

BY  
HAND

भारत सरकार  
राष्ट्रीय अनुसूचित जनजाति आयोग  
GOVERNMENT OF INDIA  
NATIONAL COMMISSION FOR SCHEDULED TRIBES

संख्या/ No. 1/6/09-Coord.

दिनांक/ Date: 01.07.2009

To

- 1) Smt. Urmila Singh, Chairperson
- 2) Shri Maurice Kujur, Vice-Chairperson
- 3) Shri Tsering Samphel, Member
- 4) Shri Oris Syiem Myriaw, Member

**Sub: 13th meeting of the National Commission for Scheduled Tribes to be held on 03.07.2009.**

Sir/ Madam,

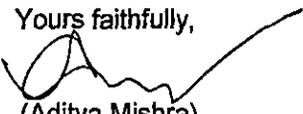
I am directed to refer to the above subject and to say that as decided in the 12th meeting of the Commission held on 30.06.2009, the next (13th) meeting of the Commission will be held at 11:30 Hrs. on Friday the 3rd July, 2009 in the Conference Room of the Commission to discuss the following Agenda.

Agenda Item No.	Agenda Items	Letter/ F. No. and date of circulation of Agenda Notes	Remarks
(i)	Recommendations made by Administrative Reforms Commission in its 7th Report titled "Capacity Building for Conflict Resolution-Friction to Fusion" – Remaining issues	RR/ Policy/ 17/ VIP/ 1000/ 2008/ RU-I dated 15/12/2008	Continued from 11th meeting, (Agenda Item II) held on 3/2/2009
(ii)	Proposal for providing reservation to Economically Backward Classes of General Category (unreserved category)	MBS/ Service/ SJ&E/ EBC Reservation/ 2009/ RU-II dated 30/1/2009	
(iii)	The Constitution (STs) (UTs) Order (Amendment) Bill, 2007 in relation to the UT of Lakshadweep-Non-consideration of the views of National Commission for Scheduled Tribes by the Govt.	RU-IV/Policy/Incl./ Lakshadweep-1/ 2007 dated 5/3/2009	
(iv)	WP (Civil) No. 590 of 2008 of Shri Surmukh Singh vs Union of India and Ors. in the Supreme Court of India regarding rotation of reserved Assembly and Parliamentary Constituencies in the State of Haryana and also in whole of India after each General Assembly/ Parliamentary Election respectively.	Court Case/ Service/ Delimitation/ M/o Law & Justice/ 08/ RU-I dated 30/1/2009	Continued from 11th meeting, (Agenda Item III) held on 3/2/2009
(v)	Amendment of Scheduled Castes and Scheduled Tribes (PoA) Act, 1989 for providing time bound disposal of cases by Special Courts – Proposal by NCST	6/ Meeting-1/ Atrocity/ 01/RU-II dated 27/2/2009	
(vi)	Comments on Draft Bill to regulate the issue of Community Certificates to persons belonging to SCs / STs / OBCs as per directions of Supreme Court of India in CA No. 4545 of 1994 – Proposal of Ministry of Social Justice & Empowerment from Ministry of Tribal Affairs	NKG/2/2009/MTAF1/ SEOTH/ RU-II dated 16/3/2009	

- 5
- (vii) Review of Office Memorandum No. Policy-6/Service/ 2008-RU-I Continued from 6th  
36012/2/96-Estt.(Res.) dated 02.07.1997 dated 25/9/2008 meeting, (Agenda-II)  
issued by Department of Personnel and held on 3/10/2008 and  
Training in the light of the judgment of the 7th meeting (Agenda –  
Supreme Court dated 16.09.1999 in the II) held on 14/10/2008  
case of Ajit Singh-II and the comments of  
Attorney General of India.

2. You are requested to kindly make it convenient to attend the meeting.

Yours faithfully,

  
(Aditya Mishra)  
Joint Secretary

Copy for information and necessary action to:

- (i) Secretary
- (ii) Joint Secretary
- (iii) Director (RU -I & RU -II)
- (iv) Director (RU – III & Coord.)
- (v) DS (RU-IV & Admn.)
- (vi) DD (RU-IV)
- (vii) US (Admn.)
- (viii) PS to Chairperson



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BY HAND 2

भारत सरकार

राष्ट्रीय अनुसूचित जनजाति आयोग  
GOVERNMENT OF INDIA

NATIONAL COMMISSION FOR SCHEDULED TRIBES

संख्या/ No. 1/6/09-Coord.

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To

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  - 2) Shri Maurice Kujur, Vice-Chairperson
  - 3) Shri Tsering Samphel, Member
  - 4) Shri Oris Syiem Myriaw, Member
- Handwritten notes: 2/7/09, 2/7/09, 2-07-09*

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Sir/ Madam,

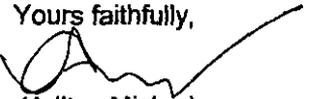
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- (vii) Review of Office Memorandum No. 36012/2/96-Estt.(Res.) dated 02.07.1997 issued by Department of Personnel and Training in the light of the judgment of the Supreme Court dated 16.09.1999 in the case of Ajit Singh-II and the comments of Attorney General of India. Policy-6/Service/ 2008-RU-I dated 25/9/2008 Continued from 6th meeting, (Agenda - I) held on 3/10/2008 and 7th meeting (Agenda - II) held on 14/10/2008

2. You are requested to kindly make it convenient to attend the meeting.

Yours faithfully,

  
(Aditya Mishra)  
Joint Secretary

Copy for information and necessary action to:

- (i) Secretary *admit*  
(ii) Joint Secretary *ay*  
(iii) Director (RU -I & RU -II)  
(iv) Director (RU - III & Coord.)  
(v) DS (RU-IV & Admn.) *gith*  
(vi) DD (RU-IV)  
(vii) US (Admn.)  
(viii) PS to Chairperson - *Lasend 02/07/09*

~~Sl No 3 (I)~~



सत्यमेव जयते

भारत सरकार

राष्ट्रीय अनुसूचित जनजाति आयोग

GOVERNMENT OF INDIA

NATIONAL COMMISSION FOR SCHEDULED TRIBES

F.No.RR/Policy/17/VIP/1000/2008/RU-I

छठी मंजिल, 'बी' विंग, लोक नायक भवन  
खान मार्केट, नई दिल्ली-110003  
6th Floor, 'B' Wing, Lok Nayak Bhawan  
Khan Market, New Delhi - 110 003

Dated .....15.12.2008

To

- 1) Smt. Urmila Singh, Chairperson
- 2) Shri Maurice Kujur, Vice-Chairperson
- 3) Shri Tsering Samphel, Member
- 4) Shri Oris Syiem Myriaw, Member

Sub: 7<sup>th</sup> Report of Second Administrative Reforms Commission (ARC) on  
"Capacity Building for Conflict Resolution – Friction to Fusion" from  
DAR&PG.

A copy of the statement containing recommendations made by ARC on  
the subject is enclosed. The subject will be considered by the Commission in its  
next meeting.

  
(Aditya Mishra)  
Joint Secretary

Copy to:-

1. PS to Secretary
2. Director (VA)
3. Director (RPV)
4. DS (RU-IV & Admn.)
5. P.S. to Chairperson
6. A.D. (RU-I)
7. A.D. (RU-III)
8. R.O.(RU-II)
9. R.O(RU-IV)



RAJNI RAZDAN  
सचिव  
SECRETARY

भारत सरकार,  
कार्मिक, लोक शिकायत तथा पेंशन मंत्रालय,  
प्रशासनिक सुधार और लोक शिकायत विभाग,  
सरदार पटेल भवन, संसद मार्ग,  
नई दिल्ली-110001  
GOVERNMENT OF INDIA,  
MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES  
& PENSIONS,  
DEPARTMENT OF ADMINISTRATIVE REFORMS  
& PUBLIC GRIEVANCES,  
SARDAR PATEL BHAVAN, SANSAD MARG,  
NEW DELHI-110001

D.O.No.K-11022/16/2008-AR

8<sup>th</sup> December, 2008

*Dear Sh. Sirohi,*

It has been decided by the Cabinet Secretariat that the Seventh Report of the Second Administrative Reforms Commission (ARC) on "Capacity Building for Conflict Resolution – Friction to Fusion" will be handled by Department of Administrative Reforms & Public Grievances as the nodal Department.

2. We have prepared a statement containing the recommendations made by the Administrative Reforms Commission (ARC) in its Seventh Report titled "Capacity Building for Conflict Resolution – Friction to Fusion". A copy of the statement is enclosed. You may kindly indicate your comments on the recommendations concerning your Department and send the same to this Department for placing it before the CGAR under the chairmanship of Cabinet Secretary

3. Since the progress of implementation of the recommendations contained in the Reports submitted by the Administrative Reforms Commission (ARC) are monitored by the Cabinet Secretariat/PMO, I would request you to furnish your comments on the recommendations by 15<sup>th</sup> December, 2008 positively.

*with regards,*

Yours sincerely,

*Razdan*

(Rajni Razdan)

Shri R.S.Sirohi,  
Secretary,  
National Commission for Scheduled Tribes,  
6<sup>th</sup> Floor, B Wing, Lok Nayak Bhawan,  
Khan Market, New Delhi.

1. We may circulate to all Member Units so that the recommendations can be considered by the Commission (PDS)
2. Agenda note may indicate suggested response to the recommendations
3. We may inform DARE that the Commission's views will be submitted after the matter is

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12/29/08  
12/12/08  
Pl. enter in VIP Category  
Pl. put up agenda note  
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12/12/08

*Sirohi*  
12/12

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STATEMENT CONTAINING RECOMMENDATIONS MADE BY THE ADMINISTRATIVE REFORMS COMMISSION IN ITS SEVENTH REPORT TITLED "CAPACITY BUILDING FOR CONFLICT RESOLUTION" AND COMMENTS OF THE MINISTRY OF HOME AFFAIRS

Sl. No.	Recommendations made by Administrative Reforms Commission	Comments of Administrative Ministry	Views of the CGAR
	<p><b>1. (Para 3.8) Left Extremism</b></p> <p>(a) A long-term (10-year) and short-term ( 5-year) Programme of Action based on the '14-Point Strategy' announced in Parliament may be formulated by the Union Government in consultation with the concerned State Governments to identify state specific action to be taken to implement the 'Strategy' (1)</p> <p>(b) While agreeing with the spirit of the '14-Point Strategy', negotiations with the extremist outfits should be an important mode of conflict resolution.(2)</p> <p>(c) There is a strong case for 'back to the basics' in the matter of administrative monitoring and supervision. The system of periodic official inspections and review of organisational performances needs to be revitalised. It must be recognised that a major reason for such practices falling in disuse in 'disturbed areas' is the apprehension of senior functionaries about their personal safety while on tour. It is advisable that the need to provide suitable security to the senior administrative and technical officers while on tour, is taken into account in working out requirements for security forces in areas affected by serious violence (3)</p> <p>(d) There is need to enhance the capacity of the security forces to act effectively and firmly, but in conformity with constitutional bounds; it is necessary that standard operational procedures and protocols are laid down in specific terms and detail.(4)</p> <p>(e) Training and reorientation including sensitising the police and paramilitary personnel to the root causes of the disturbances that they are seeking to curb, are necessary.(5)</p> <p>(f) Formation of trained special task forces on the pattern of the Greyhounds in Andhra Pradesh should be an important element of the strategy to build capacity in the police machinery for tackling left extremism.(6)</p> <p>(g) Establishing and strengthening local level police stations, adequately staffed by local recruits, in the extremist affected regions should be an important component of the policing strategy for tackling left extremism (7)</p> <p>(h) For effective implementation of the Scheduled Tribes and other Traditional Forest Dwellers (Recognition of Rights) Act, 2006, multidisciplinary</p>		

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Sl. No.	Recommendations made by Administrative Reforms Commission	Comments of Administrative Ministry	Views of CGAR
9 10 11 12	<p>Oversight Committees may be constituted to ensure that the implementation of this ameliorative legislation does not adversely affect the local ecosystems.(8)</p> <p>(i) Special efforts are needed to monitor the implementation of constitutional and statutory safeguards, development schemes and land reforms initiatives for containing discontent among sections vulnerable to the propaganda of violent left extremism.(9)</p> <p>(j) To facilitate locally relevant development adequate flexibility may be provided to implementing agencies in the affected areas as regards centrally sponsored and other schemes, so as to enable them to introduce suitable changes based on local requirements.(10)</p> <p>(k) Performance of the States in amending their Panchayati Raj Acts and other regulations to bring them in line with the provisions of the Panchayats (Extension to the Scheduled Areas) Act, 1996 (PESA) and in implementing these provisions may be monitored and incentivised by the Union Ministry of Panchayati Raj.(11)</p> <p>(l) The nexus between illegal mining/forest contractors and transporters and extremists which provides the financial support for the extremist movement needs to be broken. To achieve this, special anti-extortion and anti-money laundering cell should be established by the State police/State Government.(12)</p> <p>(m) For implementing large infrastructure projects, particularly road networks, that are strongly opposed by the extremists or are used to extort funds from local contractors, the use of specialised Government agencies like the Border Roads Organisation in place of contractors may be considered as a temporary measure.(13)</p>		
13	<p><b>2. (Para 4.9) Land Related Issues</b></p> <p>(a) The following steps may be taken to alleviate the distress in the agrarian sector</p> <p>i. Provide renewed impetus to land reform measures like redistribution of surplus land, vesting title in tenants and carrying forward consolidation of land holdings etc for maintaining and promoting the sustainability of agriculture.</p> <p>ii. In order to provide adequate and timely facilities to farmers, there is need to augment the banking system in the rural areas and make them more responsive to the farmers' needs.</p> <p>iii. Re-design poverty alleviation programmes to make them more relevant to the needs of small and marginal farmers.</p>		

Recommendations made by Administrative Reforms Commission	Comments of Administrative Ministry	Views of the CGAR
<p>13. Step up public investment in order to expand non-farm and off farm activities to provide alternative employment opportunities for the poorer farmers within the village.</p> <p>14. Introduce measures to encourage formation of 'Self Help Groups' (SHGs) to improve access to credit and marketing and empower the disadvantaged.</p> <p>15. Diversify risk coverage measures such as weather insurance schemes and price support mechanisms.(14)</p> <p>16. A new legislation for land acquisition incorporating the principles laid down in the revised national rehabilitation policy needs to be enacted. The recently announced national policy on rehabilitation of project affected persons should be implemented forthwith for all ongoing projects as well as those in the pipeline.(15)</p> <p>17. There is need to amend the present approach to SEZ on the following lines.</p> <p>i) Establishing SEZs, use of prime agricultural land should be avoided.</p> <p>ii) The number of SEZs should be limited, with a large minimum size with locations preferably in backward areas so that they act as nuclei for economic growth.</p> <p>iii) SEZs promoted by farmers themselves should be encouraged.</p> <p>iv) The livelihood of the displaced should be a major concern of the SEZ policy.</p> <p>v) The SEZ regulations should clearly allocate social responsibility of rehabilitation to entrepreneurs seeking to establish SEZs. This should include provision for water, sanitation, health facilities, and vocational training centres.</p> <p>vi) The proportion of land that is permitted to be used by the promoters of SEZs for non-processing activities should be kept to a minimum and this should be ensured at the time of approval of their plans. The existing ratio between processing and non-processing activities needs to be re-examined in order to maximize the proportion of land put to productive use. Also strict adherence to environmental regulations should be ensured.</p> <p>vii) Comprehensive land use plans should be prepared and finalised after wide public consultations. Industrial activities in SEZs should be located only in areas earmarked for the purpose in the land use plans.</p> <p>viii) The extremely liberal tax holidays provided both to export units and to developers require reconsideration.(16)</p>		

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(5)

Recommendations made by Administrative Reforms Commission	Comments of Administrative Ministry	Views of CGAR
<p><b>A. Para 5.5) Water Related Issues</b></p> <p>The Union Government needs to be more proactive and decisive in cases of inter-State river disputes and act with the promptness and sustained attention that such disputes demand.(17)</p> <p>Since Article 262 of the Constitution provides neither the Supreme Court nor any other Court appellate jurisdiction in respect of inter-State river disputes, it is necessary that the spirit behind this provision is fully appreciated.(18)</p> <p>River Basin Organisations (RBOs) should be set up for each inter-State river, as proposed by the Report of the National Commission for Integrated Water Resources Development, 1999 by enacting a legislation to replace the River Boards Act, 1956.(19)</p> <p>The Chairmen of all the River Basin Organisations, as and when formed, should be made members of the National Water Resources Council.(20)</p> <p>The National Water Resources Council and RBOs should play a more positive role. The Council and its members should be more proactive, suggest constitutional and legislative reforms in detail, devise modalities for resolving inter-State water conflicts, and advise on procedures, administrative arrangements and regulation of use of resources by riparian beneficiaries keeping in view their optimum development and ensuring maximum benefits to the riparian.(21)</p> <p>In order to develop, conserve, utilise and manage water on the basis of a framework that incorporates long term perspectives, a national water law should be enacted as suggested in para 5.4.3 above.(22)</p>		
<p><b>a. Para 6.11) Issues Related to Scheduled Castes</b></p> <p>The Government should adopt a multi-pronged comprehensive strategy to ensure that the constitutional, legal and administrative provisions are implemented and discrimination against the Scheduled Castes are implemented in letter and spirit.(23)</p> <p>To ensure speedy disposal of discrimination cases pending in subordinate courts, an internal mechanism may be set up under the control of the High Court Administrative Judge to review such cases.(24)</p> <p>There is need to place a positive duty on public authorities for promotion of social and communal harmony and prevention of discrimination against the Scheduled Castes and Scheduled Tribes.(25)</p> <p>There is need for engaging independent agencies to carry out field surveys to identify cases of social discrimination.(26)</p> <p>There is need to spread awareness about the laws</p>		

Recommendations made by Administrative Reforms Commission	Comments of Administrative Ministry
<p>1. Step up public investment in order to expand non-farm and off farm activities to provide alternative employment opportunities for the poorer farmers within the village as</p> <p>2. Take measures to encourage formation of 'Self Help Groups' (SHGs) to improve access to credit and marketing and empower the disadvantaged</p> <p>3. Diversify risk coverage measures such as weather insurance schemes and price support mechanisms.(14)</p> <p>15. (b) A new legislation for land acquisition incorporating the principles laid down in the revised national rehabilitation policy needs to be enacted. The recently announced national policy on rehabilitation of project affected persons should be implemented forthwith for all ongoing projects as well as those in the pipeline.(15)</p> <p>16. (c) There is need to amend the present approach to SEZ on the following lines.</p> <p>i. In establishing SEZs, use of prime agricultural land should be avoided</p> <p>ii. The number of SEZs should be limited, with a larger minimum size with locations preferably in backward areas so that they act as nuclei for economic growth</p> <p>iii. SEZs promoted by farmers themselves should be encouraged.</p> <p>iv. The livelihood of the displaced should be a major concern of the SEZ policy.</p> <p>v. The SEZ regulations should clearly allocate social responsibility of rehabilitation to entrepreneurs seeking to establish SEZs. This should include provision for water, sanitation, health facilities, and vocational training centres.</p> <p>vi. The proportion of land that is permitted to be used by the promoters of SEZs for non-processing activities should be kept to a minimum and this should be ensured at the time of approval of their plans. The existing ratio between processing and non processing activities needs to be re examined in order to optimize the proportion of land put to productive use. Also strict adherence to environmental regulations should be ensured.</p> <p>vii. Comprehensive land use plans should be prepared and finalised after wide public consultations. Industrial activities in SEZs should be located only in areas earmarked for the purpose in the land use plans.</p> <p>viii. The extremely liberal tax holidays provided both to export units and to developers require reconsideration.(16)</p>	

