

**പതിമൂന്നാം കേരള നിയമസഭ  
പതിമൂന്നാം സമ്മേളനം**

നക്ഷത്രചിഹ്നമിട്ട ചോദ്യം നമ്പർ : 71

11.03.2015 ൽ മറുപടിയ്ക്ക്

**പിന്നോക്ക വിഭാഗ കമ്മീഷന്റെ പഠന റിപ്പോർട്ട്**

**ചോദ്യം**

**മറുപടി**

**ശ്രീ.കെ.അജിത്**  
**„ പി.തിലോത്തമൻ**  
**„ വി.ശശി**  
**„ ചിറ്റയം ഗോപകുമാർ :**

**ശ്രീ. എ.പി. അനീൽകുമാർ**  
**(പട്ടികജാതി - പിന്നോക്ക സമുദായക്ഷേമവും**  
**വിനോദസഞ്ചാരവും വകുപ്പു മന്ത്രി)**

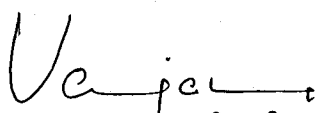
(എ) ക്രിമിലെയർ കണ്ടെത്തുന്നതിന് നിയോഗിച്ചിരുന്ന പിന്നോക്ക വിഭാഗ കമ്മീഷന്റെ പഠന റിപ്പോർട്ട് ലഭിച്ചിട്ടുണ്ടോ; എങ്കിൽ പ്രസ്തുത പഠന റിപ്പോർട്ടിലെ പ്രധാന ശുപാർശകൾ എന്തെല്ലാമാണെന്ന് വ്യക്തമാക്കാമോ;

(എ) ഉണ്ട്. കേരള സംസ്ഥാന പിന്നോക്ക വിഭാഗ കമ്മീഷൻ നടത്തിയ പഠന റിപ്പോർട്ടിലെ പ്രധാന ശുപാർശകൾ അനുബന്ധമായി ചേർത്തിട്ടുണ്ട്.

(ബി) ക്രിമിലെയർ കണ്ടെത്തുന്നതിന് കടുംബ വാർഷിക വരുമാനത്തിനു പുറമെ സാമൂഹികവും സാമ്പത്തികവും വിദ്യാഭ്യാസപരവുമായ പശ്ചാത്തലം കൂടി മാനദണ്ഡമാക്കണമെന്ന് സുപ്രീം കോടതി നിർദ്ദേശമുണ്ടോ; എങ്കിൽ ഇത് പ്രാവർത്തികമാക്കുന്നതിന് എന്ത് നടപടികളാണ് സ്വീകരിച്ചിട്ടുള്ളതെന്ന് വ്യക്തമാക്കാമോ?

(ബി) ഉണ്ട്. ബഹു. സുപ്രീംകോടതിയുടെ അശോക് കുമാർ താക്കൂർ കേസിലെ വിധിന്യായത്തിലെ നിർദ്ദേശങ്ങളുടെ അടിസ്ഥാനത്തിൽ പിന്നോക്ക വിഭാഗങ്ങളുടെ സാമൂഹികവും സാമ്പത്തികവും വിദ്യാഭ്യാസപരവുമായ പിന്നോക്കാവസ്ഥയും കടുംബ വരുമാനവും പരിഗണിച്ച്, പിന്നോക്ക വിഭാഗങ്ങളിലെ ക്രിമിലെയർ വിഭാഗത്തെ കണ്ടെത്തുന്നതിന് സ്വതന്ത്ര പഠനം സമയബന്ധിതമായി നടത്തുവാനും 2014-15

വിദ്യാഭ്യാസ വർഷത്തെ പ്രൊഫഷണൽ ഡിഗ്രി കോഴ്സുകളുടെ പ്രവേശനത്തിൽ നടപ്പിൽ വരുത്തുവാനും ബഹു. ഹൈക്കോടതി 07.8.2013 - ൽ W.P(C)29271/12, W.P(C)11578/13 എന്നീ കേസുകളിൽ ഉത്തരവായിരുന്നു. അതിൻപ്രകാരം കേരള സംസ്ഥാന പിന്നോക്ക വിഭാഗ കമ്മീഷൻ ഇതു സംബന്ധിച്ച് വിശദമായ പഠനം നടത്തുകയുണ്ടായി. കേരള സംസ്ഥാന പിന്നോക്ക വിഭാഗ കമ്മീഷന്റെ പഠന റിപ്പോർട്ടിലെ ശുപാർശകൾ സർക്കാർ പരിഗണിച്ച് 1/01/2015-ൽ സ.ഉ. (പി)നം.1/2015/പിസവിവ. നമ്പർ ഉത്തരവ് പുറപ്പെടുവിക്കുകയുണ്ടായി.

