way of life of the tribe; the way in which he has been treated by the Community and the practice amongst the tribal people in the matter of dealing with persons whose mother was a Khasi and father was a European”.

Similarly, in the case of *Muthusamy Mudaliar v. Masilamam Mudaliar*, reported in ILR 33, Madras, 342, the Court held—

“It is not uncommon process for a class or tribe outside the pale of caste to another pale and if other communities recognised their claim they are treated as of that class or caste”.

Similarly, in *V. V. Giri v. D. S. Dora*, reported in AIR, 1959 S. C. 1318 (1327) the Court held—

“The Caste-status of a person in the context would necessarily have to be determined in the light of the recognition received by him from the members of the caste into which he seeks an entry”.

5. As mentioned above, it is the recognition and acceptance by the Society of the children borne out of a marriage between a member of Scheduled Tribe with an outsider, which is the main determining factor irrespective of whether the Tribe is matriarchal or patriarchal. The final result will always depend on whether the child was accepted as a member of the Scheduled Tribe or not.

6. The general position of law has been stated above. However, each individual case will have to be examined in the light of existing facts and circumstances in such cases.

Legal views on the status of the off-springs of a couple where both the spouses are members of Scheduled Caste/Scheduled Tribes but each belongs to a different subcaste/sub-tribe.

1. Under the Constitution (Scheduled Castes) Order, 1950 and the Constitution (Scheduled Tribes) Order, 1950, what is material is the residence of the member of the caste, race or tribe in the localities specified in the respective Schedule. In the case of a minor child the question arises whether his residence will go along with that of his father. Under the principles of prevailing International Law, the domicile of a minor child follows that of his father, and in certain cases of his mother and the minor child is incapable of changing his domicile by any voluntary act. The rule by no means is absolute. Suppose, for instance, a father deserts his son or he is divorced and the custody of his son is given to his wife. In such a case, the court may consider that the minor's domicile will be that of the mother.
2. Under Section 3 of the Hindu Minority and Guardianship Act, 1956 the natural guardian in the case of a minor boy or an unmarried girl is father and after him his mother. In the case of an illegitimate boy or an illegitimate unmarried girl, the natural guardian will be the mother and after her, the father.
3. In the above background it has to be seen as to which sub-caste or sub-tribe the off-spring would belong in case the parents belonging to two distinct communities within the same Scheduled Castes or Scheduled Tribes as the case may be. *Prima facie* it would appear that in such cases the children born of such parents could be treated as members of the Scheduled Castes or Scheduled Tribes, as the case may be. The *prima facie* presumption is also in favour of the child possessing the sub-caste or sub-tribe of the father in the large majority of cases, having regard to the concept of domicile mentioned above. Apart from this, it has to be seen whether the child has also been accepted and assimilated in the sub-caste or sub-tribe in that community. Each case has to be examined in the light of the circumstances pertaining to it.

Legal Views on the status of the off-springs of a couple where one of the spouses is a member of a Scheduled Caste and the other that of a Scheduled Tribe.

As regards the status of the off-spring whose father is a member of Scheduled Caste and mother of a Scheduled Tribe, the prima-facie presumption is in favour of the child possessing the caste of the father in the large majority of cases, having regard to the concept of domicile explained in para 1 of Annexure C. Apart from this, it may also be a relevant criterion to see whether the child has been accepted and assimilated in the Scheduled Caste community to which the father belongs.

2. The principle mentioned above would also apply to the case of an offspring whose mother is a member of a Scheduled Caste and father of a Scheduled Tribe.

3. This is the general position of law. Each case, however, has to be examined in the light of the attendant facts and circumstances.

No. BC. 12025/44/80-SC&BCD.I/ IV
Government of India/Bharat Sarkar
Ministry of Home Affairs/Grih Mantralaya

New Delhi dated 10th February, 1982.

To

The Chief Secretaries to
All State Governments/Union Territory Administrations.

Subject:-- Non-insertion of the words 'Harijan and Girijan' in Scheduled Caste/Scheduled Tribe Certificates.

Sir,

I am directed to say that it has been brought to the notice of this Ministry that some of the officers in the State Governments/Union Territory Administrations, who have been authorised to issue the Scheduled Caste/Scheduled Tribe Certificates are inserting the words 'Harijan' and 'Girijan' in such certificates.

2. In this connection, attention is invited to this Ministry's letter No.BC.12025/2/76-SCT (I), dated 22-3-1977, enclosing therewith a copy of the Department of Personnel & A.R.'s letter No.13/2/74-Estt.(SCT) dated 5-8-1975 and the form in which the Scheduled Caste/Scheduled Tribe Certificates have to be issued by the officers authorised to do so. In the form of the Scheduled Caste/Scheduled Tribe Certificate, there is column for writing the word 'Harijan' or 'Girijan' and the authority issuing the Scheduled Caste/Scheduled Tribe Certificate has to mention only the caste/tribe to which the person belongs and which has been recognised as Scheduled Caste/Scheduled Tribe under the Presidential Orders(to be quoted).

