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High Court Judge (Retd.)

CHAIRMAN

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Dear Sir,

The State Government as per G.O.(MS) No.12/2013/BCDD dated 26.10.2013 have entrusted the Kerala State Commission for Backward Classes, for short the KSCBC, to conduct an independent study on the basis of the principles laid down by the Hon'ble Supreme Court in **Ashoka Kumar Thakur case [(2008) 6 SCC 1]** and to submit a report for evolving a scheme for excluding the creamy layer from the backward classes for reservation in admission to Professional Degree Courses under Article 15(4) of the Constitution of India taking into consideration the socio-economic and educational background of different communities, including the income derived from the family for implementation in the academic year 2014-2015 as directed by the Hon'ble High Court in the common judgement dated 07.08.2013 in W.P. (C) Nos. 29271/12 and 11578/13.

The KSCBC took note of the fact that the eligibility criteria for the SEBC community members to avail the benefit of Mandatory reservation in admission to Professional Degree Courses in the Educational Institutions under the State under Article 15(4) of the Constitution of India is the one fixed in the year 1966 in G.O. (P) No.208/66/Edn dated 2nd May 1966 issued by the State Government based on the recommendations of Justice Kumara Pillai Commission report submitted on 31.12.1965. Though half a Century is not far away no substantial changes are brought to this eligibility criteria both in respect of the caste /communities entitled to the benefit of reservation and in respect of the eligibility criteria except changes brought in the income limit fixed in the order periodically based on fall in money value etc. The vast

changes brought about in the socio-economic and educational field during the last half a century are very significant. The task of the KSCBC, in such circumstances, it was observed, a difficult one.

The KSCBC, on receipt of the said Government order and the copy of the judgment containing the directions mentioned in the G.O., perused the same and found that it will be difficult to conduct the study and submit its report in the manner directed in the judgment within the time frame specified therein. The KSCBC was of the view that substantial time is required for the study and the report. The KSCBC, however prepared and submitted an interim report dated 18.12.2013 to the Government on 19.12.2013, based on a consideration of the principles laid down by the Supreme Court in Ashoka Kumar Thakur's case for implementation in the academic year 2014-2015 itself as an ad hoc measure. Probably due to constraints of time for approval of the KEAM 2014 prospectus the Government did not find it viable to consider the said report. The Government, instead, sought time for implementation of the scheme directed in the judgment of the High Court.

Thereafter, the KSCBC, as a first step, had prepared a questionnaire after discussion with experts in the field and published the same in the leading news papers having circulation throughout Kerala. Besides, individual notices along with the questionnaire were issued to all the members of the Legislative Assembly, the office bearers of the leading SEBC communities, NSS and to other eminent personalities for their views in the matter. The Commission did not have the advantage of the views of any one of the members of the Legislative Assembly or from the leading community organizations. Only a few SEBC community organizations which are socially and educationally very backward had raised their voices in the form of representations and by oral evidence.

The views of the State Government in the matter, after the decision of the Single Bench in the writ petitions, particularly, in view of the stand taken in the counter affidavit filed on behalf of the State by the Secretary to Government, Higher Education Department, was sought for from the Government in the Backward Communities Development Department, the Higher Education Department, the Director of Backward Communities Development Department, the Commissioner for Entrance Examinations etc. Only the Director, Backward Communities Development Department had submitted the views of the Directorate as per communication dated 29.09.2014. It was mentioned in the said communication that the views and the suggestions expressed therein are subject to the policy decision of the Government. The KSCBC sent a copy of the communication containing the views and suggestions expressed by the Director, Backward Communities Development Department to the Government for confirmation as to whether this is also the stand of the State Government. It was addressed to both the Principal Secretary to Government in the Backward Communities Development department and the Higher Education Department. The Additional Chief Secretary to Government in the Higher Education (G) Department as per communication No.34790/G3/2014/H.Edn dated 28.11.2014 received on 09.12.2014 informed the KSCBC that since the Commission has been authorised to conduct an independent study in the matter, Government intervention in the matter is not advisable.

The KSCBC, in spite of so many hazards in proceeding with the study, had resorted to a course which, according to it, may be appropriate in the circumstances to comply with the directions of the High Court regarding determination of the criteria for excluding socially advanced persons/sections among the SEBC communities.

After an in depth study, based on the details gathered from 7,70,000 applications for entrance examination submitted by students belonging to all the castes and communities in Kerala from the year

2009 to 2014, furnished by the Entrance Commissionerate the KSCBC could find out certain important factors relevant for the determination of the creamy layer criteria for the purpose of Article 15(4).

The KSCBC considered the principles laid down by the Supreme Court in Ashoka Kumar Thakur's case and Indra Sawhney case considered therein, the Office Memorandum dated 08.09.1993 of the Central Government containing the creamy layer guidelines for exclusion of socially advanced persons/sections among the SEBCs/OBCs for the purpose of Article 16(4) approved by the Supreme Court, the three Commission Reports rendered in the context of the Kerala situation and G.O. (P) No.208/66/Edn dated 02.05.1966 providing the eligibility criteria for reservation in admission to SEBC communities for Professional Degree Courses in the educational institutions owned or controlled by the State Government. Also considered the views of the community organisations in the representations submitted by them and their oral evidence by way of depositions and other eminent personalities, as also the views expressed by the Director of Backward Communities Development Department. The Commission thereafter had evolved a scheme for excluding the socially advanced persons/sections (creamy layer) among the SEBC communities which is given at the end of the recommendations.

Besides, so many other matters which deserve immediate attention of the government are also recommended in the report.

There may be repetitions, omissions/deficiencies in the report in spite of best efforts for want of sufficient time and non-availability of relevant Government Orders and other materials at our command.

We submit this report for the kind consideration of the Government and for appropriate action as directed by the Hon'ble High Court in the common judgment dated 07.08.2013 in WP (C) Nos.29271/2012 and 11578/2013.

In this context the KSCBC is constrained to bring the following for the kind information of the Government.

The KSCBC is a statutory Commission constituted under section 3 of the KSCBC Act, 1993. It consists of the Chairman and two members appointed/nominated by the Government and the other member is the Secretary in charge of the Backward Communities Development Department Ex-officio. Dr. Asha Thomas IAS is the Member Secretary Ex-officio of the KSCBC. Except on one or two occasions, she did not involve in the study. As such she has declined to be a signatory to this Report.

Dated this the 11th day of December, 2014.

With Best wishes,

(Sd/-)

CHAIRMAN

To

**Sri. Oommen Chandy,
Hon'ble Chief Minister of Kerala.**

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PREFACE

This is the report of the KSCBC evolving a scheme for exclusion of socially advanced persons/sections in the SEBC communities in the State for the purpose of Article 15 (4) of the Constitution of India, prepared and submitted to the Government as ordered in their order dated 26.10.2013, based on the directions of the Hon'ble High Court of Kerala in its common judgment dated 07.08.2013 in two writ petitions.

The KSCBC, in the absence of socio-economic and educational survey data of the castes and communities in Kerala, particularly the SEBC communities after the 1931 census, had to resort to a novel method of survey. The KSCBC, analysed and evaluated the details available in the entrance applications for the period from 2009 to 2014 amounting to 7,70,000 submitted to the Commissioner for Entrance Examinations. On account of the huge data collected and considered for arriving at the socio-economic and educational status of the SEBC communities, the size of the report has become a little voluminous and therefore, for convenience sake and for the purpose of smooth handling the report is arranged in three volumes.

Volume I contains Report, Recommendations, Scheme evolved by the KSCBC and the suggestions for improvement of the Entrance Exam. Volume II contains the Government Order entrusting the study to KSCBC, the judgment of the High Court in which the direction is issued, the interim report submitted to Government, the Tables, various Government Orders issued both for the purposes of Articles 15(4) and 16(4) of the Constitution of India based on the recommendations of Committee/Commissions appointed by Government pursuant to the directions of the

Supreme Court and the High Court, the orders and circulars issued in that regard both by the Central and State Governments. Volume III contains the documents such as newspaper publications, public notice and questionnaire issued by KSCBC to MLAs, MPs and other public servants, community organisations and eminent personalities, the representations received from community organisations and Government departments and the minutes of the sittings held by KSCBC etc.

Hope the Scheme evolved by the KSCBC and the huge data collected from 7,70,000 Entrance applications for KEAM professional degree courses gathered from the database of the Commissioner for Entrance Examination will be of great use, not only for the applicants or to the Communities to which they belong, but also to the Government for improving the conduct of Entrance Examinations.

ACKNOWLEDGEMENTS

The State Government had entrusted the KSCBC with the onerous responsibility of conducting an independent study and to evolve a scheme for exclusion of socially advanced persons/sections (creamy layer) in the SEBC communities based on the principles laid down by the Hon'ble Supreme Court in Ashoka Kumar Thakur case for reservation in admission to Professional Degree Courses and to implement the same in the academic year 2014-2015. Though the scheme could not be prepared and submitted to the Government for implementing it in the academic year 2014-2015, the KSCBC could complete the study and evolve the scheme for submission to the Government for implementation at least in the academic year 2015-2016, only because of the assistance and help rendered by a group of eminent persons as resource persons, the Entrance Commissionerate, the Higher Education Department in the Secretariat, State Central Library, Kerala Legislature Library, Census Directorate and the Directorate of Economics and Statistics Department. The KSCBC expresses its gratitude to all those persons without mentioning their names.

Our thanks are also due to all those who had responded to the notices issued by the KSCBC, made representations and gave oral evidence in the matter.

The KSCBC expresses its extreme gratitude to Sri. P. Praveen, Data Scientist and CEO, Scrolls Tech for assisting the Commission by employing the advanced IT skills in marshalling and codifying the results of the data regarding 7,70,000 applications for Entrance Examinations conducted as per KEAM prospectus issued by the CEE.

The Commission expresses its sincere gratitude to Kerala Statistical Institute for conducting a quick sample survey for the purpose of this study.

Though it is not proper to mention about the services rendered by a Member of the Commission in the matter, the KSCBC would like to record the unstinting and untiring efforts made by Sri. K. John Britto to complete the study in a successful manner. Similarly the efforts made by the Registrar and the staff of the KSCBC are worth mentioning. The KSCBC expresses its gratitude to all of them.

CHAPTER I

PRELIMINARY

In this chapter we incorporated a brief description about Kerala State Commission for Backward Classes, the background of the study, the constitutional provisions governing reservation to backward classes, the relevant judicial pronouncements, present status of reservation in admission to educational institutions covered by Article 15 (4), the devolution of creamy layer principles for exclusion of socially advanced persons/sections from the designated OBCs for the purpose of Article 16 (4), the need for caste based socio-economic survey of the caste and communities in the State of Kerala, the need for revision of SEBC list, the need for change in the existing criteria for the purpose of Article 15 (4) and included the discussion regarding the criteria to be adopted.

1.1 ABOUT KERALA STATE COMMISSION FOR BACKWARD CLASSES AND THE CONSTITUTIONAL GOAL

1.1.1 The Hon'ble Supreme Court of India in its 9 Judges bench decision in Indra Sawhney V. Union of India (1992) Supp 3 SCC 215) (see Para 861 at p 771), popularly known as the MANDAL CASE, directed that the Government of India and each of the State Governments shall constitute a permanent body for entertaining, examining and recommending, up on requests for inclusion and complaints of over inclusion and under inclusion in the lists of other backward classes of citizens and the advice tendered by the Commission shall ordinary be binding up on the Government.

1.1.2 The State Government had, accordingly, enacted the Kerala State Commission for Backward Classes Act, 1993 (Act

11/1993), herein after referred to as 'the KSCBC Act'. The Kerala State Commission for Backward Classes, for short' the KSCBC' is constituted under section 3 thereof. The main function of the KSCBC under section 9(1) of the KSCBC Act is to entertain and examine requests for inclusion of any class of citizens as a backward class in the lists and hear complaints of over inclusion or under inclusion of any backward class in such lists and tender such advice to the Government as it deems appropriate. The advice so tendered by the KSCBC, by virtue of section 9(2) thereof, shall ordinary be binding up on the Government. The 'list' referred to by the Supreme Court in the above direction in *Indra Sawhney case, supra*, and in section 9(1) is List III of the Schedule to Part I of the KS & SSR, 1958-Other Backward Classes in the Kerala State.

1.1.3 This Commission is also the authority to deal with creamy layer matters with respect to OBC communities by virtue of section 5 of the Kerala State Backward Classes (Reservation of Appointments or posts in the services under the State) Act, 1995, for short 'the Reservation Act' and G.O. (Ms) No.7/2007/SCSTDD dated 07.02.2007 (Appendix I & II).

1.1.4 At present Justice G. Sivarajan (Former Judge of the Kerala High Court) is the Chairman and the following persons are members:

1. K. John Britto
2. Mulloorkara Muhammed Ali Saquafi &
3. Dr. Asha Thomas I.A.S., Principal Secretary to Government, Backward Communities Development Department (Ex-officio Member Secretary)

1.1.5 The KSCBC, being the authority to deal with creamy layer matters of the OBC communities for the purpose of Article

16(4) which principles are relevant for the purpose of determining the creamy layer criteria for excluding socially advanced persons/sections among the SEBCs for the purposes of Article 15(4) the State Government by their order G.O. (Ms) No.12/2013/BCDD dated 26.10.2013 (Appendix III) have entrusted the KSCBC with the responsibility to prepare the scheme in the manner directed by the Hon'ble High Court in its common judgment dated 07.08.2013 in WP (C) Nos.29271 of 2012 and 11578 of 2013 (Appendix IV) in a time bound manner for being implemented in the academic year 2014-15.

1.1.6 The Constitutional goal of the founding fathers as could be gathered from the preamble to the Constitution of India is to have a casteless society built on the bed rock of Justice, social, economic and political, Liberty of thought, expression, belief, faith and worship, Equality of status and of opportunity and to promote among them all Fraternity, assuring the dignity of the individual and the unity and integrity of the Nation. The global message of Sree Narayana Guru, a forerunner of the Indian Constitution that, for Men there is only one caste, one religion and one god is apt for application. The concept of equality enshrined in Part III and IV of the Constitution of India embodies the principle of non discrimination and at the same time it obligates the State to take affirmative action for ensuring that unequals (down trodden, oppressed and have-nots) in the society are brought at a level where they can compete with others (haves in the society). Though 65 years have passed on the 26th November 2014 since our Constitution was given to the Nation how far the nation could achieve the goal is the matter for the study here also. This report embodies the result of ascertainment of the socio-economic and educational back ground of the backward classes, particularly, the

socially and educationally backward classes for the purposes of reservation under article 15(4) and (5).

1.1.7 One of the most important inputs required for the Study is the Caste based socio-economic and educational survey details. Unfortunately, even today, for all purposes the orders issued by the Travancore, Cochin, Travancore-Cochin and Kerala Governments based on the caste census of the year 1931 is followed. Though a caste survey was conducted by the Rural Development Department at the instance of the Census Department and the draft of the survey report was published under the caption 'caste survey report' the caste details were not published along with the draft of the survey report. Such details, so far as the castes and communities in Kerala except regarding SC/ST communities, are not available with the Government.

1.1.8 In such a situation, for complying with the directions in the Judgement of the High Court, the KSCBC initially thought of conducting a detailed sample survey for which steps were taken but it was not found viable since it requires sufficient time and money. Both were not available at the command of the KSCBC and the State Government was not in a position to provide the required funds urgently. Therefore, an alternative method was chalked out which initially was found to be impracticable, but later, by using the advanced IT device with the help of experts in the field the details of the Entrance Examination applications for the years 2009 to 2014 totalling 7,70,000 applications were processed within a short period. Results of such examination and study revealed so many alarming features.

1.1.9 Though the views of the MLAs and other public men, community organisations and the government Departments were

sought no valuable suggestions except from a very few worth mentioning could be obtained.

1.1.10 Many of the community organisations which sent statements pursuant to the Questionnaire published in the News papers and in their oral evidence were pleading for adopting and applying the creamy layer criterion fixed in the Government order dated 26.09.2009 issued for the purpose of excluding socially advanced persons/ sections in the OBC communities for the purposes of Article 16(4) pointing out their extreme backwardness-social, economic and educational-and, incidentally making suggestions for arranging coaching classes for preparing the children of SEBC communities who, due to their poor financial position, are unable to send their children at least at the stage of Higher secondary education as done in the case of SC/ST communities for preparing them for Civil service Examinations. Two eminent persons, one Prof. M.K. Sanu, who was the Principal of Maharajas College, Ernakulam and later an Ex-MLA and now a social reformer and the other, Dr. C.K. Ramachandran, who was a reputed Professor of Government Medical College, Calicut for a long time and a reputed public man had offered their opinion.

1.2 BACKGROUND

1.2.1 A few persons, petitioners 3 in number in WP (C) No.29271 of 2012 who are parents of children who intend to apply for admission to MBBS, BDS and Engineering Degree courses and petitioners 10 in number in WP No.11578 of 2013 stated to be applicants for admission to the aforementioned Professional Degree Courses in the educational institutions owned and controlled by the State Government, filed the above two writ petitions in the Kerala High Court. Their grievance is that in view

of the norms for reservation contained in clause 5.4.2 of the Prospectus for admission to Professional Degree Courses for the years 2012 and 2013 approved by the Government and issued by the Commissioner for Entrance Examinations since the annual income of the parents together exceeds ₹ 4.5 lakh, they are not eligible for reservation contemplated under Article 15(4) of the Constitution of India. In the circumstances the petitioners sought for a direction to the Government to implement the creamy layer principle in granting reservation to SEBCs in the matter of admission of students to professional degree courses in accordance with the law laid down by the Supreme Court in *Ashoka Kumar Thakur's case* ((2008) 6 SCC 1).

1.2.2 The Prospectus for admission to the Professional Degree Courses approved by the State Government and issued by the Commissioner for Entrance Examinations for the years 2012 and 2013, *clause 5.4.2* thereof provides for reservation to SEBC communities. The eligibility criteria fixed therein are, (i) the applicant must belong to a community specified in the SEBC list, and (ii) his/her family income from all sources taken together shall not exceed ₹ 4.5 lakh. According to the petitioners, following an income limit for giving benefit of backward class reservation is totally against the principles enunciated by the Supreme Court. In short the petitioners' prayer in the writ petitions was to implement the creamy layer criteria fixed by the State Government in the matter of reservation in appointments or posts in the services under the State contemplated under Article 16(4) of the Constitution of India for reservation in admission to professional courses available to SEBC communities also. The petitioners had produced copy of G.O. (P) No.81/09/SCSTDD dated 26.09.2009 (Appendix V) which contains the creamy layer criteria for

exclusion of socially advanced persons/sections (creamy layer) among the OBCs in the State of Kerala.

1.2.3 The State Government in the counter affidavit filed by respondent No.1 inter alia stated thus:

“The State of Kerala has fixed the income at ₹ 4.5 lakh as the criterion for identifying the creamy layer. A large number of candidates satisfying this criterion have been applying every year for getting admission in reservation quota under socially and educationally backward communities category. The quota of reservation fixed for socially and educationally backward Communities under this criteria is always filled up every year. It is submitted that no shortage of candidates has been reported till date. It is also submitted that no seats has been lapsed till date in this category.

1.2.4 It is submitted that in the judgment in *Ashoka Kumar Thakur's* case, the exclusion of creamy layer of the Backward communities has been discussed widely and found that creamy layer of the backward classes have certainly to be excluded for providing reservation in the Educational Institution, while considering Article 15(5) of the Constitution of India . The State of Kerala has discussed the matter in the light of the judgment and the prevailing circumstances and found that it is a matter of policy decision of the Government. Therefore, this has been taken up for a detailed study and to work out the strategy. The income of the parents, their respective posts in service, the extent of land holdings in the case of agriculturists and their income are to be taken into account in the light of judgment in *Ashoka Kumar Thakur's* case. At the same time, Government has set for itself and adopted the most noble objective to comply with intention of the judgment that the most deserving persons have to be given

reservation, by excluding the creamy layer of the Other Backward Communities. The direction laid down in *Indra Sawhney* case is also taken into account that to fulfil the conditions and to find out fully what is Socially and Educationally Backward Classes, the exclusion of creamy layer is essential". The counter further states in para 10 as follows: "the State Government is fully aware that the non exclusion of creamy layer would make the entire reservation unconstitutional and therefore, it has considered the matter with utmost care and prudence. It cannot be said that adopting income as the basis for Backward Class reservation is wrong, unscientific or illegal. Government have fixed the income criteria for identifying creamy layer among Socially and Educationally Backward Classes".

1.2.5 The High Court, in the above background, considered the question whether the fixation of annual income at ₹ 4.5 lakh by itself is enough for excluding creamy layer among the backward classes. After elaborately considering the provisions of Article 15, particularly sub clauses (4) and (5) thereof and the decisions of the Supreme Court in *Indra Sawhney v. Union of India and others* [(1992) Supp 3 SCC 217] and in *Ashoka Kumar Thakur v. Union of India* [(2008) 6 SCC 1] the Court addressed the question whether the state government while issuing the Prospectus has taken into consideration the judgment of the Supreme Court for excluding creamy layer in the perspective as required to be done by the Supreme Court. *The court observed that there has to be a method for excluding creamy layer and the income derived by family is found to be an insufficient method to be adopted in order to exclude creamy layer who are not socially or educationally backward.*

1.2.6 The court in paragraph 15 of the judgment observed as follows: "The very concept of excluding such creamy layer is to provide reservation to backward classes who are educationally and socially backward. Income or employment of the parents alone cannot be a criterion for deciding social and educational backwardness. There may be instances where a family may have sufficient income but they might be either socially or educationally backward. Such backwardness can happen due to different reasons and that depends upon the socio-economic situation of a locality, or the districts of each State. In respect of backward classes it is definitely for the Government to consider their socio-economic and educational backwardness and try to figure out a method to exclude the creamy layer from reservation so that the most eligible SEBC would get the benefit of reservation. In *Ashoka Kumar Thakur's* case, the Supreme Court had directed the Union and the State Governments to issue appropriate guidelines to identify the "creamy layer" so that SEBCs are properly determined in accordance with the guidelines issued by the Court. Only if, by applying such principle, the candidates are not available, the State was directed to issue appropriate guidelines to effectuate the implementation of the reservation purposefully."

1.2.7 Further, in paragraph 16, it was observed thus: "The petitioners have not highlighted any specific instance to demonstrate as to how the exclusion based on income of a family does not amount to actual exclusion of the creamy layer. What is pointed out is regarding the class of employment the parents were occupying and the income derived thereby. If both the parents are employed, one can always think that they are not economically backward. Probably the parents may or may not be educationally backward, but the question is whether they have the facility to

give professional education to their children. If both the parents are employed, can it be stated that they don't have the facility to provide education to their children. Can it be said that the class of employment is not a factor or is it that the financial position alone matters or is it that the social backwardness is taken care of by excluding such persons whose parents are employed and drawing salary more than a particular limit. It has to enquire whether the socio-economic situation in the State of Kerala is such that even the income of both the parents they are unable to provide professional education to their children. The special circumstance in the State is also to be considered depending upon the requirement for professional education availability of seats etc. One another factor to be looked into the status to be given to children of Non-resident Indians, who may not be showing any income in India and are socially and educationally maintaining very high standards. These are all matters which are required to be considered by the Government in arriving at the principle of excluding creamy layer. It is to avoid a detailed enquiry that the Supreme Court has directed the State Governments to use a certain formula as a template and issue guidelines."

1.2.8 Again in Para 17 it is stated: "As already indicated the Government has fixed the income limit for excluding creamy layer based on the manner in which Government of India had given reservation to backward classes. *There is nothing to indicate that an in depth study had been conducted by the Government in respect of excluding the creamy layer from the reservation (emphasis supplied). Going by the principle laid down by the Supreme Court the Government ought to have considered the socio-economic features of the State not merely on the basis of the income derived by various categories of persons but also their*

socio-economic backwardness and different methods are to be adopted for different categories of employees of the state and other persons involved in different avocation or business, agriculturists, planters etc. Such factors have to be weighed by the Government in order to understand the real scope of backwardness of a particular community and creamy layer principle has to be evolved from the same. Apparently no such study has been conducted in the matter."

1.2.9 In the concluding paragraph the Court ordered that *"the government shall conduct an independent study on the basis of the principles laid down in Ashoka Kumar Thakur's case and shall evolve a Scheme for excluding the creamy layer from the backward classes, taking into consideration the socio-economic and educational background of different communities, including the income derived by the families. Such study may be conducted and shall be implemented during the academic year 2014-15."*

1.3 CONSTITUTIONAL PROVISIONS GOVERNING RESERVATION TO BACKWARD CLASSES

1.3.1 Preamble to the Constitution of India relevant portion reads:

WE, THE PEOPLE OF INDIA, having solemnly resolved to constitute India into a SOVEREIGN SOCIALIST SECULAR DEMOCRATIC REPUBLIC AND TO SECURE TO ALL ITS CITIZENS: JUSTICE, social, economic and political EQUALITY of status and of opportunity; and to promote among them all FRETERNITY assuring the dignity of the individual and the unity and integrity of the nation.

Article 15(4) and (5) read as follows:

(4) Nothing in this article or in clause (2) of article 29 shall prevent the State from making any special provision for the advancement of any socially and educationally backward classes of citizens or for the Scheduled Castes and the Scheduled Tribes.

(5) Nothing in this article or in *sub-clause (g) of clause (1)* of article 19 shall prevent the State from making any special provision, by law, for the advancement of any socially and educationally backward classes of citizens or for the Scheduled Castes or the Scheduled Tribes in so far as such special provisions relate to their admission to educational institutions including private educational institutions, whether aided or unaided by the State, other than the minority educational institutions referred to in *clause (1)* of article 30.

Article 16(4) reads as follows:

(4) Nothing in this article shall prevent the State from making any provision for the reservation of appointments or posts in favour of any backward class of citizens which, in the opinion of the State, is not adequately represented in the services under the State.

21A. Right to education.-The State shall provide free and compulsory education to all children of the age of six to fourteen years in such manner as the State may, by law, determine.

Article 29(2) reads:

(1) No citizen shall be denied admission into any educational institution maintained by the State or receiving aid out of State funds on grounds only of religion, race, caste, language or any of them.

Article 30(1) & (2) reads:

(1) All minorities, whether based on religion or language, shall have the right to establish and administer educational institutions of their choice.

(2) The State shall not, in granting aid to educational institutions, discriminate against any educational institution on the ground that it is under the management of a minority, whether based on religion or language.

Article 46 reads:

Promotion of educational and economic interests of Scheduled Caste, Scheduled Tribes and other weaker section – The State shall promote with special care the educational economic interests of the weaker sections of the people, and, in particular, of the Scheduled Castes and Scheduled Tribes, and shall protect them from social injustice and all forms of exploitation.

Article 340 (1) & (2) read as follows:

(1) The President may by order appoint a Commission consisting of such person as he things fit to investigate the conditions of socially and educationally backward classes within the territory of India and the difficulties under which they labour and to make recommendations as to the steps that should be taken by the Union or any State to remove such difficulties and to improve their condition and as to the grants that should be made for the purpose by the Union or any State and the conditions subject to which such grants should be made and the order appointing such Commission shall define the procedure should be followed by the Commission.

(2) A Commission so appointed shall investigate the matters referred to therein and present to the President a report

setting out the facts as found by them and making such recommendations as they think fit.

1. 4 THE RELEVANT JUDICIAL PRONOUNCEMENTS

1.4.1 The Hon'ble High Court of Kerala in the common judgment dated 07.08.2013 in WP (C) No.29271 of 2012 and 11578 of 2013, as already noted, had directed the State Government to "Conduct an independent study on the basis of the principles laid down in *Ashoka Kumar Thakur's* case and shall evolve a scheme for excluding the Creamy Layer from the backward classes taking into consideration the socio-economic and educational background of different communities, including the income derived by the family".

1.4.2 The KSCBC, in its interim report dated 18.12.2013 (Appendix VI) submitted to the State Government, had exhaustively dealt with the decision rendered by a constitution bench of the Hon'ble Supreme Court in *Ashoka Kumar Thakur v. Union of India* ((2008) 6 SCC 1) and the nine bench historic decision of the Supreme Court in *Indra Sawhney v. Union of India* (1992) Supp 3 SCC 215) and therefore it is not necessary either to state the relevant facts or the principles laid down in those two cases here again, for, it will be a surplusage. That apart, the High Court in the common judgement dated 07.08.2013 which resulted in the Study had quoted the relevant passages and extensively dealt with the principles laid down in the aforesaid two decisions. However, the relevant principles, if found necessary, will be discussed in the appropriate places in this report.

1.5 PRESENT STATUS OF RESERVATION IN ADMISSION TO EDUCATIONAL INSTITUTIONS COVERED BY ARTICLE 15(4)

1.5.1 Reservation in admission to professional degree courses for children belonging to Socially and Educationally Backward Classes (SEBC) in our State is governed by G.O (P) No. 208/66/Edn dated 2nd May 1966 (Appendix VII) issued by Government based on Justice Kumara Pillai Commission Report submitted on 31.12.1965. As per the said Government order the criterion for reservation to SEBC communities is 'that only citizens who are members of families which have an aggregate income (i.e., income of all members in the family from all sources taken together) of less than ₹ 6000/- (Rupees six thousand only) per annum and which belong to the castes and communities mentioned in the Annexure to this G.O. will constitute socially and educationally backward classes for the purposes of Article 15(4). The only modification made is with regard to the income of the family which is being enhanced from time to time taking in to account the fall in money value etc.

1.5.2 In *Shameem v. Medical College, Thiruvananthapuram* (AIR 1975 Ker 131) the validity of G.O. (P) 208/66/Edn dated 02.05.1966 was challenged. It was held that exclusion of persons belonging to socially and educationally backward classes on the basis of higher income was not warranted under Article 15(4). The ceiling limit of ₹ 6000/- in the instant case was held to be arbitrary and irrational. On appeal to a Division Bench of the Kerala High Court in *State of Kerala v. Krishnakumari* (AIR 1976 Ker. 851) reversed the decision of single Bench in *Shameem's* case. On further appeal to the Supreme Court, in *K.S. Jayasree v. State of Kerala* (AIR 1976 SC 2381) the decision of the Kerala High Court in *Krishnakumari's* case was upheld. With the above judicial

backing the Government order dated 02.05.1966 is in full force as on date.

1.5.3 The background for the study by Justice Kumara Pillai Commission and its report is stated in the Government order dated 02.05.1966 thus:

“Government have been reserving seats in the Medical, Engineering (including Polytechnics), Agricultural and Veterinary Colleges and Arts and Science Colleges, for students belonging to the backward classes, Scheduled Castes and Scheduled Tribes. In 1963 the orders regarding reservation of seats in the Medical and Engineering Colleges were challenged through a number of Writ Petitions in the High Court of Kerala. The High Court allowed the writ petitions (1963 KLT 783). Government filed an appeal against the above decision. The appeal was allowed by a Division Bench except in regard to the District-wise distribution and the reservation in favour of children of registered medical practitioners. In the appellate decision, the High Court directed that the State Government should immediately embark upon a fact finding enquiry into matters that are relevant and frame appropriate orders, on an objective basis, in the light of that enquiry.

1.5.4 In pursuance of the above direction, Government appointed a Commission with Sri. G. Kumara Pillai, Retired High Court Justice as Chairman, Saravashri P.S. George, V.K. Krishnankutty and L.M. Pylee as members and Sri. P.K. Abdulla, Education Secretary as Member Secretary on 8th July 1964.”

1.5.5 It is necessary at this stage to advert to the relevant portions of Government order G.O. (P) No.208/66/Edn dated 2nd May, 1966.

1.5.6 The terms of reference to the Commission were:

“The Commission shall enquire into the social and educational condition of the people and report on what sections of the people in the State of Kerala (other than Scheduled Castes and Scheduled Tribes should be treated as Socially and Educationally Backward Classes and therefore, deserving of special treatment by way of reservation of seats in educational institutions. They shall also recommend what the quantum of such reservation should be and the period during which it may remain in force”.

1.5.7 The Commission submitted its report on 31st December 1965. Since the Commission was set up in pursuance of a judicial directive, it is incumbent on the Government to take a very early decision on its report. It was not possible to formulate decision before the academic year 1965-66. Government have examined the report in detail and are pleased to issue the following orders:-

(i) Recommendation No. 1

Only Citizens who are members of families which have an aggregate income (i.e., income of all members in the family from all sources taken together) of less than ₹ 4200 (Rupees four thousand and two hundred) per annum and which belong to the Castes and Communities mentioned in Appendix-VIII constitute socially and educationally backward classes for purpose of Article 15 (4). There is no justification in including in the socially and educationally backward classes of citizens, any group of persons other than those specified in Appendix VIII. By the term '**family**' is meant the appellant seeking admission and his parents. If either of the parents is dead, and a grandparent is the legal guardian such guardian also will include in the term '**family**'.

1.5.8 The reasons stated for making Recommendation No. I in paragraphs 14, 20 and 29 of the Report read as follows:

"14. The income level for the means-cum-caste/community test.

The next question is what is the economic standard to be adopted for the above test. After considering all suggestions on the subject we are of opinion that only members families which have an "aggregate income", i.e., income of all members taken together of less than ₹ 4,200 per annum from all sources (hereinafter referred to as the lower income group) may be taken as economically backward for purposes of the means-cum-caste/community test. By the term "family" we mean in the case of an applicant for admission to an educational institution the applicant and his parents. If either of the parents of the applicant is not alive and his guardian is his grand-parent the term "family" will include such guardian also. We have adopted ₹ 4,200 per annum as the standard because the preponderance of evidence before us was that a monthly income of ₹ 350 would just keep an ordinary middle class family in minimum comfort allowing a small margin for the collegiate education of a child and this evidence derives considerable support from the fact that until the Finance Act of 1965, ₹ 4,200 per annum was the lowest taxable income under the Income Tax Act if the allowances for wife and children also be taken into account. Considering the present wages and value of money, we are of opinion that this amount is neither too high nor too low. Members of families in the State which have an "aggregate income" of ₹ 4,200 and above per annum from all sources put together, cannot be considered to belong to any socially backward class

whatever may be the caste or community to which they belong.

There were representations to the effect that the economic test should be applied without caste and community being taken into account and that all persons below a given economic level (which may be lower than the suggested income of ₹ 4,200 per annum) may be treated as socially backward. We consider that in the present circumstances of the State a wholesale classification of all persons below a certain economic level as socially backward, is not justified. Social backwardness, though to a considerable extent dependent on economic factors, depends also to a large extent in this State upon popular conceptions of the status of a caste or community."

"20. Socially and educationally backward classes specified

Applying the tests explained in the previous Chapter, we have come to the conclusion that citizens in this State who are members of families which have an "aggregate income" (as explained in paragraph 14 above) of less than ₹ 4,200 per annum from all sources and which belong to castes or communities mentioned in Appendix VIII constitute socially and educationally backward classes for purposes of Article 15(4). We consider that generally the members of the castes and communities mentioned in the said Appendix are 'educationally backward and that the lower income groups (i.e., persons who belong to families which have an "aggregate income" of less than ₹ 4,200 per annum) are socially backward also. Hence, the lower income groups of these castes and communities belong in our opinion to classes of citizens who are both socially and educationally backward. Excepting some communities in respect of whom the Commission has not been able to get full and complete

statistics the particulars given in Appendix VIII will show how citizens belonging to each community mentioned therein stand in respect of the application of the tests formulated in Chapter III.

Statistics of persons who have not completed primary education and of income groups were furnished by the Bureau of Economics and Statistics. The figures regarding student population, community-wise, in different standards were supplied by the Education Department. Details as regards traditional occupation and caste disabilities were obtained, from evidence and memoranda received by the Commission, Census Reports, Report of the Backward Classes Commission (Government of India), and reports from officers of the Departments of Land Revenue and Harijan Welfare. It may be mentioned in this context that our conclusions as to the educational backwardness of the classes mentioned in Appendix VIII are borne out also by the statistics relating to admissions in Engineering and Medical Colleges and Polytechnics which are set out in Appendices IX to XIII and to which detailed reference will be made in Chapter V.

Even though the basis of our conclusion in respect of each group of persons included in Appendix VIII will be clear from the details given in the said Appendix and what we have said already we are making below a few additional remarks. Before we do so, we desire to make it clear that although names of castes and communities are mentioned in column (2) of Appendix VIII, socially and educationally backward classes of citizens include only the lower income groups (members of families having an aggregate income of less than ₹ 4,200 per annum) and not all the members of the castes and communities mentioned therein. This fact is emphasised in column (4) of the Appendix, wherein an approximate estimate of the

population of the lower income group in each caste or community, which alone has been included in the socially and educationally backward classes of citizens, is given. This estimate has been made on the basis of the percentage figures relating to income groups given by the Bureau of Economics and Statistics and the population figures for the whole State given in Appendix XIV."

"29. No Group of persons other than those specified in Appendix VIII need be included in the socially and educationally Backward Classes

In our opinion there is no justification in including in the socially and educationally backward classes of citizens any group of persons other than those specified in Appendix VIII."

"The statutory provision enabling the State to reserve seats in educational institutions in favour of the socially and educationally backward classes is contained in Article 15 (4) of the Constitution.

After the Commission collected the data for its report, the cost of living has risen further and the income tax exemption limit has been raised. Having regard to the current cost of maintenance of a student in a professional or technical institution, Government consider that the income limit of ₹ 4,200 suggested by the Commission should appropriately be raised to ₹ 6,000 per annum.

In the circumstances, Government accept the above recommendation subject to the modification that only citizens who are members of families which have an aggregate income (i.e., income of all members in the family from all sources taken together) of less than ₹ 6,000 (Rupees Six thousand only) per annum and which belong to the castes and communities mentioned in the Annexure to this G.O. will constitute socially and educationally backward classes for purposes of Article 15(4).

Applicants who belong to socially and educationally backward classes should produce along with their applications, Community Certificates from any of the authorities who are authorised to issue such certificates and income certificates from a Revenue Officer not below the rank of a Taluk Tahsildar.”

Appendix VIII to the Report is the List Annexed to the Government order dated 02.05.1966. This list in the present form is Annexure XI in the KEAM 2014 Prospectus which is as follows:

List of Socially and Educationally Backward Classes (SEBC)

[See clause 5.4.2 (a)]

- I. Ezhavas including Ezhavas, Thiyyas, Ishuvan, Izhuvan, Illuvan, Billava
- II. Muslims (All sections following Islam)
- III. Latin Catholics
- IV. Other Backward Christians
 - a) SIUC
 - b) Converts from Scheduled Caste to Christianity
- V. Kudumbi
- VI. Other Backward Hindus, i.e.,
 1. Agasa
 2. Arayas including Valan, Mukkuvan, Mukaya, Mogayan, Arayan, Bovies, Kharvi, Nulayan and Arayavathi
 3. Aremahrati
 4. Arya including Dheevera/Dheeveran, Atagara, Devanga, Kaikolan (Sengunthar), Pattarya, Saliyas (Padmasali, Pattusali, Thogatta, Karanibhakatula, Senapathula, Sali, Sale, Karikalabhakulu, Chaliya), Sourashtra, Khatri, Patnukaran, Illathu Pillai, Illa Vellalar, Illathar

5. Bestha
6. Bhandari or Bhondari
7. Boya
8. Boyan
9. Chavalakkaran
10. Chakkala (Chakkala Nair)
11. Devadiga
12. Ezhvathi (Vathi)
13. Ezhuthachan, Kadupattan
14. Gudigara
15. Galada Konkani
16. Ganjam Reddies
17. Gatti
18. Gowda
19. Ganika including Nagavamsom
20. Hegde
21. Hindu Nadar
22. Idiga including Settibalija
23. Jangam
24. Jogi
25. Jhetty
26. Kanisu or Kaniyar – Panicker, Kaniyan, Kanisan,
Kannian, Kani, Ganaka
27. xxxxxxxx
28. Kalarikurup or Kalari Panicker
29. Kerala Muthali
30. Kusavan including Kulala, Kumbaran, Odan, Oudan
(Donga), Odda (Vodde, Vadde, Veddai) Velaan,
Velaans, Velar, Andhra Nair, Anthuru Nair
31. Kalavanthula

32. Kallan including Isanattu Kallar
33. Kabera
34. Korachas
35. Kammalas including Viswakarmala, Karuvan, Kamsalas, Viswakarmas, Pandikammala , Malayal-Kammala Kannan, Moosari, Kalthachan, Kallassari, PerumKollen, Kollan, Thatttan, Pandithattan, Thachan, Asari, Villasana, Vilkurup, Viswabrahmins, Kitara, Chaptegara
36. Kannadiyans
37. Kavuthiyan
38. Kavudiyaru
39. Kelasi or Kalasi Panicker
40. Koppala Velamas
41. Krishnanvaka
42. Kuruba
43. Kurumba
44. Maravan (Maravar)
45. Madivala
46. Maruthuvar
47. Mahratta (Non-Brahmin)
48. Melakudi (Kudiyan)
49. Mogaveera
50. Moili
51. Mukhari
52. Modibanda
53. Muvvari
54. Moniagar
55. Naicken including Tholuva Naicker and Vettilakara Naicker

56. Padyachi (Villayankuppam)
57. Palli
58. Panniyar or Pannayar
59. Parkavakulam (Surithiman, Malayaman, Nathaman, Mooppanar and Nainar)
60. Rajapuri
61. Sakravar (Kavathi)
62. Senaithalaivar, Elavania, Senaikudayam
63. Sadhu Chetty including Telugu Chetty or 24 Manai Telugu Chetty and Wynadan Chetty
64. Tholkolan
65. Thottiyar
66. Uppara (Sagara)
67. Ural Goundan
68. Valaiyan
69. Vada Baliya
70. Vakkaliga
71. Vaduvan (Vadugan)
72. Veerasaivas (Pandaram, Vairavi, Vairagi, Yogeeswar, Matapathi, Yogi)
73. Veluthedathu Nair including Vannathan, Veluthedan and Rajaka
74. Vilakkathala Nair including Vilakkathalavan, Ambattan Pranopakari, Pandithar and Nusuvan
75. Vaniya including Vanika, Vanika Vaisya, Vaisya Chetty, Vanibha Chetty, Ayiravar Nagarathar, Vaniyan
76. Yadava including Kolaya, Ayar, Mayar Maniyani, Eruman, Golla and Kolaries
77. Chakkamar

- 78. Mogers of Kasaragod Taluk
- 79. Maratis of Hosdurg Taluk
- 80. Paravans of Malabar area excluding Kasaragod Taluk
- 81. Peruvannan (Varnavar)

The G.O. dated 2nd May 1966 also deals with reservation of seats for the SEBC communities under six heads for admission to Medical, Engineering (including Polytechnics), agricultural and Veterinary Colleges. Recommendation No.6 of Justice Kumara Pillai Commission provides the percentage in the following manner.