  
സെക്ഷൻ ഓഫീസർ

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Recommendations

## RECOMMENDATIONS & THE SCHEME

5.1 The direction of the Hon'ble High Court in the common judgement dated 07.08.2013 is to conduct an independent study on the basis of the principles laid down by the Supreme Court in Ashoka Kumar Thakur's case and to evolve a scheme for excluding the creamy layer from the backward classes taking in to consideration the socio-economic and educational background of different communities, including the income derived by the family and implement in the academic year 2014-2015.

5.2 The KSCBC, after conducting a detailed study, in the absence of Socio-economic Survey data regarding the castes and communities in Kerala, by a sophisticate method of analysing the details gathered from more than 7,70,000 applications for Entrance Examinations conducted by the Commissioner for Entrance Examinations as per KEAM Prospectus for the years 2009 to 2014 with the help of Data Scientists in the field, and after affording opportunity to the public at large and to the Government and its officials, keeping in mind the principles laid down by the Hon'ble Supreme court in Indra Sawhney and Asoka Kumar Thakur cases and by the Hon'ble High Court in the common judgement dated 07.08.2013, has prepared the Scheme in the manner directed by the Hon'ble High Court which is given herein below. The KSCBC, for the purpose of preparing the Scheme had kept in mind the creamy layer criteria contained in the O.M. dated 08.09.1993 issued by the Central Government as directed by the Supreme Court in Indra Sawhney case and approved by that court which principle is adopted substantially by three Committee/Commissions appointed by the State Government as per the directions of the Supreme Court

considering the Kerala situations and the prevailing one which is the Government order dated 26.09.2009 based on the report of Justice Rajendra Babu Commission. KSCBC makes it clear that the scheme is prepared after considering the socio, economic and educational conditions of the SEBC communities for the period from 2009 to 2014.

5.3 In the study conducted based on the details gathered from the entrance applications as mentioned above so many unhappy situations were noticed so far as many of the SEBC communities who are comparatively backward and lesser in number population-wise.

5.4 In the creamy layer criteria contained in G.O. (P) No. 81/09/SCSTDD dated 26.09.2009 there is specific exclusion of person or persons in the OBC communities following their hereditary occupations/calling in Kerala from creamy layer for the purpose of reservation in appointments or posts under Article 16 (4). Here it must be noted that such exclusion was made with reference to the OBC list in the State. So far as reservation under Article 15(4) is concerned, as already noted, there is a separate SEBC list in which all the OBC communities are not included. Besides, some of the communities which are included in the said group are not there in the SEBC list. As such the question of excluding them from the application of creamy layer criteria for the purpose of Article 15(4) can be considered only after a revision of the present SEBC list.

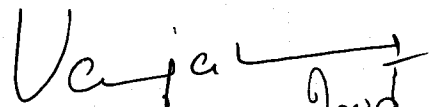
5.5 Same is the position with regard to the sub-castes of fishermen community which are excluded from the creamy layer criteria in the Government order dated 26.09.2009. Their case for exclusion from the creamy layer criteria has also to be considered while revising the SEBC list.

5.6 The State Government to take urgent steps for publication of the Report of the Caste wise survey conducted by the Rural Development Department in 2011 as per directions of the Census department in the State (see para under 1.7 above).

5.7 The State Government to take urgent steps for revision of the SEBC list after a detailed study with opportunity to all the castes and communities in Kerala, particularly the SEBC communities (see para under 1.8 above).

5.8 The State Government to arrange a study to understand the effect of the newly introduced creamy layer criteria on the comparatively backward sections of the SEBC communities and find out a solution by making some provision for setting right the imbalances, if any, caused to the low income group in the SEBC communities for the purposes of Article 15(4) after a period of three years from the date of the order. This three year period mentioned above is for the purpose of observing the effect of the new criteria on the low income groups in the SEBC candidates for the Entrance Commissionerate must be equipped with the data of the candidates for admission to Professional Degree Courses as per KEAM Prospectus 2015-2017.



  
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## SCHEME

### ANNEXURE I

#### **THE GUIDELINES FOR EXCLUDING THE CREAMY LAYER AMONG THE SOCIALLY AND EDUCATIONALLY BACKWARD CLASSES (SEBCs) IN THE STATE OF KERALA FOR THE PURPOSE OF ARTICLE 15(4)**