3. All the State Governments/Union Territory Administrations are, therefore, requested to issue instructions to the authorities, who have been empowered to issue the Scheduled Caste/Scheduled Tribe Certificates, not to insert the word 'Harijan' or 'Girijan' in the Scheduled Caste/Scheduled Tribe Certificates and to issue the Scheduled Caste/Scheduled Tribe Certificates, only in the form as prescribed by the Government of India for this purpose.

Yours faithfully,
Sd/-
(B.N. Srivastava)
Director.

No. BC. 12025/44/80 SC & BCD.I/ IV

Dated 10th February, 1982.

Copy forwarded to:-

1. Department of Personnel & A. R. Establishment (SCT) Section, New Delhi.
2. Secretary, U. P.S.C, New Delhi.
3. The Chairman, Staff Selection Commission, Lok Nayak Bhawan, New Delhi.
4. All the Ministries/Departments of Government of India.
5. The Commissioner for SC/ST, R.K. Puram, New Delhi.
6. The Secretary, Commission for Scheduled Castes and Scheduled Tribes, Lok Nayak Bhawan New Delhi.
7. SC&BC.I/ SC&BC II/ SC&BC III Sections/PCR Cell/PCR Desk.
8. 100 Spare Copies.

Sd/-
(B.N. Srivastava)
Director.

No. BC. 12025/1/82 SC & BCD IV
Government of India/Bharat Sarkar
Ministry of Home Affairs/Grih Mantralaya

New Delhi dated 29th June 1982.

To

The Chief Secretaries of all State Governments/Union Territory Administrations.

Subject:--Issue of Scheduled Caste/Tribe Certificates— Providing for punishments for officials issuing such certificates without proper verification.

Sir,

I am directed to say that it was mentioned in the meeting of the Consultative Committee for the Ministry of Home Affairs held in Feb. 1982 that Scheduled Caste/Tribe certificates have been issued to ineligible persons, carelessly or deliberately without proper verification by the officials empowered to issue such certificates. This has resulted in some persons availing of the benefits meant for the Scheduled Castes and Scheduled Tribes on false pretext. The Consultative Committee has desired that suitable steps should be taken to prevent such wrong issue of certificates.

2. Attention is invited to this Ministry's letter No. BC 12025/3/78-SCT-I dated 29th March 1976 addressed to the Chief Secretaries of all the State Governments/U.T. Administrations requesting them to take deterrent action against officials who issued certificates carelessly or deliberately without proper verification. The State Governments/U.T. Administrations were requested to issue necessary instructions to all the officials under their control who are empowered to issue certificates to take proper care before issuing them. These officials were also to be informed that action would be taken against them under the relevant provisions of the Indian Penal Code (Section 420 etc.) if any of them is found to have issued certificates carelessly and without proper verification in addition to the action to which they are liable under the appropriate disciplinary rules applicable to them.

3. It is requested that the action taken in the matter by the State Governments/U.T. Administrations may kindly be intimated to this Ministry urgently with regard to the following points:

--

- (i) Number of bogus certificates detected during the last 2 years (1980 and 1981).
- (ii) Action taken against the erring officials.
 - (a) Under the relevant provision of the I.P.C.
 - (b) Under the appropriate disciplinary rules applicable to them.
- (iii) Action taken against persons who obtained such bogus Certificates under I.P.C. etc.
- (iv) Details of the steps taken to curb such malpractices in future.

4. The State Governments and U.T. Administrations are also requested to take strict measures to detect such cases of non-Scheduled Caste and non-Scheduled Tribe persons holding false S.C./S.T. Certificates, deprive them of benefits that they are not entitled to, and impose appropriate penalties and take legal action against them and against those who were responsible for the issue of such certificates, strictly and expeditiously. Further, it was suggested in the Consultative Committee meeting that the State Governments/U.T. Administrations may set up special courts for expeditiously trying the cases

relating to the issue of bogus certificates with deterrent rapidity and give wide publicity to the names of persons who are convicted of this offence by the courts.

Yours faithfully,

Sd/-
(B.N. Srivastava)
Director.

Copy forwarded for information to:-

1. Department of Personnel & A. R. Establishment (SCT) Section.
2. Secretary, Commission for Scheduled Castes and Scheduled Tribes, Lok Nayak Bhawan New Delhi.
3. Commissioner for SC/ST, R.K. Puram, New Delhi.
4. Secretary, U. P.S.C/Secretary, Staff Selection Commission.
5. All the Ministries/Departments.
6. All the Divisions of Ministry of Home Affairs.
7. SC&BC.I/II/III/VI Sections/PCR Cell/PCR Desk/T.D. Division.

Sd/-
(B.N. Srivastava)
Director.

No. BC-16014/1/82-SC & BCD-I
Government of India/Bharat Sarkar
Ministry of Home Affairs/Grih Mantralaya

New Delhi, dated the 18th November, 1982.

To

The Chief Secretaries to all State Governments/Union Territory Administrations.

Subject:-- Issue of Scheduled Caste/Scheduled Tribe Certificate to migrants from other States/Union Territories.