Views of the CGAR

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Recommendations made by Administrative Reforms Commission

Comments of Administrative Ministry

Views of CGAR

**3. (Para 5.5) Water Related Issues**

The Union Government needs to be more proactive and decisive in cases of inter-State river disputes and act with the promptness and sustained attention that such disputes demand. (17)

Article 262 of the Constitution provides neither the Supreme Court nor any other Court exercise jurisdiction in respect of inter-State river disputes. It is necessary that the spirit behind this provision is fully appreciated. (18)

River Basin Organisations (RBOs) should be set up for each inter-State river, as proposed by the Report of the National Commission for Integrated Water Resources Development, 1999 by enacting a legislation to replace the River Boards Act, 1956. (19)

The Chairmen of all the River Basin Organisations, as and when formed, should be made members of the National Water Resources Council. (20)

The National Water Resources Council and RBOs should play a more positive role. The Council and its secretariat should be more proactive, suggest constitutional and legislative reforms in detail, devise modalities for resolving inter-State water conflicts, and advise on procedures, administrative arrangements and regulation of use of resources by riparian beneficiaries keeping in view their optimum development and ensuring maximum benefits to the riparian States. (21)

In order to develop, conserve, utilise and manage water on the basis of a framework that incorporates long term perspectives, a national water law should be enacted as suggested in para 5.4.3 above. (22)

**4. Para 6.11) Issues Related to Scheduled Castes**

The Government should adopt a multi-pronged strategy to ensure that the existing legal and administrative provisions are implemented in letter and spirit. (23)

To ensure speedy disposal of discrimination cases pending in subordinate courts, an internal mechanism may be set up under the control of the High Court Administrative Judge to review such cases. (24)

There is need to place a positive duty on public authorities for the promotion of social and communal harmony and prevention of discrimination against the Scheduled Castes and Scheduled Tribes. (25)

There is need for engaging independent agencies to carry out field surveys to identify cases of social discrimination. (26)

There is need to spread awareness about the laws

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Recommendations made by Administrative Reforms Commission	Comments of Administrative Ministry	Views of the CGAR
<p>and the measures to punish discrimination and atrocities. It is necessary to launch well-targeted awareness campaigns in areas where the awareness levels are low. The District Administration should organise independent surveys to identify 'vulnerable areas'.(27)</p>		
<p>28 (f) The administration and the police should be sensitised towards the special problems of the Scheduled Castes and Scheduled Tribes. They should also play a more pro-active role in detection and investigation of crimes against the weaker sections. Appropriate training programmes would help in the sensitising process.(28)</p>		
<p>(g) Enforcement agencies should be instructed in unambiguous terms that enforcement of the rights of the weaker sections should not be downplayed for fear of further disturbances or retribution.(29)</p>		
<p>30 (h) The Administration should focus on the rehabilitation of the victims and provide all required support to them including counselling.(30)</p>		
<p>(i) As far as possible the deployment of police personnel in police stations with significant proportion of SCs and STs should be in proportion to the population of such communities. The same principle should be followed in cases of localities having substantial proportion of linguistic and religious minorities.(31)</p>		
<p>32 (j) A statutory duty may be cast on all public authorities to promote equality and actively check social discrimination.(32)</p>		
<p>(k) It would be desirable to introduce a system of incentives wherein efforts made by these officials in detecting and successfully prosecuting cases of discrimination/atrocities against the Scheduled Castes are suitably acknowledged.(33)</p>		
<p>34 (l) There should be training programmes for the law enforcement agencies to suitably sensitise them to the problems of the Scheduled Castes and the need for strict enforcement of laws.(34)</p>		
<p>(m) The local governments – municipalities and panchayats – should be actively involved in various programmes concerned with effective enforcement of various social legislations.(35)</p>		
<p>36 (n) The corporate sector and NGOs need to be involved in complementing the efforts of government for the development of the Scheduled Castes. Such voluntary action should not only be directed towards economic and social empowerment of the SCs, but also towards enabling them to raise their voice against atrocities, discrimination and exploitation. (36)</p>		

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Sl. No.	Recommendations made by Administrative Reforms Commission	Comments of Administrative Ministry	Views of CGAR
37	<p>5. (Para 7.10) <b>Issues Related to Scheduled Tribes</b>            (a) While all States in the Fifth Schedule Area have enacted compliance legislations vis-à-vis PESA, their provisions have been diluted by giving the power of the Gram Sabha to other bodies. Subject matter laws and rules in respect of money lending, forest, mining and excise have not also been amended. This needs to be done. In case of default, Government of India would need to issue specific directions under Proviso 3 of Part A of the Fifth Schedule, to establish a forum at the central level to look at violations and apply correctives. <u>The Commission would like to re-iterate the importance of the Annual Reports of the Governors under the Fifth Schedule of the Constitution.</u>(37)</p>		
38	<p>(b) Awareness campaigns should be organised in order to make the tribal population aware of the provisions of PESA and the 73rd amendment to the Constitution so as to demand accountability in cases in which the final decisions are contrary to the decisions of the Gram Sabha or Panchayat.(38)</p>		
39	<p>(c) There should be a complete overhaul and systematic re-organisation of existing land records with free access to information about land holdings.(39)</p>		
40	<p>(d) There is need to harmonise the various legislations and government policies being implemented in tribal areas with the provisions of PESA. The laws that require harmonisation are the Land Acquisition Act, 1894, Mines and Minerals (Development and Regulation) Act, 1957, the Indian Forest Act, 1927, the Forest Conservation Act, 1980, and the Indian Registration Act. National policies such as the National Water Policy, 2002, National Minerals Policy, 2003, National Forest Policy, 1988, Wildlife Conservation Strategy, 2002 and National Draft Environment Policy, 2004 would also require harmonisation with PESA.(40)</p>		
41	<p>(e) Mining laws applicable to Scheduled Tribal Areas should be in conformity with the principles of the Fifth and Sixth Schedules of the Constitution.(41)</p>		
42	<p>(f) Government should select such police, revenue and forest officials who have the training and zeal to work in tribal areas and understand as well as empathise with the population they serve.(42)</p>		
43	<p>(g) <u>A national plan of action for comprehensive development which would serve as a road map for the welfare of the tribals should be prepared and implemented.</u>(43)</p>		
44	<p>(h) There should be convergence of regulatory and development programmes in the tribal areas. For the purpose, a decadal development plan should be</p>		

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Recommendations made by Administrative Reforms Commission	Comments of Administrative Ministry	Views of the CGAR
<p>prepared and implemented in a mission mode with appropriate mechanism for resolution of conflicts and adjustments.(44)</p> <p>41 (i) The authorities involved in determining the inclusion and exclusion of tribes in the list of Scheduled Tribes should adopt a mechanism of consultation with the major States and those with tribal populations, on the basis of which a comprehensive methodology with clearly defined parameters is arrived at.(45)</p>		
<p>42 6. (Para 8.6) Issues Related to Other Backward Classes</p> <p>43 (a) Government may work out the modalities of a survey and take up a statewise socio-economic survey of the "Other Backward Classes", which could form the basis of policies and programmes to improve their status.(46)</p> <p>44 (b) Government needs to formulate and implement a comprehensive scheme for capacity building of OBCs that would bring them at par with the rest of society.(47)</p>		
<p>45 7. (Para 9.6) Religious Conflicts</p> <p>46 (a) Community policing should be encouraged. The principles laid down by the Commission in paragraph 15 of its Report on 'Public Order' should be followed.(48)</p> <p>47 (b) District Peace Committees/Integration Councils should be made effective instruments of addressing issues likely to cause communal disharmony. The District Magistrate in consultation with the Superintendent of Police should constitute these committees. In Police Commissionerates, these committees should be constituted by the Police Commissioner in consultation with the Municipal Commissioner. The committees should be of permanent nature. These committees should identify local problems with a potential to degenerate into communal conflicts and suggest means to deal with them at the earliest. Further, Mohalla Committees should also be organised on the same lines.(49)</p> <p>48 (c) In conflict prone areas, the police should formulate programmes in which the members of the target population get an opportunity of interacting with the police as a confidence building mechanism (50)</p> <p>49 (d) A separate law to deal with communal violence is not required. The existing provisions of the Indian Penal Code and the Criminal Procedure Code need to be strengthened. This may be achieved by incorporating provisions for:</p> <p>50 Enhanced punishments for communal offences.</p> <p>51 Setting up of special courts for expeditious trial of</p>		

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Sl. No.	Recommendations made by Administrative Reforms Commission	Comments of Administrative Ministry	Views of CGAR
52.	<p>cases related to communal violence.</p> <p>iii. Giving powers of remand to Executive Magistrates in cases of communal offences.</p> <p>iv. Prescription of norms of relief and rehabilitation. Further, as recommended in para 6.1.7.9 of the Commission's Report on 'Public Order', this should be accompanied by the deletion of the provisions contained in Section 196 of CrPC requiring prior sanction of the Union or State Government or the District Magistrate for initiating prosecution for offences under Sections 153A, 153B, 295A and sub-sections (1)(c), (2) and (3) of Section 505 of IPC.(51)</p> <p>(e) For providing relief and rehabilitation to victims of communal violence, the framework provided under the Disaster Management Act, 2005 could be effectively used (52)</p>		
53.	<p>8. (Para 10.3) Politics and Conflicts</p> <p>(a) Political parties should evolve a code of conduct on the forms of dissent permissible in our democratic set up. This could be incorporated in a law, which would apply to all political parties and their functionaries. Enforcement of the law could be entrusted to the Election Commission. The law should also stipulate punitive action against political parties and their functionaries violating the prescribed forms of democratic dissent, by providing for criminal cases to be filed against them and imposing fines as deterrent.(53)</p>		
54.	<p>(b) There should be consensus that identity politics would be played within the space provided by democracy and not allowed to develop into intractable conflicts leading to violence. Political parties need to build capacity to arrive at such a consensus.(54)</p> <p>9. (Para 11.6) Regional Disparities</p> <p>(a) A composite criteria for identifying backward areas (with the Block as a unit) based on indicators of human development including poverty, literacy and infant mortality rates, along with indices of social and economic infrastructure, should be developed by the Planning Commission for the 12th Five Year Plan.(55)</p> <p>(b) Union and State Governments should adopt a formula for Block-wise devolution of funds targeted at more backward areas (56)</p> <p>(c) Governance needs to be particularly strengthened in more backward areas within a State. The role of 'special purpose vehicles' such as backward area development boards and authorities in reducing intra-State disparities needs to be reviewed. It is advisable to strengthen local governments and make them</p>		

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Recommendations made by Administrative Reforms Commission	Comments of Administrative Ministry	Views of the CGAR
<p>responsible and accountable.(57)</p> <p>(d) A system of rewarding States (including developed States) achieving significant reduction in intra-State disparities should be introduced.(58)</p> <p>(e) Additional funds need to be provided to build core infrastructure at the inter-district level in less developed States and backward regions in such States. The quantum of assistance should be made proportionate to the number of people living in such areas.(59)</p> <p>(f) The approach to all such funding should be outcome driven. The strategy should be to define acceptable minimum norms of human and infrastructure development that every block in the country should attain and funding should be driven by the consideration to achieve the norms so defined. (60)</p>		
<p>10. (Para 12.6.1.4) Capacity Building in Administration in the North East</p> <p>(a) Greater opportunities may be provided to officers serving in the region to serve outside the North East to gain greater exposure to diverse work situations. Local and technical officers from the State should also be given opportunities to serve in larger States and to improve their professional qualifications through training in the country and abroad.(61)</p> <p>(b) Incentives available for officers working in the North East should be increased.(62)</p> <p>(c) Regional training institutions for various branches of administration, including the technical services may be operated by the North Eastern Council.(63)</p> <p>(d) NEC may initiate discussions with the States to examine the legal implications and feasibility of regional cadres for senior positions in technical and specialised departments under the States.(64)</p> <p>(e) NEC and the Ministry of Home Affairs may, in collaboration with the States, draw up an agenda for administrative reforms for the region with its implementation being monitored systematically. Satisfactory performance in implementation of this charter may qualify the States to additional funding including special economic packages.(65)</p>		
<p>11. (Para 12.6.2.4) Capacity Building in Police in the North East</p> <p>(a) The North Eastern Police Academy (NEPA) needs major upgradation of infrastructure and staff to cater to a larger number of officers at the induction level. NEPA may also be developed for imparting training to civil police officers from other regions in dealing with insurgency. Financial and other incentives are necessary for attracting and retaining instructors in the Academy from the Central Police</p>		

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Sl. No.	Recommendations made by Administrative Reforms Commission	Comments of Administrative Ministry	Views of CGAR
67	<p>organisations and civil police particularly those with proven track record in counter insurgency operations.(66)</p> <p>(b) Concrete steps are needed to introduce a scheme of deploying police personnel from the region to Central Police Organisations and to encourage deputation of police officers from outside the region to the North Eastern States.(67)</p>		
68.	<p>12. (Para 12.6.3.1.7) <b>Capacity Building in Local Governance Institutions in the North East – Sixth Schedule Councils</b></p> <p>(a) To avoid complaints of less favourable treatment to 'Scheduled Areas' in certain respects, suitable amendment may be made in the Sixth Schedule of the Constitution to enable the Autonomous Councils to benefit from the recommendations of State Finance Commissions and the State Election Commissions provided respectively under Articles 243J and 243K of the Constitution of India.(68)</p> <p>69. (b) The Union Government, Government of Meghalaya and the Autonomous Councils in that State may review the existing pattern of relationship between the Councils and the State Government to evolve a satisfactory mechanism to resolve conflicts between the Councils and the State Government.(69)</p> <p>70. (c) Ministry of Home Affairs may, in consultation with the concerned State Governments and the Autonomous Councils, identify powers under the Sixth Schedule that Governors may exercise at their discretion without having to act on the 'aid and advice' of the Council of Ministers as envisaged in Article 163 (1) of the Constitution.(70)</p> <p>71. (d) Paragraph 14 of the Sixth Schedule may be suitably amended to enable the Union Government to appoint a common Commission for all autonomous districts for assessing their state of administration and making other recommendations envisaged in that paragraph. A periodicity may also be provided for the Commission.(71)</p> <p>72. (e) Government of Assam should review the existing arrangements of determining budgetary allocations and release of funds to the 'original' Autonomous Councils with a view, as far as practicable, to bringing them at par with the arrangements for the Bodoland Territorial Council.(72)</p>		
73.	<p>13. (Para 12.6.3.2.4) <b>Capacity Building in Local Governance Institutions – Village Level Self-governance in the Tribal North East</b></p> <p>(a) Measures should be taken to ensure that all the Autonomous Councils pass suitable legislation for</p>		

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No.	Recommendations made by Administrative Reforms Commission	Comments of Administrative Ministry	Views of CGAR
87	<p>Tribe Specific Councils without affecting area development concerns.(81)</p> <p>(d) Suitable guidelines may be prepared for preparation of District and sub-District plans in the relevant areas through joint efforts of the Tribe Specific Councils and the Panchayati Raj Institutions.(82)</p> <p>(e) While continuous and vigorous measures are needed to bring about a consensus between various sections of society in Manipur about revival of the Hill Districts Councils, steps may be urgently taken to bring in suitable legislation to introduce elected village level bodies in the hill areas of that State.(83)</p>		
81	<p>15. (Para 12.6.4.3) Capacity Building in Regional Institutions in the North East - NEC and DONER</p> <p>(a) The NEC Act, 1971 may be suitably amended to restore the original 'conflict resolution provision' requiring the Council to 'discuss issues of mutual interest to two or more states in the region and to advise the Central Government thereon'.(84)</p> <p>(c) To enable the Council to assist effectively in the discharge of its responsibilities for reviewing the measures taken by the member-States for maintenance of security in the region, Ministry of Home Affairs should keep the Council Secretariat regularly within its 'security coordination loop'. The Council Secretariat would also need to be suitably strengthened to effectively assist in security coordination.(85)</p> <p>(d) The Planning Commission needs to lay down a framework for preparation of integrated regional plans, with priorities and not as an assortment of schemes by the NEC. The regional plan should focus on areas with a bearing on intra-regional, inter-State priorities which have the potential of avoiding conflicts and promoting regional integration.(86)</p> <p>(e) Planning Commission should ensure the association of the NEC in the State plan formulation exercise by suitably amending their guidelines.(87)</p> <p>(f) The responsibility of sanctioning funds from the 'Non Lapsable Central Pool of Resources' (NLCPR) should be entrusted to the North Eastern Council (NEC). NEC should work out mechanisms for scrutinizing proposals for funding from the 'pool' and their funding in coordination with the Ministries concerned.(88)</p> <p>(g) It is desirable that a 10-year perspective plan is prepared for the entire region encompassing areas like development of human resources and</p>		

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**Recommendations made by Administrative Reforms Commission**

**Comments of Administrative Ministry**

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CGAR:-

Establishing of village level bodies with well defined powers and a transparent system of allocation of resources.(73)

Stipulation may be made in the rules relating to release of grants to the Autonomous Councils to the effect that passage of appropriate legislation for elected village level bodies and its implementation, will entitle the Councils to additional funding.(74)

To enable the Autonomous Councils to discharge their responsibilities satisfactorily, it is imperative that the requirement of funds by these bodies be worked out normatively with reference to the minimum standards of service to be provided and capacity to raise local resources. Such exercise could be undertaken by the State Finance Commission.(75)

Nagaland has made commendable efforts to usher in a paradigm of decentralised village self-governance which combines the elective element with traditional power centers. The Ministry of Rural Development should formally recognise this arrangement for implementation of various development and poverty alleviation initiatives.(76)

Government of Meghalaya may take steps for extension of the experiment of elected village committees in the Garo Hills for implementation of the National Employment Guarantee Act throughout the State for implementation of all rural development programmes.(77)

It is imperative that in all States where village courts administer justice under customary laws by virtue of the Sixth Schedule or other laws, such laws are duly codified.(78)

**14. (Para 12.6.3.4.3) Capacity Building in Local Governance Institutions in the North East - Tribe Specific Councils in Assam and other Issues**

Government of Assam may apportion functions between the tribe specific Councils/village Councils and the Panchayati Raj Institutions in a manner that schemes involving individual tribal beneficiaries may be assigned to the 'Tribe Specific Councils' while area development schemes are left to Panchayats.(79)

State Governments may initiate a system of meeting at least the establishment costs of the Councils from sources outside the tribal sub plan and include these requirements in their projections to the expenditure Commission.(80)

State Governments may take steps to identify innovative initiatives which could be entrusted to the

