**Subject**:- Application of issuance of OBC(Non Creamy Layer) certificate to applicant TO\_BE\_FILLED S/o TO\_BE\_FILLED -reg.

**Background:-**

It may be noted that TO\_BE\_FILLED S/o TO\_BE\_FILLED Male , 32 years son of Mr. TO\_BE\_FILLED & Mrs. TO\_BE\_FILLED is ordinarily a resident of TO\_BE\_FILLED , UP.

2. The applicant had already filed and had been issued a caste certificate under both Central and State format under Certificate No. **old certificate details if available** TO\_BE\_FILLED dated 02.06.2014

**Current Status:-**

3. It may be noted that the applicant has again applied for issuance of fresh Caste certificate (OBC- Non Creamy Layer) certificate under online application no TO\_BE\_FILLED

4. It is submitted that the applicant belongs to TO\_BE\_FILLED caste which listed as a backward caste under both central and state list circulated under GO #33004/99/10 dated 16 January 2006 under Sl. No. TO\_BE\_FILLED, State- Uttar Pradesh, 9th entry ***(copy placed as F*/A)**

5 Inter-alia it is submitted that applicant’s father TO\_BE\_FILLED is a Group B gazetted officer in UP State Government and applicant’s Mother, TO\_BE\_FILLED is Group C employee of the UP state Government.

6. In light of the above facts it is submitted that vide the OM numbers listed in column 1 following facts in Column 2 are established:-

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| Sr. No. | OM No, Para | Clause | Comments |
| 1. | 36012/22/93-Est, dated 08 September 1993, para 2(a) | In accordance to OM No. 36012/31/90-Estt dated 13.08.90, 27% of the vacancies in civil posts & services under the GoI, through direct recruitment. |  |
| 2 | 36012/22/93-Est, dated 08 September 1993, para 2(c)(i) | The aforesaid reservation shall not apply to persons/sections mentioned in column 3 of the scheduled to this office memorandum | Therefore, column 3 of the schedule states the exclusion criteria from the reservation i.e. acts as criteria for establishment of Creamy layer |
| 3 | 36033/5/2004-Estt.(SCT), dated 14 Oct 2004, **(copy placed as F/B)**para 8 | it is clarified that the creamy layer status of a candidate is **determined on the basis of the status of his parents and not on the basis of his own status or income or on the basis of status or income or on the basis or status or income of his/her spouse**. Therefore, while determining the creamy layer status of a person the status or the income of the candidate himself or of his/her spouse shall not be taken into account. |  |
| 4 | 36012/22/93-Est, dated 08 September 1993, Schedule | Categorization of parental occupation for determining exclusion :-  I. Constitutional Posts: NA  II. Service Category: **Applicable**  III. Armed forces including Paramilitary forces: NA  IV. Professional class and those engaged in trade & Industry: NA  V. A Property Owner-> Agriculture Holdings: **Applicable**  V. B Property Owner-> Plantation: NA  V. C Property Owner-> Buildings in Urban Areas: **Applicable**  VI. Income Wealth Test: Income from other sources( excluding income from Salary & agricultural Land) | II. Service Category: This category is **applicable** for the applicant as both parents are employee of civil services of state. However since no criteria matches the criteria of applicant , i.e. one parent Class B Officer( never promoted to Class A) and other parent Class C employee( never promoted to class B or Class A)- **Hence no rules of exclusion are applicable for the candidate.**  V. A Property Owner-> Agriculture Holdings: **Applicable –** Statutory land ceiling limit in UP- 12.5 acres. Total Land under possession – 2 acres( irrigated ) which is much less than 85% limit of statutory land ceiling limit- **Hence no rules of exclusion are applicable for the candidate.**  V. C Property Owner-> Buildings in Urban Areas: **Applicable -** However, Exempted from wealth tax  as stated on pg 5 of <https://incometaxindia.gov.in/Tutorials/41.%20Wealth_Tax.pdf> - **Hence no rules of exclusion are applicable for the candidate** |
| 5 | 36033/5/2004-Estt.(SCT), dated 14 Oct 2004, para 4 | (x) What is the scope of the explanation, 'Income salaries or agricultural land shall not be clubbed', given below the Income/ Wealth Test? | Under Para 10, In regard to clause (x) of para 4, it is clarified that **while applying the Income/Wealth Test to determine creamy layer status** of any candidate as given in Category-VI of the Schedule to the OM, **income from the salaries and income from the agricultural land shall not be taken into account.** It means that if income from salaries of the parents of any candidate is more than Rs 2.5 lakh per annum, income from agricultural land is more than Rs 2.5 lakh per annum, but income from other sources is less than Rs 2.5 lakh per annum, the **candidate shall not be treated to be falling in creamy layer** on the basis of Income/Wealth Test provided his parent(s) do not possess wealth above the exemption limit as prescribed in the Wealth Tax Act for a period of three consecutive years. |
| 6 | F. No. 36033/2/2018-Estt.(Res.) dated June 8, 2018 **( copy placed as F/C)** | Limit of Income from other sources under Income Wealth Test- 8 lakh |  |

In accordance to the corresponding comments, against each clause of the Criteria determining Creamy layer status, it is established that the applicant TO\_BE\_FILLED son of TO\_BE\_FILLED resident of City TO\_BE\_FILLED district TO\_BE\_FILLED state TO\_BE\_FILLED belongs to the TO\_BE\_FILLED community which is recognized as a backward class by the Government of India for purpose of reservation in services as per orders contained in Department of Personnel and Training Office Memorandum No.36012/22/93-Estt.(SCT) dated 8.9.1993. It is established that the applicant **does not belong to persons/sections (Creamy Layer) mentioned in Column 3 of the Schedule to the above referred Office Memorandum dated 8.9.1993**."