Sir,

I am directed to say that it has been represented to this Ministry that persons belonging to Scheduled Castes/Scheduled Tribes, who have migrated from one State to another for the purpose of employment, education, etc. experience great difficulty in obtaining caste/tribe certificate from the State from which they have migrated. In order to remove this difficulty, it has been decided in modification of the instructions issued in letter No. BC-12025/2/76-SCT I, dated 22.03.1977 and letter No. BC-12025/11/79-SC & BCD I/ IV, dated 29.03.1982 that the prescribed authority of a State Government/Union Territory Administration may issue the Scheduled Caste/Tribe certificate to a person who has migrated from another State, on the production of the genuine certificate issued to his father/mother by the prescribed authority of the State of the father's/mother's origin except where the prescribed authority feels that detailed enquiry is necessary through the State of origin before issue of the certificate. The certificate will be issued irrespective of whether the Caste/Tribe in question is scheduled or not in relation to the State/Union Territory to which the person has migrated. This facility does not alter the Scheduled Caste/Scheduled Tribes status of the person in relation to the one or the other State. The revised form of the Scheduled Caste/Tribe certificate is enclosed.

Yours faithfully,

Sd/-

(B.K. Sarkar)

Joint Secretary to the Govt.of India

No. BC-16014/1/82-SC & BCD-I,

Dated the 18th November, 1982.

Copy to:-

1. Department of Personnel & A. R. (Est) (SCT Section) with the request that necessary amendment to the brochure of the reservation in services for Scheduled Castes and Scheduled Tribes, by incorporating, where necessary, the position stated in the foregoing paragraphs may please be made.
2. Secretary, Union Public Service Commission, Dholpur House, New Delhi.
3. Secretary, Staff Selection Commission, CGO Complex, Block No.12, Lodi Road, New Delhi.
4. All the Ministries/Departments, Government of India.
5. Secretary, Commission for SC/ST, Lok Nayak Bhawan, New Delhi.
6. Commissioner for Scheduled Castes & Scheduled Tribes, R.K. Puram, New Delhi.
7. All the Sections in SC&BCD Division/T.D. Division, Ministry of Home Affairs.

Yours faithfully,

Sd/-

(B.K. Sarkar)

Joint Secretary to the Govt.of India

Form of certificate to be produced by a candidate belonging to a Scheduled Castes or Scheduled Tribes in support of his claim.

Form of Caste certificate

This is to certify that Shri/Shrimati/Kumari.....son/Daughter
of.....ofvillage/town.....indistrict/Division/Division.....
.....of the State/Union
Territory..... belongs to the
Caste/Tribe which is recognised as Scheduled Caste under:
Scheduled Tribe

- The Constitution (Scheduled Castes) Order, 1950.
- The Constitution (Scheduled Tribes) Order, 1950.
- The Constitution (Scheduled Castes) (Union Territories) Order, 1951. *
- The Constitution (Scheduled Tribes) (Union Territories) Order, 1951.*
(as amended by the Scheduled Castes and Scheduled Tribes lists (Modification) Order, 1956, the
Bombay Reorganisation Act, 1960, the Punjab Reorganisation Act, 1966, the State of Himachal
Pradesh Act, 1970 and the North Eastern Areas (Reorganisation) Act, 1971 and the Scheduled
Castes and Scheduled Tribes Order (Amendment) Act, 1976).
- The Constitution (Jammu and Kashmir) Scheduled Castes Order, 1956.*
- The Constitution (Andaman and Nicobar Islands) Scheduled Tribes Order, 1959.*
- The Constitution (Dadra and Nagar Haveli) Scheduled Castes Order, 1962*
- The Constitution (Dadra and Nagar Haveli) Scheduled Tribes Order, 1962.*
- The Constitution (Pondicherry) Scheduled Castes Order, 1964.*
- The Constitution (Scheduled Tribes)(Uttar Pradesh) Order, 1967.*
- The Constitution (Goa, Daman and Diu) Scheduled Caste Order, 1968.*
- The Constitution (Goa, Daman and Diu) Scheduled Tribes Order, 1968.*
- The Constitution (Nagaland) Scheduled Tribes Order, 1970.*
- The Constitution (Sikkim) Scheduled Castes Order, 1978.*
- The Constitution (Sikkim) Scheduled Tribes Order, 1978.*

2. This certificate is issued on the basis of the Scheduled Caste/Scheduled Tribe certificate issued to
Shri/Shrimati..... father/mother of
Shri/Shrimati/Kumari..... Of village/town.....in
District/Division.....of the State/ Union Territory.....who belongs to
the caste/tribe which is recognised as a Scheduled Caste
Scheduled Tribe

in the State/Union Territory..... issued by the
..... (name of prescribed authority) vide their
No..... dated.....

Signature.....
Designation.....
(with seal of Office)

Place..... State
Union Territory

Date.....

**Please delete the words which are not applicable*

No. BC-16014/1/82-SC & BCD-I
Government of India/Bharat Sarkar
Ministry of Home Affairs/Grih Mantralaya

New Delhi, the 6th August, 1984.

To

The Chief Secretaries of All State Governments and U.T. Administrations.

