F.No.12026/6/2006-C&LM.I
Government of India
Ministry of Tribal Affairs
(C&LM Division)

Shastri Bhavan, New Delhi-1.
Dated the 3rd October 2008

To,

The Chief Secretary,
Andaman & Nicobar Islands Admn.,
Port Blair-744101

Subject:Legal views on the status of the offsprings of a couple where one of the spouses is a member of a Scheduled Tribe

Sir/Madam,

I am directed to say that a set of legal views on the caste status of such offsprings where one spouse is a non-Scheduled Tribe was already brought out, vide the then Ministry of Home Affairs' letter No.39/37/73-SCT.I , dated 4th March, 1975 and 21st May, 1977 (copy enclosed for ready reference). The matter has, however, been further examined in view of a recent judgment of Supreme Court involving the offspring of a couple where the mother belonged to a Scheduled Tribe and the father was a non Scheduled Tribe (belonging to a forward community), in the case of titled Anjan Kumar Vs.Union of India reported in (2006) 3SCC 257 wherein the Supreme Court has, after discussing earlier decisions of the Court on this issue, said that in view of the catena of decisions of the Supreme Court, the questions raised are no more res integra. The Court has further stated that the condition precedent for granting tribe certificate being that one must suffer disabilities wherefrom one belongs. The offshoots of the wedlock of a tribal woman married to a non-tribal husband-Forward Class (Kayastha in the present case) cannot claim Scheduled Tribe status. The reason being such offshoot was brought up in the atmosphere of Forward Class and he is not subjected to any disability.(para 14)

Furthermore, the Supreme Court has stated that the Scheduled Caste and Scheduled Tribe certificate is not a bounty to be distributed. To sustain the claim, one must show that he/she suffered disabilities-socially, economically and educationally, cumulatively. The authority concerned, before whom such claim is made, is duty-bound to satisfy itself that the applicant suffered disabilities socially, economically and educationally before such certificate is issued (para 15).

It is significant to note that Supreme Court in the said case has also remarked that the women (if she belongs to a Forward Class) cannot attain the status of tribal unless she has been accepted by the community as one of them.....(para 6) and that by no stretch of imagination, a casual visit to the relative in other village would provide the status of a permanent resident of the village or acceptance by the village community as a member of the tribal community" (para 7)