“Recommendation No.6 – In the Medical, Engineering (including Polytechnics), Agricultural and Veterinary Colleges, 25% of the general seats (i.e., seats remaining after the allotment for the managements of private institutions and for special cases such as for the nominees of the Government of India, etc., etc.,) may be reserved for the Socially and Educationally Backward Classes and the seats so reserved may be distributed among the five backward classes as follows:

		<i>Per cent</i>
(i)	Ezhavas	- 9
(ii)	Muslims	- 8
(iii)	Latin Catholics other than Anglo-Indians	- 2
(iv)	Other Backward Christians Including S.I.U.C. and convert To Christianity from SCs	- 1
(v)	Other Backward Hindus	- 5
Total		----- 25 ====”

Almost 48 years have passed since Justice Kumara Pillai Commission's Report. The entire educational scenario has changed by this time. The number of educational institutions mostly in Private sector has increased considerably. The expenses to be incurred for giving education in the professional courses had increased abnormally.

Clause 4 of KEAM 2014 Prospectus for admission to Professional Degree Courses provides for reservation of seats for various courses. Clause 4.1.5 dealing with mandatory reservation reads: "Leaving the seats set apart for All India Quota, Government of India Nominees, Special reservations, Persons with Disabilities and Management Quota, the remaining Government seats for each course in Govt./Aided/KAU/KVASU/KUFOS Colleges will be distributed as per the mandatory reservation principle as contemplated in G.O.(P) 208/66/Edn dated 02.05.1996, G.O.(Ms) No.95/08/SCSTDD dated 06.10.2008 and as modified from time to time.

The percentage break-up of seats as per mandatory reservation is shown as follows:

(A)	State Merit (SM)	- 64%
(B)	Socially and Educationally Backward Classes (SEBC)	- 26%
	a. Ezhava (EZ)	- 9%
	b. Muslim (MU)	- 8%
	c. Other Backward Hindu (BH)	- 5%
	d. Latin Catholic (LC)	- 2%
	e. Other Backward Christian (BX)	- 1%
	f. Kudumbi (KU)	- 1%
(C)	Scheduled Castes & Scheduled Tribes	- 10%
	a. Scheduled Castes (SC)	- 8%
	b. Scheduled Tribes (ST)	- 2%

1.5.9 The KSCBC, on a perusal of various sub clause of Clause 5 find that reservation in admission to Professional degree courses are given to OECs, children of inter-caste married couple, Anglo-Indians etc. which, prima facie do not accord with the scheme of reservation contemplated in G.O.(P) No.208/66/Edn dated 02.05.1966.

1.6 DEVOLUTION OF CREAMY LAYER PRINCIPLES FOR EXCLUSION OF SOCIALLY ADVANCED PERSONS/SECTIONS FROM THE DESIGNATED OBCS FOR THE PURPOSE OF ARTICLE 16(4)

1.6.1 The Hon'ble Supreme Court in *Indra Sawhney* case supra, in the leading judgement rendered by Jeevan Reddy J. for himself and for M.H. Kania C.J., M.N. Venkatachaliah and A.M. Ahmadi J.J., in paragraphs 790 to 793 at pp 722-725, under the head 'Means – test' and 'Creamy Layer', considered the need for excluding persons/ sections 'far too advanced socially' (which means economically and educationally also) and observed that 'they would be misfits in the class' and 'after excluding them alone, would the class be a compact class and 'such exclusion benefits the truly backward.' It was also observed that "the basis of exclusion should not merely be economic, unless, of course, the economic advancement is so high that it necessarily means social advancement". Certain illustrations for guidance in the matter of determining the creamy layer criteria were also suggested. In Para 793 the Supreme Court directed "the Government of India to specify the basis of exclusion- whether on the basis of income, extent of holding or otherwise- of 'creamy layer'. It was also held that 'on such specification persons falling within the net of exclusionary rule shall cease to

be the members of the Other Backward Classes (covered by the expression 'backward class of citizens') for the purposes of Article 16 (4).'

1.6.2 Following the Supreme court Judgement in *Indra Sawhney* case (supra) the Government of India appointed an expert Committee headed by Justice Ram Nandan Prasad, a former Judge of the Patna High Court to recommend the criteria for exclusion of the Socially advanced persons/sections from the benefit of reservation for Other Backward Classes in civil posts and services under the Government of India. Based on the recommendation of the Expert Committee Government of India issued Office Memorandum No.36012/22/93-Estt. (SCT) dated 8th September, 1993 (Appendix VIII). Schedule to the OM, item 2 gives the description of category and item 3 specifies to whom rule of exclusion will apply. Six categories are specified- i) Constitutional Posts, ii) Service Category, iii) Armed Forces, iv) Professional class and those engaged in Trade and Industry, v) Property owners and vi) Income/Wealth Test.

1.6.3 The Office Memorandum dated 08.09.1993 containing the Creamy Layer guideline was approved by the Supreme Court in *Ashoka Kumar Thakur's* case (AIR 1996 SC 75).

1.6.4 The Supreme Court in *Indra Sawhney V. Union of India* supra in Para 861B at pp771-772 observed that the direction given to the Government of India shall not apply to States where the reservation in favour of backward classes are already in operation and they can continue to operate. It was further ordered that "such States shall however evolve the said criteria within six months from today and apply the same to exclude the socially advanced persons/sections from the designated 'Other Backward Classes'".

1.6.5 The State of Kerala, when contempt proceedings were initiated for non compliance of the directions, passed legislation- The Reservation Act. Sections 3 and 4 of the Reservation Act was to the effect that there were no socially advanced sections in any Backward Classes who had acquired capacity to compete with the Forward Classes and that the Backward Classes in the State are not adequately represented in the services under the State and they continue to be entitled for reservation under Article 16(4) of the Constitution of India. The validity of this Act was challenged by the N.S.S. before the Supreme Court and the Court by order dated 04.11.1996 directed appointment of a High Level Committee to gather information regarding identification of Creamy Layer among OBCs in the State of Kerala. Accordingly, Justice K.J. Joseph, former judge of the Kerala High Court was appointed as Chairman of the High Level Committee. The said Committee submitted its report on 27.05.1997. The guidelines in the Government of India office memorandum dated 08.09.1993 making the six categories classification which was made available to the Committee for its guidance was adopted. Of course, there were variations in content. In the Income/Wealth Test in Category VI there was a major departure, in that, an explanation thereto to the effect that 'income from salaries or agricultural land shall not be clubbed' in arriving at the ceiling limit of rupees one lakh or above under category VI was omitted. The guidelines and criteria fixed by Justice Joseph Committee was held to be reasonable so far as State of Kerala is concerned and it was accepted by the Supreme Court. The Reservation Act under challenge, except section 5 thereof, was held to be unconstitutional. (Indra Sawhney Case II, AIR 2000 SC 498) decided on 13.12.1999. The Supreme Court however permitted

State of Kerala to make such provision as it may deem fit for exclusion of Creamy Layer among Backward Classes in accordance with law and the judgement in Indra Sawhney case, Ashoka Kumar Thakur case etc. The State of Kerala, accordingly, appointed Justice K.K. Narendran, former judge of the Kerala High Court as One Man Commission for suggesting the creamy layer criteria for identifying the creamy layer among the OBCs. In the report submitted by Justice Narendran Commission on 11.04.2000 also the six category criteria was adopted with some modifications but income under category VI-Income/Wealth Test was fixed at ₹ 3 lakh as against the income of ₹ 1 lakh fixed in the report of Justice K.J. Joseph Committee. This report of Justice Narendran Commission was set aside by the Supreme Court in NSS V. State of Kerala ((2007) (2) KLT 77 (SC)) mainly on the ground that the income of ₹ 3 lakh fixed for category VI-Income/ Wealth test was not based on scientific data or evidence of experts. The Supreme Court directed appointment of a new Commission for suggesting the criteria for identifying the creamy layer among OBCs after going in to all aspects of the matter. The State, accordingly, by G.O. (P) No.15/07/SCSTDD dated 01.03.2007 appointed a three men Commission with Justice R. Rajendra Babu as its Chairman. Justice Rajendra Babu Commission submitted its report on 30.06.2009. There also, it is seen, the six Category criteria is adopted. It is important to note that the creamy layer criteria fixed by all the three Committee/Commissions were based on the directions of the Supreme Court in Indra Sawhney case for the purpose of excluding the socially advanced persons/sections from the designated OBC list- List III of the Schedule to Part I of the KS & SSR, 1958 for the purpose of Article 16 (4).

1.6.6 Now we have before us three Government orders one, based on the recommendations of the High Level Committee headed by Justice K.J. Joseph and the other two based on the reports of Justices K.K. Narendran and Justice Rajendra Babu Commissions. They are 1) G.O. (P) No. 15/2000/SCSTDD dated 16.02.2000 (Appendix IX), 2) G.O. (P) No.36/2000/SCSTDD dated 27.05.2000 (Appendix X) and 3) G.O. (P) No.81/09/SCSTDD dated 26.09.2009 (Appendix V supra). The Government Order now in force is the one based on the recommendations of Justice Rajendra Babu Commission, that is G.O. (Ms) No.81/09/SCSTDD dated 26.09.2009 which is bodily extracted here, for, we may have to consider the issue before us with reference to this order later.

GOVERNMENT OF KERALA

Abstract

SC/ST DEVELOPMENT DEPARTMENT – IDENTIFICATION OF CREAMY LAYER AMONG OTHER BACKWARD CLASSES – IMPLEMENTATION OF JUSTICE RAJENDRA BABU COMMISSION REPORT – ORDERS ISSUED

SC/ST DEVELOPMENT (F) DEPARTMENT

G.O. (P)NO. 81/09/SCSTDD DATED, THIRUVANANTHAPURAM,

26th September, 2009.

Read:- 1. G.O. (P)No.36/00/SCSTDD dated 27-5-2000.

2. Judgment dated 23-2-2007 of Supreme Court in

W.P. (C) 598/00 filed by NSS.

3. G.O.(P)No.15/07/SCSTDD dated 1-3-2007

4. G.O.(P)No.33/07/SCSTDD dated 7-6-2007

5. G.O.(P)No.46/07/SCSTDD dated 25-8-2007

6. G.O.(P)No.04/08/SCSTDD dated 3-1-2008

7. G.O.(P)No.117/08/SCSTDD dated 19-12-2008.

ORDER

As per the G.O. read as 1st paper above Government had issued orders accepting the recommendations in the report of Justice Narendran Commission by fixing the annual income limit for determining the Creamy Layer among OBCs as ₹ 3.00 lakhs. Nair Service Society filed W.P.(C)No.598/00 in Supreme Court against this order and the Hon'ble Court, as per judgment read as 2nd paper above has set aside the report of Justice Narendran Commission on Creamy Layer among OBCs with direction to the State Government to appoint a fresh Commission who should go in to all the aspects of the Creamy Layer and submit their report.

2. In compliance to the aforesaid direction of the Hon'ble Supreme Court, Government as per G.O. read as 3rd paper above had appointed a Three Men Commission with Justice R.Rajendra Babu (Retd.) as Chairman and as per G.O. read as 4th paper above, fixed the terms of reference of the Commission.

3. Justice Rajendra Babu Commission submitted their interim report on 07.08.2007 and on the basis of that report Government fixed the income limit for determining the Creamy Layer among OBCs under Category VI as ₹ 2.5 lakhs per annum vide G.O. read as 5th paper above as modified vide G.O. read as 6th paper above. In the meantime, Government of India increased the income limit for determining Creamy Layer among OBCs to ₹ 4.5 lakhs. The Commission there upon advised the State Government for fixing the income limit for the determining the Creamy Layer among OBCs as ₹ 4.5 lakhs per annum until the Commission submits its final report. Government issued orders there on accordingly vide G.O. read as 7th paper above. The Commission have submitted their final report on 30.06.2009.

4. Government have carefully considered the report in all respect and hereby accept the full recommendations made by the Commission

to identify the Creamy Layer among Other Backward Classes in Kerala as per the terms of reference and order as follows:

(i) ₹ 4.5 lakhs is fixed as annual income for determining the Creamy Layer among the OBCs.

(ii) The guidelines and the criteria to be adopted for identifying the Creamy Layer made by Justice Rajendra Babu Commission are accepted and shall be observed.

(iii) The existing system of exempting the hereditary occupation/calling and the sub castes of fishermen community as per Annexure B & C in G.O.(P)No.36/00/SCSTDD dated 27.05.2000 from the application of Creamy Layer shall be continued.

5. The guidelines to identify the Creamy Layer among the OBCs mentioned in Para 4(ii) above are given in Annexure I to this Order.

6. The list of Other Backward Classes in Kerala is shown in Annexure-A.

7. The groups of persons with hereditary occupations/ calling in Kerala is given in Annexure-B.

8. The sub castes of fishermen community excluded from the Creamy Layer mentioned in Para 4(ii) of this order is given in Annexure-C.

9. The schedule showing the description of categories of people to whom the rule of exclusion will apply is appended as Annexure D.

10. The form of certificate to be issued will be as shown in Annexure II.

11. The form of application for the issue of the certificate will be as shown in Annexure III.

12. The authority to issue the certificate to candidates who do not belong to the Creamy Layer will be any 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 Tahasildar and
- (d) Sub Divisional Officer of the area where the candidates and or his family normally resides.

13. These orders will apply to all Government Departments/Organizations/Co-operative Societies/Autonomous Bodies etc. to which the principles of reservations are applicable.

By order of the Governor,
Paul Antony
Principal Secretary to Government

ANNEXURE I

THE GUIDELINES TO IDENTIFY THE CREAMY LAYER AMONG THE OTHER BACKWARD CLASSES IN THE STATE OF KERALA.

1. These guidelines are called the guidelines to identify the Creamy Layer among. Other Backward Classes in the State of Kerala.
2. These guidelines shall come into force from a date to be notified by the State Government in the Kerala Gazette. It will be published in the Kerala Gazette immediately for the information of public.
3. These guidelines will not apply to vacancies for which selection has already made by the Kerala Public Commission.
4. The list of 78 castes/communities including sub-caste notified by the State Government as Other Backward Classes in the State of Kerala is appended to these guidelines as Annexure A.
5. The 40 per cent of the vacancies of civil posts and services under the Government of Kerala and its Institutions and Organisations is to be filled up by direct recruitment for the Other Backward Classes notified in Annexure A.
6. Candidates from the Other Backward Classes recruited on the basis of merit in open completion shall not be adjusted against the 40 per cent reservation quota. If any of the rules in the Kerala State and

Subordinate Service Rules 1958 stand in the way, necessary amendment will be made forthwith. The 40% reservation shall not apply to persons/sections mentioned in the column 3 of the schedule attached to these guidelines.

7. The rule of exclusion made mention in the schedule attached to these guidelines will not apply to persons working as artisans or engaged in hereditary occupations, calling and included in Annexure 'B' appended herewith and person/group of persons coming within the definition of the expression "Fishermen Community" in Annexure C appended to these guidelines.
8. The rule of exclusion contained in the Schedule will not apply:-
 - i) To persons in a Backward Class who are traditionally engaged in the hereditary occupations of that Backward Class.
 - ii) Persons belonging to all Backward Classes who are illiterate (not passed 4th Standard)
9. A certificate to the effect that the applicant does not belong to the Creamy Layer in the light of the guidelines and the schedule for identification of Creamy Layer attached herewith as Annexure II. This certificate need only be produced before the Public Service Commission at the time of preparation of the short list/Rank List as the case may be.
10. Application form for the above certificate is appended as Annexure III
11. Annexure A is the list of Other Backward Communities (not extracted here)

Annexure B is the list of Hereditary Occupations/Callings in Kerala excluded from CREAMY LAYER. They are:

1. Blacksmith
2. Mason
3. Carpenter
4. Goldsmith

5. Pottery maker
6. Cobbler
7. Copper & Bronze Smith
8. Kudumbi

Annexure C Sub castes of fishermen community Excluded from the CREAMY LAYER.

1. Araya
2. Arayavathi
3. Mukkuvan
4. Mukaya
5. Mogaveera
6. Valan
7. Bovis
8. Valinjar
9. Paniakel
10. Nulayan
11. Latin Catholic Mukkuva
12. Latin Catholic Anjutikar
13. Distinct sections of Muslim community who are traditionally engaged in fishing operations, as certified by the competent authority.

ANNEXURE D

SCHEDULE

	Description of Category	To whom rule of exclusion will apply
(1)	(2)	(3)
I.	Constitutional Posts	Son (s) and daughter (s) of <ol style="list-style-type: none"> (a) President of India (b) Vice President of India (c) Judges of the Supreme Court and of the High Court's; (d) Chairman & Members of UPSC and of

- the State Public Service Commission;
- Chief Election Commissioner;
- Comptroller & Auditor General of India
- (e) Governors of the States during the tenure of their office;
- (f) Persons holding Constitutional Positions of like nature.

II Service Category

<p>A. Group A/Class I Officers of the All India Central and State Services (Direct Recruits)</p>	<p>Son (s) and daughter (s) of Parents both of whom are Class I Officers;</p> <p>Parents, either of whom is a class I Officer;</p> <p>Parents, both of whom are Class I Officers, but one of them dies or suffers permanent incapacitation;</p> <p>Parents, either of whom is a Class I Officer and such parent or suffers permanent incapacitation and before such death or such incapacitation has had the benefit of employment in any International Organisation like UN, IMF, World Bank etc., for a period of not less than 5 years.</p> <p>both of whom are Class I Officers die or suffer permanent incapacitation and before such death or such incapacitation of the both; either of them has had the benefit of employment in any International Organisation like UN, IMF, World Bank etc., for a period of not less than 5 years.</p>
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Provided that the rule of exclusion
Shall not apply in the following case;
Sons and daughters of parents either of
whom are Class I Officers and such parent
(s) dies/die or suffer permanent
incapacitation.

B. Group B/Class II Officers Son (s) daughter (s) of
of the Central and State
Services (Direct Recruitment)

- a) Parents both of whom are Class I Officers.
- b) Parents of whom only the husband is a Class II Officer and he gets into Class I at the age of 35 or earlier.
- c) Parents, both of whom are Class II Officers and one of them dies or suffers permanent incapacitation and either one of them has had the benefit of employment in any International Organisation like UN, IMF, World Bank etc., for a period of not less than 5 years before such death or permanent incapacitation.
- (d) Parents of whom the husband is a Class I Officer (direct recruit or pre thirty five promoted) and the wife is a Class II Officer and the wife dies: or suffers permanent incapacitation; and
- (e) Parents of whom the wife is a Class I Officer (Direct Recruit or pre thirty five promoted) and the husband is a Class

II Officer and the husband dies or suffers permanent incapacitation:

Provided that the rule of exclusion shall not apply in the following cases

:

Son (s) and daughter (s) of

- (a) Parents both whom are Class II Officers and one of them dies or suffers permanent incapacitation.
- (b) Parents both of whom are class II officers and both of them die or suffer permanent incapacitation, even though either of them has had the benefit of employment in any International Organisation like UN, IMF, World Bank etc., for a period of not less than 5 years before their death or permanent incapacitation.

C. Employees in Public Sector Undertakings, etc.

The Criteria enumerated in A & B above in this Category will apply *mutatis mutandis* to officers holding equivalent or comparable posts in PSUs, Banks, Insurance Organisations and Universities etc

And also equivalent or comparable posts and positions under private employment.

III. Armed Forces including Para Military Forces

Sons (s) and daughter (s) of parents Either or both of whom is or are in

(Persons holding civil posts are not included)

the rank of Colonel and above in the Army and to equivalent posts in the Navy and The Air Forces and the Para
Provided that:-

- (i) If the wife of an Armed forces (i.e., the category under consideration) the rule of exclusion will apply only when she herself has reached the rank of Colonel;
- (ii) The service ranks below Colonel of husband and wife shall not be clubbed together;
- (iii) If the wife an officer in the Armed Forces is in any civil employment, this will not be taken into account for applying the rule exclusion unless she falls in the service category under item No. II in which case the criteria and conditions enumerated therein will apply to her independently.

IV. Professional Class and those engaged in trade and Industry. Criteria specified against

Category VI will apply

1. Persons engaged in profession as a doctor, lawyer, chartered accountant, income tax consultant financial or management consultant,

civil surgeon, engineer, architect,
computer specialist, film artists and
other film professional, author,
playwright, sports person, sports
professional, media professional or
any other vocations of like status.

(2) Persons engaged in trade
Business and industry

Criteria specified against
Category Vi will apply:

Explanation: (i) Where the husband is
in Some profession and the wife is in
a Class II or lower grade
employment, the
Income/wealth test will apply only on
the basis of the husband's income.

(ii) If the wife is in any profession and
the husband is in employment in a
Class II or lower grade post, then
Income/wealth criterion will apply
only on the basis of the wife's
income and the husband's income
will not be clubbed with it.

V. Property Owners
(A) Agricultural holdings
and plantations

Son(s) and Daughter(s) of
Person/Persons/family having 5
hectares or more of agricultural
holdings/plantations.

Explanation:- Family includes
Father, Mother and Minor
children.

Criteria specified in Category VI below will apply.

(B) Vacant land and/or Buildings in urban areas or urban agglomerations.

Explanation:- Building may be used for residential, industrial or commercial purposes and the like or two or more such purposes.

VI. Income/Wealth Test

Son(s) and Daughter(s) of

- (a) Persons having gross annual income of ₹ 4.5 lakhs or above or possessing wealth above the exemption limit as prescribed in the Wealth Tax Act for a period of three consecutive years.
- (b) Persons in Categories I, II, III and V A who are not disentitled to the benefit of reservation but have income from other sources of wealth which will bring them within the income/wealth criteria mentioned in (a) above.

Explanation:-(i) Income from salaries or agricultural land shall not be clubbed;

- (ii) The income criteria in terms of rupee will be modified taking into account the change in its value every three years. If the situation, however, so demands, the Interregnum may be less.

Note:- The Income/wealth test governs Categories IV, VB and others covered under VI as stated earlier. For the remaining categories, namely I, II, III and VA, specific criteria have been laid down; however, if in these categories, any person, who is not disentitled to the benefit of reservation has income from other source or wealth, which will bring him within the criterion under item No. VI, then he shall be disentitled to reservation, in case his income without clubbing his income from salaries or agricultural land or his wealth is in excess of cut-off point prescribed under the income/wealth criteria. This note is for the guidance of the Revenue authorities for issuing the Creamy Layer Certificate.

Explanation:- Wherever the expression "permanent incapacitation" occur in this schedule, it shall mean incapacitation which results in putting an officer out of service.

1.7 THE NEED FOR CASTE BASED SOCIO-ECONOMIC SURVEY OF THE CASTES AND COMMUNITIES IN THE STATE OF KERALA

1.7.1 The KSCBC, for discharge of its functions under Section 9 and 11 of the KSCBC Act requested the State Government as early as in 1974 for conducting a socio-economic survey which was ordered by the Government under the caption Socio-Economic Survey 1995. Though such a survey was organized and

started, due to objections from major OBC communities it was suspended, later resurrected and finally cancelled. Later, due to the persuasion of the KSCBC the Government again issued orders for survey of the backward communities in the State in the year 2007 and the scope of the survey was slightly modified later in 2007 itself. Though every step for conducting such a survey was finalised by the Government including formulating and finalising the questionnaire for the field survey the State Planning Commission headed by the Chief Minister decided to defer the survey to the financial year 2011-2012. However nothing happened. This, probably, was in view of a decision taken by the Central Government to make the 2011 census a caste based survey. Recently the Central Government in the Census department through its nodal department – Rural Development department had conducted a caste survey in the state. Though a draft of the caste survey report was published for the objection, if any, of the public, the caste details were not published.

1.7.2 Caste based Socio-Economic Survey of the castes and communities was last conducted only in the census for the year 1931. Though a caste based Socio-Economic Survey is stated to have been conducted in the State at the instance of the Census Department and draft report is prepared by the Rural Development Department at the instance of the Census Department the caste details were not published in draft form for objection, if any, of the public and it is understood that it will not be published in the near future.

1.7.3 The recent decision of the Supreme Court reported in the news papers would show that the Supreme Court had set aside two judgments of the Madras High Court directing the Census department to conduct a caste based survey on the

ground that it is the prerogative of the Central Government to decide whether a caste based survey can be taken as a policy decision having regard to its repercussion on the unity of the nation. The KSCBC did not have the benefit of perusing either the decisions of the Madras High Court or of the Supreme Court in this regard. However, having regard to the fact that reservation contemplated under Articles 15(4) and 16(4) to the citizens of India is solely based on caste, though the population details of each caste and community unlike in the case of SC/ST for election purposes is not a mandatory requirement, in order to have a clear idea of the socio-educational and economic conditions of all the castes and communities in India necessarily a caste based survey has to be taken. In fact, the Government also felt that such a survey is required and that is why they have arranged a caste base survey in the State through the census department. The only problem is that without disclosing the caste and communities the caste based survey serves no purpose either for Article 15(4) or for Article 16(4). The Central Government, according to KSCBC, have to publish the caste details gathered by them in the survey conducted in Kerala without further delay.

1.7.4 One another important factor relevant in the context of determining the total income of the parents of an applicant the eligibility criteria fixed in G.O. (P) No.208/66 Edn dated 02.05.1966 is "members of families which have an aggregate income (i.e., income of all members in the family from all sources taken together) of less than ₹6,000/- (Rupees Six thousand only) per annum". In the creamy layer criteria fixed in the Government Order dated 26.09.2009 for the purpose of Article 16(4) category VI – Income/Wealth Test what is taken into account is the gross annual income of the parents of the applicants alone and that too

by virtue of item 1 of the first explanation thereto income from salaries or agricultural income shall not be clubbed along with other income. Therefore the effect of the existing eligibility criteria fixed in the G.O. dated 02.05.1966 for grant of reservation to SEBC communities for the purpose of Article 15(4) and the effect of implementation of the creamy layer criteria fixed in the G.O. dated 26.09.2009 for the purpose of Article 16(4) and its merits and demerits are also matters which are germane for the enquiry.

1.8 NEED FOR REVISION OF SEBC LIST

1.8.1 The existing SEBC list is the one prepared by Justice Kumara Pillai Commission which is Annexure-VIII to the said report. This is accepted by the State Government in G.O.(P) No.208/66/Edn dated 02.05.1966 and shown as Annexure to the said order. This list classifies the SEBC communities under five heads I- Ezhavas and its sub castes, II – Muslims all sections following Islam, III – Latin Catholics other than Anglo-Indians, IV – Other Backward Christians (a) S.I.U.C., (b) Converts from Scheduled Castes to Christianity and V - Other Backward Hindus 92 in number. However, clause 5.4.2 (a) and the SEBC list published in the prospectus of KEAM 2012, 13 and 14, Annexure XI thereto mentions, besides G.O. dated 02.05.1966, two other Government orders G.O.(Ms) No.95/08/SCSTDD dated 06.10.2008 and G.O.(Ms) No.58/2012/SCSTDD dated 16.04.2012. It is seen that Kudumbi community, item 27 is taken out from the Other Backward Hindus and shown under V. The OBH communities are seen reduced from 92 in the original list to 81. Except that Kudumbi, an OBH community is taken out and shown under-V reason for omission of 11 communities from the said group is not

stated. Investigation conducted by the KSCBC based on the particulars available in the applications for admission to Professional Degree Courses submitted to the Entrance Commissioner for the years 2009 to 2014 would reveal that some more communities in the SEBC list appended to the prospectus have also gone out either by way of their inclusion in the SC/ST list or for the reason that those communities do not exist now in the State of Kerala.

1.8.2 It is relevant in this context to advert to the observations of the Supreme Court in Ashoka Kumar Thakur's case supra with reference to the definition of Backward Classes in Section 2(g) of Act 5 of 2007 at page 526 (para 234) that 'These writ petitions are disposed of in light of the above findings, and the "Other Backward Classes" defined in Section 2(g) of Act 5 of 2007 is to be read as "Socially and Educationally Backward Classes" other than Scheduled Caste and Scheduled Tribes, determined as "Other Backward Classes" by the Central Government and if such determination is with reference to caste, it shall exclude "creamy layer" from among such caste'. In view of the above observations the Government of India was called upon to determine the SEBC community for the purpose of exclusion of 'creamy layer'. The Government of India, Ministry of Human Resource Development Department of Higher Education passed a resolution No.F.1-1/2005-U.IA/846 dated 20th April, 2008 (Appendix XI) published in Part-I Section-I of the Gazette of India considered the need for preparation of a fresh list of SEBCs when the Central OBC list prepared and published based on a consideration of the recommendations of the Mandal Commission, OM No.36012/31/90-Estt.(SCT) dated 13.08.1990 of the Ministry of Personnel, Public Grievances & Pensions (Department of

Personnel and Training) observed that 'the identification and listing of SEBC was for all purposes, of Articles including those under Articles 15(4), 16(4) of the Constitution and purposes of all other social justice measures which emerge from the Constitution mandate of equality as well as the removal of inequality, including social inequality; and that this was always the intention of the Govt. of India, and it was only, as an initial step ('at the outset'), in the situation and context then existing, that reservation under Article 16(4) was taken up, and this should not be misconstrued or misinterpreted to mean that the Central List of SEBCs were intended for the purpose of only Article 16(4). It is also observed that it is not the practice of the Govt. of India or the State Government, nor is it practical to identify and list SEBC/OBC or any other category in need of social justice for each purpose separately. It is also observed that in the case of SEBC the Supreme Court judgment which specifically mentions that the State List of SEBC/OBC were prepared both for the purposes of Article 16(4) as well as Article 15(4), and in the Indian Social reality every genuine socially backward class is also an educationally backward class and it has been pointed out by the Supreme Court in the aforesaid judgment that in the Indian context social backwardness leads to educational backwardness. According to the Central Government no public purpose is served by identifying and listing SEBC for each purpose each time separately thereby loosing time. Referring to the aforesaid situation it was observed that it is clear that the SEBC/OBC referred to in the C.E.I. Act (Act 5 of 2007) have already been determined for each and every purpose currently in operation as well as those that may be undertaken from time to time in future, including for the purposes of the C.E.I. Act. There is also a

reference to the effect that the Central List of SEBCs/OBCs, as modified from time to time on the advice of the NCBC, adequately reflect the various classes of population comprising the SEBC/OBC for the purpose of public policy decisions as to their welfare by the Central Government for the purposes of reservation of appointments or posts in favour of any backward classes of citizens under clause (4) of Article 16 of the Constitution of India, as well as for the purpose of advancement of Socially and Educationally Backward Classes as provided under clause (4) of Article 15 thereof in several States which have similar State List as mentioned above. The Office Memorandum finally orders thus: "now therefore, the Government of India, by way of clarification, re-confirms that the above mentioned Central List of SEBCs/OBCs are and have always been for all purposes including reservation in admission to educational institutions as elucidated above, and hereby notifies and adopts the Central List of SEBCs/OBCs notified state-wise from time to time by the Ministry of Welfare/Social Justice & Empowerment, subject to such modifications as may be made therein from time to time by that Ministry, excluding, in compliance with the directions of the Supreme Court of India dated 10-4-2008 in W.P.(Civil) No.265 and other related writ petitions, the Socially Advanced Persons/Sections (commonly referred to as the 'creamy layer') in accordance with OM No.36012/22/93-Estt (SCT), dated 08.09.1993 of the Ministry of Personnel, Public Grievances & Pensions (Department of Personnel and Training) as amended by O.M. No.36033/3/2004-Estt(Res) dated 9th March 2004 and as may be modified that Ministry from time to time as applicable for the purposes of implementing reservation in admission to Central Educational Institutions as defined in the CEI Act 2006." Below that there is an order as

follows: "Ordered that a copy of the resolution be communicated to all the State Governments, Union Territory Administrations, Ministries/Departments of the Government of India, statutory bodies, responsible for the maintenance or determination of standards of education, and all Central Educational Institutions under the purview of the Central Educational Institutions (reservation in admissions) Act, 2006 (No.5 of 2007)."

1.8.3 In Para 13 of the interim report submitted to Government the KSCBC noted that, unlike in the Centre and in the other States, in the matter of reservation to the backward classes under Articles 15(4) and 16(4) there are two lists (i) the State OBC list – List III – Other Backward Classes in the Kerala state – of the Schedule to Part-I of the KS & SSR, 1958 for the purposes of reservation in appointments or posts in the services under the State Article 16(4) and (ii) the SEBC list annexed to G.O. (P) No.208/66/Edn dated 02.05.1966 for reservation of seats in admission to educational institutions owned or controlled by the State other than minority institutions Article15(4). It was also noted that for the purposes of reservation to backward classes in appointments or posts in the civil services under the Government of India article 16(4) and for reservation to SEBC communities in admission to educational institutions contemplated under Article 15(4) there is only one list – the Central OBC list, State-wise prepared by the Government of India based on the recommendations of Mandal Commission. With respect to this, in Para 53 of the interim report, it was noticed that the communities included in the two lists, to some extent, vary; all the OBC communities are not there in the SEBC list but new communities are included, which is a matter for consideration in the final order to be issued based on the study report.

1.8.4 KSCBC had come across various situations such as inconsistencies in the SEBC list; benefit of reservation under Article 15(4) given to communities which are specifically excluded by Justice Kumara Pillai Commission in its report; children of inter-caste marriages, members of OEC communities etc. in variance with the eligibility criteria fixed in G.O. dated 02.05.1966. It is also seen that with reference to G.O. (Ms) No.10/2014/BCDD dated 23.05.2014 clarification is sought by the Commissioner for Entrance Examinations in his letter No.CEE/4848/2013/KEAM/2014-T.A1 dated 30.05.2014 regarding its implementation. So many other defects, apart from what we have noted herein above, are also there which certainly warrants a revision of the SEBC list. Though we have noticed so many circumstances for revising the SEBC list, having regard to the implications/impact of a revision of the list on various communities both backward and the present forward communities, such a course can be adopted only by taking all those communities into confidence by affording reasonable opportunity and a fair hearing to them which requires more time. Hence, we are not endeavoring to such an effort in this report. However this is a matter which requires immediate attention of the Government and steps have to be taken to revise the SEBC list considering all the circumstances mentioned above through a study by competent authorities.

1.9 THE NEED FOR CHANGE IN THE EXISTING CRITERIA FOR THE PURPOSES OF ARTICLE 15(4)

1.9.1 Now, as already noted, so far as reservation in admission of SEBC communities for Professional Degree Courses conducted as per the KEAM prospectus approved by the Government of Kerala every year the eligibility criteria other than

that the applicant must belong to a community listed as SEBC community prepared by Justice Kumara Pillai Commission and accepted by the Government in G.O. (P) No. 208/1966/Edn dated 02.05.1966, is the income limit which says the income of the family from all sources together shall not exceed ₹ 6000/- per year. Of course, this income limit is raised periodically taking in to account the fall in money value etc. The income limit so raised from 2009 to 2013 was ₹ 4.5 lakh for a year. This is the income limit fixed by Justice Rajendra Babu Commission evidenced by G.O. (P) No. 81/2009/SCSTDD dated 26.09.2009 under category VI-Income/wealth Test for the purpose of Article 16(4). This income limit was adopted in modification of the relevant clause in G.O. (P) No. 208/66 dated 02.05.1966 for educational purposes also. Again the Central Government, based on the recommendations of the National Commission on reference made by the Central Government as mandated under the explanation to category VI – Income/ Wealth Test, had raised the income limit from ₹ 4.5 lakh to ₹ 6 lakh. The State Government by G.O. (Ms) No.5/2014/BCDD dated 31.01.2014 had adopted this figure of ₹ 6 lakh to category VI – Income/Wealth Test in G.O. (P) No.81/2009/SCSTDD dated 26.09.2009. By G.O. (Ms) No.3/2014/BCDD dated 09.01.2014 (Appendix XII) ₹ 6 lakh was adopted for the relevant clause in G.O. (P) No.208/66/Edn dated 02.05.1966 also. This is the position so far as the eligibility criterion for reservation to SEBCs for admission to Professional Degree courses in the educational Institutions under the Government of Kerala and aided institutions other than Minority institutions coming under article 30 of the Constitution of India.

1.9.2 The decision of the Supreme Court in Indra Sawhney case [supra] had made a departure from the eligibility criteria for

reservation to SEBC/OBC communities for appointments or posts in the Civil services under the Central Government under Article 16(4). The Creamy layer criteria fixed by the Central Government as directed by the Supreme Court in Indra Sawhney case supra is contained in the office Memorandum dated 08.09.1993 issued by the Central Government. This was approved by the Supreme Court and is in force even today for excluding the socially advanced persons/ sections (creamy layer) in the SEBC/OBC communities for Article 16(4). This, as we have already noted, with certain modifications to suit the Kerala conditions, has been adopted and applied in G.O. (P) No. 81/2009/SCSTDD dated 26.09.2009 for Article 16(4).

1.9.3 Even after the decision of the Supreme Court in Indra Sawhney case rendered on 16.11.1992 and creamy layer criteria fixed on 08.09.1993, though the law laid by the Supreme Court is the Law of the Land, (vide Article 141 of the Constitution of India) the State Government did not consider the need for revising the eligibility criteria fixed in G.O. (P) No.208/66/Edn dated 02.05.1966 i.e., solely based on income.

1.9.4 The principles laid down by the Supreme Court in Indra Sawhney case is that wherever reservation is provided to a backward class based on caste the socially advanced persons/sections (creamy layer) among them have to be excluded so as to ensure that the reservation benefits go to the really deserving among them. Though the decision is rendered in the context of reservation under article 16(4) the above dictum is applicable in all cases where reservation to backward classes is made based on caste. This no longer is a debatable issue.

1.9.5 Parliamentary amendment was made to Article 15(5) making a specific provision enabling the Central and State

Governments, by law, to make special provision for reservation to socially and educationally backward classes in admission to educational institutions other than minority institutions contemplated under Article 30 (1) of the Constitution of India. The Central Government, accordingly, passed the Central Educational Institutions (Reservation in Admission) Act, 2006 (No. 5 of 2007) providing for 27% reservation to SEBC/OBC communities for admission to Professional Degree Course in the Central government educational institutions. There is a definition of OBC in section 2(g) thereof as follows:

1.9.6 "Other Backward Classes" means the class or classes of citizens who are socially and educationally backward, and are so determined by the Central Government.

1.9.7 Both the Constitutional amendments inserting Article 15(5) and Act 5/07 issued thereunder were challenged in Ashoka Kumar Thakur's case [supra]. The Supreme Court upheld the insertion of Article 15(5) and Act 5/07. The validity of the provision for reservation of seats to SEBC/OBC in unaided self financing institutions under the control of the Central Government was deferred for future consideration. The court, while upholding Act 5/07, after elaborately considering the principles laid down by the larger bench in Indra Sawhney case for excluding the socially advanced persons/sections (creamy layer) from the SEBC/OBC, held that those principles are equally applicable for reservation under Article 15(4) and (5) also. The Court observed that 'to fulfil the conditions and to find out truly what is socially and educationally backward class, the exclusion of "creamy layer" is essential". Consequently, the Supreme Court in Ashoka Kumar Thakur case made a modification to the definition of OBC in

section 2(g) of Act 5/07 by inserting the words "excluding creamy layer".

1.9.8 This necessitated the Supreme Court in that case to consider what should be the parameters for determining the creamy layer. The Supreme Court straight away considered the creamy layer criteria contained in the Office Memorandum dated 08.09.1993 of the Central Government approved by the Supreme Court in the context of Article 16(4). It was bodily incorporated in the leading judgment rendered by Justice K.G. Balakrishnan, Chief Justice and observed in Para 175 at p 509 thus:

"We make it clear that same principle of determining the creamy layer for providing 27% reservation for backward classes for appointment need not be strictly followed in case of reservation envisaged under Article 15(5) of the Constitution. As pointed by Shri Ravivarma Kumar, learned Senior Counsel, if a strict income restriction is made for identifying the "creamy layer", those who are left in the particular caste may not be able to have a sufficient number of candidates for getting admission in the central institutions as per Act 5 of 2007. Government can make a relaxation to some extent so that sufficient number of candidates may be available for the purpose of filling up the 27% reservation. It is for the Union Government and the State Governments to issue appropriate guidelines to identify the "creamy layer" so that SEBC are properly determined in accordance with the guidelines given by this Court. If, even by applying this principle, still the candidates are not available, the State can issue appropriate guidelines to effectuate the implementation of the reservation purposefully."

1.9.9 The submission of the senior counsel noted supra, as seen from para165 at pp 499-500, was "in case the creamy layer

is excluded, the other members of the backward class community would not be in a position to avail the benefit of reservation and the fee structure in many of these Centrally administered institutions is exorbitantly high and the ordinary citizen would not be in a position to afford the payment of fees and thus the very purpose of the reservation would be frustrated.”

1.9.10 Bhandary J. in his separate judgment (Para 415 at pp 639-640) observed thus: “For a valid method of creamy layer exclusion, the Government may use its post-Sawhney criteria as a template [see O.M. of 08.09.1993, Para 2 (c) Column 3, approved by this Court in Ashoka Kumar Thakur ((1995) 5 SCC 403), Para 10]. It is also observed that “this Schedule is a comprehensive attempt to exclude the creamy layer in which income, government posts, occupation and land holdings are taken in to account”. Further, after reproducing the O.M., in Para 417 at p646 it is observed that the O.M. is not comprehensive and that “it should be revised periodically-preferably once in every 5 years in order to ensure that creamy layer criteria take changing circumstances in to account”. The observations in the leading judgment in Para 175 extracted above positively says that the State Government can consider the need for any modification to the criteria fixed in the office memorandum dated 08.09.1993 considering the present social, educational and economic conditions of the SEBCs and to fix the criteria to suit the Kerala situation adopting the six category method employed in the Office Memorandum dated 08.09.1993. This is what is directed to be considered by the High Court in the common judgment dated 08.09.2013 in the Writ petitions.

1.10 DISCUSSION REGARDING THE CRITERIA TO BE ADOPTED

1.10.1 Let us now consider the effect of the eligibility criteria for reservation to SEBCs in admission to Professional Degree courses as per clause 5.4.2 of the KEAM Prospectus for 2012 and 2013. The applicant, apart from being a member of a community enlisted in the SEBC list annexed to G.O (P) No. 208/66/Edn. dated 02.05.1966 (The list prepared by Justice Kumara Pillai Commission and approved by Government) which in the present form is Annexure XI in the Prospectus), the other requirement is the annual family income limit fixed therein which is the basis for excluding the forwards among the SEBCs from the benefit of reservation under Article 15(4) adopted by Government.