Subject: - Verification of claim of candidates belonging to Scheduled Castes and Scheduled Tribes and migrants from other States/Union Territories—Form of certificate—Amendment to.

Sir,

I am directed to refer to this Ministry's letter of even number dated the 18.11.1982 and the Department of Personnel and Administrative Reforms letter No. 36012/6/76/Est. (SCT), dated the 29/10/1977 on the above subject and to say that the form of Scheduled Caste/Scheduled Tribe certificate enclosed with the aforesaid letters has been further revised consequent upon coming into force of the Scheduled Castes and Scheduled Tribes Orders (Amendment) Act, 1976 and keeping in view the difficulty being experienced by the persons belonging to the Scheduled Castes and Scheduled Tribes in obtaining community certificates on migration from their States of origin to another for the purpose of employment, education etc. The revised caste/tribe form of certificate is enclosed herewith. It is requested that a copy of the revised form of certificate may please be brought to the notice of all the competent authorities who have been empowered to issue such certificates. The list of competent authorities who have been empowered to issue the Scheduled Caste/Scheduled Tribe certificates circulated by the Department of Personnel and Administrative Reforms in their letter No. 13/2/74-Est. (SCT), dated, the 05/08/1975 has also been incorporated in the enclosed revised form.

2. The instructions issued in this Ministry's letter of even number dated the 18.11.1982 will continue. It is, however, clarified that the Scheduled Caste/Scheduled Tribe person on migration from the State of his origin to another State will not lose his status as Scheduled Caste/Scheduled Tribes but he will be entitled to the concessions/benefits admissible to the Scheduled Castes/Scheduled Tribes from the State of his origin and not from the State where he has migrated. All competent authorities may be advised under intimation to this Ministry to issue the Scheduled Caste/Scheduled Tribe certificates on the revised form of certificate henceforth after satisfying themselves of correctness of the certificate after proper verification based on the revenue records/through reliable enquiries. The list of the competent authorities empowered and incorporated in the form may please be followed strictly. No other authority may be authorized to issue the Scheduled Caste/Scheduled Tribe certificates.

Yours faithfully,

Sd/-
BK Sarkar
Joint Secretary to Govt. of India

1. Secretary, Union Public Service Commission, Dholpur House, New Delhi (with 15 S/cs).
2. Secretary, Staff Selection Commission, CGO Complex, Block No.12, Lodi Road, New Delhi (with 15 S/cs).
3. All the Ministries/Departments, Government of India.
4. Secretary, Commission for Scheduled Castes/Scheduled Tribes, Lok Nayak Bhawan, New Delhi.
5. Commissioner for Scheduled Castes & Scheduled Tribes, R.K. Puram, New Delhi.
6. All Directors/Deputy Directors for Scheduled Castes and Scheduled Tribes.
7. Comptroller and Auditor General of India.
8. Election Commission of India.
9. Lok Sabha Secretariat (SC/ST Branch) with spare copies).
10. Lok Sabha Secretariat (Administration Branch).
11. Ministry of Defence (D-FS)
12. Bureau of Public Enterprises (Management Division).
13. Ministry of Home Affairs (Planning Cell) for taking necessary action so far as Union Territories are concerned
14. Department of Personnel and Administrative Reforms. Estt. SCT, Administration I, II, AIS(I), (III), (IV), CS(I), (II), (III), Estt.(B), (C), (D), IES, ISS, AVD(II), CD(IV), EO(MM), and Welfare Sections.
15. All attached and subordinate offices of the Department of personnel and Administrative Reforms.
16. All Sections in SC&BCD Division/T.D. Division, Administration)(A), (B),II Sections in the Ministry of Home Affairs.
17. One copy to be retained in F.No.BC-12020/2/76-SCT.I.

Sd/-
(B.K. Sarkar)
Joint Secretary to the Govt.of India

Form of certificate to be produced by a candidate belonging to a Scheduled Caste or Scheduled Tribe in support of his claim

FORM OF CASTE CERTIFICATE

This is to certify that Shri/Shrimati*/Kumari*son/daughter*of
.....ofvillage*/town*.....in
district/Division*.....of the State/Union
Territory*.....belongs to the.....Caste/Tribe* which is
recognised as a Scheduled Caste
Scheduled Tribe*

Under:

