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No. 3511/72-R.G. (SCT.V)

Government of India|Dharm Sanku

Ministry of Home Affairs|Grih Mantralaya

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

New Delhi-110001, Dated the 2 May, 1975/  
12 Vaisakha, 1897.

Subject Issue of Scheduled Castes and Scheduled  
Tribe certificates.

Sir,

I am directed to state that complaints are often re-  
ceived that Scheduled Caste and Scheduled Tribe cer-  
tificates are given to persons who do not in fact belong  
to a Scheduled Caste or Scheduled Tribes. It is  
necessary, therefore, that the Certificate issuing autho-  
rities should make a proper verification before they  
actually issue such a certificate.

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 Sched-  
uled Tribe certificates. It is requested that these  
instructions may be circulated amongst them.

Yours faithfully,

(O. K. MOORTHY)

Director General, BCW

No. 3511/72(R.G.) (SCT.V), New Delhi-110001  
dated the 2 May, 1975/12 Vaisakha, 1897

Copy forwarded for necessary action to:—

1. All Ministries/Depts. of the Govt. of India.
2. All attached and subordinate offices of M.H.A.
3. The Union Public Service Commission, Dhulpur  
House, New Delhi-110011.
4. The Dept. of Personnel and Administrative Re-  
forms, Estt. (SCT) Section, New Delhi.
5. The Commissioner for Scheduled Caste and Sched-  
uled Tribe, Banaskrishnaganj, New Delhi.

(O. K. MOORTHY)

Director General, BCW

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Enclosure to circular letter No. 3511/72-R.G. (SCT.V)  
dated the April, 1975|Vaisakha, 1897

Issue of Scheduled Caste and Tribe Certificates-Poin-  
ts to be observed.

1. General (Applicable to all cases)

Where a person claims to belong to a Scheduled  
Caste or a Scheduled Tribe by birth it should be ver-  
ified —

- (i) that the person and his parents actually  
belong to the community claimed;
- (ii) that this community is included in the pre-  
sidential Orders specifying the Scheduled  
Castes and Scheduled Tribes in relation to  
the concerned State;
- (iii) that the person belongs to that area and to  
the area within that State in respect of which  
the community has been scheduled;
- (iv) if the person claiming to be a Scheduled Cas-  
te, 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 one 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 sched-  
uled 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 may claim to belong to a Sched-  
uled Caste or a Scheduled Tribe only in re-  
lation to the State to which he actually  
belongs and not in respect of the State  
to which he has migrated.

A guiding principle is that no person who was a Scheduled Caste or a Scheduled Tribe, by birth, shall 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 reconversion.

(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 descendant 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 the 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 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 sections 6 to 11 of the Hindu Adoptions and Maintenance Act, 1956 (relevant extracts of which are attached). The actual

giving and taking of the child, and the fulfilment of the mandatory requirements for a valid adoption, if the adopted child is declared to be the child in law of her adoptive father or mother for all purposes and the child severances ties with the family of his or her birth (that is to say, 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 Dist. 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 opposed 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.

(3)

Extract from The Hindu Adoptions and Maintenance Act, 1956  
(18 of 1956)

**CHAPTER II—Adoption**

**Requirements of a valid adoption**

- 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**

1. 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**

B. 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.