Recommendations made by Administrative Reforms Commission	Comments of Administrative Ministry	Views of the CGAR
<p>Infrastructure. A governance reform agenda should also form part of this plan. This comprehensive plan needs to be reviewed by the Prime Minister regularly with the Chief Ministers for speedy follow-up.(89)</p> <p>90 (h) The Ministry for Development of North Eastern Region (DONER) may be abolished and the responsibility for the development of the region, including the infrastructure sectors, and utilisation of the non-lapsable fund should be restored to the subject matter Ministries, with the MHA acting as the nodal Ministry.(90)</p>		
<p>16. (Para 12.6.5.2) Capacity Building in Other Regional Institutions in the North-East</p> <p>91 (a) NEC may prepare a comprehensive scheme for making NEHU a centre for advanced study in Sciences, Social Sciences and Humanities to address diverse issues common to the region as a whole. NEC may also actively coordinate arrangements with the State Governments to make NEIGRIHMS a centre for tertiary health care particularly for the low income groups in the region.(91)</p>		
<p>17 (Para 12.6.6.3) National Register of Indian Citizens</p> <p>92 (a) The MNIC project needs to be taken up on a priority basis. Since there are several Union Government and State Government agencies which issue similar identity cards, it would be necessary to achieve convergence amongst all such systems so that the MNIC becomes the basic document for identification of a person and lends itself to be used as a multi-purpose individual card. Priority should be given to areas having international borders, for implementation of this Project.(92)</p>		
<p>18. (Para 12.6.7.2) Capacity Building in the North East – Miscellaneous Issues</p> <p>93 (a) The recommendations of the High Level Commission contained in its Report – ‘Transforming the North East’ - and the report of the Task Force on Development Initiatives prepared by the North Eastern Council should be implemented to fill the gaps in infrastructure in the region.(93)</p> <p>94 (b) A comprehensive framework needs to be evolved and put in place to promote the region as a preferred investment destination.(94)</p> <p>95 (c) A Transport Development Fund to finance construction of important road corridors should be set up (95)</p> <p>96 (d) Comprehensive implementation of a ‘look east’</p>		

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Sl. No.	Recommendations made by Administrative Reforms Commission	Comments of Administrative Ministry	Views of CGAR
	<p>policy though relevant for the country as a whole, is especially important for the long term growth of the North East. The agenda for its implementation must be prepared in active association with the State Governments. Clear apportionment of responsibility for planning and implementation of the policy between various Ministries of the Union Government for its implementation should be expeditiously undertaken.(96)</p> <p>97 (e) Rail connectivity should be improved in the region on a priority basis.(97)</p> <p>98. (f) Much greater efforts are needed to establish bank branches and other credit disbursement outlets through further relaxation and incentivisation in the policies of the Reserve Bank and other financial institutions.(98)</p> <p>99. (g) There is need for setting up of centres of excellence for professional and higher education in the North East. In addition, a large scale expansion of facilities for technical education, such as ITIs, should be carried out to create a pool of skilled work force and generate entrepreneurial capacity as well as employment.(99)</p> <p>100 (h) There is a need to make an in-depth study of the customary judicial system in order to achieve better understanding and dissemination of the prevailing norms and practices.(100)</p> <p>101 (i) It is necessary to evolve a credible system of maintenance of land records for the North East.(101)</p>		
	<p><b>19. (Para 13.2.5) Executive and Conflict Management – Police and Executive Magistracy</b></p> <p>102 (a) Police Reforms recommended by the Commission in its Fifth Report, "Public Order" (Chapters 5 and 6) are likely to augment the institutional capacity of the Police to play a more proactive and effective role in conflict resolution. The Commission, therefore, reiterates these recommendations.(102)</p> <p>103 (b) Police Manuals must be updated to contain suitable provisions extending the scope of responsibilities of Police officials to include conflict resolution in their charter of duties. Suitable amendments in training formats may also be carried out to provide relevant inputs on the subject. Achievements under this 'head' needs to be taken into account while evaluating overall performance.(103)</p> <p>104 (c) Executive Magistrates in their capacity as Revenue and other field level officials have extensive public inter-face and enjoy considerable goodwill particularly in rural areas. Their familiarity with the</p>		

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Recommendations made by Administrative Reforms Commission	Comments of Administrative Ministry	Views of the CGAR
<p>old situation and general acceptability makes them eminently suitable to be involved as interlocutors in mediating in local conflicts. State Governments need to build on the modalities and the institutional framework in this regard.(104)</p>		
<p>20. (Para 13.3.4) <b>Judicial Delays and Alternative Dispute Redressal</b></p> <p>105 (a) Allocation of resources for upgradation of infrastructure and personnel of the subordinate judiciary needs to receive higher priority in federal fiscal transfers.(105)</p> <p>106 (b) Much greater attention needs to be paid to make the institution of Lok Adalats serve their intended objective, and in particular to enlist active cooperation of the members of the Bar to give this approach a chance of success.(106)</p> <p>107 (c) Ministry of Law may initiate a dialogue with the Bench and the Bar of the higher judiciary to explore ways and means of bringing 'greater finality' to the decisions of quasi-judicial authorities and bodies (107)</p>		
<p>21. (Para 13.4.5) <b>Civil Society and Conflict Resolution</b></p> <p>108 (a) While social capital formation needs encouragement to improve delivery of services and build community self reliance, it is imperative that such initiatives also attempt to involve communities in 'in-house' conflict resolution.(108)</p> <p>109 (b) General policy guidelines need to be formulated by the State Governments for involving both the Panchayats and urban local bodies along with 'non-police' instrumentalities of the State, in conflict resolution.(109)</p> <p>110 (c) Guidelines of Centrally sponsored and Central Sector Schemes may be suitably modified to require that beneficiary capacity building may also emphasise developing self-reliance in local conflict management.(110)</p>		
<p>22. (Para 14.3.1.1.10) <b>Institutional Arrangements for Conflict Management – The Inter-State Council</b></p> <p>111 (a) The conflict resolution role envisaged for the Inter-State Council under Article 263 (a) of the Constitution should be effectively utilised to find solutions to disputes among States or between all or some of the States and the Union.(111)</p> <p>112 (b) The Inter-State Council may not, however, exist as a permanent body. As and when a specific need arises, a suitable Presidential order may be issued</p>		

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Sl. No.	Recommendations made by Administrative Reforms Commission	Comments of Administrative Ministry	Views of CGAR
13 14	<p>constituting and convening the Council to consider a dispute or coordination of policy or action on matters of interest to the Union and concerned States. This body may cease to function once the purpose for which it was constituted is completed.(112)</p> <p>(c) The composition of an Inter-State Council may be flexible to suit the exigencies of the matter referred to it under Article 263.(113)</p> <p>(d) If necessary, more than one Inter-State Council could be in existence at the same time with different terms of reference and composition as warranted for each Council.(114)</p>		
115 116	<p><b>23. (Para 14.3.1.2.5) Institutional Arrangements for Conflict Management – The National Commission for Scheduled Castes and The National Commission for Scheduled Tribes</b></p> <p>(a) <u>The National Commissions for Scheduled Castes and Scheduled Tribes have an important mandate to guide review and monitor the implementation of safeguards provided for SC/STs in various fields, including in the matter of their service conditions. It is imperative that the focus of the two Commissions remains on policy and larger issues of implementation rather than on cases of an individual nature which can be looked into by the administrative Ministries/appropriate forum with the Commissions playing a critical oversight role.(115)</u></p> <p>(b) <u>The administrative Ministries connected with the two Commissions may undertake an exercise, and in consultation with these bodies, work out the details of how these bodies could be better enabled to discharge their constitutional mandate.(116)</u></p>		
117	<p><b>24. (Para 14.3.2.1.4) Institutional Arrangements for Conflict Management – The Zonal Councils</b></p> <p>(a) The system of Zonal Councils may be dispensed with. Important issues of Inter-State coordination or disputes between States in the same region may, wherever necessary, be entrusted to an Inter-State Council with appropriate composition and terms of reference so that any given issue is considered in depth.(117)</p>		
118 119	<p><b>25. (Para 14.3.3.1.8) Institutional Arrangements for Conflict Management – The National Integration Council</b></p> <p>(a) The mandate of the National Integration Council (NIC) requires consideration of all factors impinging on national cohesion, and not only communalism or communal violence. The agenda of the NIC needs to be diversified.(118)</p> <p>(b) Substantive issues before the Council may be</p>		

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Recommendations made by Administrative Reforms Commission	Comments of Administrative Ministry	Views of the CGAR
<p>120 Considered in detail in smaller, subject-matter specific committees.(119)</p> <p>(c) The composition of the NIC may be rationalised to facilitate consideration of a wider variety of issues. Broad guidelines may be framed by the Ministry of Home Affairs for identifying interest groups and specialty streams that need to be represented on the NIC.(120)</p> <p>(d) The Council may meet at least once a year, while the sub-committees could meet as often as required to complete the assigned task in a time-bound manner.(121)</p> <p>(e) Summary proceedings of the NIC may be laid before both Houses of Parliament.(122)</p> <p>(f) The Indian Council of Social Science Research (ICSSR) and the Planning Commission may take a lead in the matter of establishing a multidisciplinary research and policy analysis platform to discuss issues concerning national integration either in an existing institution or by promoting a new institution or as a network.(123)</p>		
<p><b>26. (Para 14.3.3.2) Institutional Arrangements for Conflict Management – National Development Council and Other Apex Level Bodies</b></p> <p>124 (a) Specific rules of procedure for the National Development Council and other apex level bodies may be drawn up to ensure focussed deliberations.(124)</p>		
<p><b>27. (Para 14.4.2) Institutional Arrangements for Conflict Management – Other Institutional Innovations</b></p> <p>125 (a) State Integration Councils may be constituted to take stock of State level conflict situations having suitable linkages with the NIC. In important matters, the report of State level bodies may also be brought for consideration, advice and recommendations of the NIC. Guidelines for deciding the membership to the National Integration Council may also give suitable weightage to adequately representing the State Integration Councils in the national body.(125)</p> <p>126 (b) District level integration Councils (District Peace Committees) having suitable linkages with the State Councils may also be considered particularly for Districts with a history of violent, divisive conflicts. These should comprise eminent individuals enjoying confidence of all sections of society. These bodies may play mediatory and advisory roles in conflict situations.(126)</p>		

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## Agenda Note

**Sub :** Views of NCST requested by National Economically Backward Classes Commission on the issue of providing reservation to Economically Backward Classes of General Category (Unreserved Category).

### **I Proposal in brief**

A letter dated 15.01.2009 was received from National Economically Backward Classes Commission under the Ministry of Social Justice and Empowerment regarding obtaining of the views of the Commissions on providing reservation to Economically Backward Classes of General Category (Unreserved Category). Views of the National Commission for Scheduled tribes were requested on the Terms of Reference of the NEBCC, which is as follows:

- i) To elicit the views of the State Governments/Union Territories and other Commissions on the subject;
- ii) To suggest criteria for identification of economically backward classes;
- iii) To recommend the welfare measures and quantum of reservation in education and Government employment to the extent as appropriate; and
- iv) To suggest the necessary constitutional, legal and administrative modalities as required for the implementation of their recommendations.

### **II Implications**

Economical backwardness of any individual or class of Unreserved Category is a temporary feature and status may change any time. In case reservation is provided to economically backward class, they will continue to enjoy even after the change in their economical condition.

### **III Background**

The reservation is provided to the backward community or classes based on the social or regional deprivation. As a result these community / classes are mostly not in the main stream of the society and hence economically backward also. Reservation and special economic packages were started after Independence for the social and economic upliftment of these community/classes.

A major part of the economically backward class in the country is either SC/ST or OBC for whom reservation provision is already there. Economic backwardness of the unreserved category may be due to any reason but not due to their social or regional deprivation.

As per Backward Class Commission which submitted its report in March, 1955, employed following criteria for identifying socially and educationally backward classes:-

- i) Low social position in the traditional caste hierarchy of Hindu society.
- ii) Lack of general educational advancement among the major section of a caste or community
- iii) Inadequate or no representation in government service.
- iv) Inadequate representation in the field of trade, commerce and industry.

In August, 1967 a Joint Parliamentary Committee under the Chairmanship of Sh. Anil K. Chanda was constituted. The Committee adopted following criteria for judging the status of a community as a tribe: indication of primitive traits, distinctive culture, geographical isolation, shyness of contact with the community at large and backwardness.

The Chopra Committee Report on Gujars' demand submitted in December, 2007 recommended that Government of Rajasthan is advised to take the matter to the Government of India to abrogate the criteria used so far to include any class of people in the fold of Scheduled Tribes, as these have become obsolete and outdated. These should be replaced by quantifiable criteria that are relevant in the present context. The criteria should be such that they could stand judicial scrutiny and enable future Commissions or Committees appointed by the Government to examine the issue with exactitude and reliability.

**IV Proposed Recommendations of the Commission on the matter.**

In view of the above, Commission may consider to recommend no reservation to Economically Backward Classes of Unreserved category. Special packages like free education, free books, special pre – recruitment training, etc. may be given for the economic upliftment of these classes. Identification of the economically backward classes can be done in the same way, for example as being done to issue BPL ration cards.



सत्यमेव जयते

भारत सरकार

राष्ट्रीय अनुसूचित जनजाति आयोग

GOVERNMENT OF INDIA

NATIONAL COMMISSION FOR SCHEDULED TRIBES

No.MBS/Service/SJ&E/E.B.C.Reservation/2009/RU-II

छठी मंजिल, 'बी' विंग, लोक नायक भवन  
खान मार्केट, नई दिल्ली-110003  
6th Floor, 'B' Wing, Lok Nayak Bhawan  
Khan Market, New Delhi - 110 003

Dated ...30.01.09.....

To

- 1) Smt. Urmila Singh, Chairperson
- 2) Shri Maurice Kujur, Vice-Chairperson
- 3) Shri Tsering Samphel, Member
- 4) Shri Oris Syiem Myriaw, Member

**Sub: Regarding obtaining of the views of the Commissions on providing reservation to Economically Backward Classes of General Category (Unreserved Category).**

A copy of letter from National Economically Backward Classes Commission on the subject is enclosed. The subject will be considered by the Commission in its next meeting.

  
(Vinod Aggarwal)  
Director

Copy to:-

1. PPS to Secretary
2. PS to Joint Secy.
3. Director (RCD)
4. Dy.Secretary(RPV)
5. P.S. to Chairperson
6. A.D. (RU-I)
7. A.D. (RU-III)
8. R.O.(RU-II)
9. R.O.(RU-IV)

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S. No. 1 (2)

By Special Post



भारत सरकार  
राष्ट्रीय आर्थिक पिछड़ा वर्ग आयोग  
(सामाजिक न्याय एवं अधिकारिता मंत्रालय)

Govt. of India  
National Economically  
Backward Classes Commission  
(Ministry of Social Justice & Empowerment)  
New Delhi

No.36/CEBC/2007

January 15, 2009

To  
The Chairman  
National Commission for Scheduled Tribes  
6<sup>th</sup> Floor, Lok Nayak Bhawan, Khan Market  
New Delhi - 110003

RV-II  
S Post

Sub: Regarding obtaining of the views of the Commissions on providing reservation to Economically Backward Classes of General Category (Unreserved Category)

165/Gachhi/09  
20/1/09

Sir,  
The Commission for Economically Backward Classes has been set up by the Govt. of India, Ministry of Social Justice & Empowerment, New Delhi in July 2006 with the following Terms of Reference.

Dir (RCD)  
20/1/09

- (xiii) To elicit the views of the State Governments/Union Territories and other Commissions on the subject;
- (xiv) To suggest criteria for identification of economically backward classes;
- (xv) To recommend the welfare measures and quantum of reservation in education and Government employment to the extent as appropriate; and
- (xvi) To suggest the necessary constitutional, legal and administrative modalities as required for the implementation of their recommendations.

Dir (V.A)

The Commission has already visited Haryana, Rajasthan, U.P., Bihar, Maharashtra, Goa, Kerala, Chhattisgarh, Uttarakhand, West Bengal, Assam, Tamil Nadu, Puducherry, Karnataka and Madhya Pradesh States/UTs and likely to visit remaining States/UTs as per convenience. The Commission has also sought for the information and views from the States/UTs.

The Commission will highly appreciate if you kindly furnish views on Terms of Reference by 15<sup>th</sup> February, 2009 as the Commission is required to submit report to GOI by mid 2009.

Thanking you,

Yours faithfully,

Pls put up in file immediately  
20/1/09  
Ro(RV-II)

M Singh  
(Mahendra B. Singh)  
(Retd I.A.S)  
Member Secretary  
Tel: 23073142

Merged  
21-1-2009



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भारत सरकार

राष्ट्रीय अनुसूचित जनजाति आयोग

GOVERNMENT OF INDIA  
NATIONAL COMMISSION FOR SCHEDULED TRIBES

संख्या/ No. 1/4/09-Coord.

दिनांक/ Date: 30/3/2009

To,

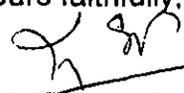
- 1) Smt. Urmila Singh, Chairperson
- 2) Shri Maurice Kujur, Vice-Chairperson
- 3) Shri Tsering Samphel, Member
- 4) Shri Oris Syiem Myriaw, Member

**Sub: 12th meeting of NCST- Advance Agenda Note - Comments of NCST on the proposed amendment to Part 1 of the Schedule to the Constitution (STs) (UTs) Order, 1951 under Article 342 of the Constitution- in relation to the revision of the list of STs pertaining to the UT of Lakshadweep. Timely communication of the views/ comments of the NCST to the Government on policy issues.**

Sir/ Madam,

I am directed to say that the above issue is likely to be considered in the next meeting of the Commission. Exact date of meeting will be communicated as soon as information received from Office of the Chairperson, National Commission for Scheduled Tribes, a copy of the Note on the above mentioned subject/ issue is enclosed for information and comments, if any, in advance.

Yours faithfully,

  
(R.C. Durga)  
Director (Coord.)

Copy with copy of enclosure for information to:

- (i) Secretary
- (ii) Joint Secretary
- (iii) Director (RU -I & RU -II)
- (iv) Director (RU - III & Cord.)
- (v) DS (RU-IV & Admn.)
- (vi) DD (RU-IV)
- (vii) US (Admn.)
- (viii) PS to Chairperson

for meeting of the Commission to be held on .....

**NATIONAL COMMISSION FOR SCHEDULED TRIBES**

**Subject:** Comments of NCST on the proposed amendment to Part 1 of the Schedule to the Constitution (STs) (UTs) Order, 1951 under Article 342 of the Constitution – in relation to the revision of the list of STs pertaining to the UT of Lakshadweep.

**Issue:** Timely Communication of the views/comments of the NCST to the Government on policy issues.

**Background:-**

The Ministry of Tribal Affairs requested for the views of this Commission in the above matter vide their letter, dated 14-11-2008 (received on 15-11-2008) with reference to the recommendations in the 36th Report of the Standing Committee on Social Justice & Empowerment. Views of the Commission were requested within a period of one week as the matter was to be submitted for directions of the Cabinet before the re-opening of the Parliament on 10th December 2008. The issue was discussed in the meeting of the Commission held on 17-12-2008 and the minutes of the meeting were issued on 09-01-2009. The views of the Commission were sent to the Ministry of Tribal Affairs on 19-01-2009. In the meantime, the proposed amendment had been notified by the Government on 09-01-2009. Ministry of Tribal Affairs has now informed that the views of the Commission have not been taken into consideration as the same were not received in time.

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**Chronological details of the action taken in dealing with the proposal by the Commission**

- (i) Proposal received in the Commission vide Ministry of Tribal Affairs's d.o. letter, dated 14-11-2008 (actually received in the Commission on 15-11-2008).
- (ii) Ministry of Tribal Affairs's d.o. letter reached DS (RU-IV & Admn.) on 19-11-2008 and the proposal circulated to the Members on 20-11-2008.
- (iii) A reminder received from the Ministry of Tribal Affairs on 26-11-2008.
- (iv) An interim reply sent to the Ministry of Tribal Affairs on 27-11-2008 informing them that the matter would be considered in the next meeting of the Commission.
- (v) Some further papers were requested from the Ministry of Tribal Affairs on 27-11-2008 which were received on 04-12-2008 and circulated in the Commission on 10-12-2008.
- (vi) Notice issued on 12-12-2008 for the Commission's meeting scheduled to be held on 17-12-2008.