- @ The Constitution (Scheduled Castes) Order, 1950.
- @ The Constitution (Scheduled Tribes) Order, 1950.
- @ The Constitution (Scheduled Caste) (Union Territories) Order, 1951.
- @ The Constitution (Scheduled Tribes) (Union Territories) Order, 1951.[as amended by the Scheduled Castes and Scheduled Tribes Lists (Modification) Order, 1956, the Bombay Reorganisation Act, 1960, the Punjab Reorganisation Act, 1966, the State of Himachal Pradesh Act, 1970, the North Eastern Areas (Reorganisation) Act, 1971 and the Scheduled Castes and Scheduled Tribes Orders (Amendment) Act, 1976].
- @ The Constitution (Jammu and Kashmir) Scheduled Castes Order, 1956.
- @ The Constitution (Andaman and Nicobar Islands) Scheduled Tribes Order, 1959.
- @ The Constitution (Dadra and Nagar Haveli) Scheduled Castes Order, 1962.
- @ The Constitution (Dadra and Nagar Haveli) Scheduled Tribes Order, 1962.
- @ The Constitution (Pondicherry) Scheduled Castes Order, 1964.
- @ The Constitution Scheduled Tribes (Uttar Pradesh) Order, 1967.
- @ The Constitution (Goa, Daman & Diu) Scheduled Castes Order, 1968.
- @ The Constitution (Goa, Daman & Diu) Scheduled Tribes Order, 1968.
- @ The Constitution (Nagaland) Scheduled Tribes Order, 1970.
- @ The Constitution (Sikkim) Scheduled Castes Order, 1978.
- @ The Constitution (Sikkim) Scheduled Tribes Order, 1978.

%2. Application in the case of Scheduled Castes/Scheduled Tribes persons who have migrated from one State/Union Territory Administration:

This certificate is issued on the basis of the Scheduled Caste/Scheduled Tribe certificate issued to Shri/Shrimati*.....father/mother of Shri/Shrimati/Kumari*.....ofvillage*/town*.....indistrict Division.....of the State/Union Territory*..... who belongs to theCaste/Tribe* which is recognised as a Scheduled Caste
Scheduled Tribe
in the State/Union Territory*..... issued by the..... (name of prescribed authority) vide their No..... dated.....

%3. Shri*/Shrimati*/Kumari*..... and/or his /her* Family ordinarily reside(s) in village/town* ofDistrict/Division of the State/Union Territory of.....

Signature

**Designation

(With Seal of Office)

Place

State .

Union Territory

Date

* Please delete the words which are not applicable

@ Please quote specific Presidential Order

% Delete the paragraph which is not applicable.

Note: The term "Ordinarily resides(s)" used here will have the same meaning as in Section 20 of the Representation of the People Act, 1950.

** List of authorities empowered to issue Scheduled Caste / Scheduled Tribe Certificates:-

1. District Magistrate/Additional District Magistrate/Collector/Deputy Commissioner/ Additional Deputy Commissioner/ Deputy Collector / 1st Class Stipendiary Magistrate/ City Magistrate/Sub-Divisional Magistrate/ Taluk Magistrate / Executive Magistrate/ Extra Assistant Commissioner. (not below the rank of 1st Class Stipendiary Magistrate)
2. Chief Presidency Magistrate/Additional Chief Presidency Magistrate/Presidency Magistrate.
3. Revenue Officers not below the rank of Tehsildar.
4. Sub-Divisional Officer of the area where the candidate and /or his family normally resides.
5. Administrator / Secretary to Administrator/Development Officer (Lakshadweep Islands).

No. BC-16014/1/82-SC & BCD-I
Government of India/Bharat Sarkar
Ministry of Home Affairs/Grih Mantralaya

New Delhi, the 22/2/1985.

To

The Chief Secretaries of All State Govts. and U.T. Administrations.

Subject:-Issue of Scheduled Caste/ Scheduled Tribe certificate to migrants from other States/Union Territories.

Sir,

I am directed to say that it has been represented to this Ministry that persons belonging to Scheduled Castes/ Scheduled Tribes who have migrated from one State to another for the purpose of employment, education, etc. experience great difficulty in obtaining caste/tribe certificate from the State from which they have migrated. In order to remove this difficulty, it has been decided to modify the instructions issued in letter No. 12025/2/76-SCT.I dated 22.03.1977 and letter No. 12015/11/79-SC&BCD-I/IV dated 29.03.1982 that the prescribed authority of a State Government/Union Territory Administration may issue the Scheduled Caste/Tribe certificate to a person who has migrated from another State, on the production of the genuine certificate issued to his father by the prescribed authority of the State of the father's origin except where the prescribed authority feels that detailed enquiry is necessary through the State of origin before issue of the certificate. The certificate will be issued irrespective of whether the Caste/Tribe in question is scheduled or not in relation to the State/Union Territory to which the person has migrated. This facility does not alter the Scheduled Caste/Scheduled Tribe status of the person in relation to the one or the other State. The revised form of the Scheduled Caste/Tribe certificate has already been circulated with this Ministry's letter of even number dated 06.08.1984.

2. It is also clarified that a Scheduled Caste/ tribe persons who has migrated from the State of origin to some other State for the purpose of seeking education, employment, etc. will be deemed to be a Scheduled Caste/ tribe of the State of his origin and will be entitled to derive benefits from the State of origin and not from the State to which he has migrated.

3. This letter substitutes this Ministry's letter of even number dated 18.11.1982.

Yours faithfully,

Sd/-
B.K. Sarkar
Joint Secretary

No. BC-16014/1/82-SC & BCD-I

Dated: 22.02.1985

Copy to:-

1. Department of Personnel & A. R. (Est) (SCT Section) with the request that necessary amendment to the brochure on the reservation in services for Scheduled Castes and Scheduled Tribes, by incorporating, where necessary, the position stated in the foregoing paragraphs may please be made.
2. Secretary, Union Public Service Commission, Dholpur House, New Delhi.

