



BY
HAND/POST

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

संख्या/ No.- 1/2/10-Coord

दिनांक/ Date: 09/03/2010

To

- 1) Shri Maurice Kujur, Vice-Chairman
- 2) Shri Tsering Samphel, Member
- 3) Shri Oris Syiem Myriaw, Member

Sub: Summary record of the 18th meeting of the National Commission for Scheduled Tribes held on 22/02/2010.

Sir,

I am to refer to the above subject and to say that 18th meeting of the National Commission for Scheduled Tribes was held at 1100 Hrs. on 22/02/2010 in the Conference room of the Commission in Lok Nayak Bhawan New Delhi. The meeting was presided over by Shri Maurice Kujur, Vice-Chairman, National Commission for Scheduled Tribes. A copy of the Summary Record of the meeting is enclosed for information and record.

Yours faithfully,


(Aditya Mishra)
Joint 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 22.03.2010 positively:

- (i) Director (RU-I & RU-II)
- (ii) Director (RU-III & Coord.)
- (iii) Dy. Secretary (Admn.)
- (iv) Dy. Director (RU-IV)
- (v) AD/ RO In-charge-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 Vice-Chairman/ 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.
3. Sr. System Analyst (NIC Cell, NCST) for uploading on the website.

(Director)

(निदेशक)

3. वरिष्ठ सिस्टम विद्वान (NIC Cell, NCST) आयोग की वेबसाइट पर जाइन हों।
 2. निदेशक/ सहायक निदेशक/ अनुसंधान अधिकारी, राष्ट्रीय अनुसूचित जनजाति आयोग के मापल/ सुबंदवर/ जयपुर/ रावी/ हिलान स्थित क्षेत्रीय कार्यालय।
 1. उपाध्यक्ष के निजी सचिव/सचिव महालय के प्रधान निजी सचिव/सुबंद सचिव के निजी सचिव।
- प्रतिनिधि, बैठक के सक्षिप्त अभिलेख की एक प्रति सहित, सूचनाएं उपलब्ध।
- | | |
|-------|---|
| (v) | समन्वय/ अनुसंधान अधिकारी (प्रशासन)/ सहायक निदेशक (राजभाषा)। |
| (iv) | उप निदेशक (आर०यू०-IV) |
| (iii) | उप सचिव (प्रशासन) |
| (ii) | निदेशक (आर०यू०-III एवं समन्वय एकक) |
| (i) | निदेशक (आर०यू०-I एवं आर०यू०-II) |

हालांकि 22.03.2010 तक अवश्य ही समन्वय एकक को भेज दी जाए।
 उपलब्ध कि बैठक में लिए गए निर्णयों पर की गई कार्रवाई के संबंध में जानकारी प्रत्येक संबंधित एकक/ कार्यालय
 प्रतिनिधि, बैठक के सक्षिप्त अभिलेख की एक प्रति सहित, निम्नलिखित अधिकारियों को इस अनुसंधान के साथ

सुबंद सचिव

(आदेशित विभा)

भारतीय

अनुसूचित जनजाति हाथ की गई। बैठक के सक्षिप्त अभिलेख की एक प्रति सूचना एवं अभिलेख हों सूचना है।
 कक्ष में दिनांक 22.02.2010 का प्रातः 11:00 बजे हुई थी। बैठक की अध्यक्षता श्री मारिस कुंजर, उपाध्यक्ष, राष्ट्रीय
 मुझे उपर्युक्त विषय का उल्लेख करते हुए यह कहना है कि आयोग की 18वीं बैठक आयोग के सम्मेलन

महालय,

अभिलेख।

विषय: राष्ट्रीय अनुसूचित जनजाति आयोग की दिनांक 22/02/2010 को हुई 18वीं बैठक का सक्षिप्त

3) श्री वरीस शीम माटीयाव, सदस्य

2) श्री हरिग सक्ल, सदस्य

1) श्री मारिस कुंजर, उपाध्यक्ष

प्रति

संख्या/ No. - 1/2/10-समन्वय

दिनांक/ Date: 09/03/2010

NATIONAL COMMISSION FOR SCHEDULED TRIBES

GOVERNMENT OF INDIA

राष्ट्रीय अनुसूचित जनजाति आयोग

भारत सरकार



दस्तावेज/ लोक हाथ

NATIONAL COMMISSION FOR SCHEDULED TRIBES

Sub : Summary record of the 18th meeting of the National Commission for Scheduled Tribes held at 11:00 AM on 22/02/2010.

The 18th meeting of the National Commission for Scheduled Tribes was held at 11:00 AM on 22/02/2010 in the Conference room of the Commission in Lok Nayak Bhawan New Delhi. The meeting was presided over by Shri Maurice Kujur, Vice-Chairperson as the post of Chairperson remains vacant. List of participants is enclosed at **ANNEXURE**.

2. There were 5 Agenda Items on the list for discussion and all the Agenda Items were discussed. Summary record of the discussions held in the meeting, item-wise, is given below:

Agenda Item I Guidelines for dealing with cases relating to matters/ complaints received in the Commission.