- (26)  
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- (vii) Draft Agenda note put up in file on 15-12-2008 and approved by Secretary on the same date. Agenda Note circulated in the meeting.
  - (viii) Draft minutes of the meeting submitted to Secretary on 19-12-2008.
  - (ix) Minutes cleared by Secretary on 22-12-2008 (20th and 21st Dec. 09 being Saturday & Sunday) and file submitted to Hon'ble Chairperson on 23-12-2008.
  - (x) **As the Hon'ble Chairperson was on tour to Madhya Pradesh, minutes were sent to her by the office of the Chairperson by e-mail through Bhopal Office on 06-01-2009. Photocopy of the minutes signed by the Hon'ble Chairperson received on 07-01-2009.**
  - (xi) **Minutes circulated vide letter, dated 09-01-2009 which was received by the concerned officers in the Commission on 12-01-2009 (10th and 11th January 2009 being Saturday and Sunday respectively).**
  - (xii) **Draft letter communicating the views of the Commission to the Ministry of Tribal Affairs put up to JS by DS(RU-IV & Admn.) in file on 13-01-2009. Approved by JS on 15-01-2009.**
  - (xiii) File received back by DS (RU-IV & Admn.) on 19-01-2009.
  - (xiv) Views of the Commission communicated on 19-01-2009.

### **Proposed Suggestions**

The Commission may prescribe a standard time-frame for dealing with policy issues. Draft guidelines to this effect are enclosed as **ANNEX** to this Note.

## **National Commission for Scheduled Tribes**

### **Sub: Guidelines for preparation and circulation of Agenda Notes for the meeting of the Commission.**

The following guidelines may be followed for preparation and circulation of Agenda Notes and Minutes of the meeting of the Commission:

#### **A. Selection and approval of Agenda Item.**

(i) Chapter IV of the Rules of Procedure of the Commission lays down the procedure for holding meeting and the matters required to be placed before the Commission for discussion. Rule 21 of the Rules of Procedure of the Commission prescribe that the Secretary shall be responsible for having the agenda prepared for the meetings of the Commission and circulating the minutes.

(ii) Therefore, the Agenda should be submitted for approval through the Secretary, NCST. Items suggested by any Member of the Commission may be forwarded to the Secretary for including in the agenda of forthcoming meetings of the Commission.

(iii) Any Court case having policy implication or any matter received from Ministry of Tribal Affairs, Ministry of Social Justice & Empowerment, DoPT or any other Ministry/ Deptt. for comments/ views/ advice of the Commission may be brought to the notice of the Secretary, NCST, immediately to decide whether the matter needs immediate attention of the Chairperson or that of the Vice-Chairperson (in case the Chairperson is unavailable) and whether the matter requires discussion in the meeting of the Commission.

(iv) After an agenda item is approved by the Secretary, the material received from Members of the Commission/ Ministry/ Deptt. for discussion should be immediately circulated by the Officer of the Unit concerned, for comments amongst all Members and Sr. Officers of the Commission through a letter addressed to all Members (including the Chairperson and Vice-Chairperson) with endorsement (alongwith copies of enclosures) to Secretary, Joint Secretary and Directors, DS, DD, US and PS to Chairperson. A copy of this letter alongwith enclosure may also be endorsed to Coordination Unit for record and for obtaining date and time for the meeting of the Commission as per convenience of Hon'ble Chairperson. Thereafter, the concerned Unit will undertake consolidation of the comments received in the Unit into the Agenda Note. JS will monitor the progress of preparation & circulation of all agenda notes in all cases which have been directed/ approved for circulation by the Secretary.

#### **B. Format of the Agenda Note**

(i) The note should begin with the information relating to the source from where the agenda item has been received and the content, nature

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and urgency, if any, of the communication forwarding the agenda item. This should be followed by the Background information on the issue.

(ii) The Officer concerned with the Agenda Item will examine the background of the case and whether the subject matter was earlier received in the National Commission for Scheduled Tribes (or in the erstwhile National Commission for Scheduled Castes and Scheduled Tribes) for comments/ advice or for a change in the policy through any representation highlighting the negative effect of the policy or non-implementation of the policy for Scheduled Tribes. These details should form part of the agenda note as Background information.

(iii) If the matter had been received by the Commission (or its predecessor NCSC & ST) earlier, the comments/ advice rendered earlier may be indicated in the note. It may also be mentioned whether such comment/ advice was communicated to the concerned Ministry/ Deptt. and/ or whether such comment/ advice was also incorporated in any report of the NCSCST or NCST as the case may be.

(iv) If the matter had been received earlier, then the purpose of referring the matter again needs to be discussed in the Agenda Note; and, in view of the circumstances causing for re-referral of the matter, the validity of the comment/ advice rendered or stand taken by the Commission earlier also needs to be discussed, along with suggestions for fresh opinion, if necessary.

(v) Draft comment/ views/ advice of the Commission proposed to be communicated to the concerned authorities, after discussion in the meeting of the Commission, may be included at the end of the note or as **Annex** to the Note to facilitate recording/ communication of the decision subsequently.

(vi) Copies of all references made in the Agenda Note may be added as **Annexes** to the Note.

### C. Presentation of the Agenda Note

(i) The copies of the Notes **should be made on A-4 size paper;**

(ii) The Agenda of the Note should preferably be made **in both English and Hindi versions and both versions should be made available together to the Coordination Unit** for placing before the Commission for consideration;

(a) The note should be typed in **at least one and half space (in font size 12-14)** and both sides of the paper should be used. Care should be taken to ensure that the impression is legible and clear in all the pages in all the copies/ photocopies;

(b) A **wide margin (not less than 1.2 inch)** should be left towards the edge of the paper (the left edge on the obverse and the right edge on the reverse) which is put in the pads for the meetings; and

(c) All the Paragraphs and sub-paragraphs of the Notes should be appropriately numbered and bullets and such markings should be avoided.

(iii) On the top right hand corner of the 1st page of the Note, the words "Agenda Note" for "Agenda Item No....." for "Meeting of the Commission to be held on ....." should be mentioned.

(iv) On the bottom of each page (footer), in the centre, the file number of the concerned Unit/ Section dealing with the subject should be indicated;

(v) All the pages in the Note, including the annexes, should carry continuous page numbers on the bottom extreme right hand corner, simultaneously indicating total number of pages, in the manner "page x of y", where "x" is the running serial number of the page and "y" is the total number of pages in the note;

(vi) The fact that Appendices/Annexes are attached with the note, should be indicated at appropriate place in the main note. Continuous page numbers of the Appendices/Annexes should also be indicated in bracket against each. On each Appendix/Annex the relevant paragraph of the main note should be indicated, for easy reference.

(vii) Note should be properly tagged or stapled.

(viii) 12 sets of complete papers for discussion should be **sent to the Coordination Unit well in advance of the meeting** at which they are sought to be considered. It should be borne in mind that under Rule 48 of the Rules of Procedure, the Agenda of the meeting is required to be circulated among the members of the Commission **normally Seven (7) days before the date of the meeting. Coordination Unit will ensure that the Agenda notes are supplied to Members at least 3 days before the date of the meeting where notice of the meeting has already been issued earlier.**

#### D. Preparation/ issue of Minutes

(i) The draft proceedings of the discussion held in the meeting will be put up by Director (Coord.) on file on the next working day (same day in emergent cases) to the Secretary, NCST for approval by the Hon'ble Chairperson. Concerned officers who have prepared the Agenda Note will assist Director (Coord.) by furnishing the gist of the discussion relating to the Agenda Item (s) pertaining to their Unit(s) immediately after the meeting on the same day.

(ii) In the event that Hon'ble Chairperson is on tour, the draft proceedings would be sent to the Chairperson by the Office of the Chairperson by e-mail or FAX for approval.

(iii) The Coordination Unit will issue the Minutes as approved by Hon'ble Chairperson on the date of its receipt.

(iv) The views/ comments of the Commission will be communicated to the concerned Ministry/ Department by the concerned Unit within 2 working days of issue of Minutes (same day in emergent cases).



सत्यमेव जयते

भारत सरकार

राष्ट्रीय अनुसूचित जनजाति आयोग

GOVERNMENT OF INDIA

NATIONAL COMMISSION FOR SCHEDULED TRIBES

No. Court Case/Service/Delimitation/M/o Law & Jus/08/RU-I

छठी मंजिल, 'बी' विंग, लोक नायक भवन  
खान मार्केट, नई दिल्ली-110003

6th Floor, 'B' Wing, Lok Nayak Bhawan  
Khan Market, New Delhi - 110 003

Dated ..... 30.01.2009

To

- 1) Smt. Urmila Singh, Chairperson
- 2) Shri Maurice Kujur, Vice-Chairperson
- 3) Shri Tsering Samphel, Member
- 4) Shri Oris Syiem Myriaw, Member

**Sub: Writ Petition (Civil) No.590 of 2008 of Shri Surmukh Singh vs. Union of India and others in the Supreme Court of India regarding rotation of reserved Assembly and Parliamentary Constituencies in the State of Haryana and also in whole of India after each General Assembly/Parliamentary Election respectively.**

A copy of notice of the Supreme Court on the subject is enclosed. This case will be considered by the Commission in its next meeting for offering comments.

*Vinod*  
(Vinod Aggarwal)  
Director

Copy to:-

1. PPS to Secretary
2. PS to Joint Secy.
3. Director (RCD)
4. Dy. Secretary (RPV)
5. P.S. to Chairperson
6. A.D. (RU-I)
7. A.D. (RU-III)
8. R.O. (RU-II)
9. R.O. (RU-IV)

### Agenda note-3

**Subject :** Notice of Supreme Court in Writ Petition (Civil) No 590 of 2008 by Surmukh Sigh Vs Union of India & Ors in which NCST is at respondent no 4, regarding prayer to issue a writ of mandamus to The Delimitation Commission of 2002 directing it to rotate reserved assembly and parliamentary constituencies in the State of Haryana and also in the whole of India, after each general assembly/parliamentary election, respectively and further to distribute the 17 reserved assembly constituencies for scheduled caste evenly, as far as possible in all the ten parliamentary constituencies.

#### **I. Case in brief**

Under the delimitation Act, 2002, assembly and parliamentary seats have been reserved for SCs and STs, and these reserved seats will continue to be so reserved till the year, 2026, as per Article 170(3) and Article 83 Third Proviso. There is no provision for rotation of these reserved seats.

As per Articles 330 and 332 of the Constitution the total number of seats for SCs and STs in the House of People and the Legislative Assembly of the States are reserved on the basis of proportion of their total population in a particular state to the total population of the that State. Hon'ble Court has to consider the impact of stagnant reservations against the rotating reservations.

The petitioner has urged that:-

(i) In those Assembly/Parliamentary constituencies, where the SCs and STs people are in good numbers in comparison to the total population of that particular Assembly / Parliamentary constituency, than they can elect a candidate belonging to their own community, if they so desire, even without reservation. Therefore, reservation of only those Assembly and Parliamentary Constituencies, which have large proportion of SCs and STs population in comparison to the total population of such Constituency, as provided by section 9(1)(c) and section 9(1)(d) of Delimitation Act, 2002 are totally irrational, illogical, unreasonable, unjustifiable, and thus, un-sustainable in law. The goals of social justice, political justice and equality as provided in preamble to our constitution can only be achieved by rotation of seats, as is being done presently, as per Article 243(D) and 243(T) in regard to seats for SCs and STs for Panchayats and for Municipalities, respectively.

(ii) The Delimitation Commission is of the view that there is considerable merit in the demand of rotation of reserved SC/ST constituencies and recommended that the Government may consider incorporating suitable provision in law to provide for rotation in the reservation of SC constituencies.

(iii) The reservation for SCs and STs as envisaged under Sections 8 and 9 of the delimitation Act, 2002 are arbitrary, un-reasonable and violative of equality and constitution, and also the basic structure of our constitution.

(iv) It is submitted that static reservation of SC and ST constituencies is an apparent violation of Article 14 of the Constitution and the same leads to discrimination amongst similarly placed persons and group of persons. By virtue of provisions of Section 9(1)(c) and Section 9(1)(d) of Delimitation Act, the right of people belonging to reserved category living in general constituencies to enjoy the benefit of reservation as provided under Article 330 and 332 of the Constitution, and to contest the election has been taken away practically, since, this reservation of particular constituencies has been continuing for last so many decades.

(v) SC and ST people can not be deprived of their constitutional right to reservation, on the ground that percentage of their total population in a particular assembly/parliamentary constituency is lesser in proportion to another parliamentary/ Assembly Constituency of that State.

Petitioner has therefore, prayed that the Hon'ble court may graciously be pleased to order that :-

- i) Section 9(1)(c) and 9(1)(d) of the Delimitation Act 2002 is violative of Article 14 of the Constitution of India;
- ii) Strike down Delimitation Act of 2002 (Act No. 33 of 2002), as violative of Article 82 and 170(3) of the Constitution of India, as also the said Act being violative of Article 338 and 338A read with Article 38 of the Constitution;
- iii) Issue a writ of mandamus to the 2<sup>nd</sup> respondent (The Delimitation Commission of 2002) directing it to rotate reserved assembly and parliamentary constituencies in the State of Haryana and also in the Whole of India, after each general assembly/parliamentary election, respectively and further to distribute the 17 reserved assembly constituencies for SC evenly, as far as possible in all the ten parliamentary constituencies;
- iv) To strike down Article 329(a) of the Constitution of India, as violative of the doctrine of basic structure of the Constitution, viz Judicial Review and to strike down Act No. 33 of 2002, and specially Section 9 and 10 of the said Act, as violative of the basic structure doctrine of equality;
- v) Direct the respondent No. 1 (Ministry of Law & Justice) to accept the recommendation made by the Delimitation Commission for rotation of reserved SC assembly as well as parliament constituencies and to make appropriate amendment in the Delimitation Act in this regard, and this Hon'ble court may extend the concept of rotation of reserved ST constituencies as well. Further, this Hon'ble Court may kindly pass

appropriate direction to the respondents for implementing the said recommendations for SC and ST constituencies, till the time aforementioned amendment shall be incorporated in the Delimitation Act;

- vi) Pass such other and further order(s) as deem fit and proper in the interest of justice and in the facts and circumstances of the present case.

The Hon'ble Supreme Court has issued notice confining to prayer (iii) in the writ petition.

## II. Background

The National Commission for Scheduled Tribe has been created w.e.f 19.02.2004 by amending Article 338 of the Constitution of India and inserting a new Article 338A in the Constitution of India vide the Constitution (89<sup>th</sup> Amendment) Act, 2003. The NCST has six regional Offices having working jurisdiction over various States and UTs in the country. The Commission is vested with the following duties:

- a) To investigate and monitor all matters relating to the safeguards provided for the STs under the Constitution or under any other law for the time being in force or under any order of the Government and to evaluate the working of such safeguards;
- b) To enquire into specific complaints with respect to the deprivation of rights and safeguards of the STs;
- c) To participate and advise in the planning process of socio-economic development of the STs and to evaluate the progress of their development under the Union and any State;
- d) To present to the President, annually and at such other times as the Commission may deem fit, reports upon the working of those safeguards.

This does not empower the Commission the authority to enforce the various laws made for the STs under the Constitution of India. The Commission is, therefore, vested with the duty to only advise or make recommendations to the Union and State Govts, in the matters related to the safeguards provided for the STs and the major policy matters affecting the STs.

Large number of tribals migrates to the States other than the States of their origin in the process of acquiring higher education and in search of livelihood and employment, since requisite educational facilities of higher education were not available within tribal areas. The population of Scheduled Tribes living in the place of their nativity only is counted while estimating the population of Scheduled Tribes during the Census. It has also been noticed that the Population of ST persons and their family members who have

migrated to other States/ UTs is not enumerated and consequently the ST population reported in respect of such State or a District is always under-counted population, thereby adversely affecting their political representation.

The Commission has already recommended in case of Writ Petition No. 4860 of 2008 filed in the High Court of Judicature of Bombay Bench at Aurangabad in the matter of Vikramsing and Another Vs. the State of Maharashtra and Ors. Regarding non-implementation of the provisions of PESA Act, 1996 in elections to ZP and PS in the Scheduled Areas (Panchayats (Extension to the Scheduled Areas) Act, 1996) that the number of seats may be earmarked in relation to the Scheduled Area which is part of the Zilla Parishad or the Pachayat Samiti as the case may be and thereafter, the process of rotation may be made applicable to the seats calculated to be reserved for areas outside the Scheduled Area while rotation should not be applied to the seats earmarked for Scheduled Areas within a ZP/PS.

### **III. Proposed recommendations of the Commission**

The Commission may consider to recommend the rotation of reserved parliamentary/Assembly constituencies except for reserved constituencies in the Scheduled Areas. Rotation of reserved constituencies has been recommended by the delimitation Commission also.



HAND

भारत सरकार

राष्ट्रीय अनुसूचित जनजाति आयोग  
GOVERNMENT OF INDIA

NATIONAL COMMISSION FOR SCHEDULED TRIBES

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संख्या/ No. 1/12/08-Coord.

दिनांक/ Date: 27/02/2009

To.

- 1) Smt. Urmila Singh, Chairperson *Handwritten: 02/03/09*
- 2) Shri Maurice Kujur, Vice-Chairperson *Handwritten: 2/3*
- 3) Shri Tsering Samphel, Member *Handwritten: 2/3/09*
- 4) Shri Oris Syiem Myriaw, Member *Handwritten: 2/3/09*

Sub: Next meeting of the National Commission for Scheduled Tribes- Advanced Agenda Notes.

Sir/ Madam,

I am directed to enclose copies of the Notes on the following matters/ issues for information and comments, if any, in advance.

- (i) The Scheduled Castes and Scheduled Tribes (Reservation in posts and services) Bill 2008- As passed by Rajya Sabha.
- (ii) Amendment of SCs and STs (Prevention of Atrocities) Act, 1989 for providing time bound disposal of cases by special courts-Proposal by NCST

2 These matters are likely to be considered in the next meeting of the Commission. Exact date of meeting will be communicated as and when received from Office of the Chairperson, National Commission for Scheduled Tribes.

Yours faithfully,

*Handwritten signature*  
(Aditya Mishra)  
Joint Secretary

Copy with copy of enclosure for information to:

- (i) Secretary *Handwritten: 16/2/09*
- (ii) Joint Secretary *Handwritten: 16/2/09*
- (iii) Director (RU -I & RU -II)
- (iv) Director (RU - III & Cord.) *Handwritten: 1/11*
- (v) DS (RU-IV & Admn.) *Handwritten: 2/3*
- (vi) PS to Chairperson *Handwritten: 02/03/09*

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**Agenda Note**

**Sub :** Proposal for amendment of Scheduled Castes and Scheduled Tribes(Prevention of Atrocities) Act, 1989 (Annexure –I) for providing time bound disposal of cases by special courts.

**I Proposal in brief**

This Commission has earlier sent its recommendations vide letter No.CFJ/Atrocity(Policy)/MTA/572/2008/RU-II dated 13.01.2009 to Ministry of Tribal Affairs on the Draft Note for Cabinet regarding amendment in Section 14 of the SCs & STs(PoA) Act, 1989 forwarded by Ministry of Social Justice & Empowerment through Ministry of Tribal Affairs (Annexure –II).

2. It has been noted that a large number of cases registered under PoA Act, 1989 in different states are pending in courts (Annexure-III). It has also been observed that there is a very high rate of acquittal among disposed cases by the designated courts. Delay in disposal may be a possible reason for large scale acquittal. Therefore, we may consider fixing a time-frame for disposal of PoA Act cases, on the lines of the stipulation under section 13(3A) of the Consumer Protection Act, 1986, which provide a period of 3 to 5 months for disposal by a District forum (Annexure-IV).