3. Secretary, Staff Selection Commission, CGO Complex, Block No.12, Lodi Road, New Delhi.
4. All the Ministries/Departments, Government of India.
5. Secretary, Commission for Scheduled Castes/Scheduled Tribes, Lok Nayak Bhawan, New Delhi.
6. Commissioner for Scheduled Castes & Scheduled Tribes, R.K. Puram, New Delhi.
7. All the Sections in SC&BCD Division/T.D. Division, Ministry of Home Affairs.
8. All Officers in SC &BCD Division, Shastri Bhawan, New Delhi.

Sd/-
(B.K. Sarkar)
Joint Secretary

No. BC. 12025/14/90-SCD (R.L.Cell)
Government of India/Bharat Sarkar
Ministry of Welfare /Kalyan Mantralaya
Department of Welfare /Kalyan Vibhag

*Shastri Bhawan, A-Wing,
New Delhi dated 16th August, 1990.*

To

The Chief Secretaries to
All State Governments/Union Territory Administrations.

Subject:-- Avoidance of the terms like "Harijan" and "Girijan" in respect of Scheduled Castes and Scheduled Tribes in official matters, dealings etc.

Sir,

I am directed to refer to the Ministry of Home Affairs letter No.12025/44/80-SC&BCD.I/IV, dated 10-2-1982 addressed to all the State Governments/U.T Administrations in which a request was made to issue instructions to the certificate issuing authorities not to insert the word 'Harijan' and 'Girijan' in the Scheduled Caste/Scheduled Tribe certificates, but to mention only the name of the caste/tribe to which the person belongs. The Ministry of Information and Broadcasting was also requested vide letter No.12025/44/80-SC&BCD.I/IV, dated 1-2-1982 to use the terms 'Scheduled Castes' and 'Scheduled Tribe' instead of 'Harijan' and 'Girijan' respectively in English and their appropriate translations in other national languages in public mass media. On request by the Ministry of Home Affairs (now Ministry of Welfare) vide its letter No.12025/17/82-SC&BCD-IV/I, dated 19-10-1982 to the erst-while Ministry of Education and Culture (now Human Resource Development), it was brought to the notice of all the educational institutions under their control regarding the use of the terms Scheduled Castes and Scheduled Tribes instead of the terms Harijan and Girijan in the School Leaving Certificates.

2. It has been represented from time to time by the various Organisations/Associations working for the welfare of Scheduled Castes and Scheduled Tribes that many State Governments/U.T Administrations use the words 'Harijan' and 'Girijan' in official matters, dealings, etc. These organisations have represented that the words 'Harijan' and 'Girijan' are derogatory and these words are often used for denoting Scheduled Castes and Scheduled Tribes by all the Governmental agencies. In this connection, it is clarified that nowhere in the Constitution of India, the words Harijan and Girijan are used for denoting Scheduled Castes and Scheduled Tribes respectively. In so far as the communities scheduled in the Presidential Orders of 1950 and 1951 are concerned, the term Scheduled Castes and Scheduled Tribes are invariably used. The use of any other term may introduce ambiguity, apart from producing a feeling of resentment in the minds of conscious members of Scheduled Castes and Scheduled Tribes.

3. In view of the position explained above, it is requested that for all official transactions, matters, dealings, certificates etc., the constitutional terms Scheduled Castes and Scheduled Tribes in English and their appropriate translation in other national languages should alone be used for denoting the persons belonging to Scheduled Castes and Scheduled Tribes included in the Presidential Orders

mentioned above and for referring to those castes and tribes. The State Governments/Union territory Administrations are also requested that in the names of the Departments which are in overall charge of the development/welfare of Scheduled Castes and Scheduled Tribes, wherever terms like 'Harijan' and 'Girijan' are used, the Constitutional terms Scheduled Castes and Scheduled Tribes be substituted.

Yours faithfully,

Sd/-
(MATA PRASAD)
Additional Secretary to the Government of India

No. BC. 12025/14/90-SCD (R.L.Cell)

Dated 16th August, 1990.

Copy forwarded for information and necessary action to:-

1. Secretary, Union Public Service Commission, New Delhi
2. Secretary, Staff Selection Commission, CGO Complex, Block No.12, Lodi Road, New Delhi.
3. All the Ministries/Departments, Government of India
4. Secretary, National Commission for Scheduled Castes/Scheduled Tribes, Lok Nayak Bhawan, New Delhi.
5. Commissioner for Scheduled Castes & Scheduled Tribes, R.K. Puram, New Delhi.
6. Comptroller & Auditor General of India, New Delhi
7. Election of India, New Delhi
8. All Sections in SCD Division/T.D. Division, New Delhi
9. All Officers in the Ministry of Welfare, New Delhi.

Sd/-
(MATA PRASAD)
Additional Secretary to the Government of India

No. 12016/28/90-SCD (R.L.Cell)
Government of India/Bharat Sarkar
Ministry of Welfare /Kalyan Mantralaya

New Delhi, the 20th November 1990.