Secretary, NCST informed the Commission that the guidelines for dealing with various cases/matters received in the Commission were proposed with a view to equipping officials of the Commission to examine and process the matters/ issues and complaints in the right perspective, in a standard fashion and in a time bound manner. Hon'ble Member (OSM) expressed that it was useful to have guidelines but at the same time it may be difficult to follow the guidelines in the absence of requisite staff in the Commission. Hon'ble Vice-Chairperson mentioned that the issue relating to shortage of staff in the Commission had also come up in the earlier meeting of the Commission and it was decided that the matter would be taken up at the level of the Minister through a letter from the Hon'ble Vice-Chairperson. This letter may be sent expeditiously. Hon'ble Member (TS) pointed out that the tribal characteristics mentioned in the guidelines relating to inclusion/ exclusion of ST communities in the list of Scheduled Tribes may also include distinctive forms of apparel worn by them. Secretary, NCST assured that the draft guidelines would be edited/ refined in the light of the accumulated experience since the time they were prepared before dissemination. The Commission desired that edited/ refined guidelines be submitted to the Commission for consideration.

Agenda Item II The Scheduled Castes and Scheduled Tribes (Reservation in posts and services) Bill 2008 as passed by Rajya Sabha.

The Commission was informed that the Scheduled Castes and Scheduled Tribes (Reservation in posts and services) Bill 2008, which was passed by the

Rajya Sabha on 23/12 /2008, is now to be tabled in the Lok Sabha for consideration. The Commission noted that the Bill in its present form, varies in its contents from the earlier draft Reservation Bill, 2004 received from the Department of Personnel and Training for comments of the Commission (furnished in December, 2004). The Commission also noted that views of the Commission have not been sought on the draft Bill, 2008. The Commission, therefore, desired that the concern of the Commission in this regard may be communicated to the concerned Ministry/ Department; and it be suggested to them that the updated version of the Bill should be referred to this Commission also for comments before it is introduced in the Lok Sabha.

Agenda Item III Grant of reservation to migrant SCs/ STs in civil posts under the Government of NCT of Delhi – Proposal of MHA received vide their letter dated 27.11.2009 for inclusion of all Scheduled Caste & Scheduled Tribe communities in the list of Scheduled Castes and Scheduled Tribes respectively in relation to the NCT of Delhi and all other Union Territories - consequent to the judgment dated 04.08.2009 of Hon'ble Supreme Court of India in Civil Writ Petition No. 507/2006 titled Sarv Rural & Urban Welfare Society Vs. Union of India.

(i) Secretary, NCST informed the Members that the Government of NCT of Delhi had been following the All India pattern in providing reservation in appointments to Civil Posts under them, irrespective of nativity. Separately, the Government of NCT of Delhi had issued instructions for giving reservation of 1% only to the Scheduled Tribes in the matter of admission to Professional Educational Institutions which are under the control of Government of NCT of Delhi. The National Commission for Scheduled Tribes had taken objection to this step by taking up the matter with the Ministry of Home Affairs. Thereafter, the Government of NCT of Delhi had prepared a draft Bill to provide for reservation for migrated Scheduled Castes, Scheduled Tribes, and OBCs in the matters of admission to Professional Educational Institutions in Delhi, which was discussed in the 15th meeting of the Commission held on 06/11/2009. The Commission had recommended that the reservation for Scheduled Tribes for admission to educational institutions under the control of Govt. of NCT of Delhi should be 7.5% irrespective of the nativity of the Scheduled Tribes in order to provide them due access to the educational facilities of a high order which have been created in the national capital with Central Revenues..

(ii) The Secretary further mentioned that in the meanwhile, the Hon'ble Supreme Court of India in its judgment dated 04/08/2009 in the WP(C) No. 507 of 2006 has differed with the judgment of the three-Judges Bench in the case of S. Pushpa & Ors. and opined in para 40 of its judgment that the Central/ State

Governments "may lay down a policy decision in regard to reservation having regard to provisions under Article 15 & 16 of the Constitution, but such policy cannot violate other Constitutional provisions (Article 341 & 342)." The Hon'ble Court in para 41 of the judgment has observed that "if the members of the SC and ST in other States are to be treated as backward classes for Delhi, intensive studies were required to be made in regard to question whether they would come within the purview of the definition of "Backward Classes" so as to answer the description of socially and educationally backward; and held in para 46 that:

.....we are bound by a Constitution Bench decision. We have referred to Constitution Bench decisions, namely Marri Chandra Shekhar Rao and E.V. Chinnaiah. Marri Chandra Shekhar Rao, had been followed by this Court in a large number of decisions including three Judges Bench decisions. Pushpa, therefore, could not have ignored either Marri Chandra Shekhar Rao.....

Following Dayanand (supra), therefore, we are of the opinion that the dicta in Pushpa is an obiter and does not lay down any binding ratio.

(iii) Keeping in view this judgment, the Ministry of Home Affairs has proposed inclusion of the names of the communities of migratory Scheduled Castes and Scheduled Tribes in the lists of Scheduled Castes and Scheduled Tribes of Delhi and other Union Territories notified under Article 341 and Article 342 of the Constitution. The Ministry is also looking at the possibility of a common reservation policy for all UTs in respect of migratory SCs/ Scheduled Tribes.