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3. National Commission for Women have also recommended amendment in Section 309 of CrPC sub section (1) so that judgements in cases of sexual assault i.e. where the inquiry or the trial relates to offences under Section 376 to 376(E) (both inclusive) of IPC, the judgement shall as far as possible, be delivered within a period of six months from the date of commencement of the trial, under the Draft Bill titled "Criminal Law Amendment Act, 2006" (Annexure-V).

#### **II Earlier recommendations of the NCSC&ST and NCST**

Commission have recommended for set up of special trial courts and special public prosecutor for speedy trial of cases of POA, Act 1989, but fixing of time frame to complete the trial was not recommended on earlier occasion.

#### **III Proposed Recommendations of the Commission**

In view of the above, it is proposed to send a proposal to Ministry of Social Justice and Empowerment through Ministry of tribal Affairs to consider amendment of SCs & STs (PoA) Act, 1989 for providing time bound disposal of cases by special courts along with other pending amendments.



सत्यमेव जयते

भारत सरकार

राष्ट्रीय अनुसूचित जनजाति आयोग

GOVERNMENT OF INDIA

NATIONAL COMMISSION FOR SCHEDULED TRIBES

No.NKG/2/2009/MTAF1/SEOTH/RU-II

छठी मंजिल, 'बी' विंग, लोक नायक भवन  
खान मार्केट, नई दिल्ली-110003  
6th Floor, 'B' Wing, Lok Nayak Bhawan  
Khan Market, New Delhi - 110 003

Dated .....

16<sup>th</sup> March, 2009

To

- 1) Smt.Urmila Singh, Chairperson
- 2) Shri Maurice Kujur, Vice-Chairperson
- 3) Shri Tsering Samphel, Member
- 4) Shri Oris Syiem Myriaw, Member

Sub: Draft of a 'Bill to regulate the issue of community certificate to persons belonging to SCs/STs/OBCs - as per direction of the Hon'ble Supreme Court in C.A. No. 4545 of 1994 ( in the matter of Director of Tribal Welfare, Govt of Andhra Pradesh V/s Lavette Giri and Anothers)

Sir/Madam,

I am to enclose herewith a copy of the Draft of the Bill received from Ministry of Tribal Affairs on the subject matter. NCST is requested to send the comments/views on the draft bill. It will be deliberated in the next meeting of the Commission.

Yours faithfully,

  
(Aditya Mishra)  
Joint Secretary

Copy with copy of enclosures for information to:

- i) Secretary
- ii) Joint Secretary
- iii) Director(VA)
- iv) Director(RCD)
- v) DS(RPV)
- vi) DD(KDB)
- vii) PS to Chairperson

S. NO. 1(K)

F. No. 12014/1/08-C&LM-I  
Government of India  
Ministry of Tribal Affairs  
(C&LM Division)

\*\*\*\*\*

Shastri Bhawan, New Delhi-115  
Dated: 19<sup>th</sup> February, 2009

To,

The Secretary,  
National Commission for Scheduled Tribes,  
Lok Nayak Bhawan,  
New Delhi-03.

469/Coordu/09  
24/2/09

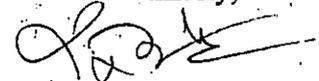
Subject: Comments on the Draft of a 'Bill to regulate the issue of community certificate to persons belonging to SCs/STs/OBCs - as per direction of the Supreme Court in C.A. No. 4545 of 1994 (in the matter of Director of Tribal Welfare, Government of Andhra Pradesh V/s Lavette Giri and Anothers).

Sir,

I am directed to enclose a copy of the draft of a Bill received from the Ministry of Social Justice & Empowerment on the subject cited above and to say that the Ministry of Social Justice & Empowerment has requested this Ministry, the comments/views of the NCST may also be obtained in the matter.

The NCST is requested to send the comments/views on the draft Bill early to the Ministry so as to enable it to send the consolidated views in the matter to the Ministry of Social Justice & Empowerment for appropriate action.

Yours faithfully,

  
(Dr. N.K. Ghatak),  
Joint Director,  
Telefax. 23383965.

please

DR

1/2/09

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A BILL  
TO REGULATE THE ISSUE OF COMMUNITY CERTIFICATES  
RELATING TO PERSONS BELONGING TO THE SCHEDULED  
CASTES, SCHEDULED TRIBES AND OTHER BACKWARD  
CLASSES AND MATTERS CONNECTED THEREWITH OR  
INCIDENTAL THERETO.

SHORT TITLE,  
EXTENT AND  
COMMENCEMENT

Be it enacted by Parliament in the Forty-sixth Year of the Republic of India as follows:-

1. (1) This Act may be called the Scheduled Castes, Scheduled Tribes and Other Backward Classes Regulation of Issue of Community Certificate Act, 1995.

(2) It extends to the whole of the country.

(3) It shall come into force on such date as the Government may, by notification, appoint.

DEFINITIONS

2. In this Act, unless the context otherwise requires:-

(a) 'Other Backward Classes' means any Socially and Educationally Backward Classes of citizens recognised by the Government for purposes of Constitution of India;

(b) 'Community Certificate' means the certificate issued by the competent authority indicating therein the Scheduled Caste, the Scheduled Tribe or the Other Backward Class, as the case may be, to which the person belongs;

(c) 'Competent Authority' means, any officer or authority authorised by the Government by notification to perform the functions of the competent authority under this Act, for such area or for such purposes as may be specified by the notification;

(d) 'Educational Institutes' means any School, Junior Collete, Degree College, College of Education, Polytechnic College, Industrial Training Institute, College of Fine Arts and Architecture, College of Music and Dance, Engineering College, Medical College,

Ayurvedic College, Homeopathic College, Unani College, Dental College, College of Nursing, Nurses Training School, Health Visitors Training School, various colleges under the control of any University established by an Act of the Parliament or State Legislature and such institutions imparting education as may be notified from time to time;

(e) 'Scrutiny Committee' means the Committee constituted by the concerned State Government or U.T. Administration by notification to perform the functions of the Scrutiny Committee under this Act for such area or for such purposes as may be specified in the notification;

(f) 'Government' means the Central Government or State Government or Union Territory Administration;

(g) 'Local Authority' means in relation to local areas comprised within the jurisdiction of a Municipal Corporation, the concerned Municipal Corporation and in relation to any other local area in the State, the concerned Municipal Council, Zilla Parishad, Block Samiti/Parishad, Gram Panchayat or township having jurisdiction over such local area;

(h) 'Notification' means, a notification published in the Gazettee of India or Gazettee of State or Gazettee of UT and the word 'notified' shall be construed accordingly;

(i) 'Prescribed' means, prescribed by rules made by the Government under this Act;

(j) 'Scheduled Castes and Scheduled Tribes' shall have the meanings respectively assigned to them in clause (24) and Clause (25) of Article 366 of the Constitution of India.

3. (1) Any person belonging to any of the Scheduled Castes, Scheduled Tribes or Other Backward Classes

VERIFICATION  
OF A COMMUNITY  
CERTIFICATE

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may, in order to claim the benefit of any reservation provided to such Castes, Tribes or Classes, either for any public appointment or for admission into any educational institution, or any other benefit under any special provisions made under clause (4) of article 15 of the Constitution of India or for the purpose of contesting for elective posts in any local authority or in the Cooperative Institutions, make an application in such form and in such manner as may be prescribed, to the competent authority for the issue of a community certificate.

(2) Any person belonging to a Scheduled Tribe may for the purpose of claiming any benefit or protection meant for Scheduled Tribes under any notification, direction or regulation made under the Fifth Schedule or Sixth Schedule to the Constitution of India or under any Act, rule, regulation or order for the time being in force in the Scheduled Areas or Tribal Areas made an application in such form and in such manner as may be prescribed to the competent authority for the issue of community certificate.

EXPLANATION: For the purposes of this section and Section 13, 'Scheduled Areas' means the areas as defined in paragraph 6 to the Fifth Schedule to the Constitution and 'Tribal Areas' means the areas as defined in paragraph 20 of the Sixth Scheduled to the Constitution.

COMMUNITY  
CERTIFICATE TO  
BE ISSUED  
BY COMPETENT  
AUTHORITY

4. (1) The competent authority may on an application made to it under Section 3, satisfy itself about the genuineness of the claim made therein and thereafter issue a community certificate in such form as may be prescribed and a community certificate issued by any person, officer or authority other than the competent authority shall be invalid.

(2) Before the issue of a certificate under Sub Section (1), the competent authority shall follow such procedure as may be prescribed.

VERIFICATION  
OF COMMUNITY  
CERTIFICATES  
BY THE SCRUTINY  
COMMITTEE

5. Each State or UT shall constitute a Scrutiny Committee for verification of Community Certificates

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Any person belonging to Scheduled Caste or Scheduled Tribe or Other Backward Class or appointing authority of the Central or State and or Union Territory or local body or head of educational institution may make an application in such form and in such manner as may be prescribed by the Scrutiny Committee for the verification of Community Certificates.

CANCELLATION  
OF FALSE  
COMMUNITY  
CERTIFICATES

6. Where, before or after the commencement of this Act a person not belonging to any of the Scheduled Castes, Scheduled Tribes or Other Backward Classes, has obtained a false Community Certificate to the effect that either himself or his children belong to such Castes, Tribes or Classes, the Scrutiny Committee may, either suo moto or on a written complaint by any person, call for the record and enquire into the correctness of such certificate was obtained fraudulently, it shall, by an order cancel the certificate after giving the person concerned an opportunity of making a representation. The Scrutiny Committee, while performing its functions for verification and cancellation of Community Certificate, shall follow such procedure as may be prescribed.

BURDEN OF  
PROOF

7 (A) Where an application is made to the competent authority under Section 3 for the issue of caste certificate in respect of SC, ST or OBC the burden of proof that the applicant belongs to such caste/tribe/class shall be on the applicant.

(B) Where a complaint is received by the competent authority or the Scrutiny Committee against a person who has secured a caste/tribe or class certificate, the burden of proof shall be on the complainant.

APPEAL

8 (A) Each State will constitute a Scrutiny Committee in every District to be headed by an officer to be decided by the State Government. Any person aggrieved by an order passed under Section 6 by the Scrutiny Committee may, within 30 days of the date of receipt of such order may appeal to the District Magistrate who will dispose of the case within three months.

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(B) An appeal against the order of District Magistrate shall lie before the High Court and the High Court will dispose of the case as expeditiously as possible within a period of three months.

POWER OF  
REVISION BY  
SCRUTINY  
COMMITTEE

9. (1) The Scrutiny Committee, may, at any time, either sub moto or on an application made to them within the prescribed period, call for an examine the record, relating to any decision made or order passed by any person, officer or authority subordinate to them for the purpose of satsifying themselves as to the legality, regularity or propriety of such decision or order and if, in any case, it appears to the Committee that any such decision or order shall be modified, annulled, reversed or remitted or reconsideration, they may pass orders accordingly; provided that the Committee shall not pass any order prejudicial to any party under such party has been given an opportunity of making a representation or being heard.

(2) The Committee may stay the execution of any such decision or order pending exercise of their powers under sub-section (1) in respect thereof.

PENALITIES

10. Whoever obtains, a community certificate by:-

- (a) furnishing false information; or
- (b) filing a false statement; or
- (c) by any other fraudulent means

shall, on conviction, be punishable with rigorous imprisonment for a term which shall not be less than two years but which may extend upto five years and with fine which shall not be less than five thousand rupees but which may extend upto ten thousand rupees.

BENEFITS SECURED  
ON THE BASIS OF  
FALSE COMMUNITY  
CERTIFICATE To

11. (1) Whoever not being a person belonging to any of the Scheduled Castes, Scheduled Tribes or Other Backward Classes secures admission in any educational

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institution against a seat reserved for such Castes, Tribes or Classes or secures any appointment or any benefit in the Government, local authority or in any company or corporation, owned or controlled by the Government or in any aided institution against a post reserved for such Castes, Tribes or Classes by producing a false Community Certificate shall on cancellation of the false Community Certificate be liable to be debarred from the concerned educational institution, or as the case may be, discharged from the said service forthwith and any other benefit enjoyed by him as aforesaid shall be withdrawn forthwith.

(2) Any amount paid, to such person by the Government or any other agency by way of scholarship, grant, allowance or other financial benefit shall be recovered as an arrear of land revenue.

(3) Any Degree, Diploma or any other educational qualification acquired by such person after securing admission in any educational institution on the basis of a false community certificate shall also stand cancelled on cancellation of the community certificate obtained by him.

(4) Whoever not being a person belonging to any of the Scheduled Castes, Scheduled Tribes or Other Backward Classes secures any benefit reserved for Scheduled Castes, Scheduled Tribes or Other Backward Classes other than those mentioned in section 12 b producing a false community certificate shall on conviction be punishable with rigorous imprisonment for a term which shall not be less than two years but which may extend upto 5 years and with fine which shall not be less than five thousand rupees but which may extend upto ten thousand rupees.

(5) Whoever not being a person belonging to any of the Scheduled Castes, Scheduled Tribes or Other Backward Classes secures an appointment in Government or other institutions referred to in Section 11(a) against the posts reserved for the Scheduled Castes

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Scheduled Tribes or Other Backward Classes shall on conviction be punishable with rigorous imprisonment for a term which shall not be less than two years but which may extend upto five years, and with fine which shall not be less than five thousand rupees but which may extend upto ten thousand rupees.

PENALTY FOR  
SECURING AN  
APPOINTMENT OF  
ELECTION TO  
POLITICAL  
OFFICES ETC ON  
THE BASIS OF  
FALSE COMMUNITY  
CERTIFICATES

12. Whoever not being a person belonging to any of the Scheduled Caste, Scheduled Tribe or Other Backward Classes is elected to any of the elective offices or any local authority reserved for Caste or Tribe on the basis of a false certificate should be punishable with rigorous imprisonment or a term which shall not be less than two years but which may extend upto five years and with fine which shall not be less than five thousand rupees which may extend to ten thousand rupees. Further election of such person shall be deemed to have been void/terminated forthwith. Any assets created with the Government assistance shall be forfeited. A person found guilty as above shall be debarred from contesting any election upto a period of 6 years from the date of conviction.

13. Whoever not being a person belonging to Scheduled Tribe secures any benefit or protection into for a member of a Scheduled Tribe under a notification, direction or regulation made under the Fifth Scheduled or Sixth Schedule to the Constitution of India or under any other law in force in the Scheduled Areas or Tribal Areas on the basis of a false community certificate shall, on conviction be punishable with rigorous imprisonment for a term which shall not be less than two years but which may extend upto five years and with fine which shall not be less than five thousand rupees but which may extend upto ten thousand rupees.

PENALTY FOR  
ISSUING A  
FALSE COMMUNITY  
CERTIFICATE

14. (1) Any person or authority performing the functions of competent authority under this Act, who intentionally, knowing full well that the person claiming the certificate does not belong to such Scheduled Caste, Scheduled Tribe or Other Backward Classes, issues a false community certificate shall o

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conviction will be punished with rigorous imprisonment for a term which will not be less than two years but which may extend upto five years and also with fine which will not be less than five thousand rupees but which may extend upto ten thousand rupees.

14. (2) Whoever intentionally gives false information or evidence before the competent authority or Scrutiny Committee, knowing full well that the person claiming the certificate does not belong to such Scheduled Caste, Scheduled Tribe or Other Backward Classes shall be punished with imprisonment provided in those for such offences.

14. (3) No Court shall take cognizance of an offence punishable under this section except with the previous sanction of the Government.

15. ~~Whoever abets any offence punishable under this Act shall be punished with the punishment provided for in this Act for such offences.~~

PENALTY FOR ABETTORS

15. Every offence punishable under this Act, shall be tried by a Magistrate of First Class in a summary way and the provisions of sections 262 to 265 (both inclusive) of the Code of Criminal Procedure, 1973 shall be applied to such trial.

POWER TO TRY OFFENCES SUMMARILY

16. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, all offences under this Act, shall be cognizable and non-bailable.

OFFENCES UNDER THE ACT TO BE COGNIZABLE

17. (1) No order passed or proceeding taken by any officer or authority under this Act, shall be called in question in any court of law lower than the District and Session Courts.

BAR OF JURISDICTION OF COURTS

(2) No Civil Court shall entertain or continue any suit or proceeding or shall pass any decree or order or execute wholly or partially any decree or order, if the claim involved in such suit or proceeding, or if the passing of such decree or order or if such execution would in any way be contrary to the provisions of this Act.

PROTECTION FOR ACTS DONE IN GOOD FAITH

18. No suit, prosecution or other legal proceedings shall lie against any person for anything which

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done in good faith or intended to be done in pursuance of this Act or the rules made thereunder.

POWER TO  
MAKE RULE

19. (1) The Government may, by notification, make rules carrying out all or any of the purposes of this Act.

(2) Every rule made under this Act shall immediately after it is made, be laid before the Parliament if it is in session and if it is not in session, in the session immediately following.

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भारत सरकार

राष्ट्रीय अनुसूचित जनजाति आयोग  
GOVERNMENT OF INDIA

NATIONAL COMMISSION FOR SCHEDULED TRIBES

संख्या/ No.- No. 1/7/Q8-Coord.

दिनांक/ Date: 25.09.2008

To

- 1) Smt. Urmila Singh, Chairperson  
2) Shri Maurice Kujur, Vice-Chairperson  
3) Shri Tsering Samphel, Member  
4) Shri Oris Syiem Myriaw, Member

Sub: Next (6th) Meeting of National Commission for Scheduled Tribes-Advanced Agenda Notes.

Sir,

National Commission for Scheduled Tribes has received proposals on the following matters/ issues from Department of Personnel and Training, Ministry of Personnel, Public Grievances and Pensions for comments of this Commission. These matters are likely to be taken up as Agenda in the next meeting of the Commission.

- (i) Draft O.M. on Instructions regarding implementation of reservation for SCs, STs, and OBCs.
- (ii) Review of Office Memorandum No. 36012/2/96-Estt.(Res.) dated 02.07.1997 issued by DoPT in the light of the judgment of the Supreme Court dated 16.09.1999 in the case of Ajit Singh-II.
- (iii) Revised proforma for sending proposal for de-reservation of vacancies reserved for SCs and STs- Reference from DoPT

2. As directed by Secretary, NCST, copies of the Notes on the above matters/ issues are enclosed for information and comments, if any, in advance. Exact date of meeting will be communicated as and when received from Office of the Chairperson, National Commission for Scheduled Tribes.

Yours faithfully,

(Aditya Mishra)  
Joint Secretary

Copy with a copy of the enclosure forwarded to:

- (i) Shri Raghuvendra Singh Sirohi, Secretary
- (ii) Shri Aditya Mishra, Joint Secretary

Copy for information to:

- (i) Shri Vinod Aggarwal, Director
- (ii) Shri R.C. Durga, Director
- (iii) Shri R.P. Vasishtha, Deputy Secretary
- (iv) Shri T.S. Negi, Under Secretary
- (v) Shri K.N. Singh, PS to Chairperson

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## AGENDA NOTE

**Subject :** Comments of NCST required by DoPT to review OM No. 36012/2/96-Estt.(Res.) dated 02.07.1997 issued by DoPT following Supreme Court decision dated 10.02.1995 in the case of R. K. Sabharwal, in the light of the judgment of the Supreme Court dated 16.09.1999 in the case of Ajit Singh-II.

### **I. Proposal in brief.**

1. The Department of Personnel and Training has sent a proposal for seeking comments of NCST to review DoPT OM No. 36012/2/96-Estt.(Res.) dated 02.07.1997 in the light of the judgment of the Supreme Court dated 16.09.1999 in the case of Ajit Singh-II and the comments of Attorney General of India.