1. These guidelines may be called "the Scheme for excluding the creamy layer among the SEBCs in the State of Kerala".
2. These guidelines shall come into force with effect from the academic year 2015-16 includible in the KEAM 2015 Prospectus for Professional Degree Courses.
3. The list of 86 castes/communities including their sub-castes under six heads specified in Annexure-XI KEAM Prospectus for the academic year 2014-2015, until a revised list of SEBCs is prepared after proper study, will be the list of SEBCs for whom the creamy layer guideline would apply. Annexure A.
4. The creamy layer criteria fixed for the purpose of Article 16(4) in Annexure-D SCHEDULE to G.O. (P) No.81/09/SCSTDD dated 26<sup>th</sup> September, 2009 (Appendix V), the income limit as modified from time to time and the clarification to the G.O. dated 26.09.2009 issued by the State Government in Circular No.27396/F3/07/SCSTDD dated 14.06.2010 is recommended for adopting and applying for exclusion of socially advanced persons/ sections (creamy layer) among the SEBC communities for the purpose of reservation in admission to Professional Degree Courses under Article 15 (4) also with the following modifications. In Annexure-D SCHEDULE, in column 3 - To whom rule of exclusion will apply - under Category II - Service Category - against B - Group - B/Class II Officers - in (d) and (e) for the words in the brackets "direct recruit or pre thirty five promoted"

the following words, namely, "direct recruit or pre thirty six promoted" in brackets shall be substituted.

Note: This modification is suggested in view of the enhancement of the age of retirement of State Government employees from 55 to 56 as on this date.

5. ₹ 6 lakh or above is fixed as the gross annual income limit for determining the creamy layer among the SEBCs or possessing wealth above the exemption limit as prescribed in the Wealth Tax Act for a period of three consecutive years.

Note: While determining the creamy layer status of any applicant for the purposes of obtaining reservation benefits contemplated under article 15(4) by applying the Income/Wealth Test under category VI in Annexure D of the Government order dated 26.09.2009 (which at present is applicable for the purposes of reservation under article 16(4) only) can be adopted and followed. The KSCBC, in fixing the income limit at ₹ 6 lakh for the purpose of Article 15(4) took into account the exclusion of income from salaries and income from agricultural land in computing the gross annual income. It means that even if income from salaries or income from agriculture land of the parents of any candidate, either separately or taken together, exceeds the income limit fixed under category VI unless there is Other Income which is more than the income limit fixed under category VI he/she does not become a 'creamy layer' ineligible for the reservation benefits under Article 15(4). In other words what is reckoned for the computation of gross annual income limit for such persons is the income from 'Other Sources' only and not any other income. Similarly, the candidate shall not be treated as creamy layer

provided his/her parents do not possess wealth above the exemption limit as prescribed in the Wealth Tax Act for a period of three consecutive years. In effect, in the case of applicants whose parents having income from salary or income from agricultural land when the income considered for fixing the income limit of ₹ 6 lakh it is as good as fixing a substantial amount. This will be sufficient for giving Professional education to their children at least two in number in a reasonable way. Hence adoption of the method of computation of income under the Income/Wealth Test under Category VI of the Schedule to the Government Order dated 26.09.2009 for the purpose of Article 15(4) is an absolute necessity.

6. The criteria for exclusion of creamy layer for reservation to SEBCs in admission to Professional Degree Courses mentioned in the KEAM Prospectus is given in the Schedule attached hereto. The GO (P) No.208/66/Edn dated 02.05.1966 dealt with under para 4 under Recommendation No.1 providing for income criteria will stand modified as above.
7. The clarification to the Government order dated 26.09.2009 issued by the State Government in circular No. 27396/F3/07/SCSTDD dated 14.06.2010 (Appendix V(A)) shall be applied for issue of Non-creamy layer certificate to the eligible SEBCs.
8. The Creamy layer criteria applied to SEBCs shall be applied to OECs as well in the matter of reservation in admission under Article 15 (4).



9. At present sons or daughters of inter caste married couple need not produce the income certificate for claiming SEBC reservation. In other words they are excluded from the income limit fixed in the G.O. dated 02.05.1966. Since the eligibility criteria based solely on income is given a go by and the new creamy layer criteria is introduced for exclusion of socially advanced persons/sections in the SEBC communities the Government Orders issued in their favour cannot stand. As such the KSCBC do not find any reason at present to exclude them from the application of the new creamy layer criteria including the Income/Wealth Test.
10. The form of application for the issue of certificate is shown in Annexure II.
11. Form of certificate to be produced by SEBCs for admission to Professional Degree Courses is shown in Annexure III.
12. The authority to issue the certificate to candidates who do not belong to the creamy layer will be any one of the following Officers:
  - a) District Magistrate/Additional District Magistrate/Collector/ I Class Stipendiary Magistrate/Sub Divisional Magistrate/ Taluk Magistrate/ Executive Magistrate/Extra Assistant Commissioner (not below the rank of I Class Stipendiary Magistrate)
  - b) Chief Presidency Magistrate/Additional Chief Presidency Magistrate/ Presidency Magistrate
  - c) Revenue Officer not below the rank of Tahsildar and
  - d) Sub Divisional Officer of the area where the candidates and or his family normally resides

Creamy layer certificate applied for should be issued or refused, as the case may be within 7 days of the receipt of the application.

*Vajra*  
Section Officer