(iv) The Commission expressed the view that Delhi is a National Capital Territory and a large number of people had migrated to Delhi after independence in 1947. The huge increase in population from 1951 (17.44 Lakhs) to 2001 (137.83 Lakhs) can not be attributed to normal growth only, but also combines the effect of continuous migration of people from other regions in search of opportunity or employment. While no STs have been specified in relation to Delhi, the number of ST migrants from other States who have settled in Delhi, is also not available to indicate possible reservation requirements. The ST migrants may unwittingly face discrimination in the matter of reservation vis-à-vis SC migrants whose communities were also included in the list of SCs specified in relation to Delhi and may have been returned as SC of Delhi in various Census enumerations; and also secured Caste certificates mentioning that they were ordinary residents of Delhi, entitling them to the benefits meant only for the original SC communities of Delhi. The position of Delhi is quite unique as being the National Capital Territory, it has facilities and services created/ supported with Central Funds and Revenues. Therefore, it is quite appropriate that the migrant ST population settled in Delhi

should not be discriminated against whether it is a matter of service or admission to educational institutions under the Government of NCT of Delhi

(v) The Commission also expressed the view that, since there are significant differences in the relative backwardness of different tribal communities living in different geographical regions of the country, it will be difficult to prevent marginalization of local tribal communities and monopolization of benefits by more advanced (migrant) communities if a common reservation policy/ order is contemplated for all (disparate) UTs (which are also home to Vulnerable Tribes of Jarawas, Shompens, and Nicobarese etc. in A & N Islands, and all the native tribal inhabitants of Lakshadweep Islands).

(vi) In view of above the Commission recommended as follows:-

- (a) While refraining to comment on the merit of the Hon'ble Supreme Court judgment since Commission does not have any legal expertise. the Commission recommend that a common list of ST communities may not be notified under Article 342 in respect of all UTs including Delhi as this may lead to marginalization of the original tribal inhabitants of the concerned UT beside compromising the sanctity of Article 342.
- (b) Keeping in view the unique status of NCT of Delhi, being the National Capital of the Country and existence of various offices of the Union Government in Delhi and the fact that the employment opportunities and educational facilities of high order have been created in the NCT of Delhi through the use of central revenues, it is desirable to extend the benefit of reservation, to the STs resident in Delhi irrespective of their nativity and period of residence while retaining the reservation level of 7.5% for Scheduled Tribes as admissible at National level.
- (c) A constitutionally valid scheme of reservation may, however, be evolved to extend benefits of reservation to migratory STs living outside their original place of nativity as indicated in para 41 of the judgment of the Hon'ble Supreme Court of India in SLP (C) 24327 of 2005 (WP (C) No. 507 of 2006).

Agenda Item IV Amendment to Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Rules, 1995

(i) Secretary NCST informed the Commission that the amendment No. (i) to insert Rule 7-A has been proposed for obtaining timely information in respect of the cases of atrocities, especially pertaining to heinous offences. At present, there is no definition of heinous offences in the Indian Penal Code. It is also not mandatory under the Criminal Procedure Code to register an FIR immediately when a complaint is made.

(ii) The Commission noted that a large number of atrocities against Scheduled Tribes primarily pertain to grabbing of tribal land and crimes against (their) women folk. Therefore, it is advisable to report cases registered under sub-

clause (iii), (v), (xi) or (xii) of sub-section (1) of Section 3 too for monitoring purposes. The Commission also felt that there should be prompt reporting of all such complaints made to the police, without awaiting the registration of an FIR. The report should preferably be sent through the Superintendent of Police, keeping in view the varying responsibility for criminal administration in different regions.

(iii) After detailed deliberations, the Commission recommended that the phrase "whenever FIR was registered under sub-clause (i), (iv) or (v) of sub-section 2 of Section 3, the concerned District Magistrate" of the proposed Rule 7-A should be substituted as "whenever a complaint is made to a police officer regarding an offence punishable under sub-clause (iii), (v), (xi) or (xii) of sub-section (1) of Section 3 or sub-clause (i), (iv) or (v), of sub-section (2) of Section 3. the concerned Superintendent of Police " in amendment at no. (i) relating to insertion of Rule 7A.

(iv) The Commission endorsed the proposed amendments at S.No. (ii), (iii) and (iv) of the proposal with the observation that the added reference in Item 17 pertaining to mischief by fire etc. is probably unnecessary since it is already subsumed (as life imprisonment exceeds 10 years).

Agenda Item V **Writ Petition No. 3528 of 2009 filed by Shri Purushottam Sonkusre Vs Delimitation Commission, New Delhi & Ors. in the High Court of Bombay, Nagpur Bench challenging the list of Assembly constituencies reserved for STs in the Maharashtra Legislative Assembly.**

(i) Secretary, NCST informed that the Commission had received a representation, dated 08-05-2006 from the petitioner regarding reconstitution of Assembly segments of Maharashtra Legislative Assembly under the Delimitation Act, which had been forwarded to the Delimitation (Election) Commission of India for necessary action. In response, the Election Commission sent a list of constituencies of Maharashtra Legislative Assembly to this Commission vide their letter dated 09-03-2009, which was forwarded to the petitioner on 20-03-2009. The petitioner has made a mention of this correspondence in para 16 of Writ Petition; and has opposed to the procedure adopted by the Delimitation Commission in identifying the Assembly Constituencies reserved for the Scheduled Tribes in Maharashtra State Assembly.