2. Briefly, DoPT has proposed :-

- i) Implementation of DoPT OM dated 02.07.1997 regarding post based rosters w.e.f. from date of Supreme Court Judgement in the case of R.K. Sabharwal, i.e. 10.02.1995.
- ii) Promotion of SCs/STs in excess of the vacancies as worked out based on PBR prior to the 10.02.1995 to be treated as ad hoc, and to be regularized against future vacancies in that category.
- iii) SCs/STs Candidates promoted after 10.02.1995 in excess of the vacancies as worked out based on PBR after 10.02.1995 to be reverted.

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3. The DoPT has stated that on the basis of the Supreme Court judgment held on 10.02.1995 in the case of R. K. Sabharwal and others Vs. State of Punjab and others regarding implementation of reservation policy in posts and services, the DoPT introduced post based reservation rosters vide OM NO. 36012/2/96-Estt.(Res.) dated 02.07.1997 and made them operative with effect from the date of issue of the OM i.e. 02.07.1997.

4. The issue of prospectively of the orders of the Supreme Court in the R. K. Sabharwal's case came before the Supreme Court in the Ajit Singh-II and the Hon'ble Court has delivered the judgment that the reservation roster should be operative from the date of the Supreme Court judgment date 10.02.1995. In this regard, the views of the Attorney General of India have been obtained. The learned Attorney General opined as under:

- a) The Law of the land laid down in Ajit Singh-II warrants modification of DoPT's OM dated 02.07.1997 to provide that DoPT's said OM should be given effect from 10.02.1995 instead of 02.07.1997.
- b) Law of land laid down in Ajit Singh-II warrants modification of DoPT's OM dated 02.07.1997 to provide that any promotions made before 10.02.1995 in excess of any quota as per roster are to be treated as ad hoc.
- c) The direction given in Ajit Singh-II, if not complied with, would tantamount to contempt.

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- d) Making post-based reservation rosters effective from a date earlier than 10.02.1995 on the ground that vacancy based reservation rosters could not determine as to whether reserved category officials were promoted as per their quota or in excess of quota, is not advised because that will disturb vested rights of various persons and lead to needless litigation.

5. It is mentioned in the DoPT letter that in view of judgement of Supreme Court in Ajit Singh-II, and the opinion of the Learned Attorney General, DoPT's O.M. date 02.07.1997 would have to be made effective from 10.02.1995. Promotion of employees belonging to SC/ST made before 10.02.1995 by way of reservation, in excess of quota determined by application of PBR would be treated as ad hoc and would be regularized against future vacancies reserved for them or on own merit, whichever is earlier. Persons promoted in excess of the vacancies determined by PBR, after 10.02.1995 will have to be reverted. It will have adverse impact on some employees belonging to SC/ST, but as advised by Attorney General, the judgement of Supreme Court would have to be implemented lest it should result into contempt of the court.

**II. Views of NCSC&ST and Comments of DoPT thereon.**

6. The proposal had been considered by the National Commission for SC and ST and it was suggested that adequate provisions may also be made protect the interests of SC/ST people who will be affected by (

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ad hoc and reversion) on the preponement of the date of implementation of OM in respect of post based rosters.

Comments of DoPT - The Supreme Court in Ajit Singh II has held that PBR are to be made effective from 10.02.1995. The court has protected the SC/ST candidates promoted in excess of their quota before 10.02.1995 from reversion but not after 10.02.1995. The judgement of the Supreme Court has become the law of the land under Article 141 of the Constitution. Therefore, it would not be possible to protect the promotion of SC/ST candidates made in excess of their quota after 10.02.1995.

**III. Implications of the Proposed preponement of OM dated 02.07.1997 to 10.02.1995.**

- i) SCs/STs candidates promoted in excess of the vacancies determined as per PBR prior to 10.02.1995 will lose their seniority.
- ii) SCs/STs candidates promoted in excess of the vacancies determined as per PBR after 10.02.1995 will be reverted .

**Note :** The matter of seniority of SC/ST Government servants on promotion by virtue of rule of reservation is clarified vide DoPT O.M. No. 20011/1/2001-Estt.(D) dated 21.01.2002. As per this O.M. the candidates belonging to general/OBC category promoted later will be placed junior to SC/ST Government servants promoted earlier even though by virtue of the rule of reservation.

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**IV. Proposed Recommendations of the Commission on the matter.**

7. The Commission may like to consider:

i) In case DoPT OM dated 02.07.1997 is amended as per Hon'ble Supreme Court judgment then the persons promoted in excess of quota will have to be reverted and there will be lot of litigation. If the OM is not amended, it will lead to contempt. It is therefore, proposed that interest of STs to be protected while commenting on the matter.

**ii) Proposal on promotions effected prior to 10.02.1995.**

In case of R.K. Sabharwal case, Supreme Court had clearly stated in its judgement that " We, however, direct that the interpretation given by us to the working of the roster and our findings on this point shall be operative prospectively." It is mentioned that as PBR is operative only after 10.02.1995, the excess promotions as determined by PBR can not be worked out prior to 10.02.1995, or considered ad hoc since these were made as per guidelines then in vogue. Therefore, it will not be feasible to disturb the promotions effected before 10.02.1995. Excess therein, if any, may be adjusted against future vacancies in that category.

**iii) Proposal on promotions effected between 10.02.1995 and 02.07.1997**

In view of the Supreme Court Judgement in the case of R.K. Sabharwal and in absence of any instructions/guidelines from DoPT thereon, the persons belonging to SC/ST category promoted in excess to the vacancies, determined by PBR between 10.02.1995 and 02.07.1997 may not be

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reverted, as proposed by DoPT, and should be considered on *ad hoc* basis till such time their regularization against the vacancies arising out in future in that category or on their own merit, whichever is earlier.

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Attendance Sheet

National Commission for Scheduled Tribes

**Sub: 13th Meeting of National Commission for Scheduled held on  
03.07.2009 at 11:30 Hrs.- Attendance**

<u>S.No.</u>	<u>Name and Designation</u>	<u>Signature</u>
1.	Smt. Urmila Singh, Chairperson	(In chair)
2.	Shri Maurice Kujur, Vice-Chairperson	M. K. J 3/7/2009
3.	Shri Tsering Samphel, Member	T. Samphel
4.	Shri Oris Syiem Myriaw, Member	O. S. M.
5.	Shri R.S. Sirohi, Secretary	R. S. Sirohi
6.	Shri Aditya Mishra, Joint Secretary	A. Mishra 3/7/09
7.	Shri R.C. Durga, Director	R. C. Durga 3/7/09
8.	Shri Vinod Aggarwal, Director	V. Aggarwal 3/7/09
9.	Shri R.P. Vasishtha, Deputy Secretary	R. P. Vasishtha
10.	Smt. K.D. Bhansor, Deputy Director	K. D. Bhansor
11.	Shri K.N. Singh, PS to Chairperson	K. N. Singh
12.		
13.		
14.		

### Proceedings of the Commission meeting held on 03.07.2009

- ii) It was decided to have the views of the Members of the Commission and to be included in the agenda note on the issue for discussion in the meeting.
- iii) The Commission of the view that reservation to Economically Backward Classes of Unreserved Category is neither feasible nor sustainable. The economic status of an individual or class is fluctuating. Separate schemes may be launched for development of these classes.
- iv) To be given by C. Cell.
- v) The Commission is not in favour of rotation of reserved Assembly and Parliamentary Constituencies after each General Assembly / Parliamentary Elections. The Assembly and Parliamentary Constituencies are different from Panchayat seats, where rotation of reserved seats outside the scheduled area is provided vide Article 243D.
- vi) The Commission recommended to propose the Ministry of Social Justice and Empowerment through Ministry of Tribal Affairs to consider amendment of SCs & STs (PoA) Act, 1989 for providing time bound (not exceeding 6 months) disposal of cases by special courts along with other pending amendments.
- vii) Secretary, NCST expressed his preliminary views as follows :
- Criteria / eligibility for issue of Community Certificate should also be included in the draft bill.
  - As mentioned in the section 6 and 9(1) of the draft bill that Scrutiny Committee may verify Community certificates either *suo-moto* or on a complaint, it is not possible for any body to verify all issued certificates.
  - The power of giving stay should not be conferred to the Committee.
- He further suggested that agenda note may be prepared by including these preliminary observations and this agenda may be considered by the Commission in the next meeting.
- viii) As per the note received from the DOPT, the preponement of implementation of PBR from 02.07.1997 to 10.02.1995 will have following implications :
- SC/ST candidates promoted in excess of the vacancies determined as per PBR prior to 10.02.1995 will lose their seniority.
  - SC/ST candidates promoted in excess of the vacancies determined as per PBR after 10.02.1995 will be reverted.

The Commission noted that these issues have arisen as a result of shifting from Vacancy Based Roster, which has been in use since inception of reservation policy, to a new system of reservation, as per guidelines laid down by the Supreme Court of India, which culminated in PBR. As the Govt. machinery could not be halted till the new system was developed, the appointments and promotions continued to be made as per then existing system of VBR. Although, the period by which preponement is sought is two year only and only a few appointments / promotions have been made, yet it will be not advisable to consider the reverting the promotees or terminating the services of those appointed as DR against backlog vacancies on the basis of then existing VBR. Moreover, the provision regarding the seniority of SCs and STs in matter of promotion made in Article 16(4A) of the Constitution vide the Constitution ( 85th Amendment) Act 2001, having retrospective effect after the Supreme

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B. V. (V. S. I.)  
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Court judgment dated 10.02.1995, and the same having been upheld by the Supreme Court of India, has also to be kept in view.

In view of the above, Commission **recommended** that:

- c) In case of promotions of SC/ST candidates effected prior to 10.02.1995.

In case of R. K. Sabharwal case, Supreme Court had clearly state in its judgment that "We, however, direct that the interpretation given by us to the working of the roster and our findings in this point shall be operative prospectively". It is mentioned that as PBR is operative only after 10.02.1995, the excess promotions as determined by PBR can not be worked out prior to 10.02.1995, or considered ad hoc since these were made as per guidelines then in vogue. Therefore, it will not be feasible to disturb the promotions effected before 10.02.1995. Excess therein, if any, may be adjusted against future vacancies in that category.

- d) In case of promotions of SC/ST candidates effected between 10.02.1995 and 02.07.1997.

In view of the Supreme Court Judgment in the case of R. K. Sabharwal and in absence of any instructions/guidelines from DOPT thereon, the persons belonging to SC/ST category promoted in excess to the vacancies, determined by PBR between 10.02.1995 and 02.07.1997 may not be reverted, as proposed by DOPT, and should be considered on ad hoc basis, till such time their regularization against the vacancies arising out in future in that category or on their own merit, whichever is earlier.

Court judgment dated 10.02.1995, and the same having been upheld by the Supreme Court of India, has also to be kept in view.

In view of the above, Commission **recommended** that:

- c) In case of promotions of SC/ST candidates effected prior to 10.02.1995.

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- d) In case of promotions of SC/ST candidates effected between 10.02.1995 and 02.07.1997.

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भारत सरकार

राष्ट्रीय अनुसूचित जनजाति आयोग

GOVERNMENT OF INDIA

NATIONAL COMMISSION FOR SCHEDULED TRIBES

संख्या/ No.- 1/6/09-Coord

दिनांक/ Date: 10/07/2009

To

- 1) Smt. Urmila Singh, Chairperson *13/07/09*
- 2) Shri Maurice Kujur, Vice-Chairperson *13/07/09*
- 3) Shri Tsering Samphel, Member *13/07/09*
- 4) Shri Oris Syiem Myriaw, Member *13-07-09*

**Sub: Summary record of the 13th meeting of the National Commission for Scheduled Tribes held on 3/07/2009.**

Sir,

I am to refer to the above subject and to say that 13th meeting of the National Commission for Scheduled Tribes was held at 11:30 hrs. on 03.07.2009 in the Conference room of the Commission in Lok Nayak Bhawan New Delhi. The meeting was presided over by Smt. Urmila Singh, Chairperson, National Commission for Scheduled Tribes. A copy of the Summary Record of the meeting is enclosed for information and record.

Yours faithfully,

*R.P. Vasishtha*  
(R.P. Vasishtha)  
Deputy Secretary

Copy with a copy of the Summary Record of the meeting forwarded to the following officers with the request that information about action taken on the decision taken in the meeting concerning each Unit/ Office may be furnished to Coordination Unit by 30.07.2009 positively:

- (i) Director (RU-I & RU-II) *W*
- (ii) Director (RU-III & Coord.) *Joint Secy*
- (iii) Dy. Secretary (RU-IV & Admn.) *Pritam*
- (iv) Dy. Director (RU-IV) *Pritam*
- (v) US (Admn.) *14-7-09*
- (vi) AD/ RO Incharge-RU-I/ RU-II/ RU-III/ RU-IV/ Coord/ SO (Admn.)/ AD(OL). *14-7-09*

Copy with a copy of the Summary Record of the meeting forwarded for information to:

1. PS to Chairperson/ PPS to Secretary/ PS to Joint Secretary *13/7/09*
2. Director/ Assistant Director/ Research Officer in Regional Offices of National Commission for Scheduled Tribes at Bhopal/ Bhubaneswar/ Jaipur/ Raipur/ Ranchi/Shillong. *13/7/09*

*R.P. Vasishtha*  
(R.P. Vasishtha)  
(Deputy Secretary)

उप सचिव

(आर. पी. गौड़)

1. अध्यक्ष महादेवा के निजी सचिव/सचिव महादेव के प्रधान निजी सचिव/सचिव के निजी सचिव।  
2. राष्ट्रीय अनुसूचित जनजाति आयोग के भाषण/ मुवन्शव/ जयपुर/ रायपुर/ रांची/ बिलास स्थित क्षेत्रीय कार्यालयों में निदेशक/ सहायक निदेशक/ अनुसंधान अधिकारी।

प्रतिनिधि, बैठक के संक्षिप्त अभिलेख की एक प्रति सहित, सूचनाएं अंग्रेज।

- (i) निदेशक (आर०यू०-I और आर०यू०-II)  
(ii) निदेशक (आर०यू०-III और समन्वय एकक)  
(iii) उप सचिव (आर०यू०-IV और प्रशासन)  
(iv) उप निदेशक (आर०यू०-IV)  
(v) अवर सचिव (प्रशासन)  
(vi) सहायक निदेशक/अनुसंधान अधिकारी प्रभासी - आर०यू०-I/ आर०यू०-II/ आर०यू०-III/ आर०यू०-IV/ समन्वय/ अनुसंधान अधिकारी (प्रशासन)/ सहायक निदेशक (राजभाषा)।

प्रतिनिधि, बैठक के संक्षिप्त अभिलेख की एक प्रति सहित, निम्नलिखित अधिकारियों को इस अनुसूचक के साथ अंग्रेजित कि बैठक में लिए गए निर्णयों पर की गई कार्रवाई के संबंध में जानकारी प्रत्येक संबंधित एकक/ कार्यालय द्वारा दिनांक 30.07.2009 तक अवश्य ही समन्वय एकक को भेज दी जाए।

उप सचिव

(आर. पी. गौड़)

महोदय,

महोदय/महादेवा,  
मुझे उपर्युक्त विषय का उल्लेख करते हुए यह कहना है कि आयोग की 13वीं बैठक आयोग के सम्मेलन कक्ष में दिनांक 03.07.2009 को प्रातः 11:30 बजे हुई थी। बैठक की अध्यक्षता श्रीमती जर्मला सिंह, अध्यक्ष, राष्ट्रीय अनुसूचित जनजाति आयोग की गई। बैठक के संक्षिप्त अभिलेख की एक प्रति सूचना एवं अभिलेख हेतु संलग्न है।

अभिलेख।

विषय: राष्ट्रीय अनुसूचित जनजाति आयोग की दिनांक 03.07.2009 को हुई 13वीं बैठक का संक्षिप्त

- 1) श्रीमती जर्मला सिंह, अध्यक्ष  
2) श्री मोरीस कुर्जूर, उप-अध्यक्ष  
3) श्री डेरिंग सम्कल, सदस्य  
4) श्री वरीस सीख मारीयाव, सदस्य

To

संख्या/ No.- 1/6/09-Coord

दिनांक/ Date: 10/07/2009

NATIONAL COMMISSION FOR SCHEDULED TRIBES  
GOVERNMENT OF INDIA

राष्ट्रीय अनुसूचित जनजाति आयोग

भारत सरकार



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**NATIONAL COMMISSION FOR SCHEDULED TRIBES**

**Sub : Summary record of the 13th meeting of the National Commission for Scheduled Tribes held at 11:30 hrs. on 03.07.2009.**

The 13th meeting of the National Commission for Scheduled Tribes was held at 11:30 Hrs. on 03/07/2009. The meeting was held in the Conference room of the Commission in Lok Nayak Bhawan New Delhi and was presided over by Smt. Urmila Singh, Chairperson, National Commission for Scheduled Tribes. List of participants is enclosed at **ANNEXURE**.

2. There were 7 Agenda Items for discussion. Discussion was held on each Item. Summary record of the discussions held in the meeting, agenda item-wise, is given below:

**Agenda Item I Recommendations made by Administrative Reforms Commission in its 7th Report titled "Capacity Building for Conflict Resolution-Friction to Fusion" – Remaining issues**

The Secretary, National Commission for Scheduled Tribes informed the Commission that this Agenda was earlier discussed as Agenda Item II in the 11th meeting of the Commission held on 03/02/2009. The Summary Record of the meeting relating to this Agenda mentions as follows:

The 7th Report of Administrative Reforms Commission contains several other recommendations which have bearing on Scheduled Tribes that need in-depth examination and discussion. The Commission, therefore, decided to discuss the Agenda Item further in a subsequent meeting. Shri O.S. Myriaw, Member, NCST was requested to provide urgently requisite input on recommendations particularly relating to the Scheduled Tribes of North Eastern Areas and Border Areas so that the remaining recommendations in 7th Report of the ARC may be placed before the Commission for consideration.

The Secretary, National Commission for Scheduled Tribes therefore, requested Member (OSM) to provide necessary inputs so that the pending Agenda Item could be placed before the Commission for discussion/ consideration. The Commission, therefore, decided the matter may be resubmitted for consideration in the meeting of the Commission after receipt of requisite note from Member(OSM)

**Agenda Item II Proposal for providing reservation to Economically Backward Classes of General Category (unreserved category)**

The Commission observed that the economic status of an individual is fluctuating. It is also not an easy task to identify such backward persons based upon any criterion of consumption or ownership of assets because of local factors like cultural differences, price variation, etc. Therefore, reservation to Economically Backward Classes of Unreserved Category is neither feasible nor sustainable. Moreover, unless all-out efforts are made to empower such classes of people by

extending educational and health care facilities at their door-step and preparing them to enjoy the fruits of development, the proposed efforts may be insufficient. Further, sub-categorisation of the UR category may not yield desired benefits in practice, since it is apprehended that in the present system of reservation through Post Based Roster, even if a few vacancies are reserved for the Economically backward classes out of unreserved categories these may well remain unfilled till a vacant post reserved for the particular EBC occurs and a suitably qualified eligible candidate is simultaneously available.

The Commission, therefore, opined that separate schemes may be launched for development of persons belonging to economically backward classes empowering them to avail their share out of UR category instead of providing separate reservation for them treating them as sub-category within UR category.