1.10.2 In view of the principles laid down by the Supreme Court in Indra Sawhney case (supra) and followed by the Constitution Bench in Ashoka Kumar Case (supra) discussed elaborately under the head 'Need for change in the existing criteria for Article 15(4) in the preceding paragraphs it can no longer be contended that the basis for excluding socially advanced persons/sections in the SEBC/OBC can be based solely on income criteria. The criteria must be based on other considerations such as status, service, extent of holdings and the like also. Now that the six category creamy layer criteria fixed in the Office Memorandum dated 08.09.1993 has been approved by the Supreme Court as the proper method to be adopted for exclusion of creamy layer in the OBC/SEBC communities it is no longer debatable.

1.10.3 The income based eligibility criteria fixed in the Government order G.O. (P) 208/66/Edn dated 02.05.1966 followed in clause 5.4.2 of the Prospectus, in view if the principles

laid down by the Supreme Court in Ashoka Kumar Thakur case supra, has to be altered or modified. Hence the KSCBC finds that the said criteria must be given a go by and a new criteria in the place must be fixed.

1.10.4 Then the question is what should be the criteria for excluding socially advanced persons/ sections (creamy layer) from the SEBC communities in the list appended to G.O.(P) No.208/66/Edn dated 02.05.1966 and shown in Annexure XI in the KEAM Prospectus.

1.10.5 The Constitution Bench of the Supreme Court in Ashoka Kumar case supra has positively held that the central Government O.M. dated 08.09.1993 can safely be used as the creamy layer criteria for exclusion of socially advanced persons/sections in the SEBC for the purpose of Article 15(4) also and the same method was adopted by three Committee/ Commissions appointed for the purpose consistently and the one now in force for the purpose of Article 16(4) is G.O.(Ms) No. 81/2009/SCSTDD dated 26.09.2009. Therefore, the task of the Commission has come down to a search for ascertaining the Socio- economic and educational conditions of the SEBC communities of Kerala keeping in mind the principles laid down by the Supreme Court in Indra Sawhney case and particularly in Ashoka Kumar Thakur case supra. Here it must be noted that the Government order dated 26.09.2009 was issued accepting the recommendations of Justice Rajendra Babu Commission in its report submitted on 30.06.2009. The said report, it is seen, is prepared based on a study of the socio-economic and educational conditions of the OBC communities of the State of Kerala as obtained in 2009. The KSCBC, in this context, notes that the said Commission had highlighted the need for caste based socio-

economic survey data for a proper ascertainment of various relevant matters in the search and for retaining many of the recommendations made by Justice Narendran commission report as such.

1.10.6 So far as reservation contemplated under Article 15(4) to SEBCs in the Kerala State another hurdle, as already noted earlier under the head 'Need for Revision of the SEBC list', i.e., for the purpose of Article 16(4) there is a statutory OBC list and for the purpose of Article 15(4) there is an SEBC list. All the communities in the OBC list are not there in the SEBC list. New communities are also there in the SEBC list. Though the SEBC list-Annexed to the Government order dated 02.05.1966 classifies the communities under five heads and the fifth head-Other Backward Hindus (OBH) contained 92 communities the SEBC list shown as Annexure XI in the KEAM Prospectus for 2012, 2013 and 2014 would show Six heads, the fifth head is a new one for Kudumbi community which was OBH community and the sixth head is OBH. Under the OBH head in Annexure XI there are only 81 communities.

1.10.7 The KSCBC, under the head, 'Need for Revision of the SEBC list', had pointed out the urgent need for making a revision of the SEBC list after a proper study at the earliest. The KSCBC, on a study finds that even in the SEBC list annexed to the 2014 KEAM Prospectus certain communities which are included in the SC/ST list remain in the OBH list also.

1.10.8 The common Judgement dated 07.08.2013 of the High Court in the writ petitions is illuminating in the sense that it properly guides the area of the study to be conducted for evolving

the criteria for exclusion of creamy layer from the SEBCs. The guiding principles may be summarised thus:-

- a. Income or employment of the parents alone cannot be a criteria for deciding social and educational backwardness.
- b. Where a family may have sufficient income but they might be either socially or educationally backward. Such backwardness can happen due to different reasons and that depends upon the Socio-Economic situations of a locality or the district of each State.
- c. In respect of backward classes it is definitely for the Government to consider their socio, economic and educational backwardness and try to figure out a method to exclude the creamy layer from reservation so that the most eligible SEBC would get the benefit of reservation.
- d. In Ashoka Kumar Thakur's case the Supreme Court had directed the Union and the State Governments to issue appropriate guidelines to identify the "Creamy Layer" so that SEBCs, are properly determined in accordance with the guidelines issued by the Court. Only if by applying such principle, the candidates are not available the State was directed to issue appropriate guidelines to effectuate the implementation of the reservation purposefully.
- e. It has to enquire whether the socio-economic situation in the State of Kerala is such that even with the income of both the parents they are unable to provide professional education to their children.
- f. The special circumstance in the State is also to be considered depending upon the requirement for Professional education, availability of seats etc.

- g. The status to be given to children of non-resident Indians, who may not be showing any income in India and are socially and educationally maintaining very high standards has to be looked into.
- h. The Government ought to have considered the socio-economic features of the State not merely on the basis of the income derived by various categories of persons but also their socio-economic backwardness and different methods are to be adopted for different categories of employees of the State and other persons involved in different avocation or business, agriculturists, planters etc. Such factors have to be weighed by the Government in order to understand the real scope of backwardness of a particular community and creamy layer principle has to be evolved from the same.

1.10.9 The Hon'ble High Court in the Judgement dated 07.08.2013 in para 16 inter alia had observed thus: "One another factor to be looked into the status to be given to children of non-resident Indians, who may not be showing any income in India and are socially and educationally maintaining very high standards".

1.10.10 It may be that non-resident Indians are not liable to file income tax returns in respect of the income which they earn abroad under the Income Tax Act. But, so far as, reservation in admission available to SEBC communities are concerned, if the NRIs are interested in sending their children for Professional Degree Courses conducted as per KEAM Prospectus issued by the CEE they are bound by the creamy layer criteria fixed for reservation under Article 15 (4). They are also subject to all the

disciplines of the six category creamy layer criteria without any exception. The apprehension is that they may not show any income in India. They are also bound to show their annual family income, and if they fall under any of categories I, II and III with reference to their status abroad their children will not be eligible for the reservation contemplated under Article 15 (4).

1.10.11 For verification of the income which the parents or any one of them earn abroad they have to apply for and obtain a certificate from the Indian Consulate there showing their occupation, nature of income and the gross annual income etc. and produce it along with the application for non-creamy layer certificate from the village officers concerned which can be accepted as evidence with respect to the matter specified therein.

1.10.12 Here, it must be noted that what is reckoned for the purpose of arriving at the gross annual income under the Income/Wealth Test is the income of the parents from all sources excluding income from salary and income from agricultural lands. Even an NRI can have income from other sources in the State. If, only one of the parents is abroad the income of the spouse also has to be reckoned.

1.10.13 Therefore, it is for the authorities who are authorised to issue non-creamy layer certificate to SEBCs to ensure that children of NRIs furnish all the details required for issuing the non-creamy layer certificates.

CHAPTER II

PROCEDURE FOLLOWED & DISCUSSION OF EVIDENCE BOTH DOCUMENTARY & ORAL

In this Chapter we explained the procedure followed and discussed about the evidence (both documentary and oral) gathered.

2.1 PROCEDURE FOLLOWED

2.1.1 On the basis of the direction of the Hon'ble High Court in its common judgment in W.P (C) No. 29271/12 and 11578/13 the Government entrusted this Commission an independent study to evolve a scheme for identifying the creamy layer among the SEBCs for the reservation to admission in Professional Degree courses.

2.1.2 The KSCBC, for this purpose, has altogether conducted 37 sittings in its office at Thiruvananthapuram, in the Government Guest House at Ernakulam and other places; discussed the matter with resource persons, Heads of Departments and other authorities; questionnaires prepared and published in the News Papers; notices enclosing the questionnaires were sent to all the MLAs and other public servants, eminent personalities in all walks of life including community organisations and wide publicity to the study was given with the help of the Print and visual media.

2.1.3 The gist of some such sittings is given below:

The KSCBC in its 321st sitting held on 30.10.2014 noted that it was in the process of conducting a study regarding the socio-economic condition of OBC communities in Kerala for the purpose of revision of the income limit fixed in category VI – Income/Wealth Test in the Government order dated 26.09.2009

and decided to conduct the study for the purpose of Article 15(4). As a first step, it was decided to call for certain records from the National Commission and the Government to understand the present position of the reservation provided to the SEBCs. From a reading of clause 5.4.2 of the KEAM 2012 and 2013 Prospectus for admission to Professional Degree Courses conducted by the Commissioner for Entrance Examinations it is understood that G.O (P) No. 208/1966/Edn. dated 02.05.1966 issued by the State Government based on the recommendations of Justice Kumara Pillai Commission provides the eligibly conditions for reservation in admission to the courses notified in the Prospectus , this Commission reached the conclusion that a detailed study is essential for finalising the task entrusted to the Commission.

2.1.4 The direction of the Hon'ble High Court was to evolve the scheme for implementation in the academic year 2014-15. The study was entrusted to this Commission only by order dated 26.10.2013. The Prospectus for the year had to be finalised and issued by the end of December, 2013. In these circumstances, the Commission was of the view that two months time from 26.10.2013 is not sufficient to complete the study and to submit a report in the manner directed by Hon'ble High Court.

2.1.5 In the 324th sitting held on 11.11.2013 Commission considered the modalities to be adopted in the case directed by the Hon'ble High Court in the judgment. The caste-wise details of the Socio-Economic and Educational study undertaken by the Commissioner, Rural Development Department was found essential. But the Commissioner, Rural Development Department has informed that the details of the survey were under scrutiny and the caste details won't be published in 2014. The Commission is of the view that the caste wise details of the Socio-Economic

Survey conducted in the State are inevitable to complete the study objectively and in the manner directed by the High Court. It was also noticed that at present the materials available are the reports of Justice Kumara Pillai Commission, Justice Narendran Commission and Justice Rajendra Babu Commission which have some use.

2.1.6 Unfortunately, on repeated requests from the KSCBC, the Registrar General of India in his communication dated 24.06.2014, informed that the caste wise data is subject to scrutiny of an agency under the Central Rural Development Department. From this, the Commission came to the conclusion that the caste wise data will not be made available in the immediate future. Consequently the Commission has to find out an alternative for the purposes of the present study. In the circumstances, the Commission requested the Higher Education Department and Backward Communities Development Department to make available all connected records for the study and decided to get the assistance of State Planning Board, Department of Economics and Statistics, Sociology Department and eminent scholar in the field.

2.1.7 Since the direction of the High Court to the Government was to implement the scheme in the academic year 2014-15 for which the Commissioner for Entrance Examination had to issue the Prospectus in December 2013 the Commission in its 325th sitting held on 12.11.2013 with a view to abide by the said direction to the extent possible deliberated on the possibility of an interim report being furnished so as to enable the State Government to give some relief to the SEBCs in the matter of reservation in admission to Professional Degree Courses in the academic year 2013-14 itself. Scrutiny of Justice Kumara Pillai

Commission report was found essential and directed the office to get it from Government.

2.1.8 In the 330th sitting of the KSCBC held on 09.12.2013 the Government informed that there was a direction by the Supreme Court that admission to Professional Degree courses has to be completed by August, 2014 for which the reservation rules have to be incorporated in the Prospectus hence the prospectus prepared by the Commissioner for Entrance Examination had to be approved by the Government in the month of December, 2013. The KSCBC considered the urgency of the matter and decided to prepare an interim report since a full-fledged study report, as required as per the judgment, could not be ready for implementation in the academic year 2014-15. Hence the Commission in its 332nd sitting held on 17th & 18th of December, 2013, finalised the draft interim report and submitted the report to the Government on 19.12.2013 for further action.

2.1.9 In the 333rd sitting of the Commission held on 22.12.2013 the Additional Secretary, Backward Communities Development Department informed that orders regarding enhancement of income limit has not been issued. However with a view to give this benefit to the SEBC communities in the academic year 2014-15 itself, based on the cabinet decision to enhance the income limit for the purpose of Article 16(4) on the assumption that there will be consequential amendment to the Government order dated 02.05.1966 also as done earlier, the Entrance Commissioner in clause 5.4.2 has shown the income limit at ₹ 6 lakh as against the then prevailing income limit of ₹ 4.5 lakh. The Government have approved the prospectus in this regard in the Government order dated 18.12.2013. Clause 5.4.2 of the Prospectus for 2014-15 in that regard is also produced by the

representative of the Entrance Commissioner before the Commission for verification. The Government issued G.O (Ms) No.3/14/BCDD dated 09.01.2014 by which the income limit for SEBC reservation in Professional Degree Courses was raised from ₹ 4.5 lakh to ₹ 6 lakh. The KSCBC directed the Government to furnish the copies of GOs relating to the enhancement of income limit of SEBCs from the year 1966 onwards and the details of the method adopted for the enhancement of the income limit from time to time. The same was not been furnished by the Government so far.

2.1.10 In the 340th sitting of the KSCBC held on 19.02.2014 it was noticed that the term of the Chairman expires on 20.02.2014 and decided to await the decision of the Government. However the Commission discussed the various methods to be adopted. The Government vide G.O (Ms) No.9/2014/BCDD dated 25.04.2014 extended the tenure of the Commission until further orders.

2.1.11 In the 341st sitting held on 29.04.2014 KSCBC further decided to convene meetings at different levels from Department like General Education, Director of Public Instructions, Director of Higher Education, Commissioner for Entrance Examinations, Director, CBSE etc.

2.1.12 In the 342nd sitting held on 14th and 15th of May, 2014 the Commission had serious discussion about the requirements for an effective study on various aspects. The presence of the Member Secretary who is the Principal Secretary to Government, BCDD, though was helpful in the matter, was absent. To obtain public participation or suggestions/views Commission decided to issue a public notice in the leading newspapers including a

questionnaire so as to mobilise a consolidated suggestions in the matter.

2.1.13 A large quantity of materials has to be collected for the purpose of the study for which lot of expenditure is required. The KSCBC decided to ascertain the source of additional funds to be mobilised.

2.1.14 The details requested from the authorities concerned are as given below:

The Director of Public Instructions

- 1) Total number of Schools in the State (Govt./Aided/Unaided) (district wise details)
- 2) Number of students (caste/community wise) admitted in standards I to X in various schools during the last five academic years.
- 3) Number of student dropouts from standards I to X, caste/community wise in various schools during the last five year academic years.

The Director of Medical Education

- 1) List of Medical/Dental Colleges in the State (Govt./Aided/Co-operative sector and Self financing) conducting Professional Courses such as MBBS, MD, BDS, MDS, Super speciality Courses and other courses. District wise, College wise, Course wise and seat wise for the last 5 years.

- 2) Number of seats reserved for respective communities in the State for MBBS, MD, BDS and MDS courses College wise and seat wise in the State for the last 5 years.
- 3) Total number of applications received in the State for MBBS, MD, BDS, MDS and other professional courses in the State for the last 5 years. Number of SEBC applicants for each of the above mentioned course must be shown separately. [Year wise details required.]
- 4) Total number of students who secured admission for MBBS, MD, BDS, MDS and other Professional courses in the State for the last 5 years. (Detailing separately in MBBS, MD, BDS, MDS and other Professional courses)
- 5) Number of reservation community students who secured admission for MBBS, MD, BDS, MDS and other Professional courses in the State during the past 5 years [Describing separately the number of students in each community]
- 6) Deviation of the Courses and the fee structure for each course semester wise/year wise.

The Commissioner for Rural Development

Socio Economic and Caste census Report
(draft stated to be published on 19.05.2014
and final)

The Commissioner for Entrance Examinations

- 1) List of all Professional Colleges and Courses, district wise in the State covered under the Commissioner for Entrance Examinations (Govt/Aided/Self financing)
- 2) Total number of seats distributed for the Professional courses course wise and college wise during the last 5 years. [Year wise details]
- 3) Number of seats reserved for the SEBC course wise and college wise in the State during the last 5 years. (year wise details)
- 4) Total number of applications received for various Professional courses in the State during the last 5 years. [Year wise District wise, Course wise and community wise details required.]
- 5) Total number of students who secured admission to various colleges in the State during the last 5 years. (Community wise details in each course)
- 6) Number of the SEBC students who secured admission in various Professional courses in the State during the last 5 years [Describing

- separately the number of students in each community]
- 7) Number of seats allotted to the merit quota from reserved quota due to insufficient qualified students from SEBC, if any. [Details required for the last 5 years, describing distinctively and separately in each community quota]
 - 8) Deviation of the Courses and the fee structure for each course semester wise/year wise.

The Director of Technical Education

- 1) List of Technical Schools and Colleges District wise/Course wise in the State. (Govt./Aided/Self financing)
- 2) Total number of seats allocated for various courses in Technical Schools and Colleges Course wise and College wise. Details for the last 5 years.
- 3) The number of seats reserved for the SEBC in the State. Details of various courses Course wise and School/College wise in the State during the last 5 years.
- 4) Total number of applications received for various courses, Course wise and School/College wise in the State. Details of last 5 years. [Year wise details required.]
- 5) Total number of students secured admissions for various courses, course wise,

School/College wise in the State during the last 5 years. (Year wise details)

- 6) Details of the SCBC students who secured admission to various courses, Course wise, Schools and Colleges wise in the State. Last 5 years details [Describing separately the number of students in each community]

The Director of Collegiate Education

- 1) List of Arts and Science Colleges in the State (District wise) (Government/Aided/Self financing)
- 2) Total number of seats distributed for different Courses in various colleges in the State during the last 5 years. (year wise details required)
- 3) Number of seats reserved for the respective communities in the State in various Arts and Science courses during the last 5 years.
- 4) Total number of applications received for Arts and Science courses in the State for the last 5 years. [Year wise details required.]
- 5) Total number of students who secured admission in Arts and Science courses in the State for the last 5 years.
- 6) Total number of reservation community students who secured admission in Arts and Science courses under reservation quota in the State for the last 5 years [Describing separately the number of students in each community].

The Director, Higher Secondary Education

- 1) Total number of Schools in the State Govt./Aided/Unaided having Plus 2 Course.
- 2) Total number of seats available in the State (District wise and School wise) for Plus 1 and Plus 2 courses
 - i) Government (ii) Aided (iii) Unaided
- 3) District wise details of seats reserved in the schools for the respective SEBC students for Plus 1 and Plus 2 courses for the last 5 academic years.
- 4) Community wise, district wise and School wise details of students who secured admission in Plus 1 and Plus 2 classes during the last 5 academic years.
- 5) Community wise and district wise details of students who secured admission in Plus 1 and Plus 2 courses under reservation quota for SEBC during the last 5 years.

The Registrar, Kerala Veterinary & Animal Sciences University

- 1) Total Educational Institutions, if any, under Kerala Veterinary & Animal Sciences University.
- 2) Total number of seats available in the State for various courses under the Institutions in Kerala Veterinary & Animal Sciences University District wise, Course wise (last 5 years details).

- 3) Number of seats reserved for the respective reserved communities in the State for various courses in Kerala Veterinary & Animal Sciences University in the State (Details of last 5 years).
- 4) Total number of applications received in the State for various courses in Kerala Veterinary & Animal Sciences University in the State during the last 5 years [Year wise/Course wise details required]. Number of applications from SEBC candidates for each Course, Institution wise must be shown separately.
- 5) Total number of students who secured admission for various courses under the Institutions in Kerala Veterinary & Animal Sciences University in the State for the last 5 years.
- 6) Total number of reservation community students who secured admission for various courses under Kerala Veterinary & Animal Sciences University in the State during the last 5 years [Describing separately the number of students and their respective community]
- 7) Deviation of the Courses and the fee structure for each course semester wise/year wise.

The Registrar, Kerala Agriculture University

- 1) List of Colleges and other Institutions under Agriculture University in Kerala.
- 2) Total number of seats allocated for various courses in the Colleges and other Institutions under Kerala Agriculture University during the last 5 years.
- 3) Number of seats reserved for the SEBC students in the State for various courses in the Colleges and other Institutions under Kerala Agriculture University during the last 5 years.
- 4) Total number of application received for various courses in Colleges and other Educational Institutions under Kerala Agriculture University in the State for the last 5 years [Year wise details required].
- 5) Total number of students who secured admission for various courses in the Colleges and other Institutions under Kerala Agriculture University in the State during the last 5 years (Detailing separately in each courses).
- 6) The SEBC students who secured admission in the Professional courses in the University for the last 5 years [Describing separately the number of students in each community].
- 7) The SEBC students who secured admission in various other courses, if any, in Colleges and other Institutions under Kerala Agriculture

University in the State during the past 5 years [Describing separately the number of students in each community].

8) Deviation of the Courses and the fee structure for each course semester wise/year wise.

2.1.15 In order to ensure that the study in progress was in the right direction the KSCBC felt that a discussion in the matter with experts in the field as resource persons will be helpful and accordingly the KSCBC in its 343rd sitting held on 22.05.2014 decided to arrange discussion with the following personalities to know their views/ suggestions in this regard. Sri. T. Madhava Menon, former Additional Chief Secretary and Revenue Board Member, Sri.P. Praveen, Data Scientist, Sri. T. Elamgovan, Scientist – G, NATPAC, Dr. M. Pushpam, Professor and Head of Department, Department of Sociology, University of Kerala, Dr. Charles, Professor, Layola College, Dr. S. Irudaya Rajan, Professor, Centre for Development Studies, Dr. N. Vijayamohanan Pillai, Associate Professor, Centre for Development Studies, contributed their views in the discussion. The views offered by Sri. T. Madhava Menon gave great insight to the KSCBC to proceed with further study. Copy of the interim report submitted by the KSCBC was also made available to them at their request and requested them to submit a brief report containing their views in the matter.

2.1.16 The Chief Librarian, Kerala Legislative Assembly Library was requested on 02.06.2014 for furnishing People of India Publications/Community wise report from Anthropological Survey of India for reference. The Director, Census department was requested to depute a competent officer in the city scheduled

to 03.06.2014 to finalise the plan of work for the purpose, including data collection and field operation aspects. The Director of Public Instructions furnished the data on 04.06.2014. The Director of Census department provided the service of Sri. A.N. Rajeev, Deputy Director, Sri. Sri Reghu, Assistant Director for the study on 20.06.2014 as requested. The Chief Librarian, State Central Librarian furnished people of India, Kerala Part-I, Part-II and Part-III Volumes and People of India an introduction.

2.1.17 Since the caste based details of the Socio Economic Survey Report became a mirage, the KSCBC discussed the possibility of conducting a sample survey under the supervision of the Commission. Hence the KSCBC discussed this with Sri. A.N. Rajeev, Deputy Director and Sri. K. Gnanaprakasam, Assistant Director of Census Department. They agreed to support the KSCBC by making available the lay out map for framing details of numbers of person belonging to different communities in Kerala with reference to the latest census done in 2011. They also promised to extend their service for giving training for invigilators to be nominated for obtaining details from various districts in the State.

2.1.18 The Government vide G.O. (Ms) No. 11/14/BCDD dated 26.05.2014, in modification of the earlier Government Order, extended the tenure of the Commission for a period of 6 months or until the submission of the report whichever is earlier. The Commission observed that the time limit specified in the order is insufficient for submission of final report and the same was informed to the Chief Secretary by the Hon'ble Chairman.

2.1.19 Commission is of the opinion that since this is an independent study, the survey part of the study cannot be avoided. Instead of a detailed ethnographic study to get a first

hand information of the anthropological profile of the SEBCs in Kerala as on date the Commission decided to rely on the 'People of India Project', a massive exercise carried out by the Anthropological Survey of India which generated a wealth of information on hundreds of communities which exist in this Country. For the purpose of saving time and resource in analysing the Statistics/data obtained from CEE, Sri. P Praveen, Data Scientist who has been assisting the KSCBC as resource person presented a model of an analytical tool for speedy analysis of the statistical data. The analytical tool and the technology used will help data analysis to improve performance, quality of analysis in quick and smarter way. The KSCBC conducted discussions with Sri. V. Jagath Kumar, Assistant Director, DP Division, State Planning Board, Dr. Suresh Kumar C., Director (SDRT), Economics and Statistics Department, Sri. Kiran S., Research Officer, Economics and Statistics Department, Sri. Vinod Babu, Joint Director (Academic), Director of Public Instructions, Smt. Sheela P. Sankar, Joint Director (Statistics), O/o. DPI, Dr. S Santhosh, Joint Commissioner for Entrance Exams, Sri. George Mathew, Senior Superintendent, O/o. Commissioner for Entrance Exams, Sri. N. Giridharan Nair, F.O., Directorate of Vocational Higher Secondary Education, Smt. Girija Devi P. K., Additional Director, Collegiate Education Department, Sri. T.S. Nejimudeen, Additional Secretary to Government, Backward Communities Development Department.

2.1.20 A preliminary discussion was also arranged with them about conducting a sample survey which is very crucial for the study with the help of National Sample Survey Organization and Economics & Statistics Department. The Director (SDRT), Economics and Statistics Department assured all technical

assistance for the survey and for the identification of a trusted agency for conducting quick survey. He further agreed to give an indicative expenditure statement pointing out various components of the survey.

2.1.21 In the 347th sitting held on 04.07.2014 KSCBC discussed the modus operandi of the survey. Director, Economics & Statistics placed before the KSCBC a cost estimate for the proposed survey indicating an expenditure to tune of ₹ 15 lakh for various items of the survey. He informed that 10,000 households are to be visited for the proposed survey. The Deputy Director, Census Operations in Kerala informed that they had the mapping of households in Kerala obtained from the recently conducted Socio Economic Survey but they do not have the household list as such.

2.1.22 The KSCBC decided to invite expression of interest from Survey agencies indicating our requirements and to fixing criteria for the selection of the survey agency. For this the KSCBC decided to constitute an expert/technical committee and the Additional Registrar of the Commission was decided as Nodal Officer/contact person. The Commission decided to collect the SEBC community-wise details from the respective community organization/Association. For this purpose a press note has been released in leading newspapers. The District Collectors were also requested to furnish information in this regard.

2.1.23 For fixing samples for the sample survey the population estimate of SEBCs were required. For this purpose District Collectors were requested to furnish the details regarding their place of concentration and requested them to present before the Commission. According to them there was no data available with them in this regard and expressed their inability in collecting

details for this purpose and suggested that the KSCBC may contact with Social Justice Department for the purpose.

2.1.24 On 22.07.2014 KSCBC conducted a press meet at Government Guest House, Ernakulam in this regard.

2.1.25 In 350th Sitting held on 07.08.2014 KSCBC decided to send notice to reputed personalities, Universities/law College Professors, Resource Persons, retired High Court Judges, Journalists etc. and MLAs seeking their considered views/suggestions in the mater. Commission further examined the cost estimate for the sample survey proposed to be conducted. Commission approved an estimated cost of ₹ 27 lakh based on a draft estimate prepared by the Director (SDRT), Economics & Statistics Department.

2.1.26 For this KSCBC requested the Government to release an amount of ₹ 10.67 lakh out of the Grant-in-Aid General Non Salary Head of Account and for an additional authorization of ₹ 16.33 lakh under the same head of account.

2.1.27 Consequently, the Government, vide G.O. (Rt) No. 87/2014/BCDD dated 07.10.2014 released ₹ 10.67 lakh under the same head of account for the purpose of the study. The Government further directed the KSCBC to submit necessary proposal for re-appropriation if further amount is required under the head of account. However the Commission decided not to apply for re-appropriation of funds for the purpose as the amount requested earlier was not sanctioned in time which limited the conduct of the study as envisaged initially by the KSCBC.

2.1.28 The tenure of the KSCBC, which was already extended, expired on 20.08.2014. The Government, vide a further order (G.O (Ms) No. 18/2014/BCDDD dated 21.08.2014) extended

the term of the KSCBC, upto 30th November, 2014 on condition that no further extension would be allowed.

2.1.29 In the 351st sitting held on 20.08.2014 KSCBC finalized the questionnaire for the response of the public and interested persons/organizations and decided to publish in the website along with the leading Malayalam dailies. The Questionnaire has been forwarded to more than 300 persons/organisations including community organizations, MLAs, Professional College Principals, Government and to the petitioners and their advocates in the two writ petitions.

2.1.30 The Government did not accept the proposal of the Commission for ₹ 27 lakh for the purpose of the study. Since the time and fund for completion of the study was limited the Commission decided to conduct a quick sample survey. The Commission examined the replies received from the Community Organisations and Individuals and outlined the matter to be included in the final report.

2.1.31 Since the Government did not allot sufficient fund and the limited time before the KSCBC to complete the study, the KSCBC moved back from the stand to conduct a detailed sample survey as proposed earlier. So the KSCBC decided to conduct a quick sample survey with an estimated cost of ₹ 3.5 lakh. For this purpose KSCBC selected the Kerala Statistical Institute, Thiruvananthapuram, an agency approved and empanelled by State Planning Board. Based on an agreement entered into between the KSCBC and the Agency, Kerala Statistical Institute conducted a quick sample survey in 627 households in view of the conclusions reached by the KSCBC on the entrance data analysis.

2.1.32 The KSCBC heard the community organizations and evidence were taken from them on their reply to the

Questionnaire. The petitioners in both the WP(C) were also heard and evidence taken. The Special Government Pleader Smt. P.K. Santhamma was also present in that sitting. 22 numbers of community Organisations represented and expressed their views and suggestions in the matter.

2.2 DISCUSSION OF EVIDENCE -BOTH DOCUMENTARY & ORAL

2.2.1 As we have already noted, though notices with a questionnaire were issued to more than 300 persons, besides news paper publication of the questionnaire affording opportunity to make representations the MLAs, MPs and other important persons did not respond to the notices, leave alone the paper publications. There was no serious response from the major backward communities also.

2.2.2 Pursuant to the questionnaire published in the news papers and the media reports regarding the study conducted by the KSCBC, community organisations submitted representations which are listed under Appendix XIII. A statement containing the gist of those representations is also Appendix XIV.

2.2.3 From the Government side, the Director, BCDD sent a reply dated 29.09.2014 containing the views of the Directorate regarding the study and the preparation of the scheme.

2.2.4 All the SEBC communities which submitted representations containing answers to the questionnaire were afforded opportunity for personal hearing in the sittings held at Thiruvananthapuram and Ernakulam 36 representatives of 24 community organisations participated and deposed in support of the representations made by them. The depositions of those representatives are listed as Appendix XV and annexed as

Appendix XVI. Among the representatives of the community organisations Mr. Dinakaran, Ex. MLA and General Secretary of Akhila Kerala Dheevera Sabha was present. His submission was mainly with respect to the Dheevera community. According to him Dheevera is the genus and Araya etc. included in items 2 and 4 of the SEBC list are the sub sections of Dheevera community.

2.2.5 It is his grievance that in spite of the Government Order dated 23.05.2014 including Dheevera and its sub sections in the OEC list for conferring reservation benefits due to certain anomalies in the SEBC list the CEE in his letter dated 30.05.2014 has raised certain clarifications and the matter is pending before the government. He requested for revision of the SEBC list. He also pleaded for introducing the creamy layer criteria applicable to Article 16 (4) to reservation under Article 15 (4) also.

2.2.6 Sri. Gregory Sooranad who represented the Punalur Latin Diocese Bishop Rev. Dr. Silvester Ponnekuttan in the sitting held at Thiruvananthapuram on 04.11.2014 deposed in support of the representation made by the Diocese and submitted that 90% of the people of the Diocese are Dalit Christians, that this community is included in the SEBC list along with other Christians getting 1% reservation and that since there are 27 lakh Dalit Christians in Kerala the reservation percentage has to be increased from 1% to 3%. Every year, according to him, 1000 students apply for Professional Degree Courses but admission is only for 13 students. He pleaded for introducing coaching classes for them.

2.2.7 In the 357th Sitting held on 28.10.2014 Rev. Fr. Jayaraj representing SIUC appeared before the Commission and submitted that in Kerala SIUC population comes to 14 lakh, that at present SIUC is included in the SEBC list under the head

Converted Christians and that applicants for professional Degree Courses get only a nominal representation. He therefore claimed separate reservation quota for SIUC. He also submitted that the annual family income of their community is below ₹ 2 lakh and therefore any change in the creamy layer criteria is of no assistance to them. He pleaded for taking urgent steps for improving their conditions.

2.2.8 Sri. Abraham Arackal who attended the sitting held on 28.10.2014 pleaded for adopting the creamy layer criteria applicable to Central Government institutions.

2.2.9 Sri. B. Sasidharan Pillai, President, Kerala Chetty Mahasabha also deposed in support of the representation made by the Sabha and submitted that the people of the Sabha are not included in the SEBC list and that their representation for inclusion in the SEBC list is pending with the Government.

2.2.10 Sri. V. V. Hamsa, one of the petitioners in WP (C) No.29271/12 present in the sitting held on 13.10.2014 at Ernakulam pleaded for introducing the creamy layer criteria fixed in the Government Order dated 26.09.2009 for Article 16 (4) for granting reservation under Article 15 (4) also.

2.2.11 Besides, in the sitting held on 28.10.2014, Sri. Surendran Nair for Chekkala Nair community, Sri. Kuttappan Chettiyar, General Secretary, Most Backward Communities Federation, Dr. Rajakrishnan representing Reddiar Federation, Sri. S.J. Edison, President, Nasrani Bhooshana Samajam, Sri. C. Vijayan Pillai, Chetti Samudaya Co-ordination Committee, Sri. Jagathy Rajan, Vadhyayar Mahasabha, Sri. Prabhakaran, Kerala Ganaka Kanisa Sabha, Sri. S.K. Vijayan, Kerala Ganaka Maha Sabha, Sri. Velappan Pillai, Udiyankulangara Chetty Samudayam, Sri. Subramonian, Kerala State Elur Chetty Samudayam, Sri. T.

Devan, Vaduka Samudaya Samskarika Samithi, Prof: P.B. Vijayakumar, Akhila Kerala Ezhuthachan Samajam, Sri. T.K. Mohanan, Akhila Kerala Perumkollan Samudayam, Sri. M. Ranjith Kumar, Thottiya Naicken Samudayam, Sri. K.V. Ravi, Mukhari/Muvari Sangham, Adv. Kasha K. Malayan, Vilakkithala Nair Mahasabha, Sri. V.V. Karunakaran, Kerala Padmasalia Sangham, Sri. Chunakkara Haneefa, Rawther Federation, Sri. P.T. Muhammed Basheer, father of the 6th petitioner in WP (C) No.11578/13 were present and their depositions taken.

2.2.12 All of them have stated that the annual family income of their respective communities are far below the present income limit for reservation under Article 15 (4) but they requested for applying the creamy layer principles applicable for reservation under Article 16 (4) to Article 15(4) also without assigning any special reasons.

2.2.13 Prof. M.K. Sanu and Dr. C.K. Ramachandran who attended the sitting at the request of the commission on 13.11.2014 also submitted that it would be advantageous to the SEBC communities in general to adopt the creamy layer principles applicable for Article 16(4) and therefore pleaded for applying the new creamy layer criteria approved by the Supreme Court for the purposes of Article 15(4). They also suggested for giving grace marks to the lower income group in the SEBC communities to compensate the adverse effect of introducing the new criteria on the lower income group.

2.2.14 Sri. V.R. Joshi, Director, Backward Communities Development Department in his representation No.BCDD/A2/2246/14(1) dated 29.09.2014 submitted that there was no need for a fresh study order by the High Court for the reason that in the year 2009 Justice Rajendra Babu Commission

had conducted a study and had prepared a scheme for excluding the socially advanced persons/sections in the SEBCs and the same was accepted by the Government in G.O.(Ms) No.81/09/SCSTDD dated 26.09.2009 which could have been made applicable for reservation in admission to Professional Degree Courses under Article 15(4). He stated that this view of the Directorate was conveyed to the Government both during the pendency of the writ petitions and after the judgement. He also stated that this stand of the Directorate is subject to the policy decision of the Government. According to him socio-economic survey of the caste and communities is an urgent necessity. Though his stand is that no fresh study is required, he has stated various circumstances which necessitate a detailed study for the better benefits of the SEBC communities for the purpose of Article 15 (4).

2.2.15 The Additional Chief Secretary to Government, Higher Education Department in the Government communication No.34790/G3/2014/H.Edn dated 28.11.2014 received on 09.12.2014 the informed KSCBC that "since the Commission has been authorised to conduct an independent study in the matter, Government intervention in the matter is not advisable".

2.2.16 In short, the request of the community organisations is for applying the creamy layer principle applicable for reservation under Article 16 (4) for reservation to SEBC communities under Article 15 (4) also.

2.3 APPROACH AND METHODOLOGY

2.3.1 Since the time frame for the study was fixed from time to time without any definiteness the KSCBC decided to confine the study in the areas and aspects where the Hon'ble High Court has

specifically asked for to look into. KSCBC evolved the methodology for the study which was appropriate and capable of covering the directives of the Hon'ble High Court. KSCBC therefore used the established techniques of enquiry including modern techniques for the study.

2.3.2 As the Hon'ble High Court has specifically asked to conduct the study on the basis of the principles laid down in Ashoka Kumar Thakur's case, KSCBC wanted to have a close look of the principles laid down in Ashoka Kumar Thakur's case at first and to have a clear understanding as to what were the parameters for creamy layer exclusion. Writ petition (Civil) No.265 of 2006 as observed in Ashoka Kumar Thakur v. Union of India ((2008) 6 SCC I) 'for a valid method of creamy layer exclusion, the government may use its post-Sawheny I criteria as a template'.

2.3.3 Therefore KSCBC had to critically study and understand the principles laid down in Indra Sawhney and others v. Union of India (AIR 1993 SC 477) which dealt with the creamy layer criteria. A Constitution 9 Judges bench of the Hon'ble Supreme Court had decided the principles. KSCBC studied numerous judgements discussed/mentioned in Indra Sawhney Case I. The Commission noticed that there was agreement among eight out of the nine learned judges of the Supreme Court on the criteria for exclusion of creamy layer in Indra Sawhney's case.

2.3.4 The judgement of Jeevan Reddy J. for himself and on behalf of three other learned judges viz. Justice Kania C.J., Justice M.N. Venkata Chelaih and Justice A.M. Ahmadi in unequivocal terms held that upon a member of the backward class reaching an "advanced social level or status" he would no longer belong to the backward class and have to be weeded out.

2.3.5 Similar views were expressed by Justice Sawant, Justice Thommen, Justice Kuldeep Singh and Justice Sahai in their separate judgements.

2.3.6 Hon'ble Justice Jeevan Reddy while considering the concept of 'means-test' or 'creamy layer', which signifies imposition of an income limit, for the purpose of excluding the persons (from the backward class) whose income is above the said limit, has noted that the counsel for the States of Bihar, Tamil Nadu, Kerala and other counsel for respondents strongly opposed any such distinction and submitted that once a class is identified as a backward class after applying the relevant criteria including the economic one, it is not permissible to apply the economic criteria once again and sub-divide a backward class into two sub-categories. The Hon'ble Supreme Court negatived the said contention by holding that exclusion of such (creamy layer) socially advanced members will make the 'class' a truly backward class and would more appropriately serve the purpose and object of Clause (4).

2.3.7 Justice Jeevan Reddy has declared that there are sections among the backward classes who are highly advanced, socially and educationally and they constitute the forward section of that community. These advanced sections do not belong to the true backward class. They are "as forward as any other forward class member" (para 790). "If some of the members are far too advanced socially (which in the context necessarily means economically and may also mean educationally), the connecting thread between them and the remaining" class snaps. They would be misfits in the class" (para 792).

2.3.8 After excluding them alone, would the class be a compact class. The Hon'ble Judge further observed that line has

to be drawn, said the learned Judge, between the forward in the backward and the rest of the backward but it is to be ensured that what is given with one hand is not taken away by the other. The basis of exclusion of the "creamy layer" must not be merely economic, unless economic advancement is so high that it necessarily means social advancement, such as where a member becomes owner of a factory and is himself able to give employment to others. In such a case, his income is a measure of his social status. In the case of agriculturists, the line is to be drawn with reference to the agricultural land holding. While fixing income as a measure, the limit is not to be such as to result in taking away with one hand what is given with the other. The income limit must be such as to mean and signify social advancement. There are again some offices in various walks of life the occupants of which can be treated as socially advanced, "without further inquiry", such as IAS and IPS officers or others in All India Services. In the case of these persons, their social status in society rises quite high and the person is no longer socially disadvantaged. Their children get full opportunity to realise their potential. They are in no way handicapped in the race of life. Their income is also such that they are above want. It is but logical that children of such persons are not given the benefits of reservation. If the categories or sections above mentioned are not excluded, the truly disadvantaged members of the backward class to which they belong will be deprived of the benefits of reservation. Justice Jeevan Reddy has pointed out that the exclusion of the creamy layer must be on the basis of social advancement and not on the basis of economic interest alone. Income or the extent of property holding of a person is to be taken as a measure of social advancement - and on

that basis - the 'creamy layer' within a given caste, community or occupational group is to be excluded to arrive at the true backward class.

2.3.9 Sawant J. also accepted the above and has stated that "at least some individuals and families in the backward classes, however small in number gain sufficient means to develop "capacities to compete" with others in every field. That is an undeniable fact. Social advancement is to be judged by the 'capacity to compete' with forward castes, achieved by the members or sections of the backward classes. Legally, therefore, these persons or sections who reached that level are not entitled any longer to be called as part of the backward class whatever their original birthmark. Taking out these "forwards" from the "backwards" is 'obligatory' as these persons have crossed the Rubicon (para 553-554). On the crucial question as to what is meant by "capacity to compete", the learned Judge explained in para 522 that if a person moves from Class IV service to Class III, that is no indication that he has reached such a stage of social advancement but if the person has successfully competed for "higher level posts" or at least "near those levels", he has reached such a state.

2.3.10 The following observations of Kuldip Singh J. in this context are relevant. The "affluent section of the backward class, "such persons" in the backward class - though they may not have acquired a higher level of education - are able to move in the society without being discriminated socially". These persons practice discrimination against others in that group who are comparatively less rich. It must be ensured that these persons do not "chew up" the benefits meant for the true backward class. "Economic ceiling" is to be fixed to cut off these persons from the

benefits of reservation. In the result, the "means test" is imperative to skim off the "affluent" sections of backward classes.

2.3.11 The observations of Justice Sahai to the following effect are relevant. The individuals among the collectivity or the group who may have achieved a "social status" or "economic affluence", are disentitled to claim reservation. Candidates who apply for selection must be made to disclose the annual income of their parents which if it is beyond a level, they cannot be allowed to claim to be part of the backward class. What is to be the limit must be decided by the State. Income apart, provision is to be made that wards of those backward classes of persons who have achieved a particular status in society be it political or economic or if their parents are in higher services then such individuals must be precluded from availing the benefits of reservation. Exclusion of "creamy layer" achieves a social purpose. Any legislative or executive action to remove such persons individually or collectively cannot be constitutionally invalid.