(ii) The Secretary further mentioned that the contention of the petitioner in challenging the list of assembly constituencies reserved for STs is not clear. The procedure adopted by the Delimitation Commission seems to be in order because

मोरीस कुजूर MAURICE KUJUR
उपाध्यक्ष/Vice-Chairperson
राष्ट्रीय अनुसूचित जनजाति आयोग
National Commission for Scheduled Tribes
भारत सरकार/Govt. of India
नई दिल्ली/New Delhi

the highest proportion of tribal population as well as its absolute number would tantamount to the same in the case of single-member constituencies when they are of uniform size. Besides, the subject matter of the Writ Petition is primarily the concern of the Delimitation Commission and the Ministry of Law and Justice. (The Ministry of Tribal Affairs and the Registrar General of India are also concerned with the issue). The Commission may, therefore, not intervene in the case and leave the matter for decision by the Hon'ble High Court. The Commission agreed with the suggestion made by the Secretary and decided that the Ministry of Tribal Affairs and Ministry of Law and Justice be informed accordingly.

3. The meeting ended with a vote of thanks to the Chair.

Maurice Kujur
मोरीस कुजुर/MAURICE KUJUR
उपाध्यक्ष/Vice-Chairperson
राष्ट्रीय अनुसूचित जनजाति आयोग
National Commission for Scheduled Tribes
भारत सरकार/Govt. of India
नई दिल्ली/New Delhi

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

National Commission for Scheduled Tribes

Meeting of the Commission held on 22/02/2010 at 11:00 AM in the Conference Room of the Commission- List of participants.

<u>S.No.</u>	<u>Name and Designation</u>	
1.	Shri Maurice Kujur, Vice-Chairperson	(In chair)
2.	Shri Tsering Samphel, Member	
3.	Shri Oris Syiem Myriaw, Member	
4.	Shri R.S. Sirohi, Secretary	
5.	Shri Aditya Mishra, Joint Secretary	
6.	Shri R.C. Durga, Director	
7.	Shri Vinod Aggarwal, Director	
8.	Shri R.P. Vasishtha, Dy. Secretary	
9.	Mrs. K.D. Bhansor, Dy. Director	

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experience since the time they were prepared before dissemination. *The Commission desired that edited/ refined guidelines be submitted to the Commission for consideration.*

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The Commission was informed that the Scheduled Castes and Scheduled Tribes (Reservation in posts and services) Bill 2008, which was passed by the Rajya Sabha on 23/12 /2008, is now to be tabled in the Lok Sabha for consideration. The Commission noted that the Bill in its present

form, varies in its contents from the earlier draft Reservation Bill, 2004 received from the Department of Personnel and Training for comments of the Commission (furnished in December, 2004). The Commission also noted that views of the Commission have not been sought on the draft Bill, 2008. The, Commission, therefore, desired that the concern of the Commission in this regard may be communicated to the concerned Ministry/ Department; and it be suggested to them that the updated version of the Bill should be referred to this Commission also for comments before it is introduced in the Lok Sabha.

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(ii) The Secretary further mentioned that in the meanwhile, the Hon'ble Supreme Court of India in its judgment dated 04/08/2009 in the WP(C) No. 507 of 2006 has differed with the judgment of the three-Judges Bench in the case of S. Pushpa & Ors. and opined in para 40 of its judgment that the Central/ State Governments "may lay down a policy decision in regard to reservation having

regard to provisions under Article 15 & 16 of the Constitution, but such policy cannot violate other Constitutional provisions (Article 341 & 342)." The Hon'ble Court in para 41 of the judgment has observed that "if the members of the SC and ST in other States are to be treated as backward classes for Delhi, intensive studies were required to be made in regard to question whether they would come within the purview of the definition of "Backward Classes" so as to answer the description of socially and educationally backward; and held in para 46 that:

.....we are bound by a Constitution Bench decision. We have referred to Constitution Bench decisions, namely Marri Chandra Shekhar Rao and E.V. Chinniah. Marri Chandra Shekhar Rao, had been followed by this Court in a large number of decisions including three Judges Bench decisions. Pushpa, therefore, could not have ignored either Marri Chandra Shekhar Rao

Following Dayanand (supra), therefore, we are of the opinion that the dicta in Pushpa is an obiter and does not lay down any binding ratio.

(iii) Keeping in view this judgment, the Ministry of Home Affairs has proposed inclusion of the names of the communities of migratory Scheduled Castes and Scheduled Tribes in the lists of Scheduled Castes and Scheduled Tribes of Delhi and other Union Territories notified under Article 341 and Article 342 of the Constitution. The Ministry is also looking at the possibility of a common reservation policy for all UTs in respect of migratory SCs/ Scheduled Tribes.

