



## **PROCEEDINGS OF THE GOVERNMENT OF KARNATAKA**

**Sub:** Constitution of a committee to examine, recommend and formulation of policy re-reservation for Politically backward classes under Article 243(D)(6) and 243 (T)(6) of the Constitution of India.

**Read:**

1. Interim order dated 10-11-2014 of Supreme Court in W.P. (Civil) No.412/2010 Karnataka Pradesh Kurubara Sangha Vs. The State of Karnataka and others.
2. Government order No:RDP 135 ZPS 2011, Dated:16-09-2016 and 02-03-2019.

**Preamble:**

A Writ Petition No.412/2010 was filed before the Hon'ble Supreme Court; seeking among other reliefs of a Writ directing the Respondent-State to identify the politically backward classes for the purpose of reservation under Article 243(D) and 243(T) of the Constitution of India and Consequential reliefs.

As per the interim order dated:10-11-2014 of Supreme Court in the above Writ Petition No:412/2010 a committee was constituted vide Government orders mentioned under reference (2), to examine the report submitted by the Karnataka State Backward Class Commission regarding political representation in local bodies like Taluk Panchayaths, Zilla Panchayaths and to submit its recommendations to the Government for further action to provide appropriate representation to the politically backward classes in the local bodies.

The Hon'ble Supreme Court in the case of K Krishnamurthy V/s Union of India reported in (2010) 7 SCC 202, conclude its observations as follows:-

- (i) "The nature and purpose of reservations in the context of local self-government is considerably different from that of higher education and public employment. In this sense, Articles 243-D and Article 243-T form a distinct and independent constitutional basis for affirmative action and the principles that have been evolved in relation to the reservation policies enabled by Articles 15(4) and 16(4) cannot be readily applied in the context of local self-government. Even when made, they need not be for a period corresponding to the period of reservation for purposes of Articles 15(4) and 16(4), but can be much shorter.
- (ii) Article 243-D(6) and Article 243-T(6) are constitutionally valid since they are in the nature of provisions which merely enable State Legislatures to reserve seats and Chairperson posts in favour of backward classes. Concerns about disproportionate reservations should be raised by way of specific challenges against the State Legislations.

- (iii) We are not in a position to examine the claims about overbreadth in the quantum of reservations provided for OBCs under the impugned State Legislations since there is no contemporaneous empirical data. The onus is on the executive to conduct a rigorous investigation into the patterns of backwardness that act as barriers to political participation which are indeed quite different from the patterns of disadvantages in the matter of access to education and employment. As we have considered and decided only the constitutional validity of Articles 243-D(6) and 243-T(6), it will be open to the petitioners or any aggrieved party to challenge any State legislation enacted in pursuance of the said constitutional provisions before the High Court. We are of the view that the identification of 'backward classes' under Art. 243-D(6) and Art. 243-T(6) should be distinct from the identification of SEBCs for purpose of Art. 15(4) and that of backward classes for the purpose of Art. 16(4).
- (iv) The upper ceiling of 50% vertical reservation in favour of SC/ST/OBCs should not be breached in the context of local self-government. Exceptions can only be made in order to safeguard the interests of Scheduled Tribes in the matter of their representation in panchayats located in the Scheduled Areas.
- (v) The reservation of chairperson posts in the manner contemplated by Article 243-D(4) and 243-T(4) is constitutionally valid. These chairperson posts cannot be equated with solitary posts in the context of public employment

Public Interest Litigation Writ Petition (C) No.412/2010 has been filed by Karnataka Pradesh Kurubara Sangha that is now pending consideration before the Hon'ble Supreme Court.

With these observation, the present set of writ petitions stands disposed of".

In the Indra Sawhnay case No:412/2010, the Hon'ble Supreme Court directed to conduct a comprehensive status survey covering the entire population of the State, and in furtherance, the State Government had requested the Karnataka State Commission for Backward Classes, constituted under the provisions of the Karnataka State Commission for Backward Class Act, 1985 to conduct a comprehensive survey of every household and collect data on social, educational and other related details as to the living conditions of the people belonging to different castes.

In so far as caste-wise political representation is concerned, the Commission has processed the information obtained from Rural Development and Panchayath Raj Department (Secondary Source) in the matter of political representation relating to election of members to the Zilla Panchayaths and Taluk Panchayaths and the data was compiled based on the caste/ community of the elected members. The data includes details of elected representatives for the period from, 1993 to 2021.