2.3.12 The majority view in Indra Sawhney case reflected as below. Those in higher services like IAS, IPS and all Services or near about as persons who have reached a higher level of social advancement and economic status and therefore as a matter of law, such persons are declared not entitled to be treated as backward. They are to be treated as creamy layer "without further inquiry". Likewise, persons living in sufficient affluence who are able to provide employment to others are to be treated as having reached a higher social status on account of their affluence, and therefore outside the backward class. Those holding higher levels of agricultural land holdings or getting income from property, beyond a limit, have to be excluded from the backward classes. The Supreme

Court therefore directed the Central Government vide (para 793) to identify and notify the "creamy layer" and after such notification, the 'creamy layer' within the backward class shall "cease" to be covered by the reservations under Article 16(4).

2.3.13 In order to carry out the above directives of the Hon'ble Supreme Court and for the purpose of specifying and determining as to who from amongst the SEBCs would be liable to be excluded from the benefit of reservation, Government of India appointed an Expert Group headed by Justice (Retd) Ram Nandan Prasad (vide Resolution No.12011/16/93-13CC (C) dated 22.02.1993). The expert committee specified the determinants and prescribed different formulas which were subsequently issued by Government of India as OM No.36012/22/93-Estt (SCT) dated 08.09.1993 of Department of Personnel & Training and the same was approved by the Hon'ble Supreme Court in Ashoka Kumar Thakur case and the same are being adopted by Government of India for the purpose of reservation under Article 16 (4) as well as for 15 (4).

2.3.14 In our State, of late, Justice R. Rajendra Babu Commission was asked to study the creamy layer criteria for the purpose of Article 16(4) (vide GO (Ms) No.15/07/SCSTDD dated 01.03.2007). Government accepted the recommendations of the Commission and issued GO (P) No.81/09/SCSTDD dated 26.09.2009 which are being followed in our State for the purpose of Article 16 (4). KSCBC also took notice of the clarification issued by Government of Kerala in circular No.27396/F3/07/SCSTDD dated 14.06.2010 on the issue of non-creamy layer certificates to the eligible OBC candidates for the purpose of appointments to the services and posts under the Government of Kerala with reference to the clarification letter No.36033/5/2004 Estt (Res) dated

14.10.2004 of Government of India, Ministry of Personnel, Public Grievances and Pensions, Department of Personnel & Training.

2.3.15 KSCBC also took cognizance of the Central Educational Institutions (Reservation in admission) Act, 2006 (No.5 of 2007) which defines the other backward classes also the class of classes of citizens who are socially and educationally backward and the listing of backward communities by Government of India for the purpose of Article 16 (4) as well as 15(4) by considering the fact that in the Indian social reality every genuine socially backward class is also an educationally backward class. The Office Memorandum No. 36012/22/93-Estt (SCT) dated 08.09.1993 of the Ministry of Personnel, Public Grievances & Pensions (Department of Personnel & Training) as amended by OM No.36033/3/2004-Estt (Res) dated 9th March 2004 has been made applicable for the purposes of implementing reservation in admission to Central Educational Institutions as defined in the CEI Act 2006 by Resolution No.F.1-1/2005-U.IA/846 dated 20th April 2008.

2.3.16 The Hon'ble Supreme Court while determining criteria for creamy layer in Ashoka Kumar Thakur's case has made clear that the same principles of determining the creamy layer for reservation for backward classes for **appointments need not be strictly** followed in the case of reservation envisaged under Article 15 (4) of the Constitution. The Hon'ble Supreme Court has declared that it is for the Union Government and the State Governments to issue appropriate guidelines to identify the "creamy layer" so that the SEBCs are properly determined in accordance with the guidelines given by the Supreme Court (para 175). Further the Supreme Court in Ashoka Kumar Thakur case

(2008 (6) SCCI) held that review of the guidelines should be made at the end of 5 years.

2.3.17 KSCBC studied various judicial pronouncements and reports of the earlier Commissions on the subject and considered the legal and constitutional issues discussed therein and came to the conclusion that there won't be any legal objection in extending GO (P) No.81/09/SCSTDD dated 26.09.2009 for the purpose of Article 15 (4) as well in our State and therefore suggested in para 5 of its interim report that *in view of the fact that the creamy layer criteria fixed in the OM dated 08.09.1993 of the Government of India can be applied for excluding socially advanced persons/sections in the OBC/SEBC for the purposes of reservation in admission to SEBC communities in the Central Educational Institutions, a fortiori, it would allow that if the State Government so chooses the creamy layer criterion fixed in G.O. (P) No.81/09/SCSTDD dated 26.09.2009 can be applied to exclude creamy layer among SEBCs for reservation in admission to professional degree courses as well, as an adhoc measure.*

2.4 DISCUSSION ON THE EFFECT OF ADOPTING THE SIX CATEGORY CRITERIA APPROVED BY THE SUPREME COURT AND THE EXPECTATION WE HAVE THERE UPON

Discussion

2.4.1 Before making a final report suggesting a conclusive recommendation to the Government by adopting the new method the first and foremost task before the KSCBC is *to study and understand the pros and cons of implementation of the six Category Supreme Court criteria for identifying creamy layer on*

SEBC communities in the place of the aggregate family income criteria of Justice Kumara Pillai Commission now being followed.

2.4.2 In our State there are two lists viz. the State OBC list and the SEBC list. The State OBC list is used for reservation of OBCs in employment for the purpose of Article 16(4) and the SEBC list is for reservation of seats to SEBCs in educational institutions including admission to professional degree courses for the purpose of Article 15 (4).

2.4.3 KSCBC discussed the matter extensively and came to the conclusion that there was naturally no complexity for the Government of India to adopt a uniform criteria for creamy layer exclusion for the purpose of Article 16 (4) and 15 (4) in view of the uniform OBC/SEBC list in force. But in our State, two different lists are maintained for the purpose and the beneficiaries included in both the lists are also different. No study by any Commission or authority has been conducted with reference to SEBCs for the purpose of reservation of seats in admission to professional degree courses for the last 48 years.

2.4.4 KSCBC considered the observation of the Hon'ble High Court that it is definitely for the Government to consider their socio-economic and educational backwardness and try to figure out a method to exclude the creamy layer from reservation so that **the most eligible SEBC would get the benefit of reservation.** Other observations of the Hon'ble High Court that the special circumstance in the State is also to be considered depending upon the requirement for professional education, availability of seats etc. and asked the Government to look into the status to be given to children of non-resident Indians, who may not be showing any income in India and are socially and educationally maintaining very high standards and reminded the Government that it ought

to have considered the socio-economic features of the State not merely on the basis of the income derived by various categories of persons but also their socio-economic backwardness and different methods are to be adopted for different categories of employees of the State and other persons involved in different avocation or business, agriculturists, planters etc. Such factors have to be weighed by the Government in order to understand the real scope of backwardness of a particular community and creamy layer principles have to be evolved from the same.

2.4.5 Justice G. Kumara Pillai Commission was asked to enquire in to the social and educational conditions of the people and to report on what sections of the people in the State of Kerala (other than Scheduled Castes and Scheduled Tribes) should be treated as socially and educationally backward and therefore deserving of special treatment by way of reservation of seats in educational institutions.

2.4.6 That Commission applied the tests for educational backwardness, test for habitation, necessity for a means-cum-caste/community test, the income level for the means-cum-caste/community test and came to the conclusion that citizens in the State of Kerala who were members of families which had an aggregate income of less than ₹4200/annum from all sources and which belong to caste or communities mentioned in Appendix VIII of its report constitute socially and educationally backward classes for the purposes of Article 15(4). Therefore the lower income groups of the castes and communities belonged to the classes of citizens who were both socially educationally backward in the opinion of the Commission.

2.4.7 Mandal Commission evolved eleven indicators "criteria" for determining social and educational backwardness. These

eleven indicators were grouped under three broad heads i.e., social, educational and economic. The social indicators were given the weightage (score) of 3 points each, educational indicators a weightage of 2 points each and economic indicators a weightage of one point each. Total score were added up to 22 from the values given to each indicator. All these eleven indicators were applied to all the castes covered by the survey for a particular state. As a result of this application, all castes which had a score of 50% (i.e., 11 points) or above were listed as socially and educationally backward and the rest were treated as "advanced".

2.4.8 Based on the express directives of the Hon'ble Single Judge of the High Court of Kerala that the socio, economic & educational background of the backward communities were to be studied for which KSCBC had to examine the possibility of undertaking socio, economic and educational field survey on SEBCs and on other communities in Kerala by direct household visits or by indirect household visits through other means if any or to get primary data from the socio-economic and caste census of 2011 undertaken by Ministry of Rural Development, Government of India.

2.4.9 In order to understand the Anthropological profile of SEBCs having similar characteristics but found in the list as separate entries, KSCBC had to undertake an ethnographic study of SEBCs through an Anthropological survey or to rely on the authentic survey reports and monographs of SEBCs prepared by trusted agencies.

2.4.10 KSCBC had to elicit views from eminent public men including sociologists, journalists, demographers and community organisations, MLAs, MPs, other Commissions/Authorities etc. on the proposal of introducing the six Supreme Court criteria, vis-a-

vis the need for continuance of KPCR criteria as such and also to understand the social, educational and economical backwardness of the SEBC communities.

2.4.11 KSCBC had to invite all those who responded to its questionnaire and public notice inviting views and suggestions on the creamy layer criteria for tendering evidence.

2.4.12 KSCBC had to analyse the sufficiency of the income limit fixed for Article 16 (4) in our State for adoption under Article 15(4) with reference to food and fuel prices, the whole sale price inflation, food inflation, consumer price index, per capita national and state income etc.

2.4.13 KSCBC had to confirm certain conclusions which were arrived at through the study in the opinion of the Commission absolutely required for a field testing. A quick survey in the form of sample survey therefore had to be undertaken through some trusted agencies.

Expectation

2.4.14 KSCBC trusted that the results emerged on analysing the above problems would throw good number of indicators which could safely be relied on in formulating a scheme for identification of creamy layer in SEBCs in Kerala.

CHAPTER III

ANALYSIS

The details of 7.7 lakh SEBC families and Forward Hindu & Christians, their permanent residence, their occupation in the following distribution viz. Agriculture, Business, Industrialist, Doctor, Engineer, College/University teacher, School Teacher, Other Govt. Servant, Other Salaried person, Petty Trade/Casual Labour and Others; the residential area of candidates and their parents indicating Corporation, Municipality, Township, Panchayat and Others; the Parent's/Guardian's Education status viz. Illiterate, School level, Pre-degree/Plus Two level, Graduation, Post Graduation and Professional Education; the Community status like Ezhava, Muslim, Other Backward Hindu, Latin Catholic, Converts from SC to Christianity, Other Backward Christian, Kudumbi, Scheduled Castes, Scheduled Tribes, Other Eligible Communities, Forward Hindu, Forward X'ian and Others were analysed. Apart from the above the number of appearances of the candidates in the Entrance besides course undergone at Secondary Level like SSLC (Kerala), SSLC (Outside Kerala), AISSCE (CBSE), ISCE (CISCE) and Others were gathered. Course undergone at +2 Level like HSE (Kerala), VHSE (Kerala), HSE/VHSE (Outside Kerala), AISSCE (CBSE), ISCE (CISCE) and Others extracted. The Medium of Instruction at +2 Level indicating Malayalam, English and Other Languages were also obtained. Location of School where +2 course was undergone indicating Rural and Urban were taken. Annual Family income of parents as specified in the following slabs:

Below ₹ 50,000
₹ 50,000 – below ₹ 1 Lakh
₹ 1 Lakh – below ₹ 2.5 Lakh
₹ 2.5 Lakh – below ₹ 4 Lakh
₹ 4 Lakh – below ₹ 5 Lakh
₹ 5 Lakh & above were taken.

These are unprocessed huge raw data amounting to 6.3 lakh students and their parents and family for the year 2009-2013 and 1.47 lakh for 2014. Though CEE had the willingness for analysis of such raw data to get the required results for KSCBC they were unable to do so due to time constraint and lack of resource. However the KSCBC requested CEE to furnish the huge data at the earliest. They also furnished the same within two days.

On preliminary analysis of the entrance data KSCBC found that it was a treasure of information which was more than one could get even from door to door enumeration across the State on a sample survey. But KSCBC understood that it would take years for arriving results after converting them into tabular form for the purpose of analysis. After several discussions with experts and IT specialists KSCBC introduced a new scientific method with the assistance of Data Scientists using analytical tools for analysis of this big data perhaps for the first time ever in the history of a Commission to undertake such an exercise. Through this procedure, KSCBC has “virtually visited the 7.7 lakh households of SEBCs and other communities spreading across the State through online data received”.

Method adopted to process the huge volume of data within the allotted time:

The data obtained after cleaning and data formatting process. This process is more reliable because it's a professional degree application which the candidate would necessarily submit more authentic data which is very crucial in his/her career. But found still invalid and rejected applications in the database because of technical reasons which needed to be filtered out before formatting.

So a perfect data cleaning and processing format was executed to increase the accuracy and authenticity of the data.

Final Parameters listed as under:

- 1 Unique ID
- 2 Engineering Rank
- 3 Medical Rank
- 4 Ayurveda Rank
- 5 Architecture Rank
- 6 B denotes applied for both Engineering and Medical, M for Medical, E for Engineering.
- 7 Applied for Engineering
- 8 Applied for Medical
- 9 Applied for Architecture
- 10 Nativity – Keralite
- 11 Allowed reservation
- 12 Special Category Reservation
- 13 Caste – Sub caste
- 14 SEBC or not
- 15 SC/ST or not
- 16 Income

- 17 Centre of Examination
 - 18 Sex
 - 19 Date of Birth – Age
 - 20 Permanent Residence
 - 21 Parents Occupation
 - 22 Residential Area
 - 23 Parents Education
 - 24 Community
 - 25 Number of Appearances
 - 26 Secondary School Board
 - 27 Higher Secondary Board
 - 28 Medium of Schooling
 - 29 Location of Schooling
 - 30 Annual Family Income
 - 31 Qualifying Exam
 - 32 Inter-caste
 - 33 Application Rejected Status
 - 34 SC/ST Verification Status
 - 35 Allocated Course
 - 36 Allocated Type of College
 - 37 Allocated College
 - 38 Allocated Reservation Category
 - 39 Engineering Rank Status
 - 40 Medical Rank Status
 - 41 Architecture Rank Status
 - 42 Allocated College Location
- Unique ID generated for every candidate using Applicant number and Year
 - Removed unauthorized, duplicated and rejected applications

- Populating statistical parameters (11 columns of data) from encoded string
- Populating Admission details (5 columns of data) from encoded data
- Populating encoded caste and community details.
- Populating supporting master tables for look up for course, colleges, private-govt, community, statistics parameters etc.
- Reports Requirement sorting undertook and Criteria Analysis Factors linked with the 42 Parameters.

The required tabulations and reports are listed as under:

- Total SEBC applicants Year wise
- Total SEBC applicants Allocated in SEBC Quota Year wise
- Total SEBC applicants allocated in Medical, Engineering and Architecture out of maximum seats available Year wise
- Total SEBC Applicant performance in Excellent (below 2000 Rank), Good, Average and Poor.
- Total SEBC applicants who got State merit Engineering, Medical and Architecture.
- Total SEBC applicants and allocations from SEBC Male Female Distribution
- Total SEBC applicants income distribution above the criteria limits of subjective years
- SEBC caste wise distribution of applicants and allocations Year wise
- SEBC district wise distribution of applicants and allocations
- SEBC Parent's/Guardian's occupation:
 - (a) Agriculture (g) School Teacher
 - (b) Business (h) Other Government Servant
 - (c) Industrialist (i) Other Salaried person

- (d) Doctor
- (e) Engineer
- (f) College/University teacher
- (j) Petty Trade/Casual Labour
- (k) Others
- SEBC Residential Area of the applicants:
 - (a) Corporation
 - (b) Municipality
 - (c) Township
 - (d) Panchayat
 - (e) Others
- Parent's/Guardian's Education:
 - (a) Illiterate
 - (b) School level
 - (c) Pre-degree/Plus Two level
 - (d) Graduation
 - (e) Post Graduation
 - (f) Professional Education
- SEBC distribution of Number of appearances in Entrance
- SEBC distribution of candidates Course undergone at Secondary Level:
 - (a) SSLC (Kerala)
 - (b) SSLC (Outside Kerala)
 - (c) AISSCE (CBSE)
 - (d) ISCE (CISCE)
 - (e) Others
- SEBC distribution of candidates Course undergone at +2 Level:
 - (a) HSE (Kerala)
 - (b) VHSE (Kerala)
 - (c) HSE/VHSE (Outside Kerala)
 - (d) AISSCE (CBSE)
 - (e) ISCE (CISCE)
 - (f) Others
- SEBC distribution of candidates Medium of Instruction at +2 Level:
 - (a) Malayalam
 - (b) English
 - (c) Other Languages
- SEBC distribution of candidates Location of School where +2 studied:
 - (a) Rural
 - (b) Urban

- SEBC distribution of candidates Annual Family income (from all sources):
 - (a) Below ₹ 50,000
 - (b) ₹ 50,000 – ₹ 1 Lakh
 - (c) ₹ 1 Lakh – ₹ 2.5 Lakh
 - (d) ₹ 2.5 Lakh – ₹ 4.5 Lakh
 - (e) ₹ 4.5 Lakh – ₹ 6 lakh
 - (f) ₹ 6 lakh & above
- SEBC year wise comparison of 6 lakh and above who are in govt services
- SEBC year wise comparison with students from Rural who got admission
- SEBC year wise comparison of Malayalam medium who got admission
- SEBC year wise comparison of students who got admission whose parents are atleast an undergraduate
- SEBC candidates whose parents are working in professional labour
- SEBC age average
- SEBC allocated colleges location
- Comparison of SEBC candidates in above parameters with other Forwards in the State
- Comparison of SEBC candidates in above parameters with State averages of parameters
- Comparison of performance in entrance with factor parents education
- Comparison of performance with social factor like occupation
- Comparison of performance with location in urban and rural
- Migrants ratio of SEBC community to the urban region

- SEBC allocation with government and private institutions
- SEBC Educational expenditure trend for the past 5 years
other major combinations of reports can also be worked out.

Once the above list is finalized, the modelling for tabulations of fact tables are designed with calculations and transformation logics from the huge data.

Once the model is ready ETL Jobs for the model to transform the data will be designed and developed.

Tabulations are of dimensions like Year wise, Caste wise, Category wise, District wise, Range wise for performance, Occupation wise, income range wise etc.

So approximately 100 ETL Jobs required to be designed for above 100 initial Reports and Cleaning.

Once the tabulations are ready, the fact tables are connected to analysis reporting tool to visualize the tabular forms, maps and charts for printing.

Detailed analysis was carried out for understanding the pros and cons of introducing the new OBC creamy layer criteria. The socio, economic and educational background of SEBCs in Kerala, identification of new creamy layer category under Kerala scenario, identification of the SEBC communities having similar characteristics but found as separate entries in the SEBC list (list of Kumara Pillai Commission) vis-a-vis revision of SEBC list, elicitation of views from eminent public men and others on the proposal of introducing the six Supreme Court criteria in the place of the existing income criteria were undertaken. The reasons for adopting/recommending the income limit fixed for Article 16 (4) for Article 15 (4), the socio-economic situations of SEBCs in Kerala Vs. Educational expenses for professional study, the district

wise SEBC performance analysis and identification of seats secured by each SEBC community under mandatory reservation and on merit were also done besides confirming of certain conclusions arrived at on Entrance Data Analysis with actual situations in Kerala through sample survey.

3.1 PROS AND CONS OF INTRODUCING THE SUPREME COURT 'STATUS CRITERIA'

3.1.1 Here attempt is made to discuss the favourable and unfavourable factors of OBC creamy layer criteria laid down by Hon'ble Supreme Court in Ashoka Kumar Thakur's case especially to the current Kerala scenario.

3.1.2 First examined by assuming a condition that if we apply the six Supreme Court criteria by removing the current income criteria on 7.7 lakh using the historical data.

3.1.3 Analysed the performance and KEAM Entrance candidate in the current scenario and studying the affected group in detail gave us a conclusion on the favourable and unfavourable conditions in Kerala scenario.

3.1.4 KSCBC selected M.B.B.S. course as a threshold course for analysing the different factors and dimensions. Empirical data from entrance applicants for the past five years extracted for analysis at first.

3.1.5 SEBC, SC & ST and Forward communities were classified year-wise, application-wise, course-wise and caste-wise.

Tables A1, A2, A3, A4 & A5

(Source: KEAM Data 2009-2014)

KEAM 2009-2014 Total Applicants	
Year	Total Applied
2009	118537
2010	120264
2011	126527
2012	133020
2013	132219
2014	147002
Total Applicants	777569

Engineering Total Applicants distribution	
Year	Total Applied
2009	108118
2010	107551
2011	109934
2012	112790
2013	108402
2014	117840

Medical Total Applicants distribution	
Year	Total Applied
2009	75347
2010	76316
2011	84565
2012	85635
2013	66701
2014	101504

Architecture Total Applicants distribution	
Year	Total Applied
2009	12520
2010	11318
2011	12176
2012	18362
2013	25990
2014	28701

Caste/Community wise Applicants			
Year	SEBC	SC/ST	Forward Community
2009	56520	6857	54966
2010	58095	6978	55033
2011	61267	7200	58060
2012	63802	7356	61719
2013	62321	7191	62707
2014	73214	8656	65132

3.1.6 Total applicants, admissions and available seats of SEBC, SC/ST and Forward communities were distinguished.

Table A6

(Source: KEAM Data 2009-2014)

KEAM 2009-2014 Total Applicants and Admissions			
Year	Total Applied	Available Seats	Admitted
2009	118537	4610	4610
2010	120264	5220	5220
2011	126527	6174	6174
2012	133020	7389	7389
2013	132219	7560	7560
2014	147002	7911	7911
Total Applicants	777569		

3.1.7 Course wise distribution made as follows:

Tables A7, A8 & A9

(Source: KEAM Data 2009-2014)

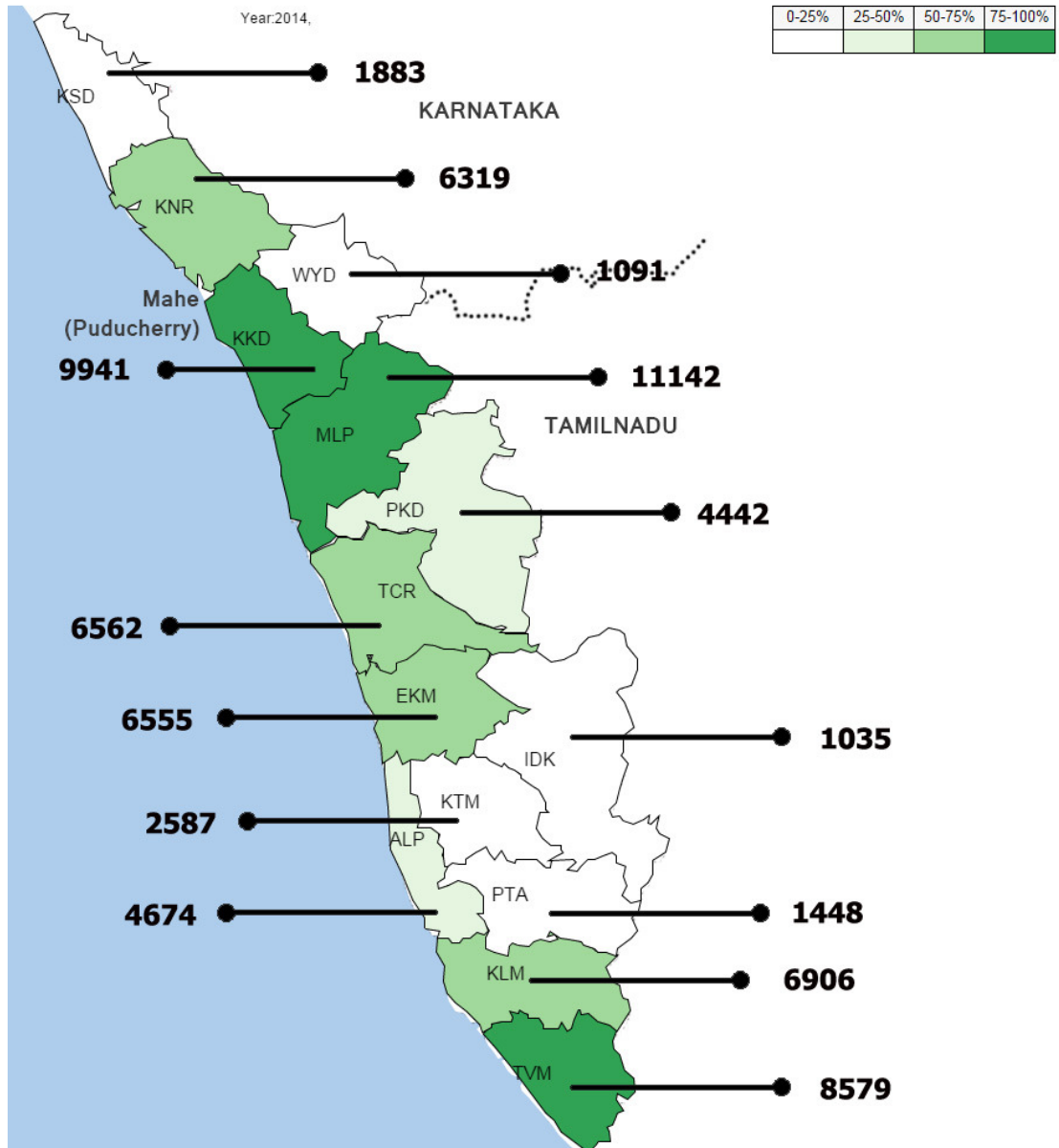
Engineering			
Year	Total Applied	Available Seats	Admitted
2009	108118	3987	3987
2010	107551	4590	4590
2011	109934	5481	5481
2012	112790	6660	6660
2013	108402	6795	6795
2014	117840	7047	7047

Medical			
Year	Total Applied	Available Seats	Admitted
2009	75347	587	587
2010	76316	585	585
2011	84565	612	612
2012	85635	630	630
2013	66701	630	630
2014	101504	657	657

Architecture			
Year	Total Applied	Available Seats	Admitted
2009	12520	36	36
2010	11318	45	45
2011	12176	81	81
2012	18362	99	99
2013	25990	135	135
2014	28701	207	207

Overall SEBCs District-wise Distribution KEAM 2014

(Source: KEAM Data 2009-2014)



3.1.8 Caste/community wise applicants and admissions made as under:

Tables A10, A11 & A12

(Source: KEAM Data 2009-2014)

SEBC Applicants and Admissions of MBBS			
Year	Total Applied	Available Seats	Admitted
2009	39006	313	311
2010	39932	310	309
2011	43540	316	316
2012	43318	366	361
2013	38910	406	400
2014	52667	477	480

SC / ST Applicants and Admissions of MBBS			
Year	Total Applied	Available Seats	Admitted
2009	5239	120	103
2010	5305	120	116
2011	5682	124	124
2012	5545	139	138
2013	5224	156	156
2014	6909	249	247

Forward Community Applicants and Admissions of MBBS			
Year	Total Applied	Available Seats	Admitted
2009	31004	775	775
2010	31000	765	765
2011	35343	794	794
2012	36691	898	898
2013	35101	1001	1001
2014	41928	1186	1186

3.1.9 SEBC community wise split up made as given below:

Tables A13, A14, A15, A16, A17 & A18

(Source: KEAM Data 2009-2014)

Ezhava- SEBC Community Applicants and Admissions of MBBS			
Year	Total Applied	Available Seats	Admitted
2009	13377	109	109
2010	13551	108	107
2011	14681	111	111
2012	14403	127	126
2013	13162	140	138
2014	17775	164	165

Muslims- SEBC Community Applicants and Admissions of MBBS			
Year	Total Applied	Available Seats	Admitted
2009	16773	96	94
2010	17319	96	96
2011	18837	99	99
2012	19181	112	109
2013	16938	125	121
2014	22785	147	149

Latin Catholics - SEBC Community Applicants and Admissions of MBBS			
Year	Total Applied	Available Seats	Admitted
2009	1820	25	25
2010	1849	25	25
2011	2194	24	24
2012	2112	29	29
2013	1858	31	31
2014	2638	36	36

Other Backward Christians- SEBC Community Applicants and Admissions of MBBS			
Year	Total Applied	Available Seats	Admitted
2009	991	12	12
2010	967	12	12
2011	1074	12	12
2012	1092	14	14
2013	971	16	16
2014	1312	18	18

Kudumbi- SEBC Community Applicants and Admissions of MBBS			
Year	Total Applied	Available Seats	Admitted
2009	135	10	10
2010	142	8	8
2011	155	9	9
2012	160	13	13
2013	154	16	16
2014	232	19	19

Other Backward Hindus- SEBC Community Applicants and Admissions of MBBS			
Year	Total Applied	Available Seats	Admitted
2009	5910	61	61
2010	6104	61	61
2011	6599	61	61
2012	6370	71	70
2013	5827	78	78
2014	7925	93	93

3.1.10 Forward and SEBCs reservation not claimed category split up done as under:

Tables A19, A20, A21, A22, A23, A24, A25 & A26

(Source: KEAM Data 2009-2014)

Forward Hindu - Applicants and Admissions of Medical MBBS			
Year	Total Applied	Available Seats	Admitted
2009	10850	775	165
2010	8991	765	139
2011	9851	794	127
2012	7923	898	133
2013	8904	1001	134
2014	11593	1186	165

Forward Christian - Applicants and Admissions of Medical MBBS			
Year	Total Applied	Available Seats	Admitted
2009	11385	775	171
2010	11593	765	201
2011	12267	794	190
2012	12011	898	210
2013	12686	1001	234
2014	16011	1186	300

Ezhava- SEBC's not claimed reservation		
Year	Total Applied	Admitted
2009	787	23
2010	938	20
2011	1373	27
2012	1959	49
2013	2264	63
2014	2165	47

Muslims- SEBC's not claimed reservation		
Year	Total Applied	Admitted
2009	640	17
2010	819	21
2011	1128	39
2012	1635	47
2013	1872	66
2014	1887	64

Other Backward Hindus- SEBC's not claimed reservation		
Year	Total Applied	Admitted
2009	630	11
2010	733	5
2011	894	12
2012	1160	21
2013	1331	31
2014	1268	22

Latin Catholics- SEBC's not claimed reservation		
Year	Total Applied	Admitted
2009	429	3
2010	369	3
2011	427	5
2012	437	10
2013	509	15
2014	516	6

Other Backward Christians- SEBC's not claimed reservation		
Year	Total Applied	Admitted
2009	363	1
2010	380	4
2011	516	2
2012	460	3
2013	425	5
2014	530	3

Kudumbi- SEBC's not claimed reservation		
Year	Total Applied	Admitted
2009	5	0
2010	10	0
2011	15	0
2012	6	0
2013	7	0
2014	8	0

3.1.11 Other Backward Hindus caste wise split up of applicants and admissions extracted as Table A.

3.1.12 Income level of ₹ 4.5 lakh and MBBS-Engineering seat distribution for 2009-13 among Ezhava, Other Backward Hindus and Kudumbi are taken to understand the existing creamy layer who secured seats through merit, existing creamy layer who did not get admission, SEBC candidates who claimed reservation and secured seats through reservation and SEBC candidates who did not get admission were classified according to their rank list as shown in Table T, Table LL, Table RR, Table ZZ, Table DD and Table CC.

TABLE T (Source: KEAM Data 2009-2014)

Ezhavas Seats Distribution 2009 - 2013 with Creamy layer - income criteria of 4.5 Lakhs										
Year	2009		2010		2011		2012		2013	
	No of candidates	Rank of last seat	No of candidates	Rank of last seat	No of candidates	Rank of last seat	No of candidates	Rank of last seat	No of candidates	Rank of last seat
Existing Creamy Layer who secured seats through merit	23	1096	20	1683	27	1812	49	1886	63	2354
Existing Creamy Layer who did not get admission	715		819		1200		1670		1946	
SEBC Candidates who claimed reservation and secured seats in merit	71		77		76		73		85	
SEBC Candidates who secured seats through reservation	109	1681	107	1948	111	2315	126	2373	138	2902
SEBC candidates who did not get admission	11414		11349		12162		11796		10962	

Table LL (Source: KEAM Data 2009-2014)

Other Backward Hindu Seats Distribution 2009 – 2013 with Creamy layer - income criteria of 4.5 Lakhs										
	2009		2010		2011		2012		2013	
	No of candidates	Rank of last seat	No of candidates	Rank of last seat	No of candidates	Rank of last seat	No of candidates	Rank of last seat	No of candidates	Rank of last seat
Existing Creamy Layer who secured seats through merit	11	897	5	1460	12	1136	21	1917	31	3153
Existing Creamy Layer who did not get admission	566		665		760		967		1119	
SEBC Candidates who claimed reservation and secured seats in merit	34		41		33		30		41	
SEBC Candidates who secured seats through reservation	61	1596	61	1936	61	2058	70	2650	78	4243
SEBC candidates who did not get admission	4916		4971		5290		5076		4677	

Table RR (Source: KEAM Data 2009-2014)

Kudumbi MBBS Seats Distribution 2009 – 2013 with Creamy layer - income criteria of 4.5 Lakhs										
	2009		2010		2011		2012		2013	
	No of candidates	Rank of last seat	No of candidates	Rank of last seat	No of candidates	Rank of last seat	No of candidates	Rank of last seat	No of candidates	Rank of last seat
Existing Creamy Layer who secured seats through merit	0	0	0	0	0	0	0	0	0	0
Existing Creamy Layer who did not get admission	5		9		13		4		6	
SEBC Candidates who claimed reservation and secured seats in merit	0		0		0		0		0	
SEBC Candidates who secured seats through reservation	10	8502	8	11305	9	12025	13	17288	16	14339
SEBC candidates who did not get admission	79		72		95		96		89	

Table ZZ (Source: KEAM Data 2009-2014)

Ezhavas Engineering seats Distribution 2009 – 2013 with Creamy layer - income criteria of 4.5 Lakhs										
	2009		2010		2011		2012		2013	
	No of candidates	Rank of last seat	No of candidates	Rank of last seat	No of candidates	Rank of last seat	No of candidates	Rank of last seat	No of candidates	Rank of last seat
Existing Creamy Layer who secured seats through merit	43	13544	71	25954	58	9300	97	15294	105	13627
Existing Creamy Layer who did not get admission	1257		1352		1717		2210		2503	
SEBC Candidates who claimed reservation and secured seats in merit	452		435		410		385		364	
SEBC Candidates who secured seats through reservation	373	17417	390	45327	360	32062	388	21768	324	22151
SEBC candidates who did not get admission	15705		15114		15088		15008		14141	

Table DD (Source: KEAM Data 2009-2014)

Other Backward Hindus Engineering seats Distribution 2009 – 2013 with Creamy layer - income criteria of 4.5 Lakhs										
	2009		2010		2011		2012		2013	
	No of candidates	Rank of last seat	No of candidates	Rank of last seat	No of candidates	Rank of last seat	No of candidates	Rank of last seat	No of candidates	Rank of last seat
Existing Creamy Layer who secured seats through merit	24	6533	38	5866	42	6466	58	10633	57	8231
Existing Creamy Layer who did not get admission	961		1042		1092		1244		1412	
SEBC Candidates who claimed reservation and secured seats in merit	191		199		216		149		180	
SEBC Candidates who secured seats through reservation	197	22943	129	51782	205	22537	207	24574	178	22453
SEBC candidates who did not get admission	6476		6276		6327		6329		5924	

Table CC (Source: KEAM Data 2009-2014)

Kudumbi Engineering seats Distribution 2009 – 2013 with Creamy layer - income criteria of 4.5 Lakhs										
	2009		2010		2011		2012		2013	
	No of candidates	Rank of last seat	No of candidates	Rank of last seat	No of candidates	Rank of last seat	No of candidates	Rank of last seat	No of candidates	Rank of last seat
Existing Creamy Layer who secured seats through merit	0	0	0	0	0	0	0	26935	1	2442
Existing Creamy Layer who did not get admission	10		18		19		4		4	
SEBC Candidates who claimed reservation and secured seats in merit	1		3		1		2		6	
SEBC Candidates who secured seats through reservation	38	52421	39	71223	38	44101	36	50617	39	54003
SEBC candidates who did not get admission	115		110		139		140		148	

3.1.13 Government enhanced the income limit to ₹ 6 lakh in G.O. (Ms) No.3/2014/BCDD dated 09.01.2014 which was made applicable to KEAM 2014.

3.1.14 Therefore the MBBS and Engineering seat distribution for 2014 among Ezhava, Other Backward Hindus and Kudumbi were also taken to understand the existing creamy layer among them who secured seats through merit, existing creamy layer who did not get admission, candidates who claimed reservation and secured seats through reservation and candidates who did not get admission were classified according to their rank list as shown in Table PP & Table QQ.

Table PP (Source: KEAM Data 2009-2014)

MBBS seats Distribution 2014 with Creamy layer - income criteria of 6 Lakhs						
	Ezhavas		Other Backward Hindus		Kudumbi	
	No of candidates	Maximum rank who secured seat in the layer	No of candidates	Maximum rank who secured seat in the layer	No of candidates	Maximum rank who secured seat in the layer
Existing Creamy Layer who secured seats through merit	47	2520	22	2553	0	0
Existing Creamy Layer who did not get admission	1863		1093		8	
SEBC Candidates who claimed reservation and secured seats in merit	107		45		0	
SEBC Candidates who secured seats through reservation	165	2929	93	2981	19	19771
SEBC candidates who did not get admission	14979		6552		157	

Table QQ (Source: KEAM Data 2009-2014)

Engineering seats Distribution 2014 with Creamy layer - income criteria of 6 Lakhs						
	Ezhavas		Other Backward Hindus		Kudumbi	
	No of candidates	Maximum rank who secured seat in the layer	No of candidates	Maximum rank who secured seat in the layer	No of candidates	Maximum rank who secured seat in the layer
Existing Creamy Layer who secured seats through merit	110	12609	55	10601	0	0
Existing Creamy Layer who did not get admission	2012		1214		7	
SEBC Candidates who claimed reservation and secured seats in merit	435		185		5	
SEBC Candidates who secured seats through reservation	385	16941	219	20601	40	49373
SEBC candidates who did not get admission	16441		7057		162	

3.1.15 MBBS and Engineering seat distribution 2014 with creamy layer income of ₹ 6 lakh were analysed. Then extracted the information of the community category in SEBC who applied and got allocated for reservation for the M.B.B.S course. Also extracted the information of the forward SEBC who applied in the general category.

3.1.16 The extracted information was categorised as stated below with the dimensions like existing creamy layer and SEBC candidates who applied and got allocated for the past five years.



(Source: KEAM Data 2009-2014)

(The above layers of MBBS candidates are based on application and allocation)

3.1.17 These layers were further analysed on each community basis to find out the impact of the new creamy layer principle.

3.1.18 On sorting out the performance of the layers and the required rank for every layer to secure a seat for past 5 years one could find the actual change in the following. Considered the M.B.B.S course and Ezhava community for first analysis (Refer Table T at page 119 & Table TT).

Table TT (Source: KEAM Data 2009-2014)

Ezhavas existing creamy layer above SEBC maximum rank 2009-2014						
Number of creamy layer candidates above SEBC maximum rank	2009	2010	2011	2012	2013	2014
	51	45	85	113	176	120

3.1.19 Considering the year 2014 the maximum rank of an Ezhava SEBC candidate in MBBS who secured seat through reservation is 2929. In the above Table TT shows that 120 of the

creamy layer Ezhava SEBC candidates who are above the rank of maximum Ezhava SEBC rank. Out of which 47 State merits among the existing creamy layer is also included. Once the current creamy layer criteria (aggregate family income) are removed, 73 higher income Ezhava candidates (120-47=73) are able to get the Ezhava SEBC reservation seat of 165.

3.1.20 Also the practice now in vogue is that higher rank SEBC students are utilising the SEBC reservation seat to obtain the best college or best course according to their choice.

3.1.21 Under the circumstance almost 70% of the SEBC seats would be utilised by the current creamy layer candidates.

Findings

3.1.22 From the analysis it is concluded that the possibility of the current pattern of deserved candidates (current non-creamy layer i.e. below ₹ 6 lakh) who mainly belong to the lower income and lower education group and their parents' occupation also falls under agriculture, business or 'others' showing their low social status who are availing the benefit of reservation will be in a disadvantageous position.

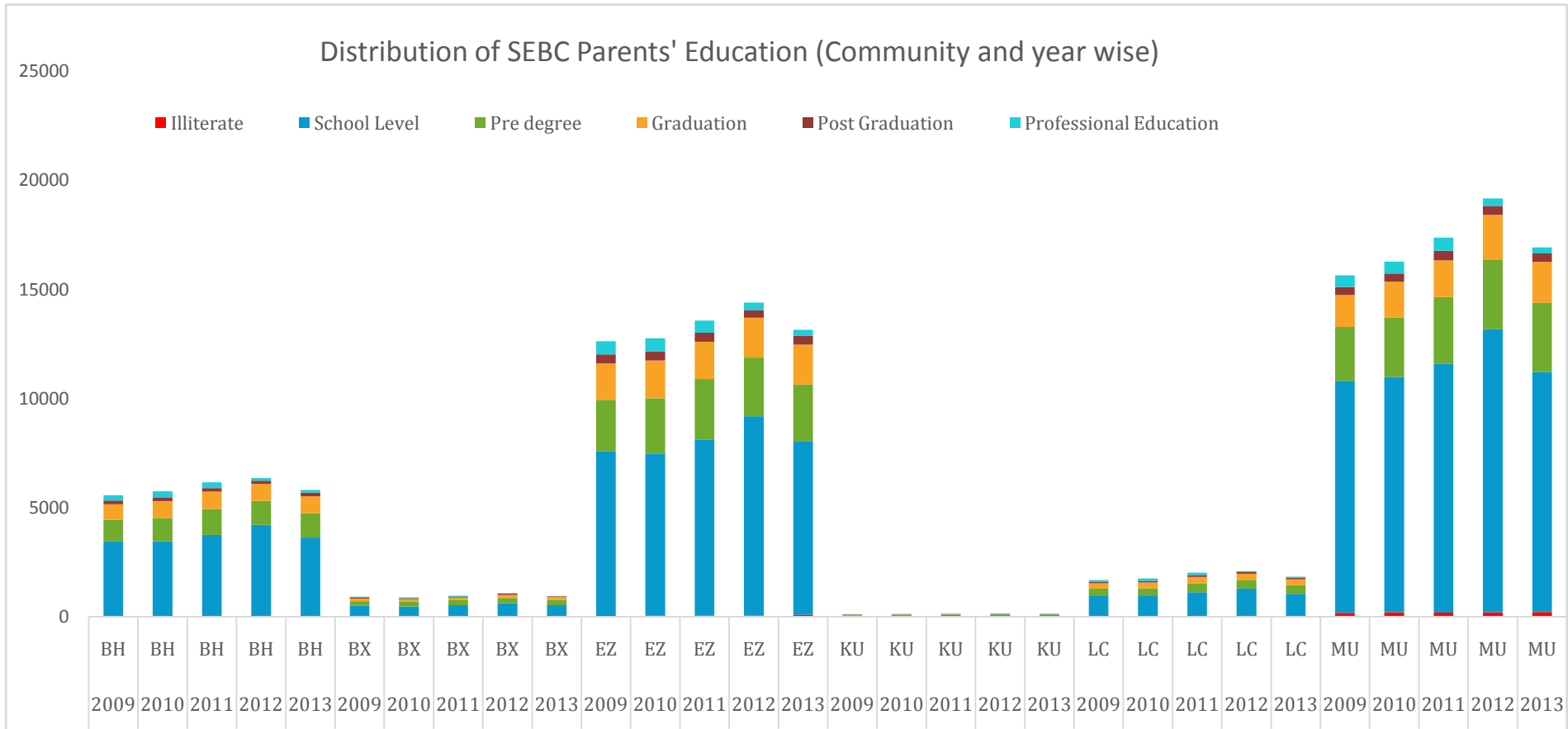
3.1.23 On the other hand the present forward SEBCs (creamy layer group) are unable to get a single seat in the General category (merit) in view of the better capability of the other forward communities (Forward Hindu and Forward Christian) in securing seats.