To

The Secretary,
Social Welfare Department/Department dealing with the welfare of
SC/ST of all the State Governments/U.T. Administrations.

Subject:- Removal of bar on the Scheduled Caste converts to Buddhism from being deemed to be members of Scheduled Castes.

Sir,

In continuation of this Ministry's letter of even number, dated 31st July 1990, on the above subject, I am directed to say that with the amendment of Constitution (Scheduled Castes) Order 1950 by the Constitution (Scheduled Castes)Orders(Amendment)Act, 1990, the Scheduled Caste communities which are included in the Presidential orders and converted to Buddhist region shall be deemed to be a member of Scheduled Caste.

2. While issuing the Scheduled caste certificates to these persons, the same procedure has to be followed as applicable to the members of other Scheduled caste communities belong to Hindu and Sikh religions.

3. The form of caste certificate will also remain the same as applicable to other Scheduled Caste communities (Annexure).

4. All the State Governments/U.T Administrations are, therefore requested to follow the above procedure for issuing Scheduled Caste certificate to the persons professing Buddhist religion provided:

- (a) the name of the community for which Scheduled Caste certificate is to be issued is included in the Presidential Orders specifying the Scheduled Caste in relation to the concerned State/Union Territory;
- (b) that the person and his parents actually belong to the community claimed;
- (c) that the person belongs to that State and to the area within that State in respect of which the community has been scheduled;
- (d) the person claiming to be a Scheduled Caste professes either the Hindu, Sikh or the Buddhist religion;

5. The certificate issuing authorities may kindly be instructed to make proper verification before issuing such certificates.

Yours faithfully,

Sd/-
(B.N. Srivastava)
Director.

No. 12016/28/90-SCD (R.L.Cell),

Dated, *the 20th November 1990.*

Copy forwarded to:-

1. The Ministry of Personnel, Public Grievances and Pensions (Department of Personnel and Training), New Delhi
2. Secretary, U. P.S.C, New Delhi.
3. All the Ministries/Departments of Government of India.
4. Secretary, Staff Selection Commission, CGO Complex, New Delhi.
5. Comptroller and Auditor General of India.
6. Secretary, Election Commission of India. New Delhi
7. Secretary, Commission for Scheduled Castes/Scheduled Tribes, Lok Nayak Bhawan, New Delhi.
8. Commissioner for Scheduled Castes/Scheduled Tribes, R.K. Puram, New Delhi.

Sd/-
(B.N. Srivastava)
Director.

Form of certificate to be produced by a candidate belonging to a Scheduled Caste or Scheduled Tribe in support of his claim.

FORM OF CASTE CERTIFICATE

This is to certify that Shri/Shrimati*/Kumari*son/daughter* of
.....ofvillage*/town*.....in
district/Division*.....of the State/Union
Territory*.....belongs to the.....Caste/Tribe* which is recognised as a
Scheduled Caste
Scheduled Tribe*

Under:

- @ The Constitution (Scheduled Castes) Order, 1950.
- @ The Constitution (Scheduled Tribes) Order, 1950.
- @ The Constitution (Scheduled Caste) (Union Territories) Order, 1951.
- @ The Constitution (Scheduled Tribes) (Union Territories) Order, 1951.[as amended by the Scheduled Castes and Scheduled Tribes Lists (Modification) Order, 1956, the Bombay Reorganisation Act, 1960, the Punjab Reorganisation Act, 1966, the State of Himachal Pradesh Act, 1970, the North Eastern Areas (Reorganisation) Act, 1971 and the Scheduled Castes and Scheduled Tribes Orders (Amendment) Act, 1976].
- @ The Constitution (Jammu and Kashmir) Scheduled Castes Order, 1956.
- @ The Constitution (Jammu and Kashmir) Scheduled Tribes Order, 1989.
- @ The Constitution (Andaman and Nicobar Islands) Scheduled Tribes Order, 1959.
- @ The Constitution (Dadra and Nagar Haveli) Scheduled Castes Order, 1962.
- @ The Constitution (Dadra and Nagar Haveli) Scheduled Tribes Order, 1962.
- @ The Constitution (Pondicherry) Scheduled Castes Order, 1964.
- @ The Constitution Scheduled Tribes (Uttar Pradesh) Order, 1967.
- @ The Constitution (Goa, Daman & Diu) Scheduled Castes Order, 1968.
- @ The Constitution (Goa, Daman & Diu) Scheduled Tribes Order, 1968.
- @ The Constitution (Nagaland) Scheduled Tribes Order, 1970.
- @ The Constitution (Sikkim) Scheduled Castes Order, 1978.
- @ The Constitution (Sikkim) Scheduled Tribes Order, 1978.

%2. Application in the case of Scheduled Castes/Scheduled Tribes persons who have migrated from one State/Union Territory:

This certificate is issued on the basis of the Scheduled Caste/Scheduled Tribe certificate issued to Shri/Shrimati*.....father/mother of Shri/Shrimati/Kumari*.....of village/town*.....in

District/Division.....of the State/Union Territory*..... who belongs to theCaste/Tribe* which is recognised as a Scheduled Caste Scheduled Tribe in the State/Union Territory*..... issued by the..... (name of prescribed authority) vide their No..... dated.....

