

No. 9

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Kindly refer to Chief Minister's D. O. letter No. 257-CM dated 30th September, 1989, regarding the difficulties being experienced by the State Government in the issue of Scheduled Caste/Scheduled Tribe certificates.

2. A large number of persons after migration from Bangladesh (formerly East Pakistan) belonging to Namasudra, Poundra, etc. communities have settled in the States of West Bengal, Orissa, Bihar, Madhya Pradesh, Maharastra and Andhra Pradesh. All these persons were required to get registration certificates from the Transit Camp set up by the Ministry of Rehabilitation after their entering in India. For example, if a person belonging to Namasudra community had obtained registration certificate to that effect after remaining in the Transit Camp set up by the Ministry of Rehabilitation in the State of West Bengal, he will be treated as a Scheduled Caste in relation to the State of West Bengal and for all purposes he will be treated as permanent resident of that State even after his migration to another State. It was obligatory on the part of the refugees from Bangladesh to get themselves first registered in the transit camp set up by the Ministry of Rehabilitation otherwise such entries would not be regularised. In addition to this, they are required to produce citizenship certificates for obtaining caste certificates. The Government of India insist on the above certificates since these persons were not citizens in India when the first Presidential Order i. e. Constitution (Scheduled Caste) Order, 1950 came into force.

3. Regarding the problem being faced by Scheduled Caste/Scheduled Tribe migrants, it may be stated that according to the guidelines issued by this Ministry from time to time, the Scheduled Caste and Scheduled Tribe persons on migration from the State of their origin to another State will not lose their status as Scheduled Castes/Scheduled Tribes, but they will be entitled to the concessions/benefits admissible to the Scheduled Castes and Scheduled Tribes from the States of their origin and not from the States to which they had migrated. The cases of all the Scheduled Caste/Scheduled Tribe persons migrated to the State of West Bengal from other States after the issue of first Presidential Order, therefore, can be decided accordingly.

4. Further, according to Article 341(2) and 342(2) of the Constitution, the Scheduled Castes/Scheduled Tribes are specified in relation to a particular State. The residence contemplated under the various Presidential Orders issued so far, is interpreted as the permanent residence of that locality. Since permanent residence is one of the conditions to confer the benefit of the order and a person cannot claim to be a permanent residence of more than one State. In view of this, determination of ordinary place of residence of a Scheduled Caste/ Scheduled Tribe person for the purpose of issuing a Scheduled Caste/ Scheduled

Tribe certificate to him is absolutely essential. In view of this a person who has migrated from his State of origin to another State after the issue of the Presidential Order cannot be treated an ordinary resident of the later State merely on the ground that he has permanently settled in the later State. However, he can obtain a Scheduled Caste/Scheduled tribe certificate from the State of Migration on the production of a genuine certificate issued to his father by the State of his father's origin. If he does not have any such certificate issued to his parent, a certificate can only be issued by the State/Union Territory from where the person had migrated after enquiry in the normal course.

5. In view of the position explained above, it may be appreciated, if the stipulations of a Registration Certificate, an Indian Citizenship certificate and ordinary place of residence are not followed in the case of persons who had migrated from Bangladesh (Earlier East Pakistan) and from other States of India, there is every possibility that the non- Scheduled Caste/Scheduled Tribe persons will have undue scope to have bogus certificates and corner the benefits meant for genuine Scheduled Castes/Scheduled Tribes.