3.2 ANALYSIS OF SOCIO, ECONOMIC AND EDUCATIONAL BACKWARDNESS OF SEBCs IN KERALA THROUGH THE TECHNIQUE EVOLVED BY KSCBC

3.2.1 This part of analysis is aimed to identifying the backwardness (socio, economic and educational) among the SEBC communities as directed by the Hon'ble High Court and to understand which caste and communities under SEBCs are more backward in term of their occupation and family income.

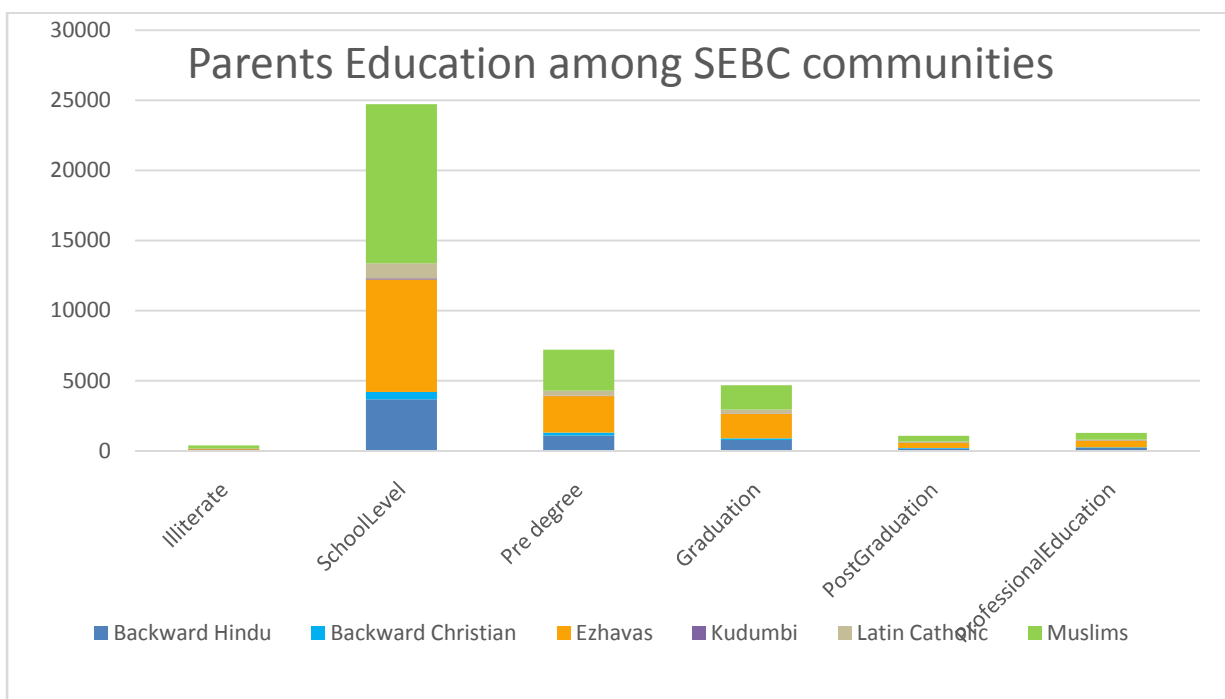
3.2.2 We extracted the socio, economic and educational details of the candidates who applied and got allocated in M.B.B.S course for the past five years and compared and analysed the trend to prove that the Socio-economic backwardness still exist among SEBC community.

Chart F (Source: KEAM Data 2009-2014)



3.2.3 The community wise and year wise SEBC parents education distribution was analysed from the Chart F. It is seen that majority of the parents from other Backward Hindu, Backward Christian, Ezhavas, Kudumbis, Latin Catholic and Muslims belong to the “below secondary level education” category indicating educational backwardness.

Chart G (Source: KEAM Data 2009-2014)



3.2.4 On analysing the SEBC parents’ education attainment indicate that majority has reached the school level education only. The Chart G also exhibits that the majority of parents of SEBC candidates were attained only school level education.

3.2.5 The SEBC parents’ occupation distributions for the past five years were gathered initially. Their education distribution was also calculated in percentage. SEBC parents belong to the occupation category of Industrialist, Doctor, University Teacher, School Teacher are less compared to SEBC parents engaged in agriculture, petty trade and casual labour. The Table H and Table I also display the position.

Table H (Source: KEAM Data 2009-2014)

Application distribution for the past five years on SEBC parents occupation

year	Agriculture	Business	Industrialist	Doctor	Engineer	University Teacher	School Teacher	Other Gov Servant	Other Salaried Person	Petty Trade Casual Labour	Other Occupation
2009	5033	6853	69	251	263	90	1664	4472	2091	2644	13143
2010	5008	7226	81	277	288	75	1693	4648	2039	2560	13691
2011	5190	7658	71	240	309	56	1526	4580	1998	2839	15705
2012	6179	9055	53	199	204	43	1117	4124	1703	2264	18375
2013	5592	8165	42	177	202	39	1004	3541	1428	2029	16691

Table I (Source: KEAM Data 2009-2014)

Average allocation distribution for the past five years on SEBC parents education

SEBC Category	Illiterate	School Level	Pre-Degree	Graduation	Post-Graduation	Professional Education
Backward Hindu	0.2	39.4	21.6	24	9	9.4
Backward Christian	0.2	7.4	8.4	5.2	2.8	2
Ezhavas	0.2	64.4	46.2	57.8	17	21.6
Kudumbi	0	4.6	3.2	2.4	0.2	0.8
Latin Catholic	0	12.2	6.4	11.2	2.8	4.4
Muslims	1.6	168	77.6	74.2	18.8	22.8

Table E (Source: KEAM Data 2009-2014)

Plus two level SEBC student education community wise with seat secured rate

SEBC Category	HSE KERALA			CBSE BOARD			ICSE BOARD			VHSE KERALA		
	Applications	Seats secured	Seats Secured Rate	Applications	Seats secured	Seats Secured Rate	Applications	Seats secured	Seats Secured Rate	Applications	Seats secured	Seats Secured Rate
Backward Hindu	5000.8	65.4	1.4	714	35.2	5	43.2	2.2	5.1	141.4	0	0
Backward Christian	819.2	17.2	2.1	83.2	7	8.5	16.4	1.6	9.8	39.8	0	0
Ezhavas	10922.8	118	1.1	1954.6	83	4.3	99.6	5.8	5.9	260.6	0.2	0.1
Kudumbi	127	9	7.1	11.4	1.8	15.8	1.2	0.4	33.4	4.4	0	0
Latin Catholic	1507.8	21.4	1.5	262.6	12.2	4.7	65.4	2.6	4	41.2	0	0
Muslims	14252.8	246.8	1.8	2406.4	110.6	4.6	69.8	3.4	4.9	256.2	0.4	0.2

3.2.6 Table E indicates the streams through which Higher Secondary Education was undertaken by SEBC students viz. HSE Kerala, CBSE and ICSE. On analysis it is seen that among the three streams majority SEBC students opted to have HSE Kerala which conveys their incapability to choose CBSE and ICSE stream. The Social and economic backwardness of the SEBC community is the major reason not to choose CBSE, ICSE self financing courses by spending huge amount for their children's education needs.

3.2.7 The communities in SEBCs listed below were analysed on the basis of income distribution. Entrance details for the year 2014 were taken:

- a) Ezhava (EZ)
- b) Muslim (MU)
- c) Other backward Hindu (BH)
- d) Latin Catholic (LC)
- e) Other Backward Christian (BX)
- f) Kudumbi (KU)

3.2.8 Factors included for analysis are

- 1. Income
- 2. Occupation
- 3. Parents' Education
- 4. Male/Female
- 5. Residential Area
- 6. School location (Rural/Urban)

3.2.9 Income distribution among SEBC for the year 2014 in Ezhava, Muslim, OBH, LC, Other Backward Christian and Kudumbi are given in the following Charts:

Chart 101 (A)

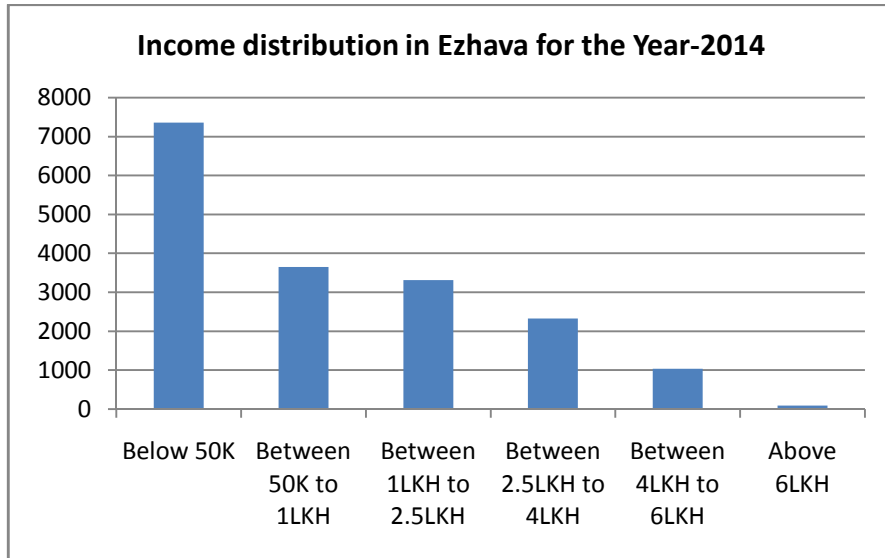
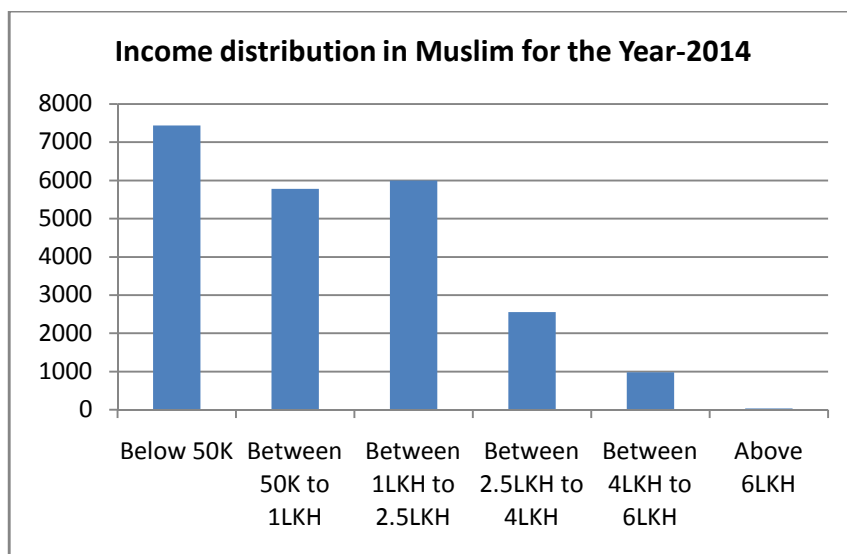


Chart 101 (B)



(Source: KEAM Data 2009-2014)

Chart 101 (C)

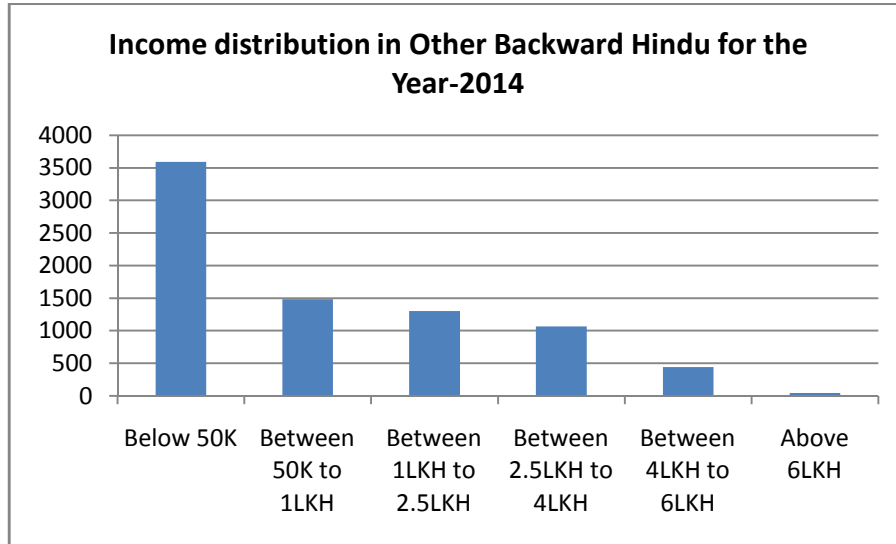
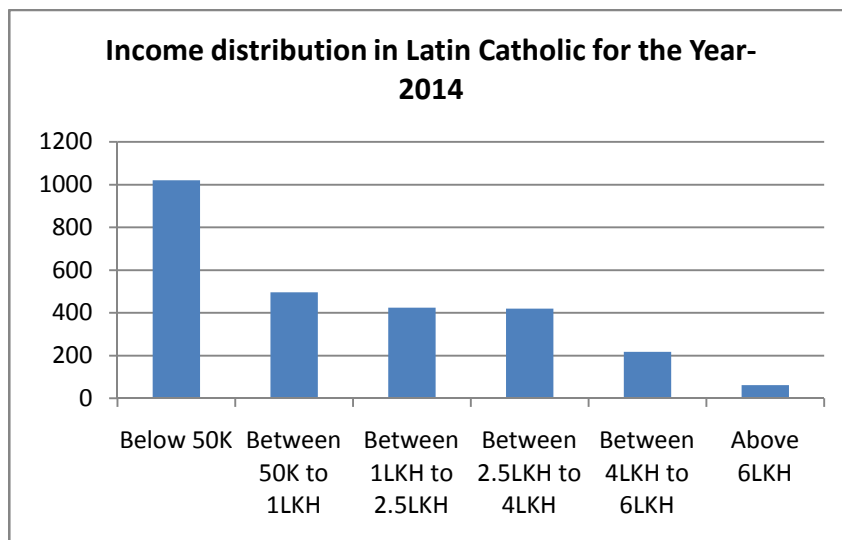


Chart 101 (D)



(Source: KEAM Data 2009-2014)

Chart 101 (E)

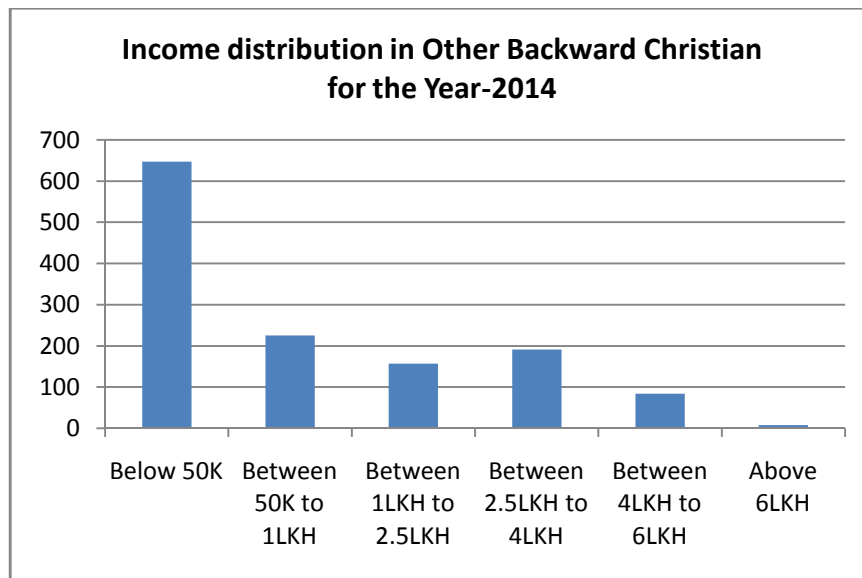
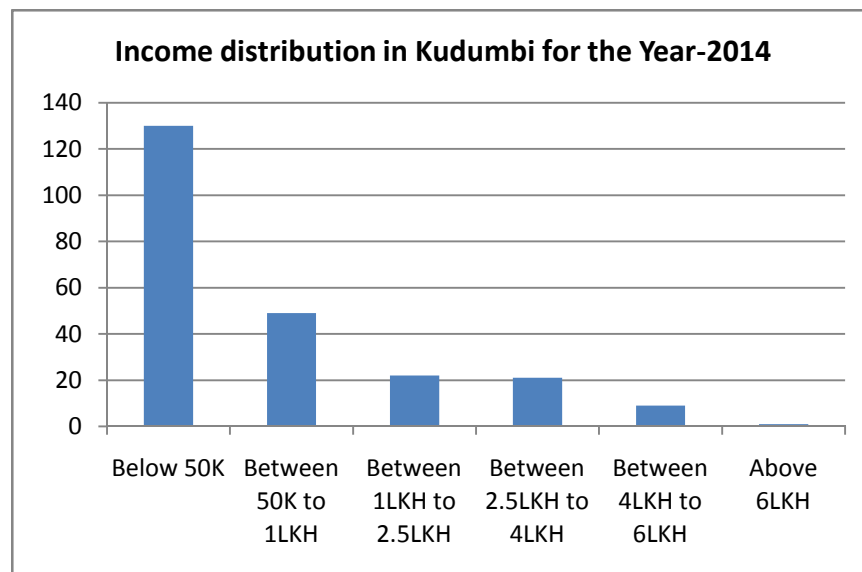


Chart 101 (F)



(Source: KEAM Data 2009-2014)

3.2.10 The income distribution among the SEBCs gives the overall status that majority of them belong to low income category.

3.2.11 Thereafter the overall SEBC parents' occupation distribution for the year 2009-2014 (six years) was gathered and analysed in Table F.

Table F (Source: KEAM Data 2009-2014)

Application distribution on SEBC parents occupation year 2009-2014											
year	Agriculture	Business	Industrialist	Doctor	Engineer	University Teacher	School Teacher	Other Gov Servant	Other Salaried Person	Petty Trade Casual Labour	Other Occupation
2009	5033	6853	69	251	263	90	1664	4472	2091	2644	13143
2010	5008	7226	81	277	288	75	1693	4648	2039	2560	13691
2011	5190	7658	71	240	309	56	1526	4580	1998	2839	15705
2012	6179	9055	53	199	204	43	1117	4124	1703	2264	18375
2013	5592	8165	42	177	202	39	1004	3541	1428	2029	16691
2014	7179	10592	72	235	282	49	1345	4877	1724	2510	23802

3.2.12 The factor "Occupation" was categorised in the prospectus under the heading statistics Clause 24 to Appendix XX as follows:

1) Agriculture, 2) Business, 3) Industrialist, 4) Doctor, 5) Engineer, 6) University Teacher, 7) School Teacher, 8) Other Government Servants, 9) Other Salaried persons, 10) Petty Traders and Casual labour and 11) Other occupation which was not categorised.

3.2.13 The distribution on occupation shows that most SEBCs have come under the "other occupation" group in Table F above. Therefore SEBC education distribution who belongs to other occupation category was further analysed taking the Education and income factors in following Table G1 and G2.

Table G1 (Source: KEAM Data 2009-2014)

SEBC education distribution who belongs to Other occupation category						
Year	Illiterate	School Level	Pre degree	Graduation	Post Graduation	Professional Education
2009	192	9728	1936	861	151	241
2010	184	10024	2103	932	169	249
2011	191	11348	2534	1079	195	312
2012	189	13658	2616	1408	279	225
2013	226	11831	2700	1445	288	201
2014	282	17267	3614	1978	382	279

Table G2 (Source: KEAM Data 2009-2014)

SEBC income distribution who belongs to Other occupation category						
Year	Below50K	Between 50Kto1 LAKH	Between 1 LAKH to 2andhalf LAKH	Between 2andhalf LAKH to 4 LAKH	Between 4LAKHto 6 LAKH	Above 6 LAKH
2009	8288	2830	1725	272	24	4
2010	8248	3035	1980	391	34	2
2011	9015	3615	2414	587	69	5
2012	10297	4068	2981	832	180	17
2013	8500	3893	3221	822	242	13
2014	11412	5698	4845	1348	466	33

3.2.14 The above distribution in the tables shows that majority of the “other occupation” category SEBCs falls in the lowest band level of income which shows that they belong to unorganised sector which does not belong to other organised occupation categories.

3.2.15 KSCBC on analysing 2009-2014 KEAM data for the organised occupation sector it was found that majority falls in business and agriculture groups in SEBC categories in Chart 102 (A) to 102 (F).

Chart 102 (A)

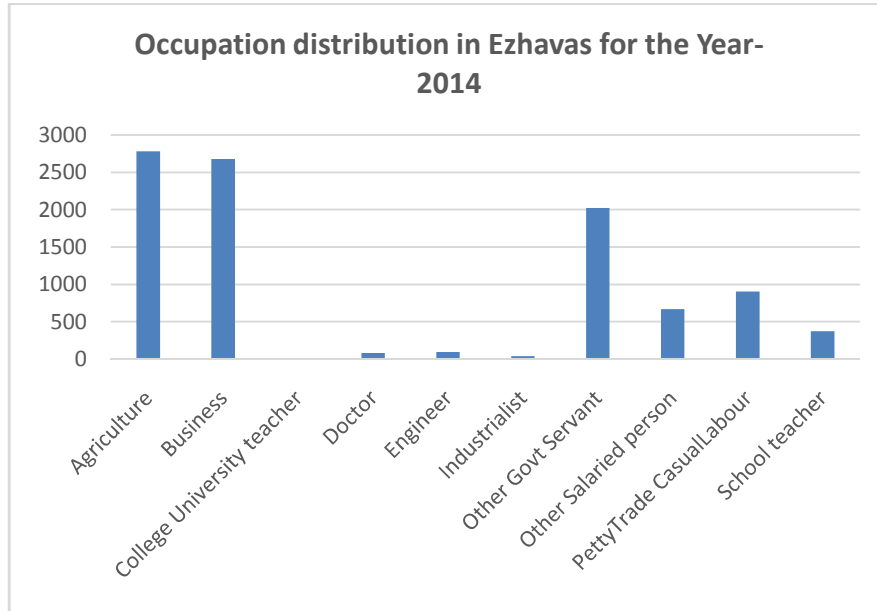
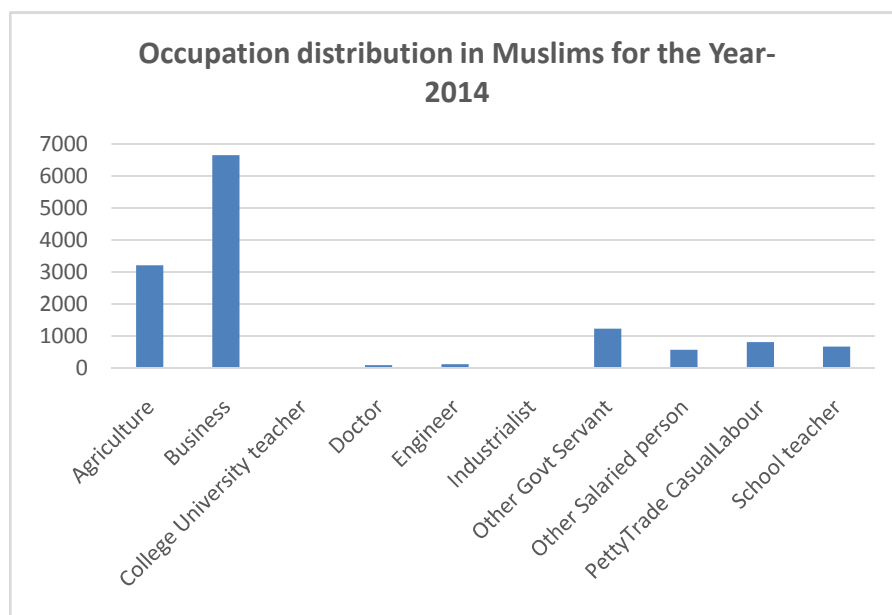


Chart 102 (B)



(Source: KEAM Data 2009-2014)

Chart 102 (C)

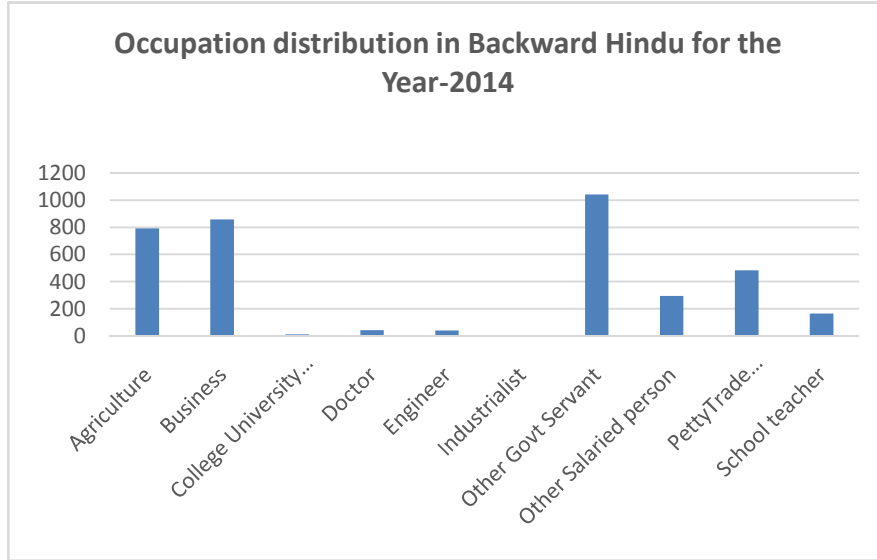
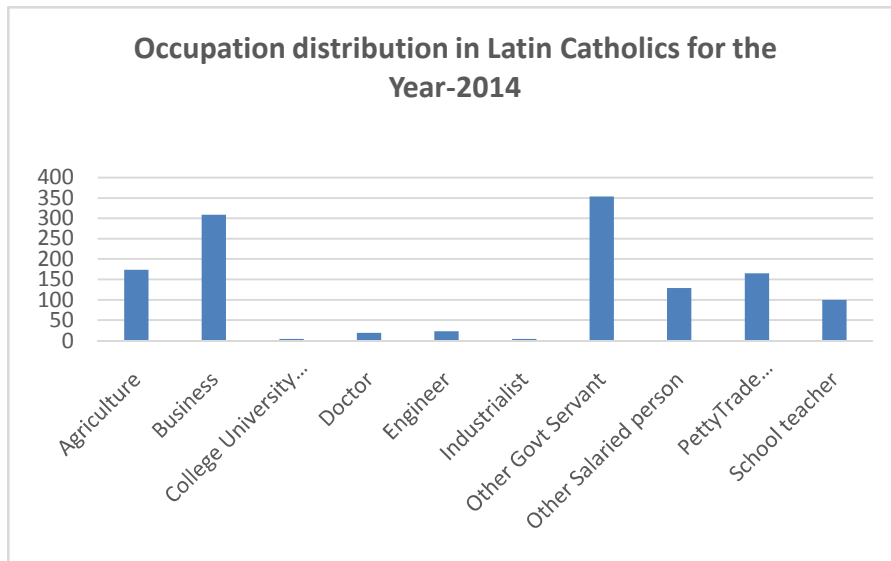


Chart 102 (D)



(Source: KEAM Data 2009-2014)

Chart 102 (E)

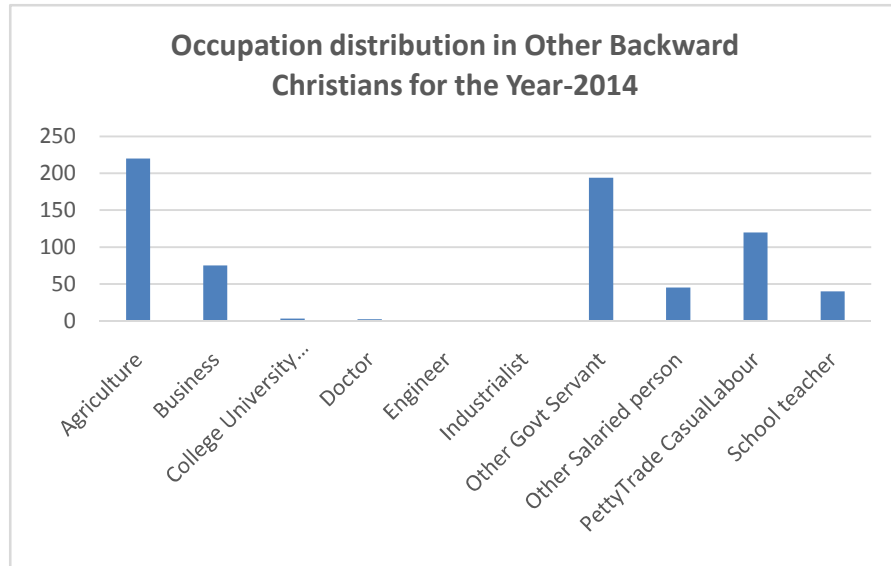
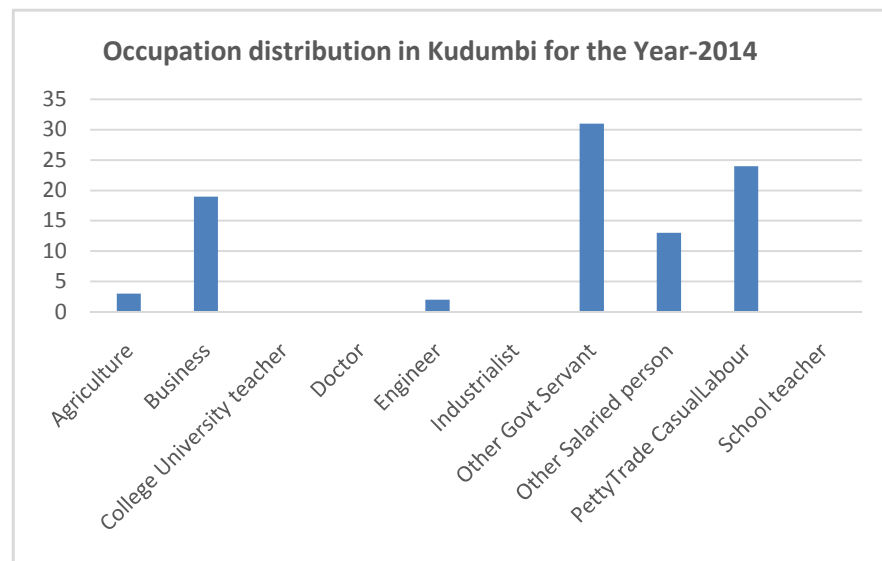


Chart 102 (F)



(Source: KEAM Data 2009-2014)

3.2.16 The Agriculture occupation category of SEBC admittedly very poor. Majority comes in this category. From the chart it is seen that even for business category SEBCs (business class people) are distributed such as most of them belong to below 4 lakh income band.

Chart 103 (A)

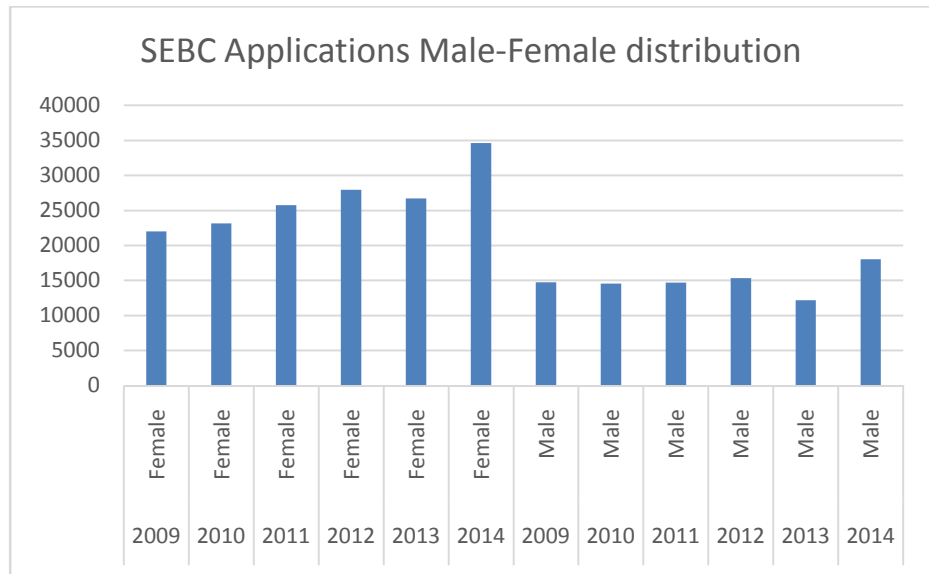
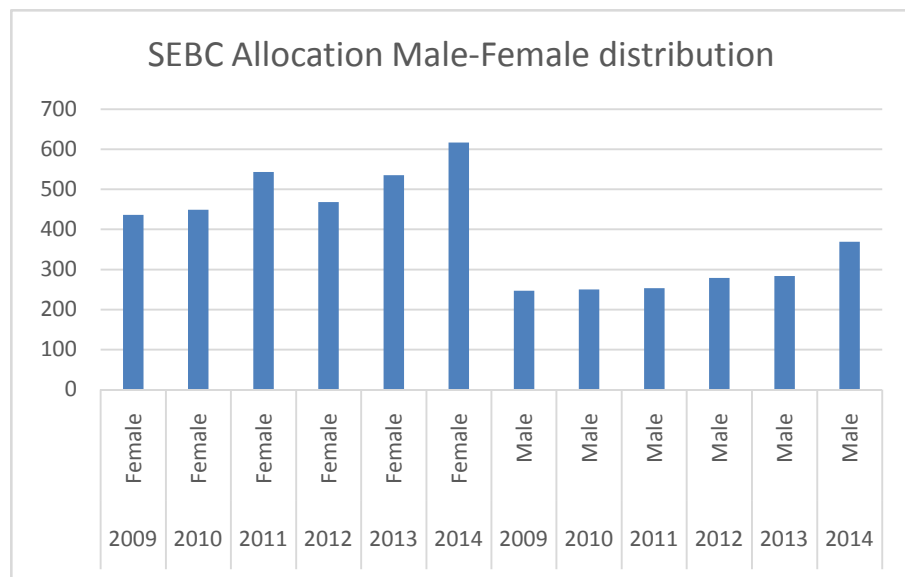


Chart 103 (B)



(Source: KEAM Data 2009-2014)

3.2.17 From the SEBC application and SEBC allocation distribution for years 2009-2014 (six years) gives an overall view that the female candidates are more compared to the male candidates in overall SEBC communities. When examined, the same is the case

with individual SEBC community as well as SEBC communities taken together including Engineering courses which shows the growth of female candidate over the male candidate.

3.2.18 Next KSCBC analysed the residential area distribution of all SEBC communities. 'Residential area' factors viz. Corporation, Municipality, Township, Panchayat and Others were analysed to understand the areas where most of the SEBCs are residing and the backwardness they confront to give better education to their children in following Charts 104 (A) to 104 (F).

Chart 104 (A) (Source: KEAM Data 2009-2014)

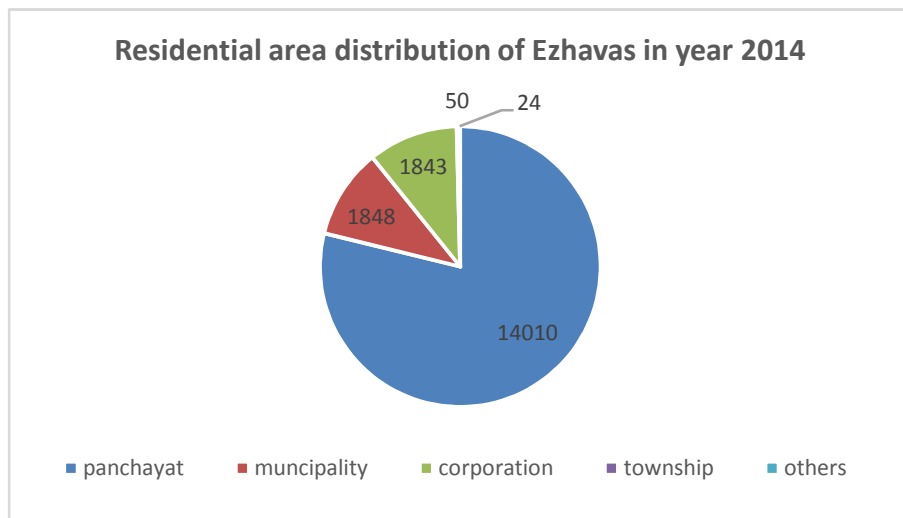


Chart 104 (B)

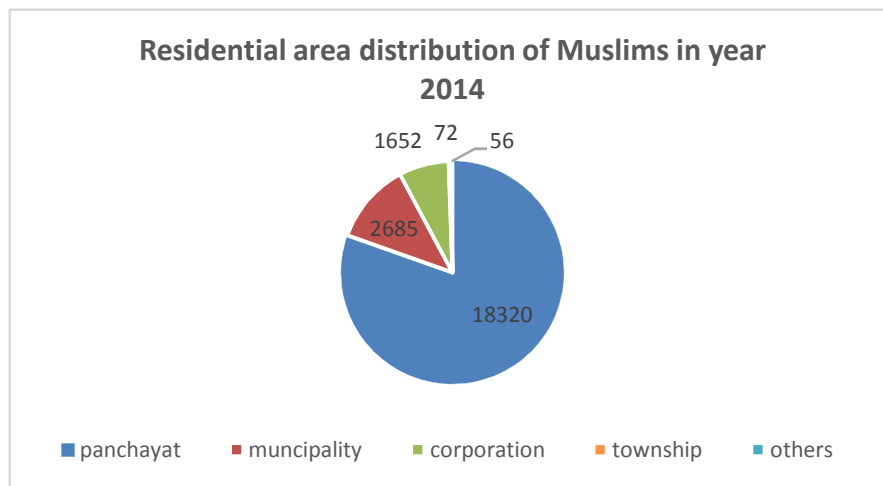


Chart 104 (C)

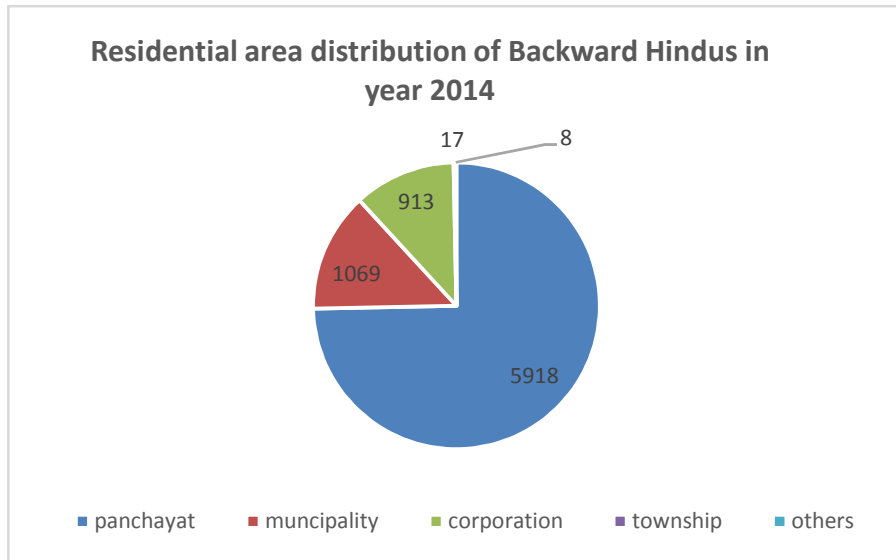
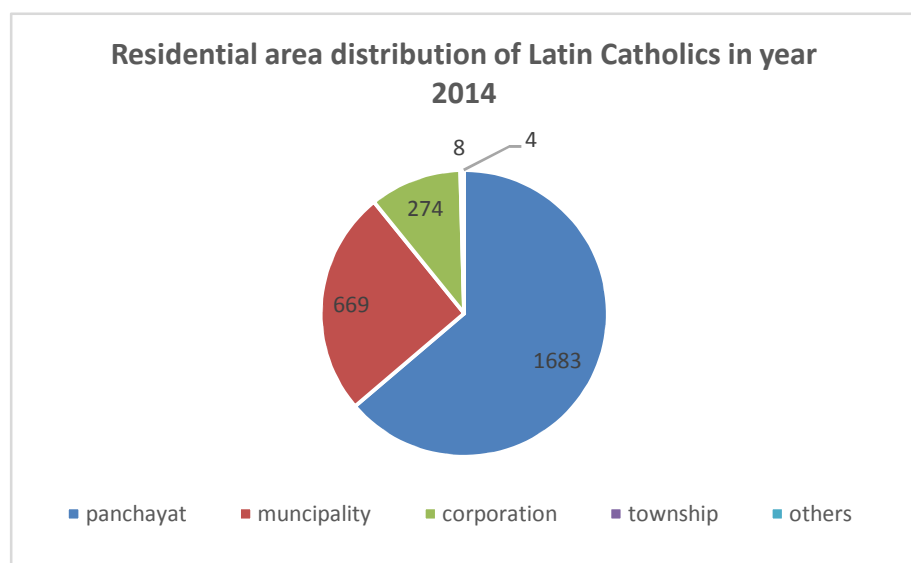


Chart 104 (D)



(Source: KEAM Data 2009-2014)

Chart 104 (E)

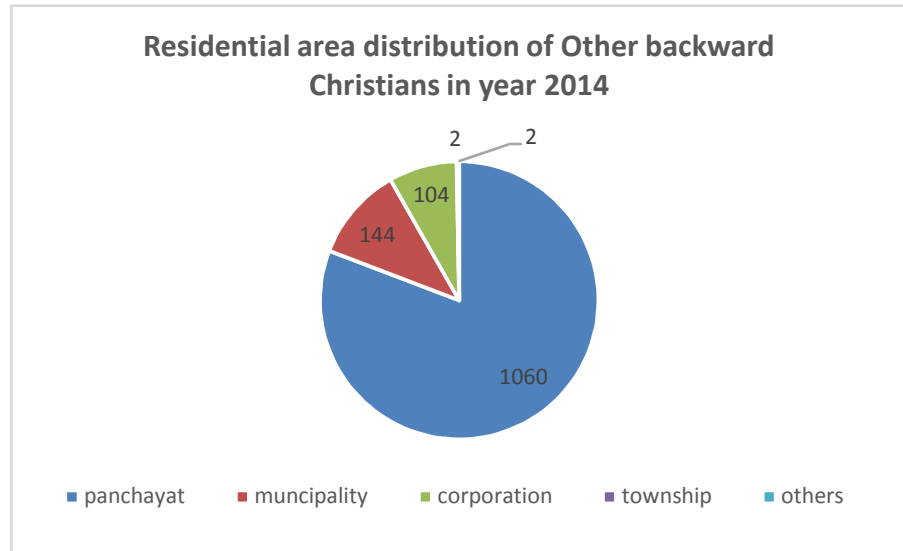
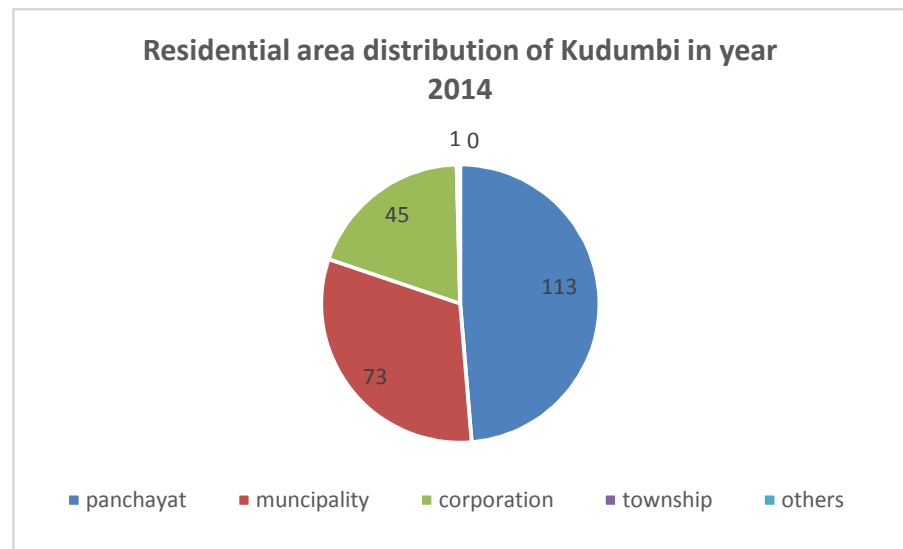
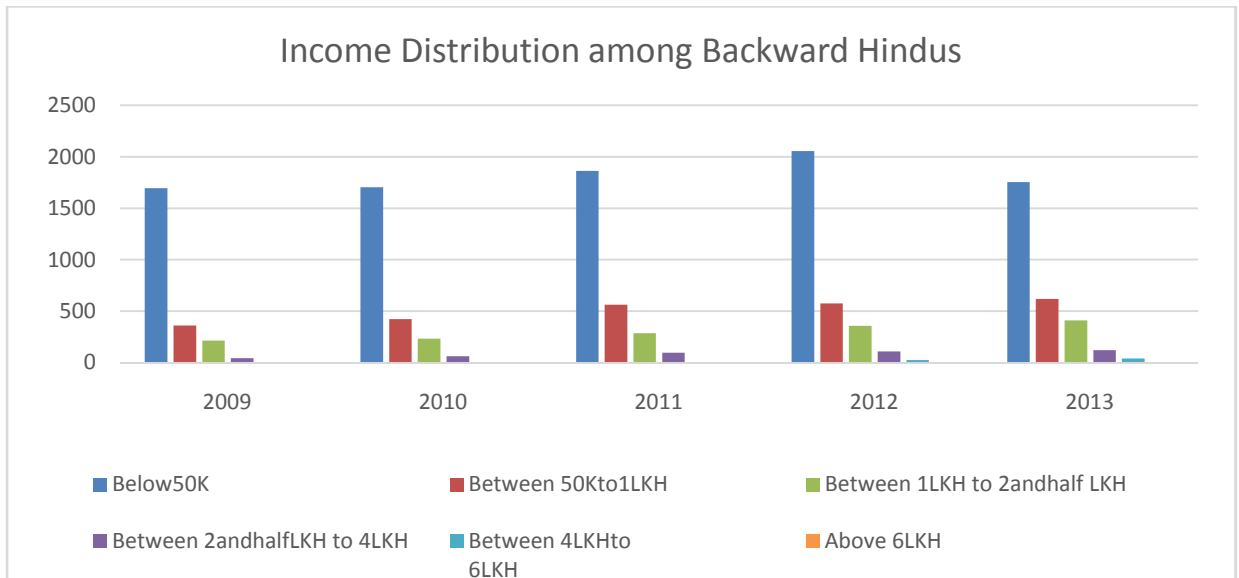


Chart 104 (F)



(Source: KEAM Data 2009-2014)

3.2.19 These charts show that majority of the SEBCs live in panchayats.



(Source: KEAM Data 2009-2014)

3.2.20 The income distribution among other Backward Hindus is shown in the above Chart. Most of the OBH communities belong to below ₹ 50,000 category.