%3. Shri*/Shrimati*/Kumari*..... and/or his /her* Family ordinarily reside(s) in village/town* ofDistrict/Division of the State/Union Territory of.....

Signature

**Designation

(With Seal of Office)

Place

State .

Union Territory

Date

* Please delete the words which are not applicable

@ Please quote specific Presidential Order

% Delete the paragraph which is not applicable.

Note: The term "Ordinarily resides(s)" used here will have the same meaning as in Section 20 of the Representation of the Peoples Act, 1950.

** List of authorities empowered to issue Scheduled Caste / Scheduled Tribe Certificates:-

1. District Magistrate/ Additional District Magistrate/Collector/Deputy Commissioner/ Additional Deputy Commissioner/ Deputy Collector/1st Class Stipendiary Magistrate/ City Magistrate / Sub-Divisional Magistrate/ Taluk Magistrate / Executive Magistrate/ Extra Assistant Commissioner. (not below the rank of 1st Class Stipendiary Magistrate)
2. Chief Presidency Magistrate/ Additional Chief Presidency Magistrate/Presidency Magistrate.
3. Revenue Officers not below the rank of Tehsildar.
4. Sub-Divisional Officer of the area where the candidate and /or his family normally resides.
5. Administrator / Secretary to Administrator/Development Officer (Lakshadweep Islands).

No. 17020/64/2010-SCD (R.L. Cell)
Government of India
Ministry of Social Justice and Empowerment
Department of Social Justice and Empowerment

Shastri Bhawan, New Delhi
New Delhi, dated: 22.11.2012

To,

The Chief Secretaries,
All State Governments/Union Territory Administrations.

Subject: Need to avoid the use of term “Harijan” in respect of Scheduled Castes in official communications and transactions.

Sir,

I am directed to refer to the Ministry of Home Affairs (MHA) letter No. BC 12025/44/80-SC&BCD.I/IV, dated 10.02.1982, in which all the State Governments /Union Territory Administrations were requested to issue instructions to the authorities who were empowered to issue the Scheduled Castes certificates, not to insert the word 'Harijan' in the Scheduled Caste certificates, but to mention only the name of the caste to which the person belongs. Subsequently, the Ministry of Welfare (now Social Justice and Empowerment), vide letter No. 12025/14/90-SCD (R.L.Cell), dated 16.08.1990, had again requested the Chief Secretaries of all State Governments/Union Territory Administrations, that for all official transactions, matters, dealings, certificates etc., the Constitutional term,' Scheduled Caste' in English and its appropriate translation in other national languages should alone be used for denoting the persons belonging to the Scheduled Castes included in the Presidential Orders issued under Article 341 of the Constitution. The State Governments/ U.T. Administrations were also requested that in the names of departments, which are in overall charge of development/welfare of Scheduled Castes, the term 'Harijan' etc. should not be used.

2. The Parliamentary Standing Committee on Social Justice and Empowerment, in its Ninth Report presented to Lok Sabha and laid in Rajya Sabha on 19.08.2010,inter-alia observed as follows:-

“.....the circular issued way back in 1982 is very old which has lost its sanctity and purpose leading to its non compliance..... As such, there is widespread use of the word ‘Harijan’ across the country deprecating the status of the underprivileged sections of the society.”

Accordingly, the Committee has recommended that this Ministry issue fresh guidelines, instructions to States/U.Ts directing them to ensure the non-use of the word “Harijan” not only in caste certificates but also otherwise.

3. All the State Governments /U.T. Administrations are again requested that for all official transactions, matters, dealings, certificates etc., the Constitutional term, 'Scheduled Caste' in English, and its appropriate translation in other national languages should alone be used for denoting the persons belonging to the Scheduled Castes included in the Orders issued by the President under Article 341 of the Constitution of India.

4. Action taken on the above may kindly be intimated to the undersigned.

Yours faithfully,

Encl: as above.

Sd/-
(P. L. Negi)
Director (SCD)
Tel: 23385491

No. 17020/64/2010-SCD (R.L. Cell),

Dated: 22.11.2012

Copy forwarded for information and necessary action to:

1. All Central Ministries/Departments of Government of India.
2. The Secretary, Union Public Service Commission, Dholpur House, New Delhi-110069.
3. The Chairperson, Staff Selection Commission, Block No.12, CGO Complex, Lodhi Road, New Delhi.
4. The Comptroller & Auditor General of India, Pocket-9, Deen Dayal Upadhyay Marg, New Delhi-110124.
5. Election Commission of India, Nirvachan Sadan, Ashoka Road, New Delhi-110001.
6. The Joint Secretary, National Commission for Scheduled Castes, Lok Nayak Bhawan, Khan Market, New Delhi – 110003.
7. All Bureau Heads/ Divisional Heads/ Desks/ Sections of Ministry of Social Justice and Empowerment.

Sd/-
(P. L. Negi)
Director (SCD)
Tel: 23385491