



No. 12017/02/2017-SCD (R.L.Cell)
Government of India
Ministry of Social Justice and Empowerment
Department of Social Justice and Empowerment

Shastri Bhawan, New Delhi

Dated: 03.10.2019

To

The Chief Secretaries of All the State Governments and Union Territory Administrations.

Subject: Caste status of offspring of separated/ divorced/ single women.

Sir,

I am directed to say that 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 was circulated vide Ministry of Home Affairs letter No. 39/37/73-SCT-I dated 21.05.1977. It has been represented to this Department that the said guidelines are silent regarding caste status of offsprings of separated/ divorced/ single women i.e. whether caste certificate can be issued to the children of separated/ divorced/ single women on the basis of caste of their mother.

2. The Supreme Court in Rameshbhai Dabhai Naika Vs. State of Gujarat and Ors. [(2012) 3 SCC 400] held as follows :-

"... In an inter- caste marriage or a marriage between a tribal and a non-tribal there may be a presumption that the child has the caste of the father. This presumption may be stronger in the case where in the inter-caste marriage or a marriage between a tribal and a non-tribal the husband belongs to a forward caste. But by no means the presumption is conclusive or irrebuttable and it is open to the child of such marriage to lead evidence to show that he/she was brought up by the mother who belonged to the scheduled caste/scheduled tribe. By virtue of being the son of a forward caste father he did not have any advantageous start in life but on the contrary suffered the deprivations, indignities, humiliations and handicaps like any other member of the community to which his/her mother belonged. Additionally, that he was always treated a member of the community to which her mother belonged, not only by that community but by people outside the community as well."

3. GNCT of Delhi's instructions on issuance of caste certificate inter-alia require the applicant to produce a caste certificate of a relative from the paternal side. The said instructions were challenged in Delhi High Court in the case of Romy Chowdhury Vs. The Department of Revenue, Government of NCT of Delhi & Anr (W.P. (C) No. 8780 of 2019). The Hon'ble Court in its order dated 14.08.2019 inter-alia held as under:-


"...the practice of issuance of caste certificate based on the caste of father is not without exceptions. In certain cases, where it is established that the children have grown up in a notified community or tribe and have suffered all the disadvantages and deprivations belonging to such community, the office order could not come in the way of issuance of caste certificate certifying that the applicants belongs to caste of their mother."

Contd. on 2/-

4. In view of above observations by the Supreme Court and Delhi High Court, where it is established that the child has been brought up in the surroundings of a notified community to which the mother belongs to and has suffered the deprivations, indignities, humiliations and handicaps like any other member of that community and he or she was always treated as a member of the mother's community not only by that community but by people outside the community as well, then such a child of separated/ divorced/ single women has to be treated as a member of the Scheduled Caste community and would be entitled to receive benefits as such. However, each individual case will have to be examined in the light of existing facts and circumstances in such cases.

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

Yours faithfully



03.10.2019
(Bharat Lal Meena)
Director (Admn)

Encl: as above.

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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 Secretary, National Commission for Scheduled Castes, Lok Nayak Bhawan, Khan Market, New Delhi - 110003.



03.10.2019
(Bharat Lal Meena)
Director (Admn)