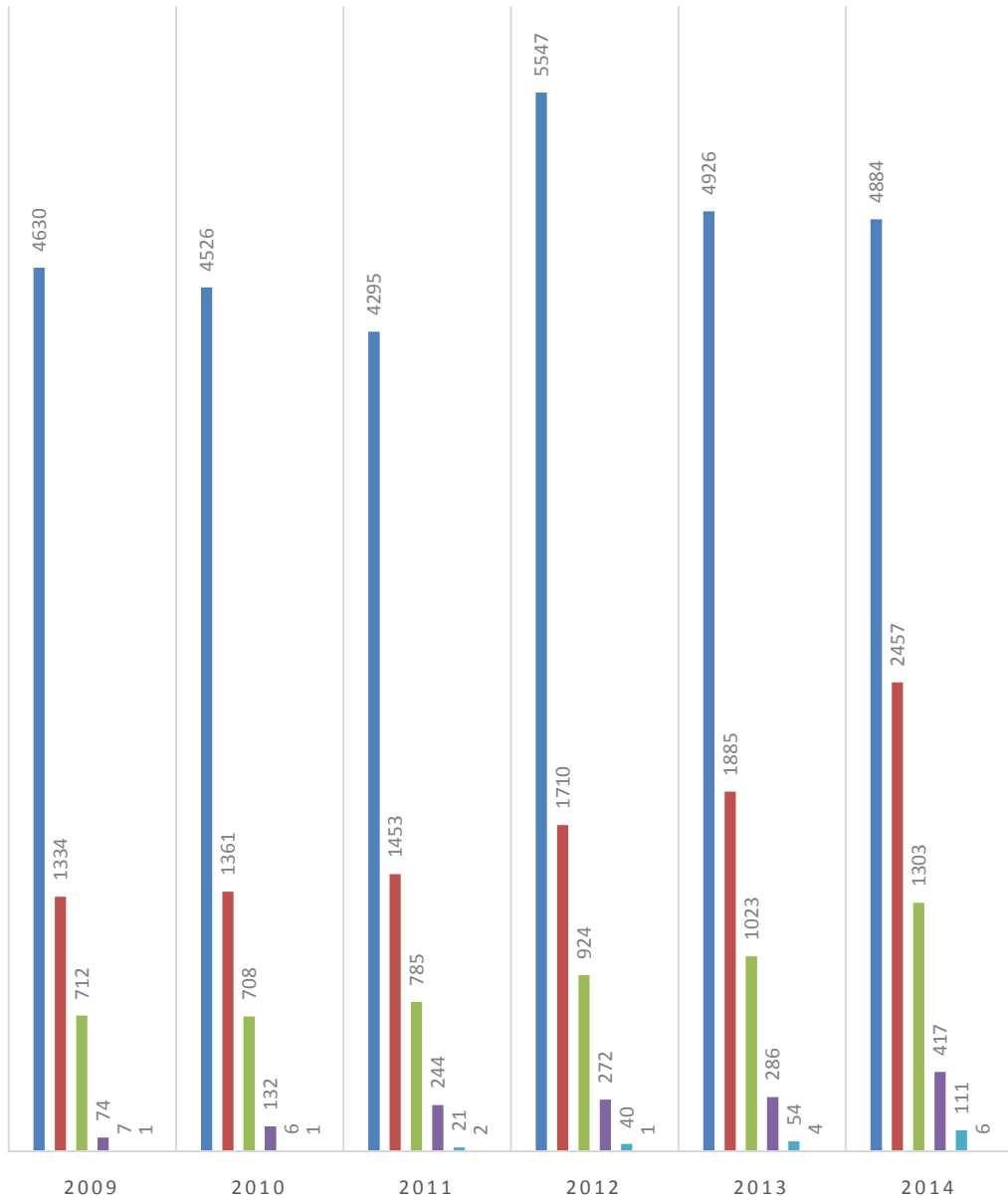
3.2.21 According to the concern raised by few of the community heads at the time of taking evidence that under the current income criteria the income of SEBC community who belong to the non-salaried groups like business, agriculturists are not properly weighed/calculated.

3.2.22 So KSCBC analysed the education and income factors of these occupation categories to understand their status.

3.2.23 SEBC occupation based income distribution among Agriculturists, Business Category for the period 2009-2014 is shown below:

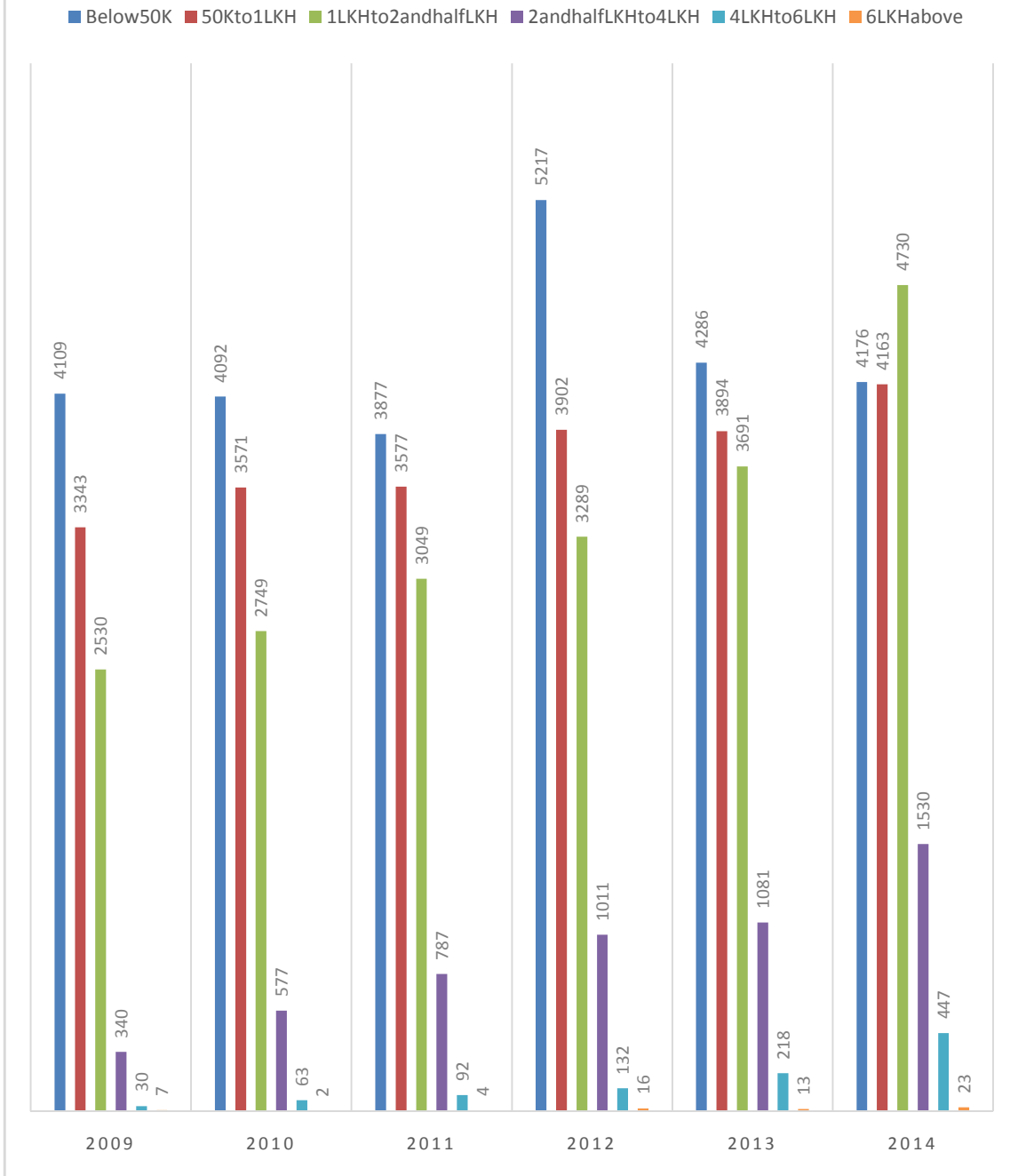
SEBC INCOME DISTRIBUTION - AGRICULTURISTS - KEAM 2009 TO 2014

■ Below50K ■ 50Kto1LKH ■ 1LKHto2andhalfLKH
■ 2andhalfLKHto4LKH ■ 4LKHto6LKH ■ 6LKHabove



(Source: KEAM Data 2009-2014)

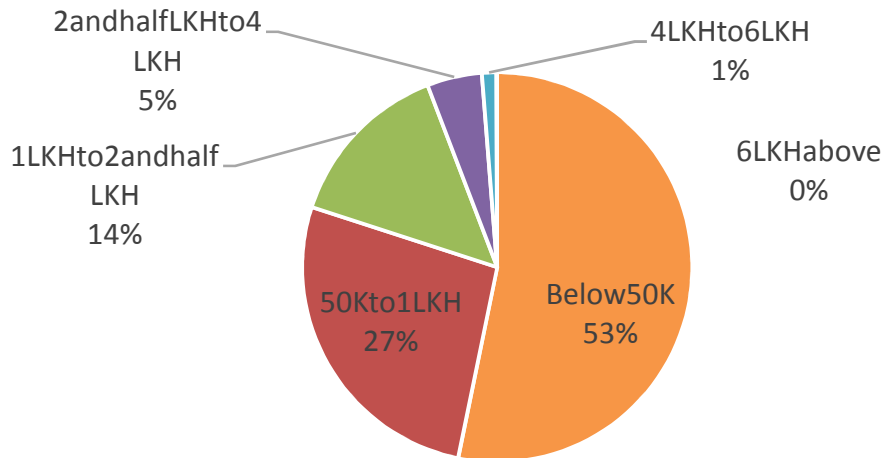
SEBC INCOME DISTRIBUTION - BUSINESS CATEGORY - KEAM 2009 TO 2014



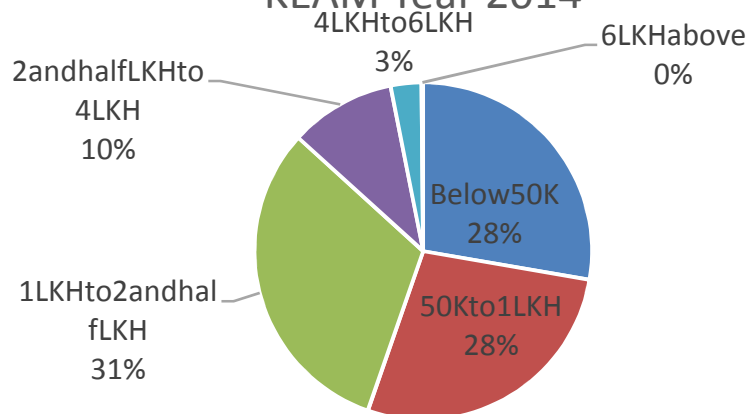
(Source: KEAM Data 2009-2014)

3.2.24 The above shows that the business and agriculturists among the overall SEBCs applied in the past 6 years shows the trend that most of them fall under the category below 2.5 lakh.

SEBC Income distribution - AGRICULTURISTS - KEAM Year 2014



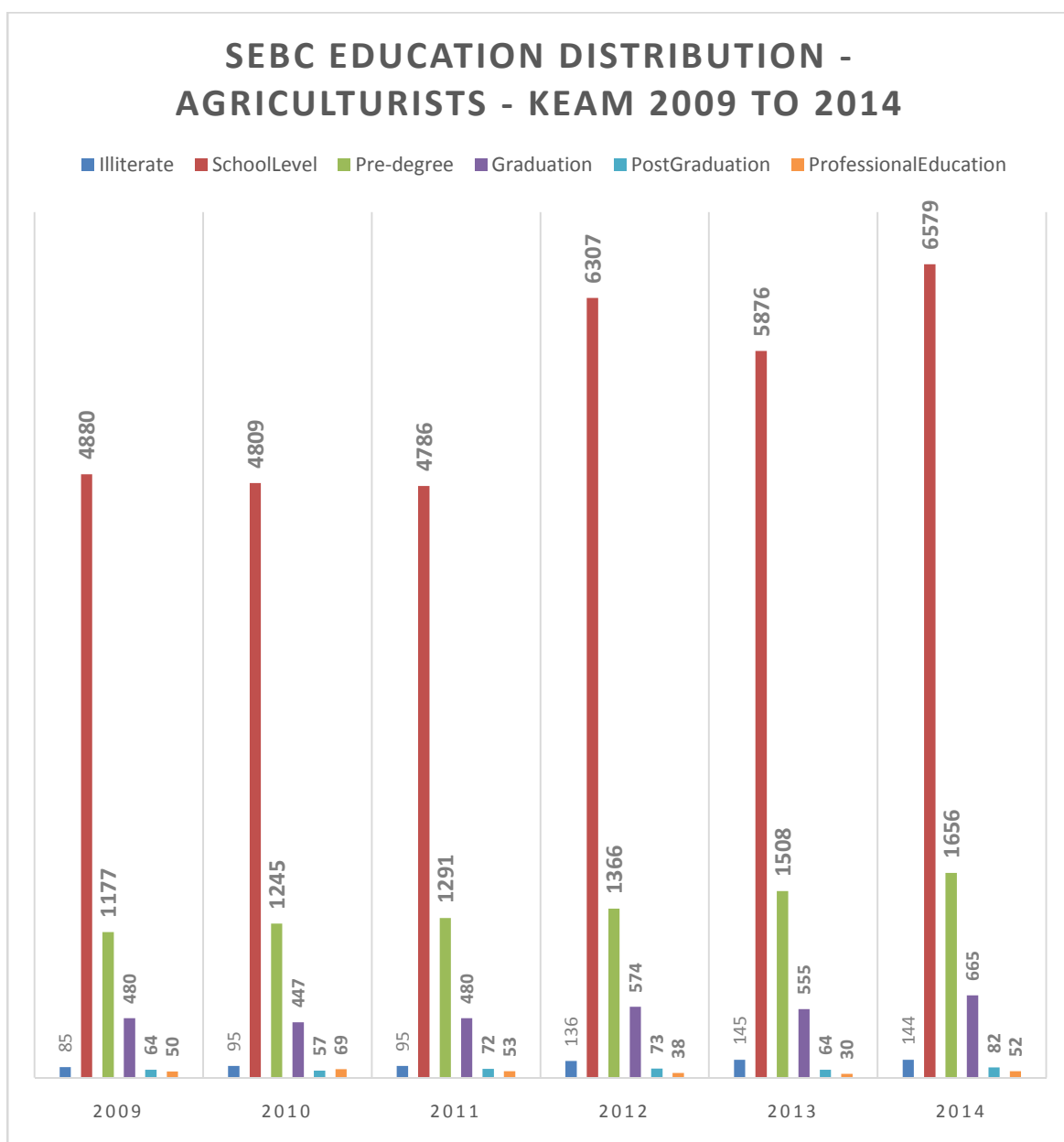
SEBC Income distribution - Business Category - KEAM Year 2014



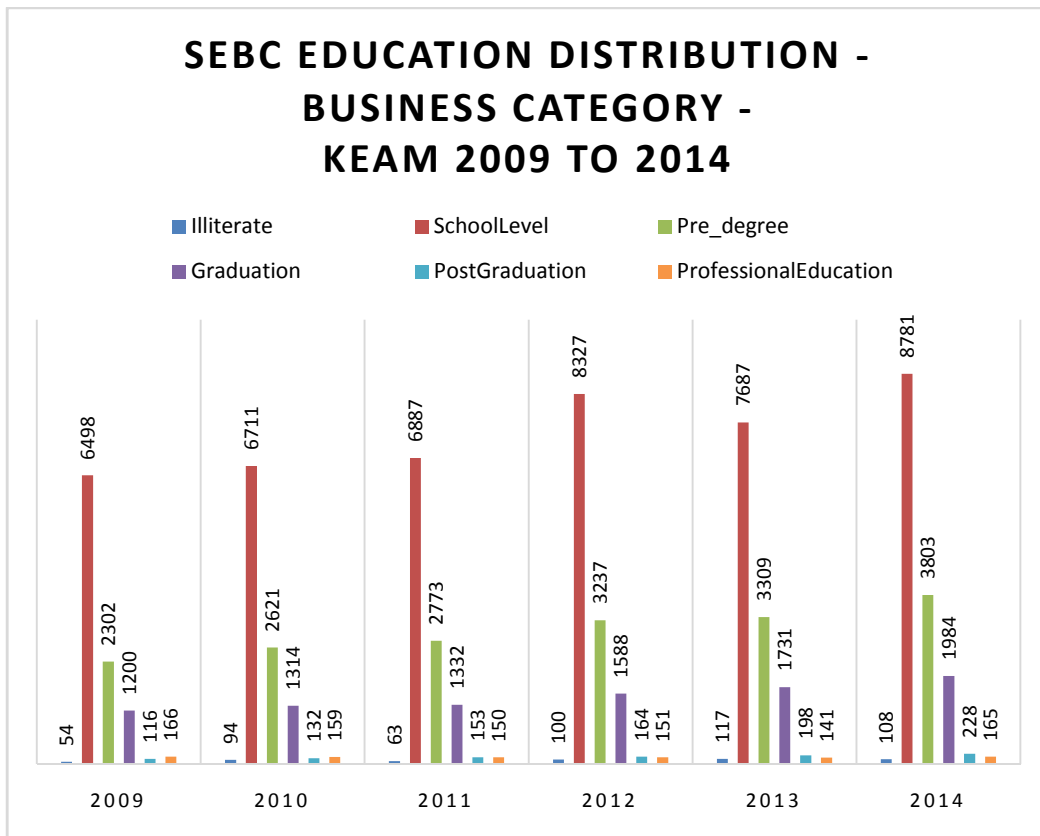
(Source: KEAM Data 2009-2014)

3.2.25 The above SEBC distribution for the year conveys that 94% of the agriculturists are below 2.5 lakh Annual income and 87% of the business category falls under the 2.5 lakh annual income.

3.2.26 So analysing the SEBC occupation based education distribution among Agriculturists, Business Category for the period 2009-2014 give an idea on the educational status in the society.

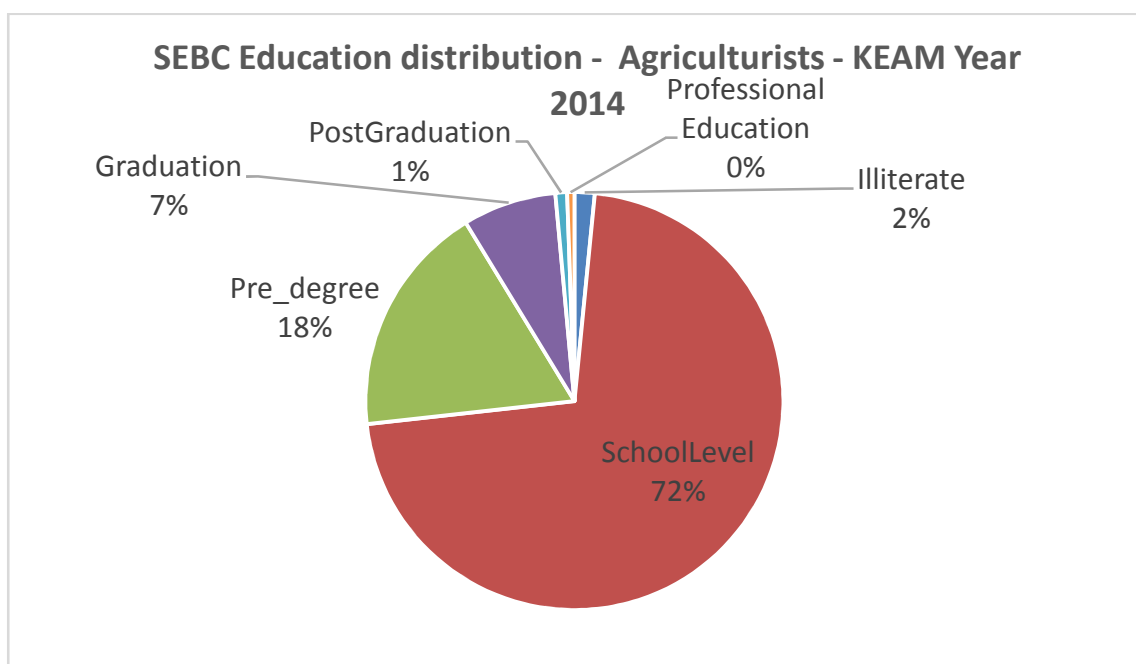


(Source: KEAM Data 2009-2014)

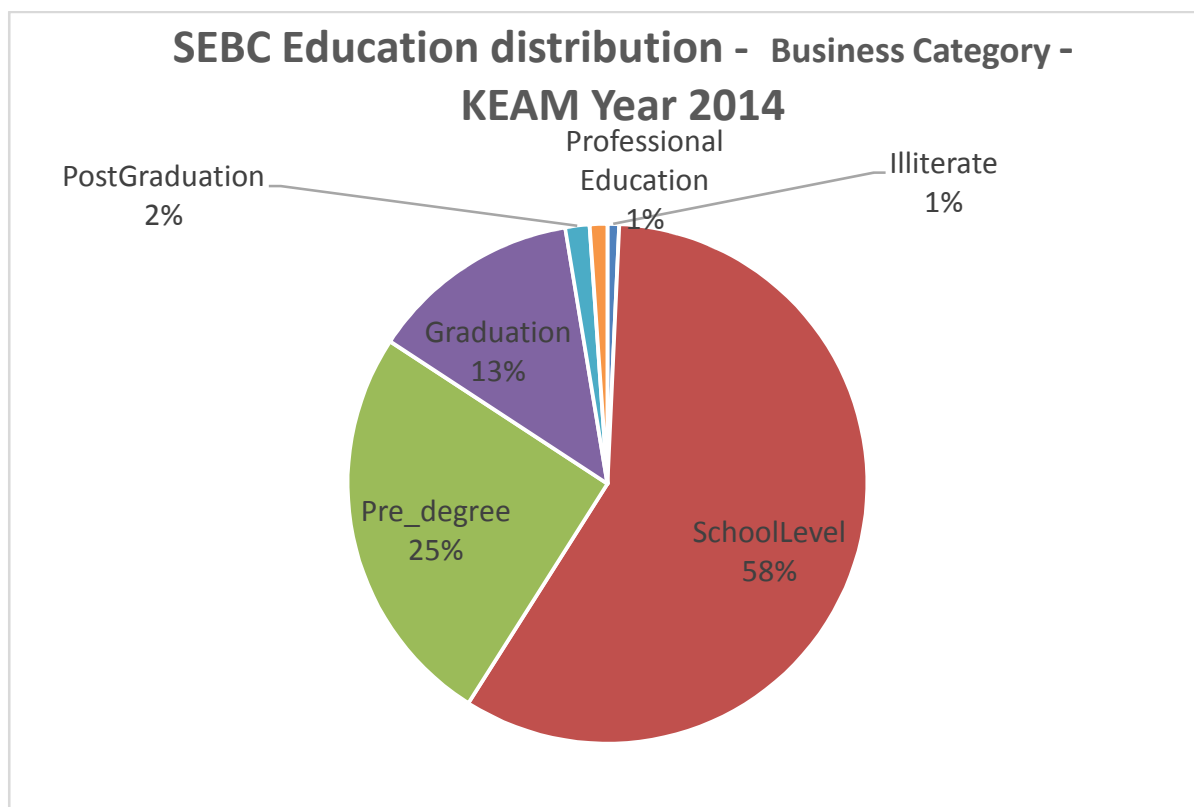


(Source: KEAM Data 2009-2014)

3.2.27 The above trend shows the patterns of distribution of education among the Agriculturists and business category.



(Source: KEAM Data 2009-2014)



(Source: KEAM Data 2009-2014)

3.2.28 The above Charts of the SEBC Education distribution show that the occupation Agriculturists whose education distribution for the KEAM Year 2014 shows that 90% of them are in School and Pre-Degree education level and 83% of the business category also are in School and Pre-degree level. This shows the educational backwardness among these categories of people in SEBC.

3.2.29 Consider the performance of the students in the entrance examination with the current creamy layer criteria based on income we have considered the Ezhava MBBS Performance in securing rank and seats for the year 2009 to 2013 and 2014 as given in Table T (at page 119) and Table PP (at page 125).

3.2.30 The education and income distribution of the entire SEBCs belonging to the occupational groups 'Agriculturists', 'Business', 'Industrialist' and 'other salaried category' for the year 2009-14 were compared with 2014 medical distribution of SEBCs belonging to the

same occupational groups with their education and income distribution in Tables T1 to T16.

3.2.31 This shows the trend that Agriculturist, Business and other salaried group belongs to low income and educational category and their social status also seems to be very low.

3.2.32 The occupation of the class of people the nature of which must be inferior or unclean or undignified and unremunerative or one which does not carry influence or power.

3.2.33 Since most of the SEBCs whose 'occupation' is 'Agriculturist', 'Business' and 'Other Salaried Group' whose nature are inferior and undignified and unremunerative one as understood from the above analysis can safely be concluded that they still live in socio, economic and educational backwardness.

Trend analysis on the existing creamy layer categories in SEBCs and Forward Caste categories

3.2.34 KSCBC categorised the existing creamy layer among SEBCs (using income based criteria) as six. They are given as follows:

- a) Ezhava-who did not claim reservation
- b) Muslim-who did not claim reservation
- c) Other Backward Hindu-who did not claim reservation
- d) Latin Catholic-who did not claim reservation
- e) Other Backward Christian-who did not claim reservation
- f) Kudumbi- who did not claim reservation

3.2.35 Categories of Forward castes: Forward castes were categorised as three. They are given as follows:

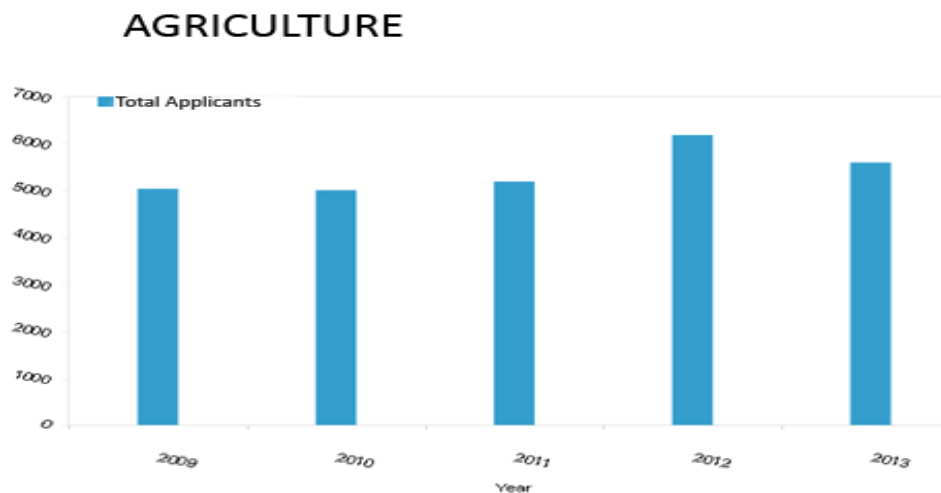
- a) Forward Hindu
- b) Forward Christian
- c) Others (who did not disclose their caste details)

3.2.36 Several parameters with reference to Government and private seat distribution of SEBCs, SEBCs who did not claim reservation in Government and private seats, SEBCs occupation based application and allocation in percentage, SEBC parents education based application and allocation in percentage, SEBC residential area based application and allocation in percentage, SEBC male-female based application and allocation in percentage, SEBCs income based application and allocations were analysed and tabulated as Tables 1.A to 8.F. These tables have been prepared to get first hand information on various trends.

Demand for MBBS course among SEBCs

3.2.37 This analysis is aimed to understand the demand for the M.B.B.S course among SEBCs. First of all we extracted the 'occupation' information of the candidates (parents' occupation) who applied and got allocated in MBBS course for the past five years. Then compared and analysed the trend for the demand of the course between the socially higher educated occupation groups like Teacher and Professionals with agriculturist which give the trend for the demand of the course.

Chart A1



(Source: KEAM Data 2009-2014)

Chart A2

BUSINESS

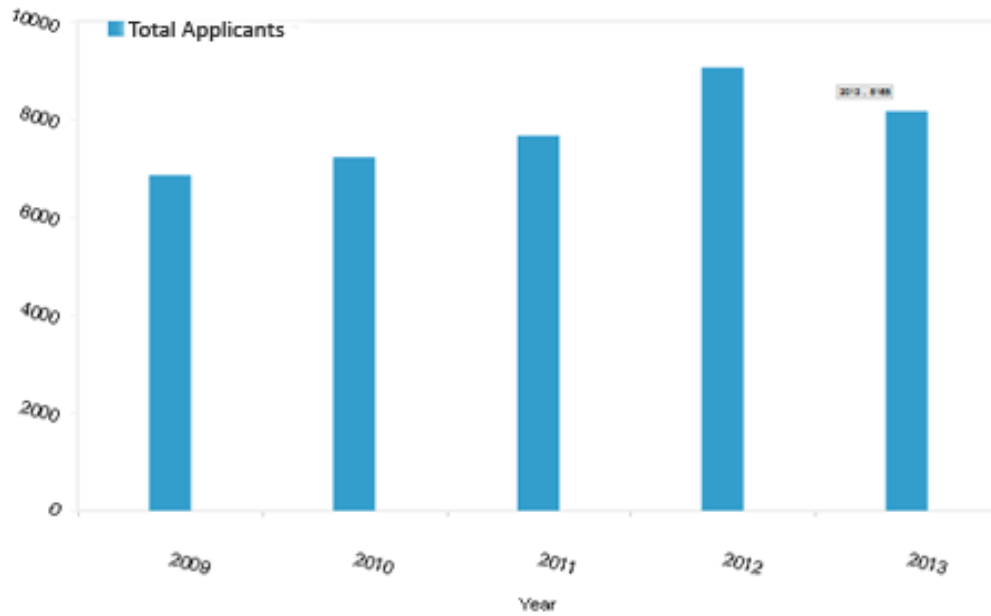
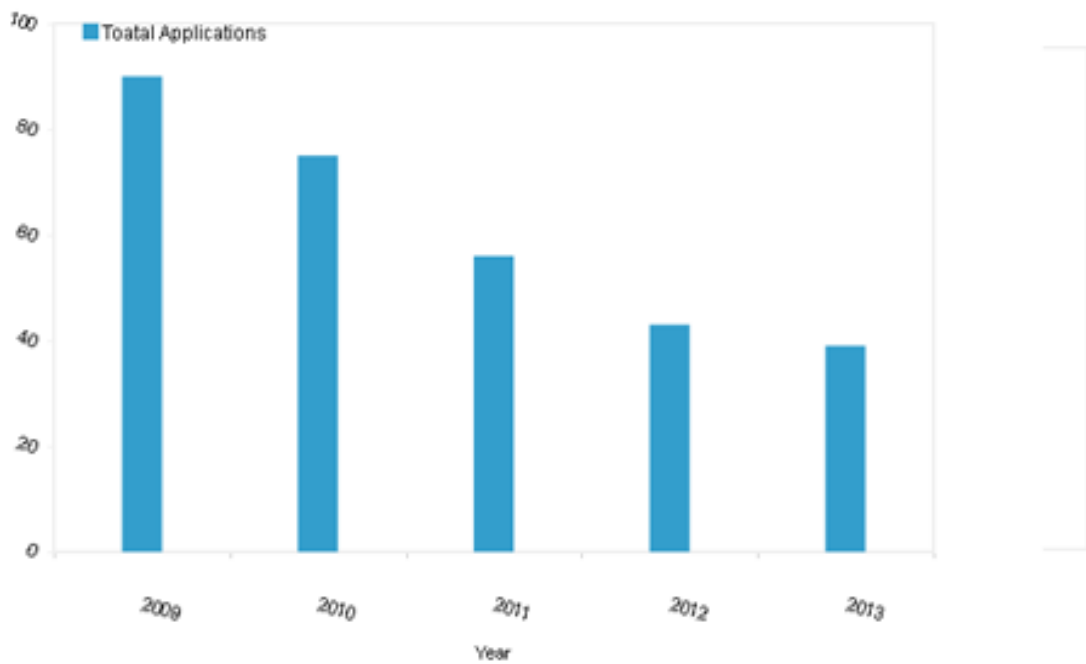


Chart B1

COLLEGE TEACHER



(Source: KEAM Data 2009-2014)

Chart B2

SCHOOL TEACHER

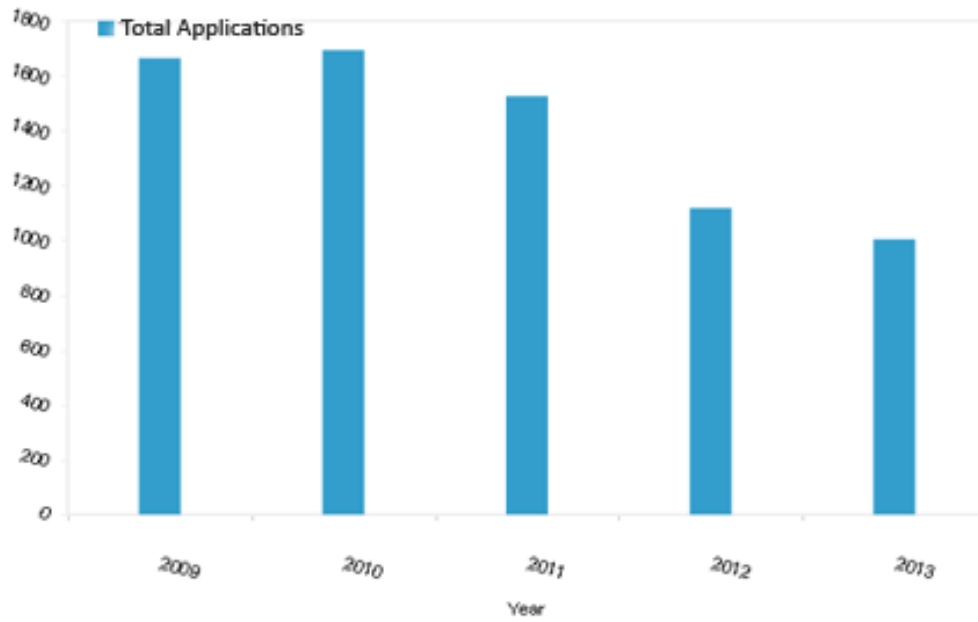
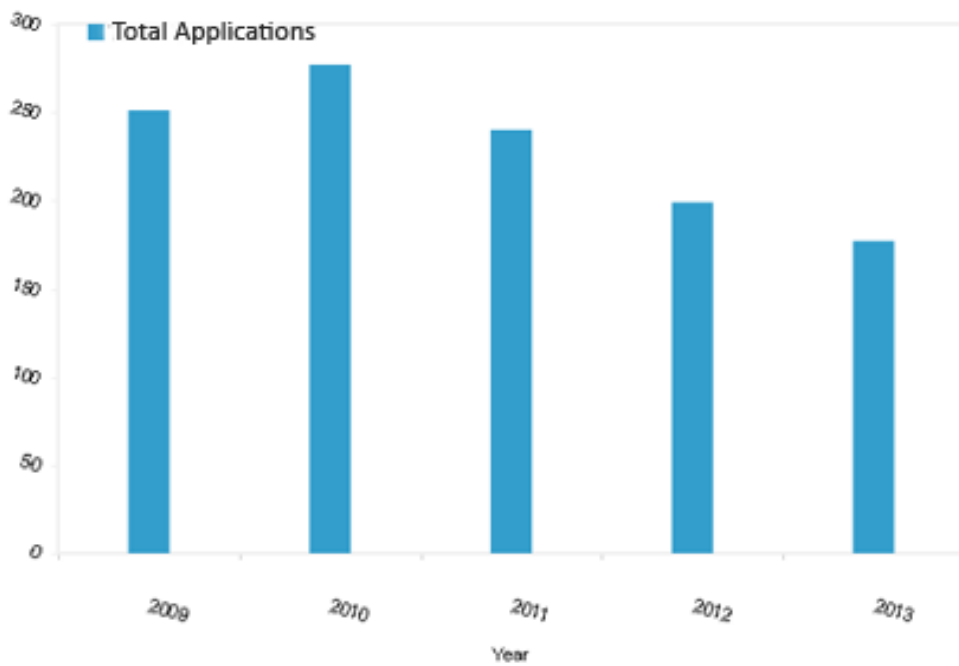


Chart C1

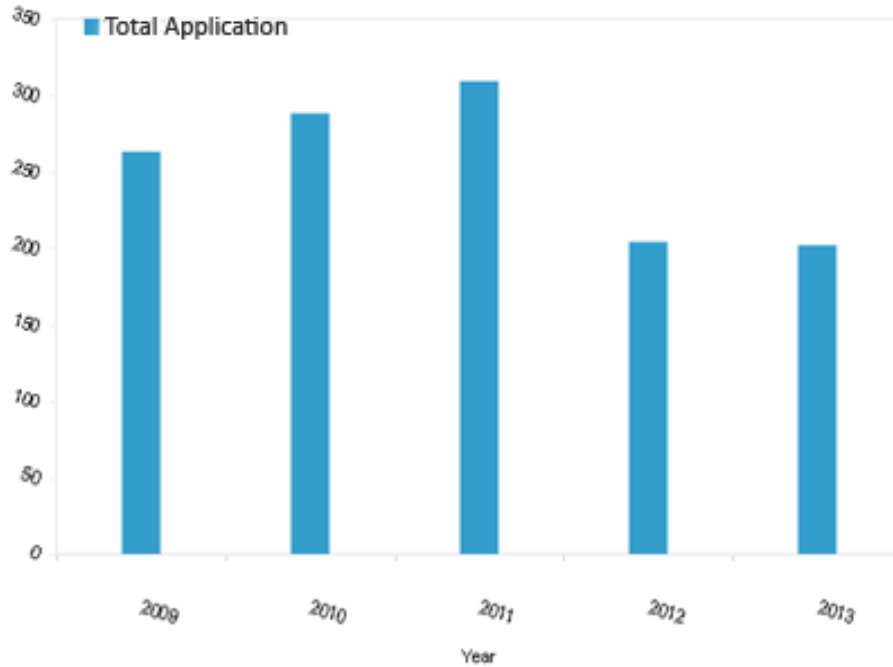
Doctor



(Source: KEAM Data 2009-2014)

Chart C2

Engineer



(Source: KEAM Data 2009-2014)

Findings

3.2.38 The above charts, on parents of SEBC candidates whose occupation comes under Agriculture and business show that the demand for the course is increasing among them and the charts on SEBC parents' occupation as Doctor, Engineer, Teacher shows that the demand for Kerala M.B.B.S. course among the highly educated people in the SEBC is gradually decreasing.