**Agenda Item III The Constitution (STs) (UTs) Order (Amendment) Bill, 2007 in relation to the UT of Lakshadweep-Non-consideration of the views of National Commission for Scheduled Tribes by the Govt.**

The Commission was informed that the proposal for amendment of Constitution (ST) Order relating to Lakshadweep, in the form of the Constitution (STs) (UTs) Order (Amendment) Bill, 2007; was received for comments, in the Commission from the Ministry of Tribal Affairs on 15/11/2008, which were sent to Ministry of Tribal Affairs on 19/01/2009 after consideration by the Commission. The Ministry of Tribal Affairs, however, informed that the Bill has already been passed by both Houses of Parliament and, the comments received from the National Commission for Scheduled Tribes could not be considered by the Ministry since they were not received in time. Secretary, National Commission for Scheduled Tribes stated that the chronological sequence of events/ delays had been detailed in the Agenda Note, which warrant remedial action. In order to avoid recurrence of such situations in the Commission, draft guidelines for preparation and circulation of Agenda Note/ Minutes have been prepared for information of and compliance by the officers and staff of the Commission. The guidelines were discussed by the Commission and the same were approved.

**Agenda Item IV WP (Civil) No. 590 of 2008 of Shri Surmukh Singh vs Union of India and Ors. in the Supreme Court of India regarding rotation of reserved Assembly and Parliamentary Constituencies in the State of Haryana and also in whole of India after each General Assembly/ Parliamentary Election respectively.**

The Secretary, National Commission for Scheduled Tribes informed the Commission that this Agenda was earlier discussed as Agenda Item III in the 11th meeting of the Commission held on 03/02/2009. In that meeting the Commission had discussed the prayer made in the WP and also noted that the provisions under

Article 330 and 332 of the Constitution relating to reservation of seats for Scheduled Castes and Scheduled Tribes in elections to Parliamentary and Assembly constituencies did not provide for rotation of constituencies while those under Article 243D relating to reservation of seats in local bodies read with Section 4(g) of the Panchayats (Extension to the Scheduled Areas) Act, 1996, inter-alia, provides that the reservation of seats in the Scheduled Areas at every Panchayat shall be in proportion to the population of the communities in that Panchayat for whom reservation is sought to be given. As the Commission was of the view that the issue needed further discussions, the matter has been placed before the Commission as one of the Agenda in this meeting.

The Commission was of the view that the spirit of the special provisions relating to conduct of Panchayat elections in the Scheduled Areas as provided under the Panchayats (Extension to the Scheduled Areas) Act, 1996 cannot be made applicable while considering the prayer for rotation of seats reserved for Scheduled Tribes and Scheduled Castes in elections to Parliamentary and Assembly constituencies. The Commission, therefore, decided not to support the prayer made in the WP.

**Agenda Item V** **Amendment of Scheduled Castes and Scheduled Tribes (PoA) Act, 1989 for providing time bound disposal of cases by Special Courts – Proposal by NCST**

The Secretary, National Commission for Scheduled Tribes informed the Commission that the above proposal was mooted on the basis of analysis of data relating to disposal of cases of atrocities on Scheduled Tribes by the Courts, discussed in the meeting of a Special Committee set up by the Ministry of Social Justice & Empowerment. It was noted that in many cases it took several years to dispose the cases, which, possibly, led to acquittal in large number of cases. The Commission was informed that the Consumer Protection Act, 1986 provided for time bound disposal of the cases by the Consumer Forums (between 3 to 5 months), while the National Commission for Women had recommended that the Courts may dispose the cases relating to rape in a time bound manner (within 6 months). Since the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 is also a special Act for protection of the Scheduled Tribes, it was for consideration whether similar provision should be incorporated in the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

The Commission discussed the proposal in detail and recommended appropriate amendment to the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. It was noted that while the provision for setting up special courts in the Act was aimed at speedy disposal of cases registered under the Act; experience so far had belied this expectation. The Commission,

*Urmila Singh*

उर्मिला सिंह

अध्यक्ष

राष्ट्रीय अनुसूचित जनजाति आयोग  
भारत सरकार, नई दिल्ली

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 therefore, approved the proposal that the cases registered under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 should be disposed by the Special Courts within 6 months. To meet this objective; the Act could also be amended to provide for setting up exclusive Special Courts instead of designating a Session Court as a Special Court for trial of cases under this Act.

**Agenda Item VI** **Comments on Draft Bill to regulate the issue of Community Certificates to persons belonging to SCs / STs / OBCs as per directions of Supreme Court of India in CA No. 4545 of 1994 – Proposal of Ministry of Social Justice & Empowerment from Ministry of Tribal Affairs**

The Secretary, National Commission for Scheduled Tribes informed the Commission that the title and objective of the draft Bill mentions about regulating the issue of community certificates while various sections of the Bill talk about verification of the certificates and action proposed to be taken against the persons who have obtained the ST certificates fraudulently and also against those officials who are responsible for issuing such certificates without verification. There is no mention in the Bill about the eligibility of a person claiming as belonging to a ST community and the procedure to be followed by the competent (certificate issuing) authorities before issuing the ST certificates. Provisions in the Bill for general revision of existing Community Certificates and stay of decisions by Scrutiny Committees also needs to be re-considered in the light of likely harassment and dilution of accountability for timely/ reasoned decisions. The Commission observed that Bill must contain eligibility provisions, otherwise claims on the basis of fake certificates and scrutiny / verification of such certificates will be a never-ending process. Detailed comments may be considered in the next meeting and the observation of the Commission on the draft Bill communicated to the Ministry at the earliest.

**Agenda Item VII** **Review of Office Memorandum No. 36012/2/96-Estt.(Res.) dated 02.07.1997 issued by Department of Personnel and Training in the light of the judgment of the Supreme Court dated 16.09.1999 in the case of Ajit Singh-II and the comments of Attorney General of India.**

The Commission was informed that as per the note received from the DOPT, the preponement of implementation of PBR from 02.07.1997 to 10.02.1995 will have following implications :

- a) SC/ST candidates promoted in excess of the vacancies determined as per PBR prior to 10.02.1995 will lose their seniority.
- b) SC/ST candidates promoted in excess of the vacancies determined as per PBR after 10.02.1995 will be reverted.

The Commission noted that these issues have arisen as a result of shifting from Vacancy Based Roster, which has been in use since inception of reservation policy, to a new system of reservation, as per guidelines laid down by the Supreme Court of India, which culminated in PBR. As the Govt. machinery could not be

halted till the new system was developed, the appointments and promotions continued to be made as per then existing system of VBR. Although the period by which preponement is sought is two years only and only a few appointments / promotions have been made, yet it will be not advisable to consider reverting the promotees or terminating the services of those appointed as DR against backlog vacancies on the basis of then existing VBR. Moreover, the provision regarding the seniority of SCs and STs in matter of promotion made in Article 16(4A) of the Constitution vide the Constitution ( 85th Amendment) Act 2001, having retrospective effect after the Supreme Court judgment dated 10.02.1995, and the same having been upheld by the Supreme Court of India, has also to be kept in view.

In view of the above, Commission recommended that:

a) In case of promotions of SC/ST candidates effected prior to 10.02.1995.

In case of R. K. Sabharwal case, Supreme Court had clearly stated in its judgment that

"We, however, direct that the interpretation given by us to the working of the roster and our findings in this point shall be operative prospectively".

It is mentioned that as Post Based Roster is operative only after 10.02.1995, the excess promotions as determined by PBR cannot be worked out prior to 10.02.1995, or considered ad hoc since these were made as per guidelines then in vogue. Therefore, it will not be feasible to disturb the promotions effected before 10.02.1995. Excess therein, if any, may be adjusted against future vacancies in that category.

b) In case of promotions of SC/ST candidates effected between 10.02.1995 and 02.07.1997.

In view of the Supreme Court judgment in the case of R. K. Sabharwal and in absence of any instructions/guidelines from DOPT thereon, the persons belonging to SC/ST category promoted in excess to the vacancies, determined by PBR between 10.02.1995 and 02.07.1997 may not be reverted, as proposed by DOPT, and should be considered on ad hoc basis, till their regularization against the vacancies arising in future in that category or on merit, whichever is earlier.

3. The meeting ended with vote of thanks to the Chairperson.

U. Venkateshwar  
उमिषा सिंह  
अध्यक्ष  
राष्ट्रीय अनुसूचित जात/जाति आयोग  
भारत सरकार, नई दिल्ली.

(w.r.t. Para 1 of the Summary Record)

**National Commission for Scheduled Tribes**

Meeting of the Commission held on 03.07.2009 at 11:30 hrs. in the Conference Room of the Commission- List of participants.

**S.No. Name and Designation**

1. Smt. Urmila Singh, Chairperson
2. Shri Maurice Kujur, Vice-Chairperson
3. Shri Tsering Samphel, Member
4. Shri Oris Syiem Myriaw, Member
5. Shri R.S. Sirohi, Secretary
6. Shri Aditya Mishra, Joint Secretary
7. Shri R.C. Durga, Director
8. Shri Vinod Aggarwal, Director
9. Shri R.P.Vasishth, Deputy Secretary
10. Shri K.D. Bhansor, Deputy Director
11. Shri K.N. Singh, PS to Chairperson

(In chair)

## National Commission for Scheduled Tribes

### Sub: Guidelines for preparation and circulation of Agenda Notes for the meeting of the Commission.

The following guidelines may be followed for preparation and circulation of Agenda Notes and Minutes of the meeting of the Commission:

#### A. Selection and approval of Agenda Item.

(i) Chapter IV of the Rules of Procedure of the Commission lays down the procedure for holding meeting and the matters required to be placed before the Commission for discussion. Rule 21 of the Rules of Procedure of the Commission prescribe that the Secretary shall be responsible for having the agenda prepared for the meetings of the Commission and circulating the minutes.

(ii) Therefore, the Agenda should be submitted for approval through the Secretary, NCST. Items suggested by any Member of the Commission may be forwarded to the Secretary for including in the agenda of forthcoming meetings of the Commission.

(iii) Any Court case having policy implication or any matter received from Ministry of Tribal Affairs, Ministry of Social Justice & Empowerment, DoPT or any other Ministry/ Deptt. for comments/ views/ advice of the Commission may be brought to the notice of the Secretary, NCST, immediately to decide whether the matter needs immediate attention of the Chairperson or that of the Vice-Chairperson (in case the Chairperson is unavailable) and whether the matter requires discussion in the meeting of the Commission.

(iv) After an agenda item is approved by the Secretary, the material received from Members of the Commission/ Ministry/ Deptt. for discussion should be immediately circulated by the Officer of the Unit concerned, for comments amongst all Members and Sr. Officers of the Commission through a letter addressed to all Members (including the Chairperson and Vice-Chairperson) with endorsement (alongwith copies of enclosures) to Secretary, Joint Secretary and Directors, DS, DD, US and PS to Chairperson. A copy of this letter alongwith enclosure may also be endorsed to Coordination Unit for record and for obtaining date and time for the meeting of the Commission as per convenience of Hon'ble Chairperson. Thereafter, the concerned Unit will undertake consolidation of the comments received in the Unit into the Agenda Note. JS will monitor the progress of preparation & circulation of all agenda notes in all cases which have been directed/ approved for circulation by the Secretary.

#### B. Format of the Agenda Note

(i) The note should begin with the information relating to the source from where the agenda item has been received and the content, nature and urgency, if any, of the communication forwarding the agenda item. This should be followed by the Background information on the issue.

(ii) The Officer concerned with the Agenda Item will examine the background of the case and whether the subject matter was earlier received in the National

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Commission for Scheduled Tribes (or in the erstwhile National Commission for Scheduled Castes and Scheduled Tribes) for comments/ advice or for a change in the policy through any representation highlighting the negative effect of the policy or non-implementation of the policy for Scheduled Tribes. These details should form part of the agenda note as Background information.

(iii) If the matter had been received by the Commission (or its predecessor NCSC & ST) earlier, the comments/ advice rendered earlier may be indicated in the note. It may also be mentioned whether such comment/ advice was communicated to the concerned Ministry/ Deptt. and/ or whether such comment/ advice was also incorporated in any report of the NCSCST or NCST as the case may be.

(iv) If the matter had been received earlier, then the purpose of referring the matter again needs to be discussed in the Agenda Note; and, in view of the circumstances causing for re-referral of the matter, the validity of the comment/ advice rendered or stand taken by the Commission earlier also needs to be discussed, along with suggestions for fresh opinion, if necessary.

(v) Draft comment/ views/ advice of the Commission proposed to be communicated to the concerned authorities, after discussion in the meeting of the Commission, may be included at the end of the note or as **Annex** to the Note to facilitate recording/ communication of the decision subsequently.

(vi) Copies of all references made in the Agenda Note may be added as **Annexes** to the Note.

### C. Presentation of the Agenda Note

(i) The copies of the Notes should be made on A-4 size paper;

(ii) The Agenda of the Note should preferably be made **in both English and Hindi versions and both versions should be made available together to the Coordination Unit** for placing before the Commission for consideration;

(a) The note should be typed in **at least one and half space (in font size 12-14)** and both sides of the paper should be used. Care should be taken to ensure that the impression is legible and clear in all the pages in all the copies/ photocopies;

(b) A **wide margin (not less than 1.2 inch)** should be left towards the edge of the paper (the left edge on the obverse and the right edge on the reverse) which is put in the pads for the meetings; and

(c) All the Paragraphs and sub-paragraphs of the Notes should be appropriately numbered and bullets and such markings should be avoided.

(iii) On the top right hand corner of the 1st page of the Note, the words "Agenda Note" for "Agenda Item No....." for "Meeting of the Commission to be held on ....." should be mentioned.

(iv) On the bottom of each page (footer), in the centre, the file number of the concerned Unit/ Section dealing with the subject should be indicated;

(v) All the pages in the Note, including the annexes, should carry continuous page numbers on the bottom extreme right hand corner, simultaneously indicating total number of pages, in the manner "page x of y", where "x" is the running serial

number of the page and "y" is the total number of pages in the note;

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(vi) The fact that Appendices/Annexes are attached with the note, should be indicated at appropriate place in the main note. Continuous page numbers of the Appendices/Annexes should also be indicated in bracket against each. On each Appendix/Annex the relevant paragraph of the main note should be indicated, for easy reference.

(vii) Note should be properly tagged or stapled.

(viii) 12 sets of complete papers for discussion should be **sent to the Coordination Unit well in advance of the meeting** at which they are sought to be considered. It should be borne in mind that under Rule 48 of the Rules of Procedure, the Agenda of the meeting is required to be circulated among the members of the Commission **normally Seven (7) days before the date of the meeting. Coordination Unit will ensure that the Agenda notes are supplied to Members at least 3 days before the date of the meeting where notice of the meeting has already been issued earlier.**

#### D. Preparation/ issue of Minutes

(i) The draft proceedings of the discussion held in the meeting will be put up by Director (Coord.) on file on the next working day (same day in emergent cases) to the Secretary, NCST for approval by the Hon'ble Chairperson. Concerned officers who have prepared the Agenda Note will assist Director (Coord.) by furnishing the gist of the discussion relating to the Agenda Item (s) pertaining to their Unit(s) immediately after the meeting on the same day.

(ii) In the event that Hon'ble Chairperson is on tour, the draft proceedings would be sent to the Chairperson by the Office of the Chairperson by e-mail or FAX for approval.

(iii) The Coordination Unit will issue the Minutes as approved by Hon'ble Chairperson on the date of its receipt.

(iv) The views/ comments of the Commission will be communicated to the concerned Ministry/ Department by the concerned Unit within 2 working days of issue of Minutes (same day in emergent cases).



भारत सरकार

राष्ट्रीय अनुसूचित जनजाति आयोग

GOVERNMENT OF INDIA

NATIONAL COMMISSION FOR SCHEDULED TRIBES

संख्या/ No.- 1/6/09-Coord

दिनांक/ Date: 10/07/2009

To

- 1) Smt. Urmila Singh, Chairperson
- 2) Shri Maurice Kujur, Vice-Chairperson
- 3) Shri Tsering Samphel, Member
- 4) Shri Oris Syiem Myriaw, Member

**Sub: Summary record of the 13th meeting of the National Commission for Scheduled Tribes held on 30/06/2009.**

Sir,

I am to refer to the above subject and to say that 13th meeting of the National Commission for Scheduled Tribes was held at 11:30 hrs. on 03.07.2009 in the Conference room of the Commission in Lok Nayak Bhawan New Delhi. The meeting was presided over by Smt. Urmila Singh, Chairperson, National Commission for Scheduled Tribes. A copy of the Summary Record of the meeting is enclosed for information and record.

Yours faithfully,

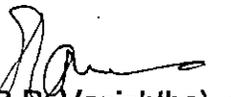
  
(R.P. Vasishtha)  
Deputy Secretary

Copy with a copy of the Summary Record of the meeting forwarded to the following officers with the request that information about action taken on the decision taken in the meeting concerning each Unit/ Office may be furnished to Coordination Unit by 30.07.2009 positively:

- (i) Director (RU-I & RU-II)
- (ii) Director (RU-III & Coord.)
- (iii) Dy. Secretary (RU-IV & Admn.)
- (iv) Dy. Director (RU-IV)
- (v) US (Admn.)
- (vi) AD/ RO Incharge-RU-I/ RU-II/ RU-III/ RU-IV/ Coord/ SO (Admn.)/ AD(OL).

Copy with a copy of the Summary Record of the meeting forwarded for information to:

1. PS to Chairperson/ PPS to Secretary/ PS to Joint Secretary.
2. Director/ Assistant Director/ Research Officer in Regional Offices of National Commission for Scheduled Tribes at Bhopal/ Bhubaneswar/ Jaipur/ Raipur/ Ranchi/Shillong.

  
(R.P. Vasishtha)  
(Deputy Secretary)



भारत सरकार

राष्ट्रीय अनुसूचित जनजाति आयोग

GOVERNMENT OF INDIA

NATIONAL COMMISSION FOR SCHEDULED TRIBES

संख्या/ No.- 1/6/09-Coord

दिनांक/ Date: 10/07/2009

To

1) श्रीमती रमिला सिंह, अध्यक्ष

2) श्री मीरा कुंवर, उपरक्ष

3) श्री छिरीग समकल, सदस्य

4) श्री वीरस शीख मरीयात, सदस्य

विषय: राष्ट्रीय अनुसूचित जनजाति आयोग की दिनांक 03.07.2009 को हुई 13वीं बैठक का संक्षिप्त

अभिलेख।

महोदय/महोदया,

मुखे उपर्युक्त विषय का उल्लेख करते हुए यह कहना है कि आयोग की 13वीं बैठक आयोग के सम्मेलन कक्ष में दिनांक 03.07.2009 को प्रातः 11:30 बजे हुई थी। बैठक की अध्यक्षता श्रीमती रमिला सिंह, अध्यक्ष, राष्ट्रीय अनुसूचित जनजाति आयोग की गई। बैठक के संक्षिप्त अभिलेख की एक प्रति सूचना एवं अभिलेख हेतु संलग्न है।

महोदय,

(आर. पी. बोस)

उप सचिव

प्रतिलिपि, बैठक के संक्षिप्त अभिलेख की एक प्रति सहित, निम्नलिखित अधिकारियों को इस अनुरोध के साथ अर्पित कि बैठक में लिए गए निर्णयों पर की गई कार्रवाई के संबंध में जानकारी प्रत्येक संबंधित एकक/ कार्यालय द्वारा दिनांक 30.07.2009 तक अवश्य ही समन्वय एकक को भेज दी जाए।

(i) निदेशक (आर०यू०-I और आर०यू०-II)

(ii) निदेशक (आर०यू०-III और समन्वय एकक)

(iii) उप सचिव (आर०यू०-IV और प्रशासन)

(iv) उप निदेशक (आर०यू०-IV)

(v) अवर सचिव (प्रशासन)

(vi) सहायक निदेशक/अनुसंधान अधिकारी प्रभारी - आर०यू०-I/ आर०यू०-II/ आर०यू०-III/ आर०यू०-IV/ समन्वय/ अनुसंधान अधिकारी (प्रशासन)/ सहायक निदेशक (राजभाषा)।

प्रतिलिपि, बैठक के संक्षिप्त अभिलेख की एक प्रति सहित, सूचनाएं अर्पित:

1. अध्यक्ष महोदया के निजी सचिव/सचिव महोदय के प्रधान निजी सचिव/संयुक्त सचिव के निजी सचिव।
2. राष्ट्रीय अनुसूचित जनजाति आयोग के माता/ भुवनेश्वर/ जयपुर/ रायपुर/ रांची/ शिलांग स्थित क्षेत्रीय कार्यालयों में निदेशक/ सहायक निदेशक/ अनुसंधान अधिकारी।

(आर. पी. बोस)

उप सचिव

## NATIONAL COMMISSION FOR SCHEDULED TRIBES

**Sub : Summary record of the 13th meeting of the National Commission for Scheduled Tribes held at 11:30 hrs. on 03.07.2009.**

The 13th meeting of the National Commission for Scheduled Tribes was held at 11:30 Hrs. on 03/07/2009. The meeting was held in the Conference room of the Commission in Lok Nayak Bhawan New Delhi and was presided over by Smt. Urmila Singh, Chairperson, National Commission for Scheduled Tribes. List of participants is enclosed at **ANNEXURE**.