(iv) The Commission expressed the view that Delhi is a National Capital Territory and a large number of people had migrated to Delhi after independence in 1947. The huge increase in population from 1951 (17.44 Lakhs) to 2001 (137.83 Lakhs) can not be attributed to normal growth only, but also combines the effect of continuous migration of people from other regions in search of opportunity or employment. While no STs have been specified in relation to Delhi, the number of ST migrants from other States who have settled in Delhi, is also not available to indicate possible reservation requirements. The ST migrants may unwittingly face discrimination in the matter of reservation vis-à-vis SC migrants whose communities were also included in the list of SCs specified in relation to Delhi and may have been returned as SC of Delhi in various Census enumerations; and also secured Caste certificates mentioning that they were ordinary residents of Delhi, entitling them to the benefits meant only for the original SC communities of Delhi. The position of Delhi is quite unique as being the National Capital Territory, it has facilities and services created/ supported with Central Funds and Revenues. Therefore, it is quite appropriate that the migrant ST population settled in Delhi should not be discriminated against whether it is a matter of service or admission to educational institutions under the Government of NCT of Delhi

(v) The Commission also expressed the view that, since there are significant differences in the relative backwardness of different tribal communities living in different geographical regions of the country, it will be difficult to prevent marginalization of local tribal communities and monopolization of benefits by more advanced (migrant) communities if a common reservation policy/ order is contemplated for all (disparate) UTs (which are also home to Vulnerable Tribes of Jarawas, Shompens, and Nicobarese etc. in A & N Islands, and all the native tribal inhabitants of Lakshadweep Islands).

(vi) In view of above the Commission recommended as follows:-

- (a) While refraining to comment on the merit of the Hon'ble Supreme Court judgment since Commission does not have any legal expertise, the Commission recommend that a common list of ST communities may not be notified under Article 342 in respect of all UTs including Delhi as this may lead to marginalization of the original tribal inhabitants of the concerned UT beside compromising the sanctity of Article 342.
- (b) Keeping in view the unique status of NCT of Delhi, being the National Capital of the Country and existence of various offices of the Union Government in Delhi and the fact that the employment opportunities and educational facilities of high order have been created in the NCT of Delhi through the use of central revenues, it is desirable to extend the benefit of reservation, to the STs resident in Delhi irrespective of their nativity and period of residence while retaining the reservation level of 7.5% for Scheduled Tribes as admissible at National level.
- (c) A constitutionally valid scheme of reservation may, however, be evolved to extend benefits of reservation to migratory STs living outside their original place of nativity as indicated in para 41 of the judgment of the Hon'ble Supreme Court of India in SLP 243237 of 2005 (WP No. 507 of 2006)..

Agenda Item IV Amendment to Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Rules, 1995

(i) Secretary NCST informed the Commission that the amendment No. (i) to insert Rule 7-A has been proposed for obtaining timely information in respect of the cases of atrocities, especially pertaining to heinous offences. At present, there is no definition of heinous offences in the Indian Penal Code. It is also not mandatory under the Criminal Procedure Code to register an FIR immediately when a complaint is made.

(ii) The Commission noted that a large number of atrocities against Scheduled Tribes primarily pertain to grabbing of tribal land and crimes against (their) women folk. Therefore, it is advisable to report cases registered under sub-clause (iii), (v), (xi) or (xii) of sub-section (1) of Section 3 too for monitoring purposes. The Commission also felt that there should be prompt reporting of all such complaints made to the police, without awaiting the registration of an FIR.

The report should preferably be sent through the Superintendent of Police, keeping in view the varying responsibility for criminal administration in different regions.

(iii) After detailed deliberations, the Commission recommended that the phrase "whenever FIR was registered under sub-clause (i), (iv) or (v) of sub-section 2 of Section 3, the concerned District Magistrate" of the proposed Rule 7-A should be substituted as "whenever a complaint is made to a police officer regarding an offence punishable under sub-clause (iii), (v), (xi) or (xii) of sub-section (1) of Section 3 or sub-clause (i), (iv) or (v), of sub-section (2) of Section 3, the concerned Superintendent of Police " in amendment at no. (i) relating to insertion of Rule 7A.

(iv) The Commission endorsed the proposed amendments at S.No. (ii), (iii) and (iv) of the proposal with the observation that the added reference in Item 17 pertaining to mischief by fire etc. is probably unnecessary since it is already subsumed (as life imprisonment exceeds 10 years).

Agenda Item V Writ Petition No. 3528 of 2009 filed by Shri Purushottam Sonkusre Vs Delimitation Commission, New Delhi & Ors. in the High Court of Bombay, Nagpur Bench challenging the list of Assembly constituencies reserved for STs in the Maharashtra Legislative Assembly.

(i) Secretary, NCST informed that the Commission had received a representation, dated 08-05-2006 from the petitioner regarding reconstitution of Assembly segments of Maharashtra Legislative Assembly under the Delimitation Act, which had been forwarded to the Delimitation (Election) Commission of India for necessary action. In response, the Election Commission sent a list of constituencies of Maharashtra Legislative Assembly to this Commission vide their letter dated 09-03-2009, which was forwarded to the petitioner on 20-03-2009. The petitioner has made a mention of this correspondence in para 16 of Writ Petition; and has opposed to the procedure adopted by the Delimitation Commission in identifying the Assembly Constituencies reserved for the Scheduled Tribes in Maharashtra State Assembly.