3.3 IDENTIFICATION OF NEW CREAMY LAYER CATEGORY UNDER KERALA SCENARIO

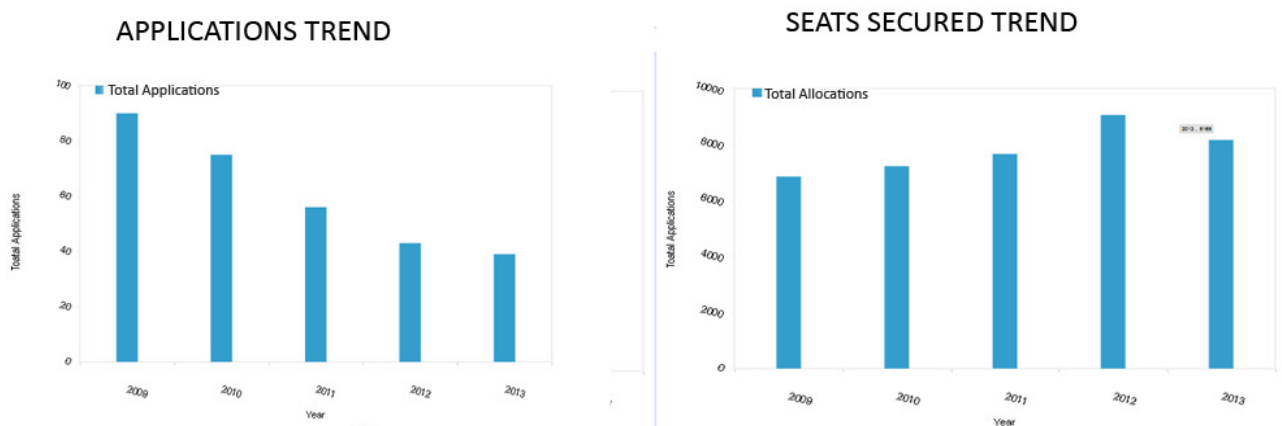
3.3.1 This analysis is aimed to identify the possible SEBC creamy layer categories and their capability to obtain higher ranks in the Entrance when the Supreme Court creamy layer criteria are introduced.

3.3.2 First we extracted the occupation information of the candidates who applied and got allocated in MBBS course for the past five years. Filtered the SEBC community along with current creamy layer of SEBCs using the factors like parents of the candidates who were Government servants and who were having an annual income above ₹ 6 lakh to identify the higher service Category I & Category II. Chart D and E give the trend.

SEBCs including forward SEBC's possible service Category I & II

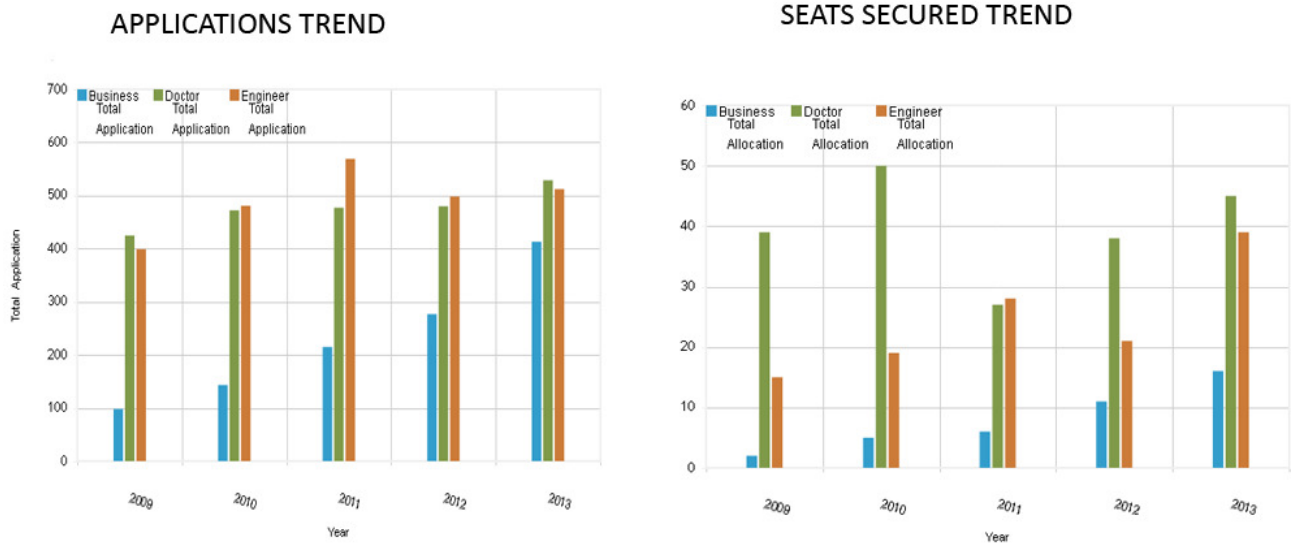
Chart D

SEBC INCLUDING FORWARD SEBC's POSSIBLE SERVICE CATEGORY 1 and 2



(Source: KEAM Data 2009-2014)

Chart E
SEBC INCLUDING FORWARD SEBC's POSSIBLE SERVICE CATEGORY 1 and 2



(Source: KEAM Data 2009-2014)

Findings:

3.3.3 The possible layer of service category and Professional occupation is exponentially increasing in seat securing among the overall SEBC community. So the existing creamy layer criteria (Income criteria) if followed will be helpful to the present non-creamy layer SEBCs.

3.3.4 The above analysis shows that the social status of the SEBC as a whole is still a concern. Therefore it cannot be said that they have crossed the 'Rubicon' as the Hon'ble Supreme Court has said. But the girls in the SEBC communities fair well over boys in the Entrance.

3.3.5 Majority of the SEBCs are living in Panchayats.

3.3.6 Therefore the revision of the SEBC list for the purpose of excluding any communities from the SEBC list treating them as socially advanced group (creamy layer) does not arise.

3.4 IDENTIFICATION OF THE SEBC COMMUNITIES HAVING SIMILAR CHARACTERISTICS BUT FOUND AS SEPARATE ENTRIES IN THE SEBC LIST

3.4.1 Eighty six communities are found in the SEBC list at present which are grouped in six categories viz.

I. Ezhavas including Ezhavas, Thiyyas, Ishuvan, Izhuvan, Illuvan, Billava

II. Muslims (All sections following Islam)

III. Latin Catholics

IV. Other Backward Christians

a) SIUC

b) Converts from Scheduled Caste to Christianity

V. Kudumbi

VI. Other Backward Hindus

1. Agasa

2. Arayas including Valan, Mukkuvan, Mukaya, Mogayan, Arayan, Bovies, Kharvi, Nulayan, Arayavathi

3. Aremahrati

4. Arya including Dheevara/Dheevaran, Atagara, Devanga, Kaikolan (Sengunthar), Pattarya, Saliyas (Padmasali, Pattusali, Thogatta, Karanibhakatula, Senapathula, Sali, Sale, Karikalabhakulu, Chaliya), Sourashtra, Khatri, Patnukaran, Illathu Pillai, Illa Vellalar, Illathar

5. Bestha

6. Bhandari or Bhondari

7. Boya

8. Boyan

9. Chavalakkaran
10. Chakkala (Chakkala Nair)
11. Devadiga
12. Ezhvathi (Vathi)
13. Ezhuthachan, Kadupattan
14. Gudigara
15. Galada Konkani
16. Ganjam Reddies
17. Gatti
18. Gowda
19. Ganika including Nagavamsom
20. Hegde
21. Hindu Nadar
22. Idiga including Settibalija
23. Jangam
24. Jogi
25. Jhetty
26. Kanisu or Kaniyar – Panicker, Kaniyan, Kanisan, Kannian, Kani, Ganaka
27. xxxxxxxx
28. Kalarikurup or Kalari Panicker
29. Kerala Muthali
30. Kusavan including Kulala, Kumbaran, Odan, Oudan (Donga), Odda (Vodde, Vadde, Veddai) Velaan, Velaans, Velar, Andhra Nair, Anthuru Nair
31. Kalavanthula
32. Kallan including Isanattu Kallar
33. Kabera
34. Korachas

35. Kammalas including Viswakarmala, Karuvan, Kamsalas, Viswakarmas, Pandikammala, Malayal-Kammala Kannan, Moosari, Kalthachan, Kallassari, PerumKollen, Kollan, Thatttan, Pandithattan, Thachan, Asari, Villasan, Vilkurup, Viswabrahmins, Kitara, Chaptegara
36. Kannadiyans
37. Kavuthiyan
38. Kavudiyaru
39. Kelasi or Kalasi Panicker
40. Koppala Velamas
41. Krishnanvaka
42. Kuruba
43. Kurumba
44. Maravan (Maravar)
45. Madivala
46. Maruthuvar
47. Mahratta (Non-Brahmin)
48. Melakudi (Kudiyani)
49. Mogaveera
50. Moili
51. Mukhari
52. Modibanda
53. Muvani
54. Moniagar
55. Naicken including Tholuva Naicker and Vettalakara Naicker
56. Padyachi (Villayankuppam)
57. Palli

58. Panniyar or Pannayar
59. Parkavakulam (Surithiman, Malayaman, Nathaman, Mooppanar and Nainar)
60. Rajapuri
61. Sakravar (Kavathi)
62. Senaithalaivar, Elavania, Senaikudayam
63. Sadhu Chetty including Telugu Chetty or 24 Manai Telugu Chetty and Wynadan Chetty
64. Tholkolan
65. Thottiyar
66. Uppara (Sagara)
67. Ural Goundan
68. Valaiyan
69. Vada Balija
70. Vakkaliga
71. Vaduvan (Vadugan)
72. Veerasaivas (Pandaram, Vairavi, Vairagi, Yogeeswar, Matapathi, Yogi)
73. Veluthedathu Nair including Vannathan, Veluthedan and Rajaka
74. Vilakkathala Nair including Vilakkathalavan, Ambattan Pranopakari, Pandithar and Nusuvan
75. Vaniya including Vanika, Vanika Vaisya, Vaisya Chetty, Vanibha Chetty, Ayiravar Nagarathar, Vaniyan
76. Yadava including Kolaya, Ayar, Mayar Maniyani, Eruman, Golla and Kolaries
77. Chakkamar
78. Mogers of Kasaragod Taluk
79. Maratis of Hosdurg Taluk
80. Paravans of Malabar area excluding Kasaragod Taluk
81. Peruvannan (Varnavar)

3.4.2 Under “Other Backward Hindus” group eighty one communities are seen enlisted. The community/caste, synonymous, sub-groups, titles, occupational groups, group names of these communities besides the castes living with adjoining states of Kerala were found collected by Anthropological survey of India through an ethnographic study undertaken for the People of India Project. People of India Project was a massive study undertaken by the Anthropological Survey of India to generate anthropological profile of all communities in India including the communities found in the State of Kerala. This study is an authentic and dependable one. Therefore KSCBC relied on the findings of the study to understand the common characteristics of the SEBCs instead of undertaking a separate ethnographic study.

3.4.3 But the Anthropological profile of the 12 communities viz. Agasa, Boyan, Devadiga, Madivala, Mahratta (Non-Brahmin), Mogaveera, Moili, Mukhari, Moovari, Naicken, Mogers, Maratis as understood from the ethnographic study shows that the two set of communities listed below in the same line have similar Socio-Economic characteristics/Anthropological profile.

Entry No.	Name of Caste/Community	Entry No.	Name of Caste/Community
1	Agasa	45	Madivala
8	Boyan	55	Naicken
11	Devadiga	50	Moili
49	Mogareera	78	Mogers
51	Mukhari	53	Moovari
79	Maratis	47	Mahratta (Non-Brahmin)

AGASA/MADIVALA

The Agasa are also known as Madivala, which means a person who cleans (*madi*) clothes. They are also known as *Rajaka (Kerala) and Dhobi (Karnataka)*. The Agasa are distributed in the *Kannur and Kasaragod Districts of Kerala and in the Dakshina Kannada District of Karnataka*. In Kerala, they have been placed under 'Other Backward Classes'. The self-perception of the community and the perception of it by others is low. The Agasa community profess Hinduism. They recognise the *varna* order and place themselves in the Sudra category.

Agasa women have a lower status in the family, but they have the right to inherit property. Women do agricultural work and manual labour. They also wash the clothes of the higher castes and contribute to the family income. The Agasa woman is valued for her ability to work.

The Agasa are mainly a landless community, but after the Land Reforms Act, some of them have got land. Their traditional occupation is washing the clothes of other castes. There are also among them some agricultural labourers, industrial workers, daily wage casual labourers and government and private sector employees. Child labour exists.

The Agasa have now formed a *sangha, viz., Rajaka Sangha* to provide financial assistance to poor students and for the uplift of the community. Their social disputes are settled by the headman with the aid of the community elders. The statutory/formal panchayat exists and its main function is to plan and implement welfare and development activities. Political leadership has emerged up to state assembly level. They participate in political activities and public functions at village, taluk and district levels. The attitude of the Agasa

towards formal education is favourable. Both modern and traditional indigenous medicines are made use of.

BOYAN/NAICKEN

The Boyan have migrated from Coimbatore and Udamalapettai of Tamil Nadu to Kerala in search of work. According to Thurston (1975), the Boyan are also called Odde. They are also titled as Nayakan or Naickan. They live in Malampuzha and Kozhinjampara of Palakkad and Chittur taluks. In Kerala, the community is either known as Boyan in Palakkad and Malabar and Naickan in Thrissur, Ernakulam and rest of south Kerala. The Boyan belong to the Scheduled Caste.

The Boyan community's self-perception is high, while others consider them as low. Social divisions exist among the Boyan at clan level which regulate marriage alliances and indicate descent. The Boyan accept food and water from the Brahman, Nambuthiri, Gounder, Nayakar, Chettiyar, Pillai etc., but they traditionally did not accept food from the Pallan, Parayan, Vannan, Nassuvan, Cheruman and others. The Boyan are Hindus and visit all religious shrines. They also share well water and crematorium.

Infant marriages prevalent in olden days in the Boyan community have now changed to adult marriages. Divorce is permitted for both husband and wife with social approval or by simple separation. Male, female divorcee can remarry and children are the liability of both the parents. Divorce compensation is given to the aggrieved party. Nuclear form of families is on the increase in the Boyan community. Father is the head of the household. Male inheritance, practised earlier, has now changed to equi-geniture. A Boyan woman works as agricultural or construction labourer. She collects fuel and brings potable water. She contributes to the family income, and enjoys decision-making powers.

The Boyan are tank diggers, well sinkers, road makers and work as mason in the construction of buildings and dams. They are very hard workers and their hereditary occupation is stone cutting, stone lifting etc. They are landless. Link with market exists and transaction is in cash. There is a rise in the number of daily wage casual and agricultural labourers. Child labour exists.

In Kerala, the Boyan do not have any caste council. Formal education is partly favourable for both the Boyan boys and girls. The boys study up to secondary and girls up to primary level. They discontinue studies due to poor economic condition, and also to earn and support their family. Their attitude to traditional and modern medicare as well as family planning is favourable.

DEVADIGA/MOILI

The term 'Devadiga' is derived from deva (deity of the temple), and adiga (servants). They are also known as Moily, Moyily, Serigar. They are distributed in Kasaragod District and in the South Canara District of Karnataka state. They speak Tulu and Kannada within the family. They are grouped under O.B.C. (Other Backward Classes) category.

The self-perception of the community is medium and that of others about them is also medium. They are considered as higher in status to the Ganiga, Christian, Muslim, Marati, Pambada and other SC and ST communities. The other communities in the area such as the Brahman, Nayar and Bunt have higher status than the Devadiga. They occupy more or less an equal position with the Bhillava. They recognise varna system and place themselves in the Sudra varna. They accept food and water from the Brahman, Nayar and Bunts. They exchange food and water with the Bhillava, Kulal and others, but traditionally do not exchange the same with the Ganiga, Muslim,

Christian, Marati, Pambada and other Scheduled Castes and Scheduled Tribe communities. They do not encourage inter-caste marriages. They share wells and water sources with others.

The Devadiga is an endogamous community. Monogamy is the common form of marriage. Dowry is paid in cash and kind. Divorce is permitted. Compensation is given to the aggrieved party as per court ruling. Children are the liability of either the mother or the father. Widow or widower and divorcee (of either sex) remarriage is allowed. The Devadiga women have right to ancestral property. They have more or less equal role in contributing towards family income. They also work as casual wage labourers. Women collect fuel and bring potable water. They have an important role in the socio-religious and ritual spheres. They have a lower status compared to their men.

The major economic resource of the Devadiga is land. They are a landowning community. The Devadiga profess Hinduism. The traditional occupation of the Devadiga is temple service. They are distinct from the Ambalavasi (temple servants) found elsewhere. There are a few white-collar job holders and teachers in their community. Political leadership is weak. They have a caste association named as 'Devadiga Sudaraka Sangha' which looks after the welfare of the group.

MOGAVEERA/MOGER

The Mogavirar live in the extreme north of Kasaragod District and in Karnataka. They are also known as Tulu Moyer, or simply Moyer. Rao (1981) claims that they are also called Moger but the Mogavirar in Kerala are unaware of this term Moger. There is a possibility that the Mogavirar in Karnataka may be locally called Moger or have styled themselves as Moger, who are listed under the Scheduled Caste. Their distribution is at a regional level. They inhabit

the coastal areas where it is warm and temperate. Uppala in the Manjeswar Taluk is the southern extremity. They are in constant touch and relationship with their castemen across the State border. Their members in both states belong to a single cohesive social group.

The perception of the Mogavirar about themselves is medium as also by others. The Mogavirar accept cooked food and water from higher castes like the Bunt, Nayar and Bovis Mogeyar, but traditionally not from lower castes like the Bannathi, Madiwala and Holeya. They considered themselves equal to the Bhillava with whom they exchanged cooked food and water. The Mogavirar were never regarded as untouchables nor have they been subjected to such treatment. Besides, the Mogavirar also deny that they are a low caste.

The Mogavirar women have very little roles outside their homes. They are responsible for collection of fuel and potable water. Some of them are engaged in weaving fishing nets in their houses. They also undertake repairs of nets now. The sea is the Mogavirar's main economic resource. A few work as loading and unloading labourers and some have started business in fish sale and marketing. Some have sought employment in the Gulf countries. A few members have started self-employment schemes under the IRDP (petty and grocery shops). Some are employed in government services in Karnataka. It is true that many of the Mogavirar in Kerala are very poor and also suffer from educational backwardness. The few who are educated among them are highly qualified (B.A., B.Com etc.) but they were all educated in Karnataka and some are employed there. Their isolation from other communities and public institutions and amenities has caused their high illiteracy and poverty.

The Mogavirar women are more backward in education than men. Men study upto the college and women upto secondary level. They accept modern medicare and family planning. They are politically conscious and active, and extension agencies also disseminate information here. Most of the villages have been electrified. Firewood, kerosene and coconut tree parts are used commonly. Being at the extreme end of the State and nearer to Karnataka, this area is reported to be lacking in many amenities.

MUKHARI/MOOVARI

The Mukhari are also known as Muvvari. They believe that the word Mukhari or Muvvari is derived from the word 'Maurya' and say that they are the descendants of Maurya dynasty. Present day distribution is in Kasaragod District and in some parts of Karnataka. Language spoken and script used with kin groups and family members is Malayalam whereas languages spoken with others are Malayalam, Kannada and Tulu and scripts used with outsiders are Kannada and Malayalam.

The community's self-perception and perception of it by other communities is low. The Mukhari profess Hinduism. They are aware of the varna system. They accept and exchange water and food with other communities such as the Arya and Agasa. They share wells, water sources, roads, schools, panchayat house and crematorium, with other communities and visit the same religious shrines as others.

Endogamy at community level and exogamy at gotra level is the marriage rule in the Mukhari community. Polygamy was practised, but nowadays, monogamy is the norm.

Land is the natural economic resource of the Mukhari which is controlled by landlords. They are agricultural labourers and basket makers. In the Mukhari community, they have 'Mukhari Sangha' to

work for the upliftment of the community and social control. Statutory formal panchayat exists and its prime role is to plan and implement welfare and development activities. Child labour exists.

The community has businessmen, teachers and some are holding white-collar jobs. Both boys and girls, generally, study up to upper primary level and then drop out from studies. A few go up to secondary level. They drop out from studies mainly due to economic reasons as they have to earn and support their families. Their attitude towards indigenous and modern medicare systems is favourable.

MARATI/MAHRATTA (NON-BRAHMIN)

The Marati are also called as Maratha or Marathi. The name Marati (in their opinion) is derived from the language that they converse. Marathi as a caste name, is somewhat open to confusion and it is probable that many people of various castes, who speak Marathi, are shown as being of that caste. The true Marathi caste is said to have come from Goa, and that place is the headquarters' (Thurston, 1975). Present day distribution is in Kasaragod District of Kerala and in other states. They speak Marati, Telugu and use Kannada script within the family. With others, they speak Kannada, Malayalam and Tulu, and scripts used are Kannada and Malayalam. Constitutionally, they are included as a Scheduled Tribe. The community's self-perception as well as its perception by other communities is low. The Brahman, Nayar, Bunt and others are regarded as superior to them in the social hierarchy. They consider the Maila, Kopala, Koraga and other scheduled tribes as low. They consider themselves to be Kshatriya. The Marati women have an inferior status compared to their men.

Land is the Marati's major economic resource. The Marati are a landowning community with individual proprietorship. Primary occupation of the community is agriculture. Some of them are also engaged in animal husbandry, business, government and private services. There are many agricultural or daily wage labourers among them. A few of them are engaged in basketry and carpentry. In the past, they were attached to the army of the Marata kings. Traditional occupations are agricultural labour, daily wage labour and masonry. The community has businessmen, white-collar workers, teachers, engineers, doctors and army workers. Boys drop out from studies due to economic reasons and girls drop out due to economic and social reasons. However, some of them are well educated. Their attitude towards indigenous medicine is favourable and they do make use of it. They also use modern medicines.

Sample Survey was also undertaken through the Kerala Statistical Institute on the above communities to confirm the Anthropological profile of the communities.

They have submitted the status analysis of surveyed communities indicating that communities Agasa & Madivala and Devadiga & Moili communities are having common Socio, economic characteristics. They confirmed that these communities are having very slight differences in Socio economic characteristics.

(Source: People of India Project)

Findings

3.4.4 There are several communities whose socio, economic character (Anthropological profile) are similar but are found listed in the SEBC list as separate entries.

3.5 REASONS FOR ADOPTING/RECOMMENDING THE INCOME LIMIT FIXED FOR ARTICLE 16 (4) FOR ARTICLE 15 (4)

3.5.1 As per the final data published by the Directorate of Census, Kerala's population as on March 2011 was 3,34,06,061 out of this 1,60,27,412 (48%) are males and 1,73,78,649 (52%) are females. When the last census was taken, these figures were 3,18,41,374 total, 1,54,68,614 (48.6%) males and 1,63,72,761 (51.4%) females.

3.5.2 The growth rate of Kerala's population during the last ten years is 4.9%; the lowest rate among Indian States. The national rate of growth of population during the last ten years was 17.6%.

3.5.3 The population growth trend shows that Kerala is moving towards zero population growth or towards negative growth. Among the districts Malappuram has the highest growth of 13.4%; while Pathanamthitta has the lowest growth rate (-3.0%) Idukki also has a negative growth rate (-1.8%) It reveals that the growth rate of six Southern districts (Idukki, Kottayam, Alappuzha, Kollam, Pathanamthitta and Thiruvananthapuram) together is comparatively very low.

3.5.4 The Gross National Income (GNI) is estimated to rise by 4.9% during 2012-13, in comparison to the growth rate of 6.4% in 2011-12. The GNI at factor cost at current prices showing a rise of over 13%. The Net National Income at factor cost at current prices shows a rise of over 13%. The Gross State Domestic Product (GSDP) at factor cost at constant price (2004-05) is ₹ 2,21,84,990 lakh during 2012-13 as against the provisional estimate of ₹ 2,04,95,672 lakh during 2011-12, registering a growth rate of 8.2% in 2012-13 compared to nearly 8% in 2011-12. At current prices the Gross State Domestic Product is estimated at ₹ 3,49,33,832 lakh during 2012-13

as against the provisional estimate of ₹ 3,07,90,606 lakh during 2011-12 showing a growth rate of 13.4 percent. In 2012-13, the percapita Gross State Domestic Product at Constant (2004-05) prices was ₹ 63,491 as against provisional estimates of ₹ 59,052 in 2011-12, recording a growth rate of 7.5% in 2011-12. At current prices, the percapita GSDP in 2011-12 was ₹ 99,977 registering a growth rate of 12.7% over the previous year's estimate of ₹ 88,713 shows that during the period 2008-09 to 2012-13 the percapita State income at constant prices was higher than the percapita national income.

3.5.5 The growth rate at current prices does not eliminate the inflationary impact. When district level growth rate at constant prices, we compared the "real" GSDP growth rate may be observed as the inflationary impact has been eliminated. Ernakulam, Thrissur, Kozhikode and Kannur had higher real growth in GSDP than the State average. Wayanad had a lower growth than other districts. The analysis of district wise per capita income shows that Ernakulam district stands first with the per capita income of ₹ 94,392 at constant (2004-05) prices in 2012-13 as against ₹ 86,572 in 2011-12.

3.5.6 The district wise per capita income with corresponding rank and growth rate is given below:

District-wise per capita income at constant (2004-05) prices

Sl. No.	District	2011-12 (P) ₹	Rank	2012-13 (Q) ₹	Rank	Growth Rate (percent) 2012-13
1	Thiruvananthapuram	64365	4	68903	4	7.78
2	Kollam	54720	10	58393	10	7.44
3	Pathanamthitta	65721	3	70600	3	8.017
4	Alappuzha	59087	6	63262	6	7.79
5	Kottayam	67376	2	72280	2	8.00
6	Idukki	58150	7	62082	8	7.48
7	Ernakulam	86572	1	94392	1	9.77
8	Thrissur	62841	5	67807	5	8.64
9	Palakkad	54410	11	58072	11	7.44
10	Malappuram	37985	14	40742	14	7.98
11	Kozhikode	56817	9	61307	9	8.62
12	Wayanad	43606	13	46507	13	7.37
13	Kannur	58003	8	62416	7	8.32
14	Kasaragod	49309	12	52813	12	7.83
		59052		63491		7.52

P – Provisional Estimate Q - Quick Estimate,
(Source: - Department of Economic and Statistics)

3.5.7 As per the latest data released by the Planning Commission of India in July 2013, the poverty ratio fell spectacularly from 37 percent in 2004-05 to 22 percent in 2011-12. This raised 138 million people above extreme poverty. This methodology has been widely questioned by both experts and common people. Since several representations were made suggesting that the Tendulkar poverty line was too low, the Planning Commission, in June 2012 constituted an Expert Group under the Chairmanship of Dr. C. Rangarajan to once again review the methodology for the measurement of poverty.

3.5.8 The expert group submitted its report on 30th June 2014. As per the new poverty line thus work out to monthly per capita

consumption expenditure of ₹ 972 in rural areas and ₹ 1,407 in urban areas in 2011-12. For a family of five, this translates into a monthly consumption expenditure of ₹ 4,860 in rural areas and ₹ 7,035 in urban areas.

(Source: Press information Bureau Government of India Planning Commission)

3.5.9 The State specific poverty line 2011-12 for Kerala is fixed at monthly percapita income of ₹ 1,018 for rural areas and ₹ 987 for urban areas which is above the percapita income of 23 other States.

3.5.10 The corresponding figures for Karnataka, Tamil Nadu and Andhra Pradesh are ₹ 902 for rural and ₹ 1,089 for urban, ₹ 880 for rural and ₹ 937 for urban and ₹ 860 for rural and ₹ 1,009 for urban.

3.5.11 For each state the urban poverty line for 2011-12 is derived by updating 2004-05 poverty line using price indices specifically constructed for 2004-05 and 2011-12. Rural poverty line is then derived from urban poverty line of the respective State by applying urban rural price differential. For the first time, Kerala's rural poverty line is higher than urban poverty line.

(Source: Planning Commission of India Press note on poverty Estimates 2011-12)

3.5.12 The difference in urban and rural poverty line for Kerala was low in the base year (2004-05) as compared to other States. For Kerala, urban poverty line was higher than rural poverty line by only 9 percent as compared to 41 percent in Karnataka, 30 percent in Andhra Pradesh and 27 percent in Tamil Nadu. While Kerala is better off than most other States in terms of average poverty estimates, there are still several pockets of deprivation in the State, for example, among tribal population and fisherman communities.

3.5.13 Kerala is known for its unique settlement pattern with independent houses on individual plots scattered across the habitable areas. In Kerala, one cannot clearly distinguish a rural area from an urban area because of the peculiarity of the settlement pattern. Urbanisation in Kerala is not limited to the designated cities and towns. Barring a few panchayats in the hilly tracks and a few isolated areas, the entire state depicts the picture of an urban-rural continuum.

3.5.14 Due to moderation in food and fuel prices, the wholesale price inflation is reported to be dropped to a near five year low in September, 2014 to 2.38 %. As per the data released by the Government on 14.10.2014 food inflation is reported to be fell to a nearly 33 month low of 3.52%. Retail inflation is also reported to be declining to a record low of 6.46% in September 2014 and 5.52% in October 2014, the lowest since the new series of data was introduced in January 2012. The Director General of the Confederation of Indian Industry Sri. Chandrajit Banerjee has said that the prices of manufacturing goods had also declined indicating a favourable impact on core inflation.

Findings

3.5.15 Under these circumstances, after verifying the consumer price index and per capita National and State income, the Commission has come to the conclusion that the present aggregate family income fixed by the Government in G.O. (Ms) No. 3/2014/BCDD dated 09.01.2014 as six lakh may be taken as the income limit for income/wealth test for Article 15(4) as well. No separate income limit (urban and rural) is also warranted. This is for the reason that unlike the method of computation of annual family income under G.O. (P) No. 208/66/Edn dated 02.05.1966, the computation of gross

annual income under the Income/Wealth Test under the new criteria gives the benefit of exclusion of income from salary and agricultural land while computing the gross annual income of parents alone.

3.6 CONFIRMATION OF CERTAIN CONCLUSIONS ARRIVED AT ON ENTRANCE DATA ANALYSIS WITH ACTUAL SITUATIONS IN KERALA

3.6.1 KSCBC, on analysis of the Entrance Examination data for the last five years found that out of 81 communities included under OBH category no candidates belongs to the 24 communities viz. Aremahrati, Bestha, Boya, Galada Konkani, Ganjam Reddies, Gudigara, Idiga including Settibalija, Kabera, Kavudiyaru, Koppala Velamas, Korachas, Madivala, Mahratta (Non-Brahman), Melakudi (Kudiyan), Mogaveera, Moili, Modibanda, Mogers of Kasaragod Taluk, Moniagar, Palli, Paravans of Malabar area excluding Kasaragod Taluk, Uppara (Sagara), Ural Goundan and Vada Baliya applied for medical course during the period 2009-2013.

3.6.2 Analysis of medical entrance data of the State for the period 2009 to 2013 by KSCBC revealed that applicants of 9 OBH communities did not get admission for medical courses all the five years during 2009-2013. Similarly applicants of 4 communities did not get medical admission for 4 years out of 5 years. Applicants from one community did not get admission for 3 years out of 5 years. Applicants of 6 communities did not secure medical admission for 2 years out of the 5 years and applicants of another 5 communities did not get admission for 1 year during the reference period. Details of the communities under each category above are furnished in the table B1 below.

Table B1

OBH Communities applied for medical courses but not secured admission (2009-2013)

All the 5 years	4 out of 5 years	3 out of 5 years	2 out of 5 years	1 out of 5 years
1. Agasa	1. Boyan	1.Kannadiyans	1. Bhandari	1. Gatti
2.Ganika	2. Kuruba		2. Devadiga	2. Jangam
3. Gowda	3.Parkavakulam		3.Kalavanthula	3. Jhetty
4. Hegde	4. Vakkaliga		4. Mukhari	4. Padyachi
5. Kelasi			5. Sakravar	5. Panniyar
6. Maratis*			6. Thottiyar	
7.Maravan				
8.Tholkollan				
9.Valaiyan				

*of Hosdurg Taluk

(Source: KEAM Data 2009-2014)

3.6.3 It could also be observed that certain OBH communities got only marginal representation for medical courses during the period 2009-2013 as revealed in table B2 below.

Table B2

OBH Communities secured admission for medical courses (2009-2013)

1 out of 5 years	2 out of 5 years	3 out of 5 years	4 out of 5 years
1. Chavalakkaran	1. Krishnanvaka	1. Ezhavathi	1. Kavuthiyar
2. Jogi		2.Kalarikurup	
3.Kerala Muthali		3.Peruvannan	
4.Moovari			
5.Maruthuvar			
6.Naicken			
7.Senaithalivar			
8.Vaduvan			

(Source: KEAM Data 2009-2014)

3.6.4 Applicants from 8 OBH communities got admission only in one year out of 5 years. Applicants of only one community obtained admission in 2 two years out of 5 years. Applicants of 3 communities only got admission for medical courses for 3 years out of 5 years. Applicants of only one community under OBH got admission in 4 years out of 5 years. This showed the fact of marginalization of certain OBH communities from admission for medical courses in the State.

3.6.5 OBH communities identified by KSCBC as having no representation or marginal representation in medical courses for the period 2009-2013 hereafter termed as "Target Communities" in subsequent pages of this report were asked to find out the reasons through Sample Survey.

3.6.6 The Survey Agency used the following Objectives and Methodology for the Survey:

Direct interaction with households belonging to OBH communities not represented or marginally represented in professional education for the last five academic years.

Find out the actual reasons for their non-representation or under representation in professional courses.

General assessment of the social, educational and economic status of the target group.

3.6.7 A combination of methods like local enquiry, judgment sampling and cluster sampling was used in this quick sample survey. On enquiry with some social organizations of OBH communities in the State it was confirmed the presence of 21 Target Communities mainly in the districts of Ernakulam, Palakkad and Kasaragod. Hence the study was limited to the above districts as two third of Target Communities were present in these three districts. Not easily identifiable communities and communities with insignificant and

widely scattered population were excluded from this time-bound quick survey. The sample survey covered 18 communities that could be located within a short period of time. The first sample household under each selected Target Community was identified using 'Judgment Sampling Method'. Additional sample households were selected adopting Cluster Sampling Method. The overall coverage of the sample survey was 627 households of Target Communities.

3.6.8 Table C1 below gives a list of Target Communities known to be present in the survey districts of Ernakulam, Palakkad and Kasaragod.

Table C1
Target communities present in the survey districts

Ernakulam	Palakkad	Kasaragod
1. Ganika	1. Boya	1. Mukhari
2. Thittiyar	2. Valayar	2. Agasa
3. Chavalakkaran	3. Parkavakulam	3. Ganika
4. Naicken	4. Padayachi	4. Gowda
5. Ezhavathi	5. Kerala Muthali	5. Hegde
6. Kalarikurup	6. Naicken	6. Devadiga
7. Peruvannan	7. Chavalakkaran	7. Kalavanthula

(Source: Sample Survey Data)

3.6.9 Table C2 below gives a list of Target Communities actually covered from the survey districts of Ernakulam, Palakkad and Kasaragod.

Table C2

Target communities actually covered in the survey

Ernakulam	Palakkad	Kasaragod
1. Boya	1. Boya	1. Ganika
2. Chavalakkaran	2. Chavalakkaran	2. Agasa
3. Kalarikurup	3. Kalarikurup	3. Devadiga
	4. Naicken	4. Gowda
	5. Padayachi	5. Hegde
	6. Parkavakulam	6. Mukhari
	7. Kerala Muthali	7. Peruvannan
		8. Koppala Velama
		9. Mogaveera

(Source: Sample Survey Data)

3.6.10 Community- wise number of sample households covered in the survey is furnished in table C3 below.

Table C3

Community-wise number of sample households

Sl. No.	Community	Number of Sample Households
1	Agasa/Madivala	61
2	Boya	67
3	Chavalakkaran	64
4	Devadiga/Moili	54
5	Ganika	39
6	Gowda	37
7	Hegde	29
8	Kalarikurup	52
9	Kerala Muthali	36
10	Koppala Velamas	17
11	Mogaveera	10
12	Mukhari	40
13	Naicken	31
14	Padayachi	48
15	Parkavakulam	32
16	Peruvannan	10
	Total	627

(Source: Sample Survey Data)

3.6.11 A project team was in charge of the entire operations of this study. 15 well experienced statistical personnel were deployed for data collection and supervision.

3.6.12 The quick sample study conducted in Ernakulam, Palakkad and Kasaragod districts had the following limitations:

Non coverage of all OBH communities

Small sample size of individual communities selected for the survey

Lack of sufficient time

3.6.13 The quick sample survey covered 627 OBH households with a total population of 2929 of which 1468 were males and 1461 females. Average household size, sex ratio and number of women headed households in each community are given in the table D1 below.

Table D1
General details of surveyed households

Sl. No.	Community	House-holds (No)	Population (No)			Average HH Size (No)	Sex Ratio	Women headed HHs (No)
			Male	Female	Total			
1	2	3	4	5	6	7	8	9
1	Agasa	61	134	130	264	4.33	970	13
2	Boya	67	147	145	292	4.36	986	3
3	Chavalakkaran	64	146	153	299	4.67	1048	10
4	Devadiga	54	158	150	308	5.70	949	16
5	Ganika	39	88	87	175	4.49	989	0
6	Gowda	37	101	90	191	5.16	891	4
7	Hedge	29	54	55	109	3.76	1019	10
8	Kalarikurup	52	116	102	218	4.19	979	10
9	Kerala Muthali	36	75	86	161	4.49	1147	12
10	Koppala Velamas	17	45	34	79	4.65	756	2
11	Mogaveera	10	21	28	49	4.90	1333	1
12	Mukhari	40	89	106	195	4.88	1191	9
13	Naicken	31	89	89	178	5.74	1000	8
14	Padayachi	48	107	107	214	4.46	1000	8
15	Parkavakulam	32	72	66	138	4.31	917	4
16	Peruvannan	10	26	33	59	5.90	1269	1
Total		627	1468	1461	2929	4.67	995	111

(Source: Sample Survey Data)

3.6.14 Status analysis of Agasa & Madivala communities are done together. Similarly Devadiga & Moili communities are taken together. The communities clubbed together are one and the same with very slight differences in socio-economic characteristics.

3.6.15 Status analysis of Other Backward Hindu communities done are appended in Appendix XVII.

3.6.16 Community wise details of surveyed households, Percentage distribution of households according to ownership of residential houses, Percentage distribution of households according to number of owned houses, Percentage distribution of households according to Ownership of land, Percentage distribution of households according to main source of household income, Percentage distribution of households according to main occupation of head of household, Percentage distribution of households having basic facilities and housing condition, Percentage distribution of households according to main source of drinking water, Percentage distribution of households according to availability of amenities, Percentage distribution of households having various amenities, Percentage distribution of household population according to age group, Percentage distribution of persons (18 years and above) according to marital status, Percentage distribution of persons (6 years and above) according to education status, Percentage distribution of persons (15 years and above) according to occupation/activity status, Percentage distribution of students according to various educational levels, Percentage distribution of LP students according to medium of education, Percentage distribution of UP students according to medium of education, Percentage distribution of HS students according to medium of education, Percentage distribution of HSS/PDC students according to medium of education, Percentage distribution of students upto HS according to management type of

educational institutions, Percentage distribution of students according to type of syllabus, Percentage distribution of households according to monthly income class, Percentage distribution of households according to average expenditure class, Percentage distribution of households according to annual health expenditure, Percentage distribution of households according to annual education expenditure, Percentage distribution of households having association with community organisations & Number of persons holding higher positions/elected posts are available in the tables 1 to 27. Schedule for the Pilot Study of non-representation of selected OBH communities in professional courses in Kerala, 2014 is at Appendix XVIII.

Findings

3.6.17 The finding of the sample survey shows the following:

Lack of application from 24 OBH communities for Professional Degree Courses may be due to non-deletion from SEBC list, non-residents in Kerala, non-preference for SEBC status, insignificantly small population and SEBC claim under other quota.

3.6.18 Nominal participation of the 18 communities in professional courses in the State is due to the following reasons:

- **Financial constraints of households to promote higher and professional education of children**
- **Low educational attainment of households and lack of interest for higher education**
- **Unfavourable educational atmosphere of government schools**

- **Non-conducive educational atmosphere in government educational institutions**
- **Inability to access high quality education and special coaching**
- **Limited few can afford un-aided schools following CBSE/ICSE syllabus**
- **Low rank in common entrance test (CET)**
- **Lack of special coaching for CET**
- **Lack of special support for able and prospective students**
- **Preference of households for professional education in neighbouring states of Karnataka & Tamil Nadu**
- **Lack of individual initiative**
- **Lack of household and societal motivation**

3.7 THE SOCIO-ECONOMIC SITUATIONS OF SEBCs IN KERALA Vs. EDUCATIONAL EXPENSES FOR PROFESSIONAL STUDY

3.7.1 The Hon'ble High Court in its judgment dated 07.08.2013 has stated that the socio-economic situation in the State of Kerala is such that even with the income of both the parents they are unable to provide professional education to their children.

