

ELECTION COMMISSION OF INDIA
Nirvachan Sadan, Ashoka Road, New Delhi – 110001.

No.437/6/2006-PLN-III

Dated : 10th May, 2006.

To

The Cabinet Secretary,
Government of India,
Rashtrapati Bhawan,
New Delhi.

Subject:- Quota for other backward classes (OBCs) in Central Government funded educational institutions – regarding.

Sir,

I am directed to refer to the correspondence in the above matter resting with your letter No.1/41/1/2005-Cab, dated 28th April, 2006.

The Commission has considered the replies and information furnished by Shri Arjun Singh, Union Minister for Human Resource Development vide letters dated 9th April, 15th April, and 18th April, 2006. The Commission has also considered the replies of the Cabinet Secretariat vide their letters dated 10th April, 18th April, 20th April and 28th April, 2006. The Commission has also heard Shri Arjun Singh, in person, on 4th May, 2006 as was desired by him in his letter dated nil, received in the Commission on 12th April, 2006. Shri Arjun Singh, however, said he had nothing to add to what he had already stated in his aforesaid replies.

The Commission had noticed from various reports appearing in the electronic media on the afternoon of 5th April, 2006 and in the print media on the morning of 6th April, 2006 and thereafter repeated regularly on both the media that Shri Arjun Singh, Union Minister for Human Resource Development had made an announcement on 5th April, 2006 to

the effect that 27% quota for other backward classes (OBCs) in Central Government funded educational institutions, like, IIMs, IITs and Central Universities, shall be reserved from the coming academic year 2006-2007. On the basis of these reports in the electronic and print media, the Commission was of the view that the above announcement by Shri Arjun Singh was *prima facie* in violation of the Model Code of Conduct which was in force from 1st March, 2006 in the context of the general elections to the Legislative Assemblies of Assam, Kerala, Tamil Nadu, West Bengal and Pondicherry, currently in progress. The Commission, therefore, considered it appropriate to obtain the explanation of Shri Arjun Singh and the Central Government through the Cabinet Secretariat vide references of even number dated 8th April and 12th April, 2006, on the above reports. In his replies dated 9th April, 15th April and 18th April, 2006, Shri Arjun Singh denied having made any announcement in respect of any percentage of reservations in favour of any sections of society. He stated that the Constitution (Ninety-third Amendment) Act, 2005 (notified on 20th January, 2006) had empowered Parliament to make laws for reservation of seats for OBCs in the educational institutions and that the Government in the Ministry of Human Resource Development had initiated steps for implementation of the amended provisions of the Constitution, not only in the Central Government aided educational institutions but also in the State Government aided institutions, by enactment of suitable legislations by Parliament and State Legislatures. He further stated that the question of fixing any percentage of quota for such seats was yet to be decided by the Central Government and that unless a decision was taken by the Union Cabinet and Parliament, the issue could not be termed a concession. He added that the issue was to be considered after the current round of general elections was over in the five States. According to him, the reports in the print and electronic media that he mentioned about 27% quota for OBCs were wrong and should not be given any credence as he never made any such statement. Shri Arjun Singh thus denied having violated the Model Code of Conduct and

added that as the decision to amend the Constitution for the advancement of OBCs in matters of admission was a near unanimous decision of all political parties in Parliament, it did not give any undue advantage to the ruling party.

The Central Government, in their comments dated 10th April, 18th April and 28th April, 2006, have endorsed the version of Shri Arjun Singh and supported him in his contention that he had not violated the provisions of the Model Code of Conduct. The Central Government have also stated that the Cabinet was yet to decide on the percentage of seats to be reserved for OBCs as the Cabinet Note received by the Cabinet Secretariat from the Ministry of Human Resource Development was returned to that Ministry on 3rd April, 2006, with the advice, “*inter alia*, that account be taken of the fact that the election process had already commenced in five States and that the proposal may, therefore, be submitted for consideration of the Cabinet either after consultation with the Election Commission of India or it be pended till the election process was over.” For the record it may be mentioned that the Education Secretary, Ministry of Human Resource Development had made a separate reference on 12th April, 2006, to the Commission seeking its advice whether the Bill could be considered by the Cabinet during the period of operation of the Model Code of Conduct and the Commission has advised him on 20th April, 2006 that it would be desirable, in the interest of free and fair elections, if the consideration of the Bill by the Union Cabinet was deferred till the completion of the elections in five States/Union Territory currently in progress.

Three facts stand out in the whole episode. First, that the Cabinet Secretariat had sent back on 3rd April, 2006, the proposal received from the Ministry of HRD on this issue on the ground that “account be taken of the fact that the election process had already commenced in five States and that the proposal may, therefore, be submitted for consideration of the Cabinet either after consultation with the Election Commission of India

or it be pended till the election process was over.” Second, Shri Arjun Singh did say, rather assured, on 5th April, 2006, that reservation would be effective from the coming academic year i.e., 2006-2007 and would cover Central Institutions. Third, a rash of electronic media reports appeared on 5th April and 6th April, 2006, on this issue which quoted not merely that the Government was contemplating a law but was also giving the percentage of reservations, the institutions which it would cover in its ambit, the timing thereof and attributing these to Shri Arjun Singh.

It would be a case of credulity stretched to its breaking point if one were to attribute all that was reported in the media, other than PTI and the Hindu, to nothing which was said to them but to merely a figment of their imagination. Maybe, Shri Arjun Singh did not specifically mention any percentage of seats to be reserved for the OBCs, but it cannot be gainsaid that his statement, rather assurance, on 5th April, 2006, that the reservations would be effective from the coming academic year did trigger a nationwide debate, and agitation on a highly sensitive issue concerning the whole country, including the people of the five States / Union Territory which were in the thick of elections then.

In the upholding of the Model Code of Conduct the party and persons in power have, for obvious reasons, a higher responsibility and they are expected not only to uphold it but should also be perceived to be so doing. In the instant case, the Commission has come to the sad conclusion that they cannot be perceived to have done so. Aware, as the Commission is, that circumstantial evidence, however good, cannot completely substitute for conclusive proof, the Commission restrains itself from pronouncing an adverse finding of violation of Model Code of Conduct by Shri Arjun Singh. The Commission, however, notes that its notice to the Central Government and Shri Arjun Singh has served its intended purpose of putting restraint on statements by Ministers, both of the Centre as well as of the

States, and by the Governments, which could otherwise have had a further vitiating effect on the conduct of free and fair elections and disturbing the level playing field among the political parties in the election arena.

Yours faithfully,

(A.K.MAJUMDAR)
SECRETARY