(ii) The Secretary further mentioned that the contention of the petitioner in challenging the list of assembly constituencies reserved for STs is not clear. The procedure adopted by the Delimitation Commission seems to be in order because the highest proportion of tribal population as well as its absolute number would tantamount to the same in the case of single-member constituencies when they are of uniform size. Besides, the subject matter of the Writ Petition is primarily the concern of the Delimitation Commission and the Ministry of Law and Justice. (The

Ministry of Tribal Affairs and the Registrar General of India are also concerned with the issue). The Commission may, therefore, not intervene in the case and leave the matter for decision by the Hon'ble High Court. The Commission agreed with the suggestion made by the Secretary and decided that the Ministry of Tribal Affairs and Ministry of Law and Justice be informed accordingly.

3. The meeting ended with a vote of thanks to the Chair.
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ANNEXURE
(w.r.t. Para 1 of the Summary Record)

National Commission for Scheduled Tribes

Meeting of the Commission held on 22/02/2010 at 11:00 AM in the Conference Room of the Commission- List of participants.

S.No. **Name and Designation**

1. Shri Maurice Kujur, Vice-Chairman (In chair)
2. Shri Tsering Samphel, Member
3. Shri Oris Syiem Myriaw, Member2
4. Shri R.S. Sirohi, Secretary
5. Shri Aditya Mishra, Joint Secretary
6. Shri R.C. Durga, Director
7. Shri Vinod Aggarwal, Director
8. Shri R.P. Vasishtha, Dy. Secretary
9. Mrs. K.D. Bhansor, Dy. Director

NATIONAL COMMISSION FOR SCHEDULED TRIBES

Sub : Summary record of the 18th meeting of the National Commission for Scheduled Tribes held at 11:00 AM on 22/02/2010.

The 18th meeting of the National Commission for Scheduled Tribes was held at 11:00 AM on 22/02/2010 in the Conference room of the Commission in Lok Nayak Bhawan New Delhi. The meeting was presided over by Shri Maurice Kujur, Vice-~~Chairman~~^{Chairperson}, as the post of Chairperson remains vacant. List of participants is enclosed at ANNEXURE.

2. There were 5 Agenda Items on the list for discussion and all the Agenda Items were discussed. Summary record of the discussions held in the meeting, item-wise, is given below:

Agenda Item I Guidelines for dealing with cases relating to matters/ complaints received in the Commission.

Secretary, NCST informed the Commission that the guidelines for dealing with various cases/matters received in the Commission were proposed with a view to equipping officials of the Commission to examine and process the matters/ issues and complaints in the right perspective, in a standard fashion and in a time bound manner. Hon'ble Member (OSM) expressed that it was useful to have guidelines but at the same time it may be difficult to follow the guidelines in the absence of requisite staff in the Commission. Hon'ble Vice-~~Chairman~~^{Chairperson} mentioned that the issue relating to shortage of staff in the Commission had also come up in the earlier meeting of the Commission and it was decided that the matter would be taken up at the level of the Minister through a letter from the Hon'ble Vice-~~Chairman~~^{Chairperson}. This letter may be sent expeditiously. Hon'ble Member (TS) pointed out that the tribal characteristics mentioned in the guidelines relating to inclusion/ exclusion of ST communities in the list of Scheduled Tribes may also include distinctive forms of apparel worn by them. Secretary, NCST assured that the draft guidelines would be edited/ refined in the light of the accumulated experience since the time they were prepared before dissemination.

Agenda Item II The Scheduled Castes and Scheduled Tribes (Reservation in posts and services) Bill 2008 as passed by Rajya Sabha.

The Commission was informed that the Scheduled Castes and Scheduled Tribes (Reservation in posts and services) Bill 2008, which was passed by the Rajya Sabha on 23/12 /2008, is now to be tabled in the Lok Sabha for consideration. The Commission noted that the Bill in its present form, varies in its contents from the earlier draft Reservation Bill, 2004 received from the Department of Personnel and Training for comments of

the Commission (furnished in December, 2004). The Commission also noted that views of the Commission have not been sought on the draft Bill, 2008. The Commission, therefore, desired that the concern of the Commission in this regard may be communicated to the concerned Ministry/ Department, and it be suggested to them that the updated version of the Bill should be referred to this Commission also for comments before it is introduced in the Lok Sabha.

Agenda Item III Grant of reservation to migrant SCs/ STs in civil posts under the Government of NCT of Delhi – Proposal of MHA received vide their letter dated 27.11.2009 for inclusion of all Scheduled Caste & Scheduled Tribe communities in the list of Scheduled Castes and Scheduled Tribes respectively in relation to the NCT of Delhi and all other Union Territories - consequent to the judgment dated 04.08.2009 of Hon'ble Supreme Court of India in Civil Writ Petition No. 507/2006 titled Sarv Rural & Urban Welfare Society Vs. Union of India.