The data collected in the Social and Educational Survey -2015 by the Commission (Primary source) are based on responses given by the surveyed individuals as on the date of survey. In other words, the data relates to the individuals living on the that date. Whereas, the data obtained from Rural Development and Panchayath Raj Department (Second source) relates to all the representatives elected between the period 1993 and 2021, irrespective of whether the elected representative is living or deceased as on today. The data so obtained is not only more comprehensive since it contains information for a longer period of time but also authentic since the same has been obtained from the agencies who have actually conducted elections to choose political representatives to Zilla Panchayaths and Taluk Panchayaths. Therefore, the Commission is of the opinion that the information obtained through secondary source will be more useful and advantageous to precisely ascertain the status of caste-wise political representation.

However, the Commission under the provisions of the Act, has no mandate to recommend on providing political representation, this being a matter of policy of the State for which the Government will have to evolve for policy based on inputs submitted by the Commission.

In the meanwhile on 10.11.2014 the Hon'ble Supreme Court in W.P.No.412/2010 has passed an interim order:

“It is stated that on behalf of the petitioner as well as the respondent, the State Government has constituted a committee to examine and ascertain the politically Backward Class Community existing in the State of Karnataka. In the light of the said development, the counsel for either side report that the hearing of these matters can be fixed based on the outcome of the committee proceedings”.

Now the Government has decided to constitute a new committee to examine, recommend and formulation of policy re-reservation for politically backward classes under Article 243(D)(6) and 243(T)(6) of constitution of India.

In this regard the Government has constituted and re-constituted the committee vide reference(2). The Government Orders were issued with specific names of the Ministers holding the portfolios. It has now been decided to constitute the Committee by designations.

Hence, the following order:

**G.O. No. RDP:135:ZPS:2011, Bangalore Dated:16-03-2020.**

In the circumstances explained above, the Government Order RDP 135 ZPS 2011, dated:02-03-2019, which was constituted to examine and ascertain the report including the secondary source report submitted on 08-09-2016 by the Karnataka State Backward Classes Commission on the political backwardness of communities existing in the State of

Karnataka; and to recommend to the Government to provide appropriate representations in the local bodies like Panchayats, Municipalities etc, is hereby modified as follows.

Minister for Rural Development and Panchayath Raj	Chairperson
Minister for Public Works Department	Member
Minister for Backward Classes and Welfare	Member
Minister for Municipal Administration	Member
Minister for Co-operation	Member
Chairperson, Karnataka State Backward Classes Commission	Member
Principal Secretary Rural Development and Panchayath Raj Department	Member
Principal Secretary Social Welfare and Backward Classes Department	Member
Secretary (Municipal Administration and urban Development Authorities) Urban Development Department	Member
Principal Secretary/ Secretary(PR) Rural Development and Panchayath Raj Department	Member Secretary

The committee shall submit the report to the Government within a period of ten months.

By order and in the name of the  
Governor of Karnataka,

(C. Manzoor)

Under Secretary to Government (ZP)  
RD & PR Department

**TO**

1. Assistant Registrar, Supreme Court (with covering letter).
2. Advocate General, High Court of Karnataka.
3. Chief Secretary to Government, Karnataka, Bangalore.
4. Chairperson, Karnataka State Backward Classes.
5. Senior Advocate, Supreme Court(with covering letter).
6. Secretary, Backward Classes Department.
7. Secretary, Urban Development and Municipal Administration.
8. Joint Secretary to Chief Minister of Karnataka, Bangalore.
9. Personal Secretary to Minister of Rural Development and Panchayath Raj.
10. Personal Secretary to Minister of Law and Parliamentary Affairs and small irrigation.
11. Personal Secretary to Minister of Social Welfare and Backward Classes

12. Personal Secretary to Minister of Urban Development, Haj and Walf
13. Personal Secretary to Minister of Municipal Administration.
14. Compiler Karnataka Gazette extraordinary for publication and supply of 100 copies to the Rural Development and Panchayath Raj Department.
15. CHIEF, e-Governance, RDPR Department for uploading in RDPR website

**Copy to:**

1. Personal Secretary to Hon'ble Chief Minister, Vidhana Soudha, Bangalore.
2. Personal Secretary to Principal Secretary, Rural Development & Panchayat Raj Department.
3. Personal Secretary to Principal Secretary(PR), Rural Development & Panchayat Raj Department.
4. Personal Assistant to Director(PR-2), Rural Development & Panchayat Raj Department.

- 12. Personal Secretary to Minister of Urban Development, Haj and Water
- 13. Personal Secretary to Minister of Municipal Administration
- 14. Geographical Names Commission for publication and revision of place names to the Rural Development and Land Reclamation Department

Country

- 1. Personal Secretary to Hon'ble Chief Minister, Vidhan Sabha, Rajasthan
- 2. Personal Secretary to Personal Secretary, Rural Development & Land Reclamation Department
- 3. Personal Secretary to Personal Secretary (R&L), Rural Development & Land Reclamation Department
- 4. Personal Assistant to Director (R&L), Rural Development & Land Reclamation Department