2. There were 7 Agenda Items for discussion. Discussion was held on each Item. Summary record of the discussions held in the meeting, **agenda item-wise**, is given below:

**Agenda Item I Recommendations made by Administrative Reforms Commission in its 7th Report titled "Capacity Building for Conflict Resolution-Friction to Fusion" – Remaining issues**

The Secretary, National Commission for Scheduled Tribes informed the Commission that this Agenda was earlier discussed as Agenda Item II in the 11th meeting of the Commission held on 03/02/2009. The Summary Record of the meeting relating to this Agenda mentions as follows:

The 7th Report of Administrative Reforms Commission contains several other recommendations which have bearing on Scheduled Tribes that need in-depth examination and discussion. The Commission, therefore, decided to discuss the Agenda Item further in a subsequent meeting. Shri O.S. Myriaw, Member, NCST was requested to provide urgently requisite input on recommendations particularly relating to the Scheduled Tribes of North Eastern Areas and Border Areas so that the remaining recommendations in 7th Report of the ARC may be placed before the Commission for consideration.

The Secretary, National Commission for Scheduled Tribes therefore, requested Member (OSM) to provide necessary inputs so that the pending Agenda Item could be placed before the Commission for discussion/ consideration. The Commission, therefore, decided the matter may be resubmitted for consideration in the meeting of the Commission after receipt of requisite note from Member(OSM)

**Agenda Item II Proposal for providing reservation to Economically Backward Classes of General Category (unreserved category)**

The Commission observed that the economic status of an individual is fluctuating. It is also not an easy task to identify such backward persons based upon any criterion of consumption or ownership of assets because of local factors like cultural differences, price variation, etc. Therefore, reservation to Economically Backward Classes of Unreserved Category is neither feasible nor sustainable. Moreover, unless all-out efforts are made to empower such classes of people by

extending educational and health care facilities at their door-step and preparing them to enjoy the fruits of development, the proposed efforts may be insufficient. Further, sub-categorisation of the UR category may not yield desired benefits in practice, since it is apprehended that in the present system of reservation through Post Based Roster, even if a few vacancies are reserved for the Economically backward classes out of unreserved categories these may well remain unfilled till a vacant post reserved for the particular EBC occurs and a suitably qualified eligible candidate is simultaneously available.

The Commission, therefore, opined that separate schemes may be launched for development of persons belonging to economically backward classes empowering them to avail their share out of UR category instead of providing separate reservation for them treating them as sub-category within UR category.

**Agenda Item III The Constitution (STs) (UTs) Order (Amendment) Bill, 2007 in relation to the UT of Lakshadweep-Non-consideration of the views of National Commission for Scheduled Tribes by the Govt.**

The Commission was informed that the proposal for amendment of Constitution (ST) Order relating to Lakshadweep, in the form of the Constitution (STs) (UTs) Order (Amendment) Bill, 2007; was received for comments, in the Commission from the Ministry of Tribal Affairs on 15/11/2008, which were sent to Ministry of Tribal Affairs on 19/01/2009 after consideration by the Commission. The Ministry of Tribal Affairs, however, informed that the Bill has already been passed by both Houses of Parliament and, the comments received from the National Commission for Scheduled Tribes could not be considered by the Ministry since they were not received in time. Secretary, National Commission for Scheduled Tribes stated that the chronological sequence of events/ delays had been detailed in the Agenda Note, which warrant remedial action. In order to avoid recurrence of such situations in the Commission, draft guidelines for preparation and circulation of Agenda Note/ Minutes have been prepared for information of and compliance by the officers and staff of the Commission. The guidelines were discussed by the Commission and the same were approved.

**Agenda Item IV WP (Civil) No. 590 of 2008 of Shri Surmukh Singh vs Union of India and Ors. in the Supreme Court of India regarding rotation of reserved Assembly and Parliamentary Constituencies in the State of Haryana and also in whole of India after each General Assembly/ Parliamentary Election respectively.**

The Secretary, National Commission for Scheduled Tribes informed the Commission that this Agenda was earlier discussed as Agenda Item III in the 11th meeting of the Commission held on 03/02/2009. In that meeting the Commission had discussed the prayer made in the WP and also noted that the provisions under

Article 330 and 332 of the Constitution relating to reservation of seats for Scheduled Castes and Scheduled Tribes in elections to Parliamentary and Assembly constituencies did not provide for rotation of constituencies while those under Article 243D relating to reservation of seats in local bodies read with Section 4(g) of the Panchayats (Extension to the Scheduled Areas) Act, 1996, inter-alia, provides that the reservation of seats in the Scheduled Areas at every Panchayat shall be in proportion to the population of the communities in that Panchayat for whom reservation is sought to be given. As the Commission was of the view that the issue needed further discussions, the matter has been placed before the Commission as one of the Agenda in this meeting.

The Commission was of the view that the spirit of the special provisions relating to conduct of Panchayat elections in the Scheduled Areas as provided under the Panchayats (Extension to the Scheduled Areas) Act, 1996 cannot be made applicable while considering the prayer for rotation of seats reserved for Scheduled Tribes and Scheduled Castes in elections to Parliamentary and Assembly constituencies. The Commission, therefore, decided not to support the prayer made in the WP.

**Agenda Item V Amendment of Scheduled Castes and Scheduled Tribes (PoA) Act, 1989 for providing time bound disposal of cases by Special Courts – Proposal by NCST**

The Secretary, National Commission for Scheduled Tribes informed the Commission that the above proposal was mooted on the basis of analysis of data relating to disposal of cases of atrocities on Scheduled Tribes by the Courts, discussed in the meeting of a Special Committee set up by the Ministry of Social Justice & Empowerment. It was noted that in many cases it took several years to dispose the cases, which, possibly, led to acquittal in large number of cases. The Commission was informed that the Consumer Protection Act, 1986 provided for time bound disposal of the cases by the Consumer Forums (between 3 to 5 months), while the National Commission for Women had recommended that the Courts may dispose the cases relating to rape in a time bound manner (within 6 months). Since the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 is also a special Act for protection of the Scheduled Tribes, it was for consideration whether similar provision should be incorporated in the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

The Commission discussed the proposal in detail and recommended appropriate amendment to the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. It was noted that while the provision for setting up special courts in the Act was aimed at speedy disposal of cases registered under the Act; experience so far had belied this expectation. The Commission,

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 उद्देश्य विभाग  
 राज्य सरकार  
 राष्ट्रीय उच्च न्यायालय  
 नया दिल्ली

therefore, approved the proposal that the cases registered under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 should be disposed by the Special Courts within 6 months. To meet this objective; the Act could also be amended to provide for setting up exclusive Special Courts instead of designating a Session Court as a Special Court for trial of cases under this Act.

**Agenda Item VI** **Comments on Draft Bill to regulate the issue of Community Certificates to persons belonging to SCs / STs / OBCs as per directions of Supreme Court of India in CA No. 4545 of 1994 – Proposal of Ministry of Social Justice & Empowerment from Ministry of Tribal Affairs**

The Secretary, National Commission for Scheduled Tribes informed the Commission that the title and objective of the draft Bill mentions about regulating the issue of community certificates while various sections of the Bill talk about verification of the certificates and action proposed to be taken against the persons who have obtained the ST certificates fraudulently and also against those officials who are responsible for issuing such certificates without verification. There is no mention in the Bill about the eligibility of a person claiming as belonging to a ST community and the procedure to be followed by the competent (certificate issuing) authorities before issuing the ST certificates. Provisions in the Bill for general revision of existing Community Certificates and stay of decisions by Scrutiny Committees also needs to be re-considered in the light of likely harassment and dilution of accountability for timely/ reasoned decisions. The Commission observed that Bill must contain eligibility provisions, otherwise claims on the basis of fake certificates and scrutiny / verification of such certificates will be a never-ending process. Detailed comments may be considered in the next meeting and the observation of the Commission on the draft Bill communicated to the Ministry at the earliest.

**Agenda Item VII** **Review of Office Memorandum No. 36012/2/96-Estt.(Res.) dated 02.07.1997 issued by Department of Personnel and Training in the light of the judgment of the Supreme Court dated 16.09.1999 in the case of Ajit Singh-II and the comments of Attorney General of India.**

The Commission was informed that as per the note received from the DOPT, the preponement of implementation of PBR from 02.07.1997 to 10.02.1995 will have following implications :

- a) SC/ST candidates promoted in excess of the vacancies determined as per PBR prior to 10.02.1995 will lose their seniority.
- b) SC/ST candidates promoted in excess of the vacancies determined as per PBR after 10.02.1995 will be reverted.

The Commission noted that these issues have arisen as a result of shifting from Vacancy Based Roster, which has been in use since inception of reservation policy, to a new system of reservation, as per guidelines laid down by the Supreme Court of India, which culminated in PBR. As the Govt. machinery could not be

*U. N. Singh*  
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 राज्य सरकार

halted till the new system was developed, the appointments and promotions continued to be made as per then existing system of VBR. Although the period by which preponement is sought is two years only and only a few appointments / promotions have been made, yet it will be not advisable to consider reverting the promotees or terminating the services of those appointed as DR against backlog vacancies on the basis of then existing VBR. Moreover, the provision regarding the seniority of SCs and STs in matter of promotion made in Article 16(4A) of the Constitution vide the Constitution ( 85th Amendment) Act 2001, having retrospective effect after the Supreme Court judgment dated 10.02.1995, and the same having been upheld by the Supreme Court of India, has also to be kept in view.

In view of the above, Commission recommended that:

a) In case of promotions of SC/ST candidates effected prior to 10.02.1995.

In case of R. K. Sabharwal case, Supreme Court had clearly stated in its judgment that

"We, however, direct that the interpretation given by us to the working of the roster and our findings in this point shall be operative prospectively".

It is mentioned that as Post Based Roster is operative only after 10.02.1995, the excess promotions as determined by PBR cannot be worked out prior to 10.02.1995, or considered ad hoc since these were made as per guidelines then in vogue. Therefore, it will not be feasible to disturb the promotions effected before 10.02.1995. Excess therein, if any, may be adjusted against future vacancies in that category.

b) In case of promotions of SC/ST candidates effected between 10.02.1995 and 02.07.1997.

In view of the Supreme Court judgment in the case of R. K. Sabharwal and in absence of any instructions/guidelines from DOPT thereon, the persons belonging to SC/ST category promoted in excess to the vacancies, determined by PBR between 10.02.1995 and 02.07.1997 may not be reverted, as proposed by DOPT, and should be considered on ad hoc basis, till their regularization against the vacancies arising in future in that category or on merit, whichever is earlier.

3. The meeting ended with vote of thanks to the Chairperson.

U. Venkateshwar  
उ. वेण्कटेश्वर  
राष्ट्रीय आयोग  
कोलकाता

**ANNEXURE**  
(w.r.t. Para 1 of the Summary Record)

**National Commission for Scheduled Tribes**

Meeting of the Commission held on 03.07.2009 at 11:30 hrs. in the Conference Room of the Commission- List of participants.

**S.No. Name and Designation**

1. Smt. Urmila Singh, Chairperson (In chair)
2. Shri Maurice Kujur, Vice-Chairperson
3. Shri Tsering Samphel, Member
4. Shri Oris Syiem Myriaw, Member
5. Shri R.S. Sirohi, Secretary
6. Shri Aditya Mishra, Joint Secretary
7. Shri R.C. Durga, Director
8. Shri Vinod Aggarwal, Director
9. Shri R.P.Vasishth, Deputy Secretary
10. Shri K.D. Bhansor, Deputy Director
11. Shri K.N. Singh, PS to Chairperson

## National Commission for Scheduled Tribes

### Sub: Guidelines for preparation and circulation of Agenda Notes for the meeting of the Commission.

The following guidelines may be followed for preparation and circulation of Agenda Notes and Minutes of the meeting of the Commission:

#### A. Selection and approval of Agenda Item.

(i) Chapter IV of the Rules of Procedure of the Commission lays down the procedure for holding meeting and the matters required to be placed before the Commission for discussion. Rule 21 of the Rules of Procedure of the Commission prescribe that the Secretary shall be responsible for having the agenda prepared for the meetings of the Commission and circulating the minutes.

(ii) Therefore, the Agenda should be submitted for approval through the Secretary, NCST. Items suggested by any Member of the Commission may be forwarded to the Secretary for including in the agenda of forthcoming meetings of the Commission.

(iii) Any Court case having policy implication or any matter received from Ministry of Tribal Affairs, Ministry of Social Justice & Empowerment, DoPT or any other Ministry/ Deptt. for comments/ views/ advice of the Commission may be brought to the notice of the Secretary, NCST, immediately to decide whether the matter needs immediate attention of the Chairperson or that of the Vice-Chairperson (in case the Chairperson is unavailable) and whether the matter requires discussion in the meeting of the Commission.

(iv) After an agenda item is approved by the Secretary, the material received from Members of the Commission/ Ministry/ Deptt. for discussion should be immediately circulated by the Officer of the Unit concerned, for comments amongst all Members and Sr. Officers of the Commission through a letter addressed to all Members (including the Chairperson and Vice-Chairperson) with endorsement (alongwith copies of enclosures) to Secretary, Joint Secretary and Directors, DS, DD, US and PS to Chairperson. A copy of this letter alongwith enclosure may also be endorsed to Coordination Unit for record and for obtaining date and time for the meeting of the Commission as per convenience of Hon'ble Chairperson. Thereafter, the concerned Unit will undertake consolidation of the comments received in the Unit into the Agenda Note. JS will monitor the progress of preparation & circulation of all agenda notes in all cases which have been directed/ approved for circulation by the Secretary.

#### B. Format of the Agenda Note

(i) The note should begin with the information relating to the source from where the agenda item has been received and the content, nature and urgency, if any, of the communication forwarding the agenda item. This should be followed by the Background information on the issue.

(ii) The Officer concerned with the Agenda Item will examine the background of the case and whether the subject matter was earlier received in the National

Commission for Scheduled Tribes (or in the erstwhile National Commission for Scheduled Castes and Scheduled Tribes) for comments/ advice or for a change in the policy through any representation, highlighting the negative effect of the policy or non-implementation of the policy for Scheduled Tribes. These details should form part of the agenda note as Background information.

(iii) If the matter had been received by the Commission (or its predecessor NCSC & ST) earlier, the comments/ advice rendered earlier may be indicated in the note. It may also be mentioned whether such comment/ advice was communicated to the concerned Ministry/ Deptt. and/ or whether such comment/ advice was also incorporated in any report of the NCSCST or NCST as the case may be.

(iv) If the matter had been received earlier, then the purpose of referring the matter again needs to be discussed in the Agenda Note; and, in view of the circumstances causing for re-referral of the matter, the validity of the comment/ advice rendered or stand taken by the Commission earlier also needs to be discussed, along with suggestions for fresh opinion, if necessary.

(v) Draft comment/ views/ advice of the Commission proposed to be communicated to the concerned authorities, after discussion in the meeting of the Commission, may be included at the end of the note or as **Annex** to the Note to facilitate recording/ communication of the decision subsequently.

(vi) Copies of all references made in the Agenda Note may be added as **Annexes** to the Note.

### C. Presentation of the Agenda Note

(i) The copies of the Notes should be made on **A-4 size paper**;

(ii) The Agenda of the Note should preferably be made **in both English and Hindi versions and both versions should be made available together to the Coordination Unit** for placing before the Commission for consideration;

(a) The note should be typed in **at least one and half space (in font size 12-14)** and both sides of the paper should be used. Care should be taken to ensure that the impression is legible and clear in all the pages in all the copies/ photocopies;

(b) A **wide margin (not less than 1.2 inch)** should be left towards the edge of the paper (the left edge on the obverse and the right edge on the reverse) which is put in the pads for the meetings; and

(c) All the Paragraphs and sub-paragraphs of the Notes should be appropriately numbered and bullets and such markings should be avoided.

(iii) On the top right hand corner of the 1st page of the Note, the words "Agenda Note" for "Agenda Item No....." for "Meeting of the Commission to be held on ....." should be mentioned.

(iv) On the bottom of each page (footer), in the centre, the file number of the concerned Unit/ Section dealing with the subject should be indicated;

(v) All the pages in the Note, including the annexes, should carry continuous page numbers on the bottom extreme right hand corner, simultaneously indicating total number of pages, in the manner "page x of y", where "x" is the running serial

number of the page and "y" is the total number of pages in the note;

(vi) The fact that Appendices/Annexes are attached with the note, should be indicated at appropriate place in the main note. Continuous page numbers of the Appendices/Annexes should also be indicated in bracket against each. On each Appendix/Annex the relevant paragraph of the main note should be indicated, for easy reference.

(vii) Note should be properly tagged or stapled.

(viii) 12 sets of complete papers for discussion should be **sent to the Coordination Unit well in advance of the meeting** at which they are sought to be considered. It should be borne in mind that under Rule 48 of the Rules of Procedure, the Agenda of the meeting is required to be circulated among the members of the Commission **normally Seven (7) days before the date of the meeting. Coordination Unit will ensure that the Agenda notes are supplied to Members at least 3 days before the date of the meeting where notice of the meeting has already been issued earlier.**

#### D. Preparation/ issue of Minutes

(i) The draft proceedings of the discussion held in the meeting will be put up by Director (Coord.) on file on the next working day (same day in emergent cases) to the Secretary, NCST for approval by the Hon'ble Chairperson. Concerned officers who have prepared the Agenda Note will assist Director (Coord.) by furnishing the gist of the discussion relating to the Agenda Item (s) pertaining to their Unit(s) immediately after the meeting on the same day.

(ii) In the event that Hon'ble Chairperson is on tour, the draft proceedings would be sent to the Chairperson by the Office of the Chairperson by e-mail or FAX for approval.

(iii) The Coordination Unit will issue the Minutes as approved by Hon'ble Chairperson on the date of its receipt.

(iv) The views/ comments of the Commission will be communicated to the concerned Ministry/ Department by the concerned Unit within 2 working days of issue of Minutes (same day in emergent cases).