(i) Secretary, NCST informed the Members that the Government of NCT of Delhi had been following the All India pattern in providing reservation in appointments to Civil Posts ~~and admission to Educational Institutions~~ under them, irrespective of nativity. Separately, the Government of NCT of Delhi had issued instructions for giving reservation of 1% only to the Scheduled Tribes in the matter of admission to Professional Educational Institutions which are under the control of Government of NCT of Delhi. The National Commission for Scheduled Tribes had taken objection to this step by taking up the matter with the Ministry of Home Affairs. Thereafter, the Government of NCT of Delhi had prepared a draft Bill to provide for reservation for migrated Scheduled Castes, Scheduled Tribes, and OBCs in the matters of admission to Professional Educational Institutions in Delhi, which was discussed in the 15th meeting of the Commission held on 06/11/2009. The Commission had recommended that the reservation for Scheduled Tribes for admission to educational institutions under the control of Govt. of NCT of Delhi should be 7.5% irrespective of the nativity of the Scheduled Tribes in order to provide them due access to the educational facilities of a high order which have been created in the national capital with Central Revenues..

(ii) The Secretary further mentioned that in the meanwhile, the Hon'ble Supreme Court of India in its judgment dated 04/08/2009 in the WP(C) No. 507 of 2006 has differed with the judgment of the three-Judges Bench in the case of S. Pushpa & Ors. and opined in para 40 of its judgment that the Central/ State Governments "may lay down a policy decision in regard to reservation having regard to provisions under Article 15 & 16 of the Constitution, but such policy cannot violate other Constitutional provisions (Article 341 & 342)." The Hon'ble

Court in para 41 of the judgment has observed that "if the members of the SC and ST in other States are to be treated as backward classes for Delhi intensive studies were required to be made in regard to question whether they would come within the purview of the definition of "Backward Classes" so as to answer the description of socially and educationally backward; and held in para 46 that:

.....we are bound by a Constitution Bench decision. We have referred to Constitution Bench decisions, namely Marri Chandra Shekhar Rao and E.V. Chinniah. Marri Chandra Shekhar Rao, had been followed by this Court in a large number of decisions including three Judges Bench decisions. Pushpa, therefore, could not have ignored either Marri Chandra Shekhar Rao.....

Following Dayanand (supra), therefore, we are of the opinion that the dicta in Pushpa is an obiter and does not lay down any binding ratio.

- (iii) Keeping in view this judgment, the Ministry of Home Affairs has proposed inclusion of the names of the communities of migratory Scheduled Castes and Scheduled Tribes in the lists of Scheduled Castes and Scheduled Tribes of Delhi and other Union Territories notified under Article 341 and Article 342 of the Constitution. The Ministry is also looking at the possibility of a common reservation policy for all UTs in respect of migratory SCs/ Scheduled Tribes.
- (iv) The Commission expressed the view that Delhi is a National Capital Territory and a large number of people had migrated to Delhi after independence in 1947. The huge increase in population from 1951 (17.44 Lakhs) to 2001 (137.83 Lakhs) can not be attributed to normal growth only, but also combines the effect of continuous migration of people from other regions in search of opportunity or employment. While no STs have been specified in relation to Delhi, the number of ST migrants from other States who have settled in Delhi, is also not available to indicate possible reservation ^{requirements} / needs. The ST migrants may unwittingly face discrimination in the matter of reservation vis-à-vis SC migrants whose communities were also included in the list of SCs specified in relation to Delhi and may have been returned as SC of Delhi in various Census enumerations; and also secured Caste certificates mentioning that they were ordinary residents of Delhi, entitling them to the benefits meant only for the original SC communities of Delhi. The position of Delhi is quite unique as being the National Capital Territory, ^{it} has facilities and services created/ supported with Central Funds and Revenues. Therefore, it is quite appropriate that the migrant ST population settled in Delhi should not ^b e discriminated against whether it is a matter of services or admission to educational institutions under the Government of NCT of Delhi
- (v) The Commission also expressed the view that, since there are significant

differences in the relative backwardness of different tribal communities living in different geographical regions of the country, it will be difficult to prevent marginalization of local tribal communities and monopolization of benefits by more advanced (migrant) communities if a common reservation policy/ order is contemplated for all (disparate) UTs (which are also home to Vulnerable Tribes of Jarawas, Shompens, and Nicobarese etc. in A & N Islands, and all the native tribal inhabitants of Lakshadweep Islands).

(vi) In view of above the Commission recommended as follows:-

- (a) While refraining to comment on the merit of the Hon'ble Supreme Court judgment since Commission does not have any legal expertise, the Commission recommend that a common list of ST communities may not be notified under Article 342 in respect of all UTs including Delhi as this may lead to marginalization of the original tribal inhabitants of the concerned UT beside compromising ~~with~~ the sanctity of Article 342.
- (b) Keeping in view the unique status of NCT of Delhi, being the National Capital of the Country and existence of various offices of the Union Government in Delhi and the fact that the employment opportunities and educational facilities of high order have been created in the NCT of Delhi through the use of central revenues, it is desirable to extend the benefit of reservation, to the STs resident in Delhi irrespective of their nativity and period of residence while retaining the reservation level of 7.5% for Scheduled Tribes as admissible at National level.
- (c) A constitutionally valid scheme of reservation may, however, be evolved to extend benefits of reservation to migratory STs living outside their original place of nativity as indicated in para 41 of the judgment of the Hon'ble in Supreme Court of India in SLP 243237 of 2005 (WP No. 507 of 2006)..

