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 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.

1. 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,

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

No. 35[1]72-R.U. (SCIV), New Delhi, 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, Dholpur House, New Delhi-110011.
4. The Deptt. of Personnel and Administrative Reforms, Batt. (SCT) Section, New Delhi.

(O. K. MOORTHY)
Director General, BCW

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 will cease to belong to a Scheduled Caste or a Scheduled Tribe only in relation to the State to which he has migrated.
V.

Conversion 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 this 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 a 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 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 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 is a necessary requirement and in case the adopted child is deemed to be the child of his or her adoptive father or mother for all purposes and the child severes 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 Distt. 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 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.
CHAPTER II—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 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 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: Not for the purposes of this section—

(i) the expression, "father" and "mother" do not include an adoptive father and an adoptive mother.
A person is 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 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

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