

49 National Commission for BCs

ESTABLISHMENT OF THE COMMISSION

In the Mandal case¹ judgement (1992), the Supreme Court directed the central government to constitute a permanent statutory body to examine the complaints of underinclusion, over-inclusion or non-inclusion of any class of citizens in the list of backward classes. Accordingly, the National Commission for Backward Classes (NCBC) was set up in 1993².

Later, the 102nd Amendment Act of 2018 conferred a constitutional status on the Commission. For this purpose, the amendment inserted a new Article 338-B in the constitution. Hence, the Commission ceased to be a statutory body and became a constitutional body³.

Further, the scope of functions assigned to the Commission is also enlarged under the new dispensation. This was done in order to safeguard the interests of the socially and educationally backward classes more effectively⁴. In other words, the constitutional status of the new Commission is at par with the National Commission for Scheduled Castes (NCSC) and the National Commission for Scheduled Tribes (NCST).

The Commission consists of a chairperson, a vice-chairperson and three other members. They are appointed by the President by warrant under his hand and seal. Their conditions of service and tenure of office are also determined by the President⁵.

FUNCTIONS OF THE COMMISSION

The functions of the Commission are the following:

- (a) To investigate and monitor all matters relating to the constitutional and other legal safeguards for the socially and educationally backward classes and to evaluate their working.
- (b) To inquire into specific complaints with respect to the deprivation of rights and safeguards of the socially and educationally backward classes.
- (c) To participate and advise on the socioeconomic development of the socially and educationally backward classes and to evaluate the progress of their development under the Union or a state.
- (d) To present to the President, annually and at such other times as it may deem fit, reports upon the working of those safeguards.
- (e) To make recommendations as to the measures that should be taken by the Union or a state for the effective implementation of those safeguards and other measures for the protection, welfare and socio-economic development of the socially and educationally backward classes.
- (f) To discharge such other functions in relation to the protection, welfare, development and advancement of the socially and educationally backward classes as the President may specify.

REPORT OF THE COMMISSION

The Commission presents an annual report to the President. It can also submit a report as and when it thinks necessary.

The President places all such reports before the Parliament, along with a memorandum explaining the action taken on the recommendations made by the Commission. The memorandum should also contain the reasons for the non-acceptance of any of such recommendations.

The President also forwards any report of the Commission pertaining to a state government to the state government. The government places it before the state legislature, along with a memorandum explaining the action taken on the recommendations of the Commission. The memorandum should also contain the reasons for the non-acceptance of any of such recommendations.

POWERS OF THE COMMISSION

The Commission is vested with the power to regulate its own procedure.

The Commission, while investigating any matter or enquiring into any complaint, has all the powers of a civil court trying a suit and in particular in respect of the following matters:

- (a) Summoning and enforcing the attendance of any person from any part of India and examining him on oath
- (b) Requiring the discovery and production of any document
- (c) Receiving evidence on affidavits
- (d) Requisitioning any public record from any court or office
- (e) Issuing summons for the examination of witnesses and documents
- (f) Any other matter which the President may determine

The central government and the state governments are required to consult the Commission on all major policy matters affecting the socially and educationally backward classes.

NOTES AND REFERENCES

1. Indra Sawhney Vs. Union of India (1992).
2. Vide the National Commission for Backward Classes Act, 1993.
3. The National Commission for Backward Classes (Repeal) Act, 2018, repealed the National Commission for Backward Classes Act, 1993.
4. The 102nd Amendment Act of 2018 inserted a new Article 342-A enabling the President to specify the socially and educationally backward classes.
5. Under the Rules, they hold office for a term of three years.