

(Andamans) Scheduled Tribes Order, 1959 as amended by SCs and STs Orders (Amendment) Act, 1976. The equivalents or synonyms of "Nicobarie" sub-caste within the "Nicobarese" community is requiring to be specification as Scheduled Tribes under the Article 342 of the Constitution of India. In other words, "Nicobarie" sub-caste or parts or groups within "Nicobarese" tribes or tribal community is require to be specification under Article 342 of the Constitution of India.

It is not open for the State or UT Govt. to undertake the exercise of identifying equivalents or synonyms sub-caste or sub-tribes for inclusion in the list for conferring benefits. The State or UT Govt. may under the recommendation to the Central Government for the purpose of approaching the Parliament to pass a legislation for including the "Nicobarie" sub-caste within the "Nicobarese" tribes or community in the list of Scheduled Tribes, but it is not permissible to by-pass the Parliament and include "Nicobarie" sub-caste in the list under the guise of identifying the equivalents. For your simplicity, kindly observe the following Hon'ble Supreme Court's judgments reported in:

1. AIR 1996 Kant. 282.
2. (1994) 1 SCC 359.
3. AIR 1971 SC 2533.
4. AIR 1965 SC 1557.
5. AIR 1996 SC 1728.

Therefore, Shri. Denis and Shri. Moses both, Junior Engineers (Civil) are not to be considered as Scheduled Tribes and not entitled their promotion against ST quota for the Post of Assistant Engineer (Civil) in APWD. The Caste Certificates issued to Shri. Denis and Shri. Moses are, therefore, clearly un-constitutional and a fraud on the Constitution of India. Hence, Promotion Order of Shri. Denis and Shri. Moses should be cancelled or withdraw and desirable and bonafide Scheduled Tribes employees should be promoted to the post of Assistant Engineer (Civil) against the post reserved for Scheduled Tribes in APWD and oblige please.

Thanking you Sir,



Copy to :-

1. The Chief Engineer & Secretary (PWD/UD), A & N Administration, APWD, Nirman Bavan, Port Blair for kind information with requested that according to DOPT O.M. NO. 36011/2005-Estt. (Res.) dated 09.09.2005 the Caste Certificate of Shri. Denis and Shri. Moses both Junior Engineers (Civil) should be verified through the District Magistrate of Nicobar District by asking the question as to whether the "Nicobarie" caste or sub-caste of Nicobarese is specified under the the Constitution (A & N Islands) Scheduled Tribes Order, 1959 as amended by SCs and STs Orders (Amendment) Act, 1976.

Yours faithfully,
 THE CHIEF ENGINEER & SECRETARY
 PWD AND ADMINISTRATION
 PORT BLAIR

[Signature]
 02/03/11
 (PA TEL DHIRUBHAI)

[Signature]
 02/03/11
 (PA TEL DHIRUBHAI)