3.7.2 There were 12627 schools in Kerala during 2012-13. Out of these 4619 (36.58%) were Government schools, 7152 (56.64%) aided schools and unaided schools 856 (6.78%). Compared to Government upper primary and high schools more number of lower primary schools are functioning under Government sector. Aided schools out number Government schools in all sections.

3.7.3 Malappuram District has the largest number of schools (1472) in the State followed by Kannur (1291) and Kozhikode (1237). Malappuram District has also the largest number of Government (546) and unaided schools (145) in the State. But largest number of aided schools is functioning in Kannur District (959).

3.7.4 994 schools in the State are offering syllabus other than the one prescribed by the State Government. These include 842 CBSE schools, 108 ICSE schools, 30 Kendriya Vidhayalaya and 14 Jawahar Navodayas, one in each district.

3.7.5 Enrolment of students in the State has been showing a decline in the recent years. Enrolment of students in 2013-14 was 38.52% (3851515 lakh) which shows a decrease of 3.02% over the previous year. Change in demographic pattern of the State due to low birth rate is the main reason attributed for this phenomenon. The decline of students in Lower Primary section is 44, 221 numbers in 2013-14 from 2012-13.

3.7.6 While the decline in upper primary (U.P) section is 57012 numbers in 2013-14, and the High Schools (H.S) section schools a decrease of 18789 students over the previous year.

3.7.7 Kerala has achieved the distinction of having the lowest dropout rate of school students among India States. In the year 2011-12, dropout ratio among school students in Kerala was 1.05%. The dropout ratio in lower primary stage is higher than that of High School/Upper Primary stage. The dropout ratio is almost same in Upper Primary stage and High School stage.

3.7.8 Education after the first 10 years was a part of the higher education system for many decades. Higher Secondary courses were introduced in the State during 1990-91 to recognise the secondary level of educations in accordance with National Education Policy

Higher Secondary course is the turning point in the entire school education in our State.

3.7.9 1825 Higher Secondary schools were there in 2013 in the State. Out of these 776 (42.52%) are Government schools, 674 (36.93%) are aided schools and 375 (20.55%) are unaided and technical schools. Among the districts Kozhikode has the largest number of Higher Secondary Schools (225) in the State followed by Thrissur district (177).

3.7.10 Vocational Higher Secondary Education was introduced in the State in 1983-84. Vocational Higher Secondary Education in the State impart education at plus two level with the objective to achieve self/wages/direct employment as well as vertical mobility.

3.7.11 389 Vocational Higher Secondary Schools are there in the State with a total of 1097 batches. Out of these schools 261 are in the Government sector and 128 in the Aided sector. Kollam District (52) has the largest number of Vocational Higher Secondary Schools in the State.

3.7.12 There are 164 engineering colleges in the State with total sanctioned in take of 52802 in 2013. Out of these engineering colleges 152 (92.68%) are self financing colleges (unaided) 9 (5.49%) are Government colleges and 3 (1.83%) are private aided colleges.

3.7.13 There are 5 Government Medical Colleges, 2 Government controlled Self Financing Medical Colleges and 13 Self Financing Medical Colleges in our State. There are 3 Government Dental Colleges, 1 Government controlled Self Financing Dental College and 18 Private Self Financing Dental Colleges in our State.

3.7.14 The educational expenses for the M.B.B.S course for the year 2014-15 in Government Medical Colleges, Government Controlled self financing colleges, Academy of Medical Sciences

Pariyaram, Kannur, Fees fixed for Government seats, for BPL group, SEBC seats and others, Fees fixed in private self financing Medical colleges for Government seats and for the scholarship are given vide Table J.

Table J

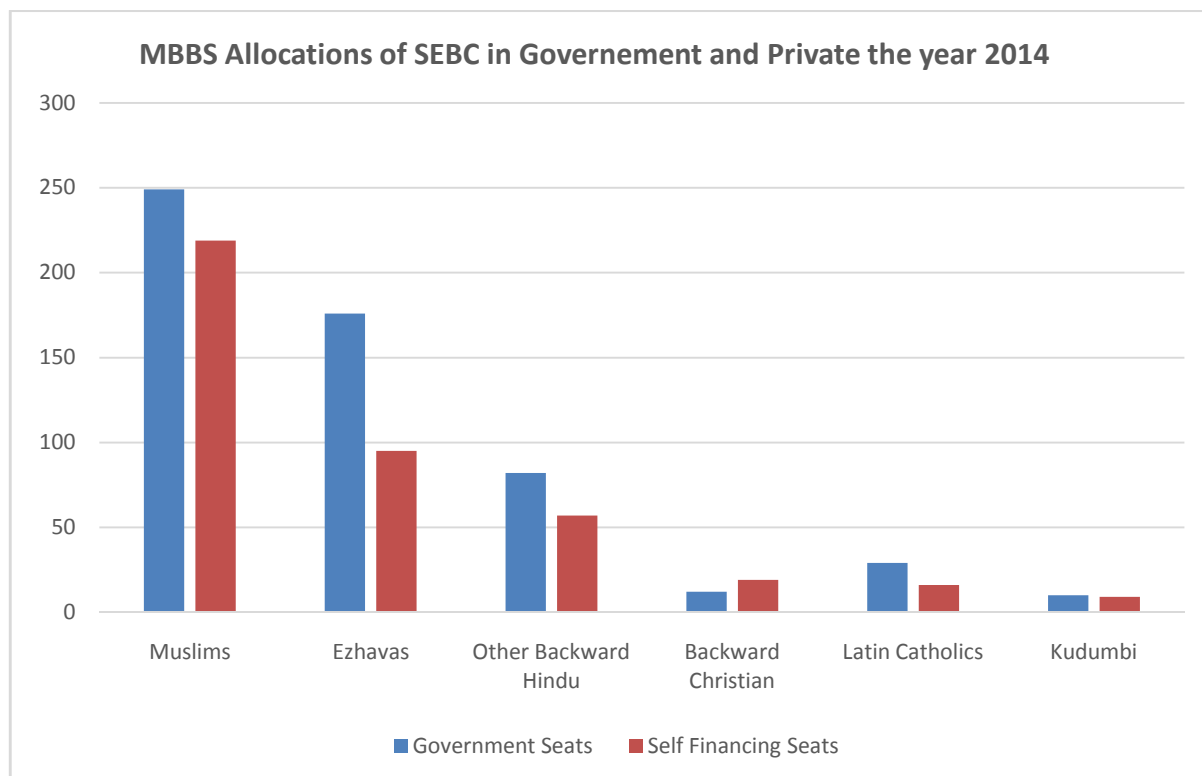
MBBS KEAM 2014 Fee Structure Per Year				
Government Medical Colleges	₹ 25,000/-			
Govt. Controlled Self Financing Medical college Academy of Medical Sciences, Pariyaram, Kannur	50% Govt. Seats			35% Management seats
	*BPL Group (10 seats) ₹ 25,000/-	*SEBC (13 seats) ₹ 45,000/-	Others ₹ 1,50,000/-	Not Allotted By CEE
Private Self Financing Medical Colleges Colleges under Kerala Catholic Medical College Management association as per GO(Rt) No. 1963/2014/H&FWD dated 13.06.2014.	50% Govt. Seats ₹ 4,00,000/-		Scholarship Management will set apart a sum of ₹ 40 lakh for a batch of 100 MBBS students to be provided as scholarship as per Govt. order, after the completion of admission process.	

(Source: KEAM Prospectus 2014)

3.7.15 Government and private seat distribution of SEBCs are given in Table 1.A to 1.F. These tables show that the SEBC categories who secured self financing courses are less in number compared to the Government seats secured.

3.7.16 MBBS seats allocations of SEBCs in Government and private colleges for the year 2014 were gathered and the chart prepared vide Chart B.

Chart B



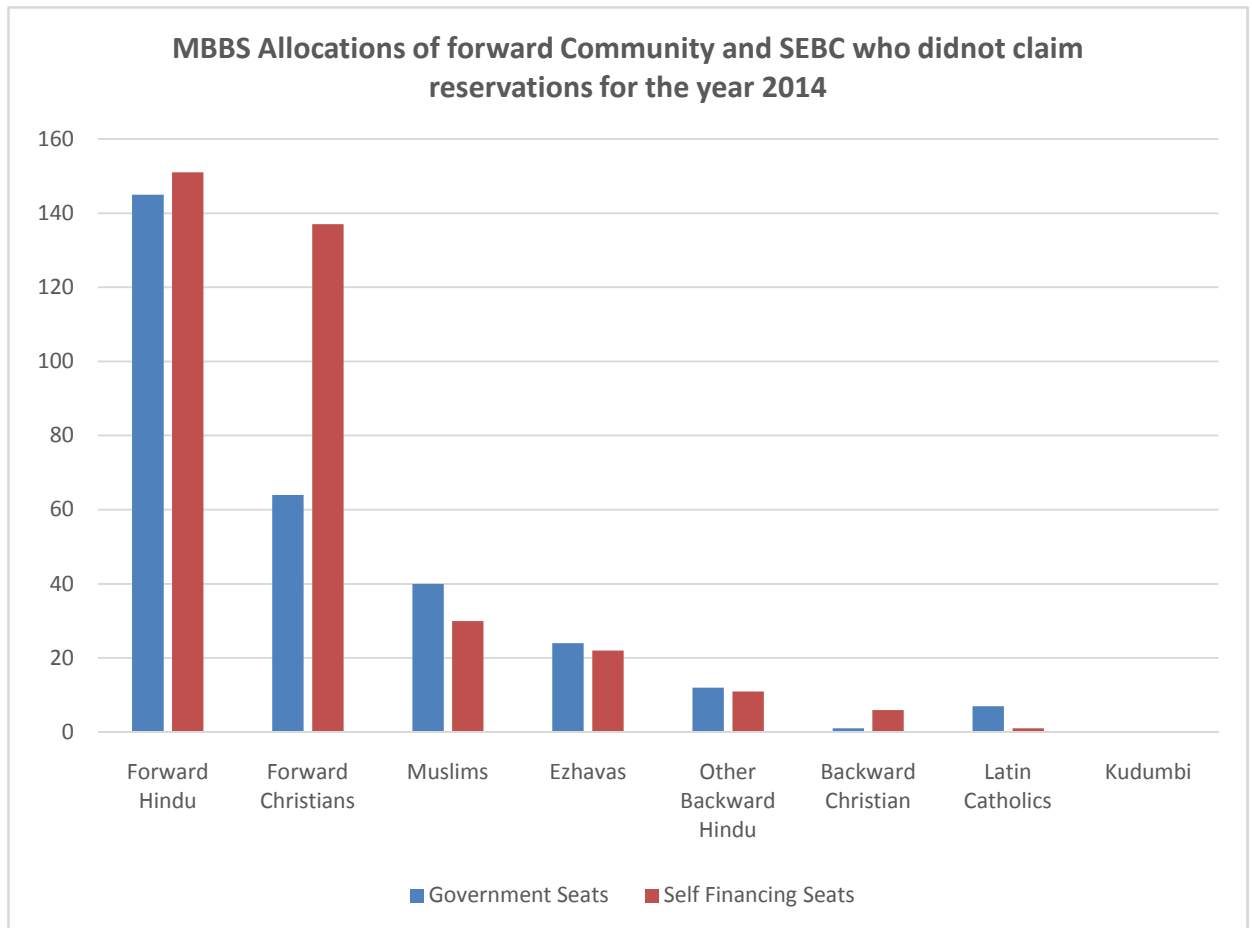
(Source: KEAM Data 2009-2014)

Findings

3.7.17 The SEBCs who claimed seats in the Government colleges are more in all the communities including the major community in view of the low fee structure. This shows that the education expenses affordable for spending by SEBCs are low.

3.7.18 MBBS seats allocation of forward community and SEBC who did not claim reservation for the year 2014 were gathered.

Chart C



(Source: KEAM Data 2009-2014)

3.7.19 The performance in the forward communities including the SEBCs who did not claim reservation was compared with SEBC non creamy layer. This gives the overview that the forwards are able to claim more private sector seats compared to SEBC reserved sector.

Findings

3.7.20 The economic capabilities of the SEBCs are low when compared to the forward community. Hence they are unable to send their children in Self Financing Institutions.

Table K

SEBC Candidates who were unallocated to MBBS seat – Reason: Fee Not Paid - year 2012	
SEBC Category	No of candidates
Muslim	5
Ezhava	3
Other Backward Hindu	2
Backward Christian	1

(Source: CEE, Kerala)

3.7.21 The information furnished by the Commissioner for Entrance Examinations shown in the above table gives the status of SEBC candidates who were unallocated to MBBS course for the year 2012 for the reason that "Fee not paid".

3.7.22 They include 5 Muslim candidates, three Ezhava candidates, two other backward Hindus and one backward Christian.

3.7.23 KSCBC analysed the reason for non payment of fees with reference to the economic status of the candidates' parents.

3.7.24 It was seen that 5 of them were in 4 lakh to 6 lakh income group and another five of them were below 4 lakh annual family income group. Therefore though they were allocated with MBBS seat under reserved category they were unable to take the seat by remitting fees.

Findings

3.7.25 If the six Supreme Court criteria are newly introduced, those candidates from SEBCs who were unable to claim reservation due to the present income criteria could be able to pay such fees and use these seats effectively.

3.8 DISTRICTWISE SEBC PERFORMANCE ANALYSIS FOR MBBS COURSE

3.8.1 The backwardness of a community in a district of Kerala, the social, economical and educational factors of the SEBC community and the socio economic situations of a locality or a district as directed by the Hon'ble High Court are to be found out.

3.8.2 Application, admission and performance ratio of SEBCs in all the fourteen districts were extracted year wise, community wise (Tables 1.1 to 2.6).

3.8.3 Application, admission and performance ratio of SEBC communities who did not claim reservation were also extracted year wise & district wise besides extracting details of other eligible castes who did not claim reservation, forward Hindus who did not claim reservation (Tables 2.7 to 3.6).

3.8.4 Application, admission and performance ratio of others who did not disclose their caste details competed with forward community, district wise, year wise extracted (Table 3.10).

3.8.5 Application, admission and performance ratio of SC/ST community who did not claim reservation, district wise, year wise extracted (Tables 3.11 & 3.12).

3.8.6 Application, admission and performance ratio of converted Christians from SC who applied district wise, year wise was also extracted (Table 3.13).

3.8.7 SEBC and forward community application, admission and performance ratio compared District wise, year wise (Tables 4.1, 5.1 & 6.1).

Findings

3.8.8 The SEBC candidates from Kasaragod, Wayanad and Idukki districts are found to be lower performers when compared to candidates from other districts. Performance ratio of SEBC candidates from Ernakulam, Kannur, Kollam, Kottayam, Kozhikode, Malappuram and Thiruvananthapuram districts is high.

3.8.9 SEBC candidates from Idukki, Wayanad, Kasaragod districts are found to be less in number in terms of application status also.

3.8.10 While comparing the Forward community with SEBCs in terms of admission, application and performance ratio Ernakulam, Thiruvananthapuram, Kozhikode, Malappuram shows almost equal performance.

3.9 KEAM 2009-2014 –MANDATORY RESERVATION FOR SEBCs – DATA VISUALISATION AND DATA TABLES

3.9.1 The KSCBC categorised the seats secured by each SEBC community under mandatory reservation quota and on merit quota and found that there is variation in the number of seats earmarked for mandatory reservation and the seats allotted under that quota. Since this analysis does not form part of our study the same is not included in the report.

3.9.2 More than 500 analysis reports based on the inputs from KEAM 2009-2014 of 7.7 lakh candidates have been worked out for the purpose of identification of creamy layer under Article 15 (4). Detailed Analysis - Part I - Data Visualisation (2 Volumes-428 pages), Part II - Data Tables (306 pages) have not been appended to this Report.

CHAPTER IV CONCLUSION

4.1 As observed by Sawanth J. in his separate judgement the correct criterion for judging the forwardness of the forwards among backward classes is to measure their capacity not in terms of the capacity of others in their class, but in terms of the capacity of the members of the forward classes.

4.2 What exactly the term "creamy layer" in actual application imply? when a person has been able to shed off the attributes of social and educational backwardness and has secured employment or has engaged himself in some trade/profession of high status, as categorised by the expert Committee constituted for specifying the criteria for identification of socially advanced persons among the socially and educationally backward classes, at that stage is normally no longer in need of reservation for himself.

4.3 The Hon'ble Single Judge while directing the Government of Kerala for conducting an independent study for evolving a scheme for identifying creamy layer among SEBCs specifically states that it is definitely for the Government to consider their Socio-Economic and Educational Backwardness and try to figure out a method to exclude creamy layer from reservation so that the most eligible SEBC would get the benefit of reservation.

4.4 The study was conducted taking the above stipulation of the Hon'ble High Court in mind and analysed the problems to find out indicators for formulating a scheme for identification of creamy layer in SEBCs in Kerala.

4.5 Apart from a general analysis detailed analysis were also done and found out sixteen factors as follows:

- 1) The possibility of the current non-creamy layer i.e., below ₹ 6 lakh income group, who are availing the benefit of reservation at present, who mainly belong to the lower income and lower education group and whose parents' occupation also falls under agriculture, business or 'others' showing their low social status won't be able to secure admission.
- 2) Under the existing income criteria, the forward SEBCs are unable to secure a single seat in general (merit quota) in view of the better capability of the other communities (Forward Hindus and Forward Christians) in securing seats.
- 3) Parents of SEBC candidates whose occupation comes under Agriculture and business shows that the demand for the course is increasing among them.
- 4) The SEBC parents' occupation in Doctor, Engineer, Teacher shows that the demand for Kerala M.B.B.S course among them is gradually decreasing.
- 5) The social status of the SEBCs as a whole is still a concern; therefore in the opinion of the Commission they have not crossed the line of 'Rubicon'.
- 6) The girl SEBC candidates exceeded the boys in securing seats in the Professional degree courses in Kerala.
- 7) There are several communities in the SEBC list whose socio economic character/Anthropological profile are similar but found listed in the SEBC list as separate entries.
- 8) The present aggregate family income fixed by Government in G.O (Ms) No. 3/2014/BCDD dated 09.01.2014 as six lakh may be adopted as the income limit for income/wealth test under Article 15(4) as well. No separate income limit for urban and rural is also seen warranted.

- 9) The economic capabilities of the SEBCs are low when compared to the forward community. They are unable to send their children in self financing institutions.
- 10) The performance of SEBC candidates from Kasaragod, Wayanad and Idukki are poor when compared to the candidates from other districts. The performance ratio of SEBC candidates from Ernakulam, Kannur, Kollam, Kottayam, Kozhikode, Malappuram, and Thiruvananthapuram districts is high.
- 11) The SEBC candidates from Idukki, Wayanad and Kasaragod are less in number in terms of application status.
- 12) When comparing the forward community candidate with SEBCs in terms of their performance in the Entrance examination Ernakulam, Thiruvananthapuram, Kozhikode, Malappuram districts shows almost equal status.
- 13) Majority of the SEBCs are living in Pachayats.
- 14) If the six Supreme Court criteria is newly introduced those candidates from SEBCs who were unable to claim reservation due to the present income criteria could be able to pay such fees and use unaided seats effectively.
- 15) Majority of the SEBC communities are of the view that the Supreme Court criteria on creamy layer for Article 16 (4) may be introduced in our State for the purpose of Article 15 (4) as well.
- 16) The higher service category and professional occupation category in SEBCs are exponentially increasing in seat securing among the overall SEBC community. So the existing creamy layer criteria (Income criteria) are also found to be suited to sustain the proper reservation for SEBC non- creamy layer.

4.6 The above sixteen factors identified by the Commission indicate that the introduction of the “Supreme Court criteria” in the place of “income criteria” now followed for the purpose of Article 15(4) in the State of Kerala is found justified. But at the same time the aggregate family income postulate of Justice Kumara Pillai Commission is also found to be more helpful to safeguard the interests of the SEBC non-creamy layer low income groups from their affluent counterpart.

4.7 Though Kasaragod, Wayanad and Idukki districts of Kerala show a drop in the performance ratio when compared to other district SEBC students, KSCBC does not take this aspect as a specific indicator for locational backwardness since the performance ratio of SEBCs with forward community candidates in Ernakulam, Thiruvananthapuram, Kozhikode, Malappuram districts show almost equal though majority of SEBCs living in Panchayat areas.

4.8 The Hon’ble High Court has asked to look into the status to be given to children of non-resident Indians who may not be showing any income in India and are socially and educationally maintaining very high standards.

4.9 Hon’ble Supreme Court has identified the criteria for the application of Rule of exclusion based on the level in social and educational status resulting from different kinds of positions and placements in life.

4.10 From the materials available, KSCBC is of the opinion that the status of non-resident Indians are not seen raised to such level to be included as a factor for the application of the rule of exclusion.

4.11 The present attempt of KSCBC is to figure out a method to exclude creamy layer so as to benefit the most eligible SEBCs to get admission in the professional courses. Hence total exclusion of hereditary occupations/callings and the sub castes of fishermen community has not been recommended as has been done for the purpose of Article 16 (4).

4.12 Three communities viz. Melakudi, Paravans and Mogar are not deleted from SEBC list though they are included in SC/ST list of the state. Melakudi/Kudiya community is listed as serial number 15 under ST list in the entrance examination prospectus for 2014 published by the Commissioner of Entrance Examination (CEE). Paravan/Bharathar is listed as serial number 12 in SC list in the above prospectus. Similarly Moger is listed as serial number 39 in SC list mentioned above. Besides list of SEBC communities published by Government of Kerala vide G.O. (P) 208/66/Edn dated 02.05.1966 also do not include Moger and Paravan communities.

4.13 Seven communities viz Kabera, Korachas, Modibanda, Moniagar, Palli, Uppara and Ural Goundan are not traceable in Kerala State. The first six communities are known to be residents of Karnataka and Ural Goundan in Tamil Nadu.

4.14 Four communities viz Galada Konkani, Ganjam Reddies, Vada Baliya and Madivala are said to be indifferent to SEBC status. Galada Konkani community is popularly known as "Shenoi". Ganjam Reddies are originally natives of Andhra Pradesh State. Members of this business community are popularly known as Reddy and most of them are mainly engaged in textile and hotel business. This community is present in city/urban areas in almost all districts of Kerala.

4.15 Families belonging to four communities like Aremahrati, Bestha, Gudigara and Maratta are quite insignificant in number in Kerala State. Aremahrati community hails from Karnataka state and insignificantly small number of families resides in remote area beyond Chandragiri puzha in Kasaragod district. Bestha community belongs to Tamil Nadu State and their main occupation is fishing. Few families are known to be residing in coastal regions of Kasaragod district. Gudigara community originally hails from Karnataka state and a couple families are living in the Manjeswaram Karnataka boarder in Kasaragod district. Maratta is a generic name for Marathi speaking people claimed to descendants of Shivaji's family. A couple of Marathi speaking families are now living in Ernakulam district. Absence of entrance examination applicants from above five communities could be due to the fact that their population is insignificantly small in our state. Their children may prefer professional education in Karnataka or Tamilnadu.

4.16 Another inference is that three communities viz Idiga, Kavudiyaru and Mogaveera may be claiming SEBC status under quota for other communities. Idiga community originally belongs to Karnataka state and their occupation is Toddy tapping. They are similar to Thiyya in Malabar and Ezhavas in Travancore area. It may be possible that candidate belonging to Idiga community may be locally known as Ezhava/Thiyya and getting reservation under the quota for Ezhavas/Thiyya.

4.17 Similarly Members of Kavudiyaru community were barbers of Thiyya community in Malabar area. It may be possible that they also are known as Thiyya in records and claim reservation under quota for Ezhavas/Thiyya. Mogaveera community is similar to Dheevera community. Being a sub-caste of Dheevera community

they may be claiming SEBC benefit under quota for Dheevera community. But the above inference needs a detailed study for confirmation.

CHAPTER V

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 sophisticated 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.

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 26th 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.

ANNEXURE A

LIST OF SOCIALLY AND EDUCATIONALLY BACKWARD CLASSES (SEBCs)

**(Vide G.O. (P) No. 208/66/Edn. dated 02.05.1966,
G.O. (Ms) No. 95/08/SCSTDD dated 06.10.2008 &
G.O. (Ms) No. 58/2012/SCSTDD dated 16.04.2012)
(ANNEXURE – XI – KEAM PROSPECTUS)**

- I. Ezhavas** including Ezhavas, Thiyyas, Ishuvan, Izhuvan, Illuvan, Billava
- II. Muslims** (All sections following Islam)
- III. Latin Catholics**
- IV. Other Backward Christians**
 - a) SIUC
 - b) Converts from Scheduled Caste to Christianity
- V. Kudumbi**
- VI. Other Backward Hindus, i.e.,**
 - 1. Agasa
 - 2. Arayas including Valan, Mukkuvan, Mukaya, Mogayan, Arayan, Bovies, Kharvi, Nulayan and Arayavathi
 - 3. Aremahrati
 - 4. Arya including Dheevara/Dheevaran, Atagara, Devanga, Kaikolan (Sengunthar), Pattarya, Saliyas (Padmasali, Pattusali, Thogatta, Karanibhakatula, Senapathula, Sali, Sale, Karikalabhakulu, Chaliya), Sourashtra, Khatri, Patnukaran, Illathu Pillai, Illa Vellalar, Illathar
 - 5. Bestha
 - 6. Bhandari or Bhondari
 - 7. Boya
 - 8. Boyan
 - 9. Chavalakkaran
 - 10. Chakkala (Chakkala Nair)

11. Devadiga
12. Ezhvathi (Vathi)
13. Ezhuthachan, Kadupattan
14. Gudigara
15. Galada Konkani
16. Ganjam Reddies
17. Gatti
18. Gowda
19. Ganika including Nagavamsom
20. Hegde
21. Hindu Nadar
22. Idiga including Settibalija
23. Jangam
24. Jogi
25. Jhetty
26. Kanisu or Kaniyar – Panicker, Kaniyan, Kanisan, Kannian, Kani, Ganaka
27. xxxxxxxx
28. Kalarikurup or Kalari Panicker
29. Kerala Muthali
30. Kusavan including Kulala, Kumbaran, Odan, Oudan (Donga), Odda (Vodde, Vadde, Veddai) Velaan, Velaans, Velar, Andhra Nair, Anthuru Nair
31. Kalavanthula
32. Kallan including Isanattu Kallar
33. Kabera
34. Korachas

35. Kammalas including Viswakarmala, Karuvan, Kamsalas, Viswakarmas, Pandikammala , Malayal-Kammala Kannan, Moosari, Kalthachan, Kallassari, PerumKollen, Kollan, Thatttan, Pandithattan, Thachan, Asari, Villasana, Vilkurup, Viswabrahmins, Kitara, Chaptegara
36. Kannadiyans
37. Kavuthiyan
38. Kavudiyaru
39. Kelasi or Kalasi Panicker
40. Koppala Velamas
41. Krishnanvaka
42. Kuruba
43. Kurumba
44. Maravan (Maravar)
45. Madivala
46. Maruthuvar
47. Mahratta (Non-Brahmin)
48. Melakudi (Kudiyana)
49. Mogaveera
50. Moili
51. Mukhari
52. Modibanda
53. Muvani
54. Moniagar
55. Naicken including Tholuva Naicker and Vettilakara Naicker
56. Padyachi (Villayankuppam)
57. Palli
58. Panniyar or Pannayar

59. Parkavakulam (Surithiman, Malayaman, Nathaman, Mooppanar and Nainar)
60. Rajapuri
61. Sakravar (Kavathi)
62. Senaithalaivar, Elavania, Senaikudayam
63. Sadhu Chetty including Telugu Chetty or 24 Manai Telugu Chetty and Wynadan Chetty
64. Tholkolan
65. Thottiyar
66. Uppara (Sagara)
67. Ural Goundan
68. Valaiyan
69. Vada Balija
70. Vakkaliga
71. Vaduvan (Vadugan)
72. Veerasaivas (Pandaram, Vairavi, Vairagi, Yogeaswar, Matapathi, Yogi)
73. Veluthedathu Nair including Vannathan, Veluthedan and Rajaka
74. Vilakkathala Nair including Vilakkathalavan, Ambattan Pranopakari, Pandithar and Nusuvan
75. Vaniya including Vanika, Vanika Vaisya, Vaisya Chetty, Vanibha Chetty, Ayiravar Nagarathar, Vaniyan
76. Yadava including Kolaya, Ayar, Mayar Maniyani, Eruman, Golla and Kolaries
77. Chakkamar
78. Mogers of Kasaragod Taluk
79. Maratis of Hosdurg Taluk
80. Paravans of Malabar area excluding Kasaragod Taluk
81. Peruvannan (Varnavar)

ANNEXURE II

APPLICATION FORM FOR A CERTIFICATE FOR ELIGIBILITY FOR RESERVATION OF SEATS FOR SOCIALLY AND EDUCATIONALLY BACKWARD CLASSES (SEBCs) IN ADMISSION TO PROFESSIONAL DEGREE COURSES IN EDUCATIONAL INSTITUTIONS UNDER GOVERNMENT OF KERALA

.....
.....
.....

Sir,

I request that a certificate in respect of reservation for Socially and Educationally Backward Classes in admission to Professional Degree Courses in the Educational Institutions under Government of Kerala be granted to me.

I. Give below the necessary particulars

- | | | |
|--|--------|--------|
| 1. Full name of the applicant
(in block letters) | : | |
| 2. Date of Birth | : | |
| 3. Complete residential address | : | |
| a. Present | : | |
| b. Permanent | : | |
| 4. Religion | : | |
| 5. Caste | : | |
| 6. Sub Caste | : | |
| 7. Occupational Group | : | |
| 8. Serial Number of the SEBC Caste in the
KEAM Prospectus Annexure XI | : | |
| 9. Name of Father | : | |
| 10. Name of Mother | : | |
| 11. Status of Parent(s) | Father | Mother |

A. Constitutional Posts

(i) Designation :

B. Government Service

Father

Mother

(i) Service (Central/State) :

(ii) Designation :

(iii) Scale of Pay including Classification,
if any :

(iv) Date of appointment to the post :

(v) Age at the time of promotion to
Class I post (if applicable) :

II. Employment in International Organisation e.g. U.N., UNICEF, WHO

(i) Name of Organisation :

(ii) Designation :

(iii) Period of Service
(indicate date fromto.....)

III. Death/Permanent incapacitation (omit if not applicable)

(i) Date of death/Permanent
Incapacitation putting an
Officer out of service :

(ii) Details of permanent
Incapacitation :

C. Employment in Public Sector Undertakings etc.

(i) Name of Organisation :

(ii) Designation :

(iii) Date of appointment to the Post :

D. Armed Forces including Para Military Forces (this will not include persons holding Civil Posts)

(i) Designation :

(ii) Scale of Pay :

E. Professional Class (other than those covered in item Nos. B&C) and those engaged in Trade, Business and Industry.

F. Property Owners

(i) Agricultural Holdings and Plantations

Son(s) and daughter(s) of Person/Persons/Family having 5 hectares or more of Agricultural Holdings/ Plantations

(ii) Vacant land and/or buildings in urban areas or Urban Agglomeration

Criteria specified in Category VI below will apply.

*Explanation:-*Building may be used for residential, industrial and commercial purposes and the like or two or more such purposes

G. Income/Wealth

- (i) Annual income of Parents from all sources (excluding salaries And income from agricultural lands)
- (ii) Whether Tax Payer (Yes/No)
(If yes a copy of the last three years return be furnished)
- (iii) Whether covered in Wealth Tax Act (Yes/No)
(If yes furnish details)

H. Any other remarks

I. I, certify that the above said particulars are true to the best of my knowledge and belief and that I do not belong to the Creamy Layer of SEBCs and am eligible to be considered for seats reserved for SEBCs. In the event of any information being found false or incorrect or ineligibility being detected before or after admission, I understand that my candidature/admission is liable to be cancelled and I shall be liable to such further action as may be provided under the law and/or rules.

Place:
Date:

Yours faithfully,
(Signature of Candidate)

ANNEXURE III

FORM OF CERTIFICATE TO BE PRODUCED BY SOCIALLY AND EDUCATIONALLY BACKWARD CLASSES FOR ADMISSION TO PROFESSIONAL DEGREE COURSES IN EDUCATIONAL INSTITUTIONS UNDER THE GOVERNMENT OF KERALA AND IN AIDED/UNAIDED SELF FINANCING EDUCATIONAL INSTITUTIONS OTHER THAN MINORITY INSTITUTIONS UNDER ARTICLE 30 (1)

This is to certify that Shri/Smt.
son/daughter of
of village District/Division
in the State of Kerala belongs to
Community which is designated as a Socially and Educationally
Backward Class (SEBC) as serial No. in the KEAM
Prospectus Annexure XI.

2. This is also to certify that the above
Shri/Smt. does not belong to the
category of "Creamy Layer" in the light of the guidelines dated
..... and the schedule prescribed there under to exclude the
"Creamy Layer" among the designated "Socially and Educationally
Backward Classes (SEBCs)" in the State of Kerala.

	Signature	:
Place:	Name	:
Date :	Designation	:

SCHEDULE

Sl. No.	Description of Category	To whom rule of exclusion will apply
(1)	(2)	(3)
I	Constitutional Posts	Son(s) and daughter(s) of (a) President of India (b) Vice President of India (c) Judges of the Supreme Court and of the High Court's; (d) Chairman & Members of UPSC and of the State Public Service Commission; Chief Election Commissioner; Comptroller & Auditor General of India (e) Governors of the States during the tenure of their office; (f) Persons holding Constitutional Positions of like nature.
II	Service Category A. Group A/Class I Officers of the All India Central and State Services (Direct Recruits)	Son(s) and daughter(s) of a) Parents both of whom are Class I Officers; b) Parents, either of whom is a class I Officer; c) Parents, both of whom are Class I Officers, but one of them dies or suffers permanent incapacitation; d) Parents, either of whom is a Class I Officer and such parent or suffers permanent incapacitation and before such death or such incapacitation has had the benefit of employment in any International Organisation like UN, IMF, World Bank etc., for a period of not less than 5 years. e) Parents, both of whom are Class I Officers die or suffer permanent incapacitation and before such death or such incapacitation of the both; either of them has had the benefit of employment in any

(1)

(2)

(3)

B. Group B/Class II Officers of the Central and State Services (Direct Recruitment)

International Organisation like UN, IMF, World Bank etc., for a period of not less than 5 years.

Provided that the rule of exclusion shall not apply in the following case: Sons and daughters of parents either of whom are Class I Officers and such parent(s) dies/die or suffer permanent incapacitation.

Son(s) daughter(s) of

a) Parents both of whom are Class II Officers;

b) Parents of whom only the husband is a Class II Officer and he gets into Class I at the age of 36 or earlier;

c) Parents, both of whom are Class II Officers and one of them dies or suffers permanent incapacitation and either one of them has had the benefit of employment in any International Organisation like UN, IMF, World Bank etc., for a period of not less than 5 years before such death or permanent incapacitation;

(d) Parents of whom the husband is a Class I Officer (Direct Recruit or pre thirty six promoted) and the wife is a Class II Officer and the wife dies or suffers permanent incapacitation; and

(e) Parents of whom the wife is a Class I Officer (Direct Recruit or pre thirty six promoted) and the husband is a Class II Officer and the husband dies or suffers permanent incapacitation.

Provided that the rule of exclusion shall not apply in the following cases:

(1)

(2)

(3)

Son(s) and daughter(s) of

- (i) Parents both of whom are Class II Officers and one of them dies or suffers permanent incapacitation;
- (ii) Parents both of whom are Class II officers and both of them die or suffer permanent incapacitation even though either of them has had the benefit of employment in any International Organisation like UN, IMF, World Bank etc., for a period of not less than 5 years before their death or permanent incapacitation.

C. Employees in Public Sector Undertakings etc.

The Criteria enumerated in A & B above in this Category will apply *mutatis mutandis* to officers holding equivalent or comparable posts in PSUs, Banks, Insurance Organisations and Universities etc. And also equivalent or comparable posts and positions under private employment.

III Armed Forces including Para Military Forces (Persons holding civil posts are not included)

Son(s) and daughter(s) of Parents either or both of whom is or are in the rank of Colonel and above in the Army and to equivalent posts in the Navy and the Air Forces and the Para Military Forces:

Provided that:-

- (i) If the wife of an Armed Forces (i.e., the category under consideration) the rule of exclusion will apply only when she herself has reached the rank of Colonel;
- (ii) The service ranks below Colonel of husband and wife shall not be clubbed together;
- (iii) If the wife of an officer in the Armed Forces is in any civil employment, this will not be taken into account for applying

(1)

(2)

(3)

the rule of exclusion unless she falls in the service category under item No. II in which case the criteria and conditions enumerated therein will apply to her independently.

IV Professional Class and those engaged in trade and Industry

(1) Persons engaged in profession as a Doctor, Lawyer, Chartered Accountant, Income Tax Consultant, Financial or Management Consultant, Civil Surgeon, Engineer, Architect, Computer Specialist, Film Artists and other Film Professional, Author, Playwright, Sports Person, Sports Professional, Media Professional or any other vocations of like status.

Criteria specified against Category VI will apply:

(2) Persons engaged in trade Business and industry

Criteria specified against Category VI will apply:

Explanation:

(i) Where the husband is in some profession and the wife is in a Class II or lower grade employment, the Income/Wealth test will apply only on the basis of the husband's income.

(ii) If the wife is in any profession and the husband is in employment in a Class II or

(1)	(2)	(3)
		Lower grade post, then Income/Wealth criterion will apply only on the basis of the wife's income and the husband's income will not be clubbed with it.

V Property Owners

(A) Agricultural holdings and plantations	Son(s) and daughter(s) of Person/Persons/family having 5 hectares or more of agricultural holdings/plantations.
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Explanation:- Family includes Father, Mother and Minor children.

Criteria specified in Category VI below will apply.

(B) Vacant land and/or Buildings in urban areas or urban agglomerations	<i>Explanation:-</i> Building may be used for residential, industrial or commercial purposes and the like or two or more such purposes.
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VI Income/Wealth Test

Son(s) and daughter(s) of
a) Persons having gross annual income of ₹ 6 lakh or above or possessing wealth above the exemption limit as prescribed in the Wealth Tax Act for a period of three consecutive years.
b) Persons in Categories I, II, III and V(A) who are not disentitled to the benefit of reservation but have income from other sources of wealth which will bring them within the income/wealth criteria mentioned in (a) above.

Explanation:-

- (i) Income from salaries or agricultural land shall not be clubbed;

(1)

(2)

(3)

(ii) The income criteria in terms of rupee will be modified taking into account the change in its value every three years. If the situation, however, so demands, the interregnum may be less.

Note:- The Income/wealth test governs Categories IV, V(B) and others covered under VI as stated earlier. For the remaining categories, namely I, II, III and V(A), specific criteria have been laid down; however, if in these categories, any person, who is not disentitled to the benefit of reservation has income from other source or wealth, which will bring him within the criterion under item No.VI, then he shall be disentitled to reservation, in case his income without clubbing his income from salaries or agricultural land or his wealth is in excess of cut-off point prescribed under the income/wealth criteria.

This note is for the guidance of the Revenue authorities for issuing the Creamy Layer Certificate.

Explanation:-

Wherever the expression "permanent incapacitation" occur in this Schedule, it shall mean incapacitation which results in putting an officer out of service.

SUGGESTIONS FOR IMPROVEMENT

1. The Tahsildars/Village Officers of Thiruvananthapuram and Kollam Districts were asked to attend a Sitting of the KSCBC with the relevant Government orders and files to verify and ascertain the procedure and methods adopted by them for computation of the family income of the applicants for reservation in appointments contemplated under article 16(4) of the Constitution of India. They were, in fact, not aware of the relevant lists of communities entitled to the benefit of reservation under Article 16(4) and 15(4) maintained by the central Government and the State Government and the creamy layer criterion for excluding the socially advanced persons/sections from such lists.

2. Needless to say, in such circumstances, the computation of family income for the purpose of Article 16(4) and 15(4) is being done according to the ipse-dixit of the authorities concerned and not in accordance with the intention contained in the provision. Therefore it is recommended to give extensive training to the Village Officers/Tahsildars as to how the computation of gross annual income has to be made under the Income/Wealth Test for the purpose of Article 16 (4) and 15 (4).

3. Another suggestion is that instead of "departmental offices", Panchayats may be the custodians of the factual records relating to membership of communities, and their status as "Other Backward", "SEBC", etc. Panchayats will have to set up a permanent registry of such communities and individuals. There can also be a mechanism for periodical updating and validation of the data, so that the Registers will have the value and utility analogous to the Birth Registration and marriage registration data.

4. The above suggestion, if implemented, will also enable a change in procedure for issue of community certificates. At present, these certificates are issued by the Village Officers of the Revenue Department (Tahsildars in respect of certificates for use in respect of Central Govt institutions). The defects and deficiencies of this procedure are well-known; worst of all, procedure is not transparent and certificates are not easily verifiable.

5. The maintenance of updated Registers at the Panchayat, as suggested above, will enable the certificates to be issued from Panchayat offices on the authority of the Registers. The present process of "verification" by Village Officer can be done away with, resulting in quicker issue of certificates, as well as verifiability in cases of doubt or dispute.

6. It is found that majority of candidates appearing for KEAM Entrance are from rural/panchayats from our State. Majority of these SEBC candidates are not performing well in the KEAM exam due to lack of proper training for the entrance exam other than the normal academic routine. Therefore the Government can initiate training programme for these candidates for better performance.

7. On analysis it is found that in certain districts the number of applications for KEAM Entrance is found to be less. Awareness programmes about courses and reservation in admission may be conducted to bring the backward SEBCs to the forefront.

8. Since the subject-wise detailed marks secured by every candidate is available with the CEE the performance based improvement in education dimensions on community/caste basis, Government schools and location basis or even private school or each district in the State of Kerala can be analysed and organised using this data analytics technology and appropriate solutions may be suggested by Government with in a very short period.

9. The experience derived from the study using the data analytics it is seen that the existing data with Directorate of Public Instruction,

Directorate of Collegiate Education, Directorate of Higher Secondary Education and other higher education authorities from where KSCBC collected materials for study are not subjected to proper data analysis for such a study usage due to lack of a warehouse model for data. Hence we suggest that Government may take initiative to work on valuable data warehouses for analysis purposes to improve education models with quick and accurate solutions.

Dated this the 11th day of December 2014.

(Sd/-)
JUSTICE G. SIVARAJAN
CHAIRMAN

(Sd/-)
K. JOHN BRITTO
MEMBER

(Sd/-)
MULLOORKARA MUHAMMED ALI SAQUAFI
MEMBER