Agenda Item IV Amendment to Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Rules, 1995

(i) Secretary NCST informed the Commission that the amendment No. (i) to insert Rule 7-A has been proposed for obtaining timely information in respect of the cases of atrocities, especially pertaining to heinous offences. At present, there is no definition of heinous offences in the Indian Penal Code. It is also not mandatory under the Criminal Procedure Code to register an FIR immediately when a complaint is made.

(ii) The Commission noted that a large number of atrocities against Scheduled Tribes primarily pertain to grabbing of tribal land and crimes against (their) women folk. Therefore, it is advisable to report cases registered under sub-clause (iii), (v), (xi) or (xii) of sub-section (1) of Section 3 too for monitoring purpose. The Commission also felt that there should be prompt reporting of ^{all} such complaints made to the police, without awaiting the registration of an FIR. The

report should preferably be sent through the Superintendent of Police, keeping in view the varying responsibility for criminal administration in different regions.

(iii) After detailed deliberations, the Commission ²Recommended that the phrase "whenever FIR was registered under sub-clause (i), (iv) or (v) of sub-section 2 of Section 3, the concerned District Magistrate" of the proposed Rule 7-A should be substituted as "whenever a complaint is made to a police officer regarding an offence punishable under sub-clause (iii), (v), (xi) or (xii) of sub-section (1) of Section 3 or sub-clause (i), (iv) or (v), of sub-section (2) of Section 3, the concerned Superintendent of Police" *in amendment no. (i)*.

(iv) The Commission endorsed the proposed amendments at S.No. (ii), (iii) and (iv) of the proposal with the observation that the added reference in Item. 17 pertaining to mischief by fire etc. is probably unnecessary since it is already subsumed (as life imprisonment exceeds 10 years).

Agenda Item V Writ Petition No. 3528 of 2009 filed by Shri Purushottam Sonkusre Vs Delimitation Commission, New Delhi & Ors. in the High Court of Bombay, Nagpur Bench challenging the list of Assembly constituencies reserved for STs in the Maharashtra Legislative Assembly.

(i) Secretary, NCST informed that the Commission had received a representation, dated 08-05-2006 from the petitioner regarding reconstitution of Assembly segments of Maharashtra Legislative Assembly under the Delimitation Act, which had been forwarded to the Delimitation (Election) Commission of India for necessary action. In response, the Election Commission sent a list of constituencies of Maharashtra Legislative Assembly to this Commission vide their letter, dated 09-03-2009, which was forwarded to the petitioner on 20-03-2009. The petitioner has made a mention of this correspondence in para 16 of Writ Petition; and has opposed to the procedure adopted by the Delimitation Commission in identifying the Assembly Constituencies reserved for the Scheduled Tribes in Maharashtra State Assembly.

(ii) The Secretary further mentioned that the contention of the petitioner in challenging the list of assembly constituencies reserved for STs is not clear. The procedure adopted by the Delimitation Commission seem^s to be in order because the highest proportion of tribal population as well as its absolute number ~~shall~~ *would* tantamount to the same in the case of single-member constituencies when they are of uniform size. Besides, the subject matter of the Writ Petition is primarily the concern of the Delimitation Commission and the Ministry of Law and Justice. (The Ministry of Tribal Affairs and the Registrar General of India are also concerned with

the issue). The Commission may, therefore, not intervene in the case and leave the matter for decision by the Hon'ble High Court. The Commission agreed with the suggestion made by the Secretary and decided that the Ministry of Tribal Affairs and Ministry of Law and Justice be informed accordingly.

3. The meeting ended with a vote of thanks to the Chair.
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NATIONAL COMMISSION FOR SCHEDULED TRIBES

Sub: Summary record of the 18th meeting of the National Commission for Scheduled Tribes held at 11:00 AM on 22/02/2010.

The 18th meeting of the National Commission for Scheduled Tribes was held at 11:00 AM on 22/02/2010 in the Conference room of the Commission in Lok Nayak Bhawan New Delhi. The meeting was presided over by Shri Maurice Kujur, ~~Hon'ble~~ Vice-Chairman, ^{person,} as the post of Chairman is ~~being~~ ^{remains} vacant. List of participants is enclosed at ANNEXURE.

2. There were 5 Agenda Items on the list for discussion and all the Agenda Items were discussed. Summary record of the discussions held in the meeting, **item-wise**, is given below:

Agenda Item I Guidelines for dealing with cases relating to matters/ complaints received in the Commission.

~~The~~ Secretary, NCST, informed the Commission that the guidelines for dealing with various cases/matters received in the Commission were proposed with a view to equipping ~~every~~ ^{person} official of the Commission to examine and process the matters/ issues and complaints in the right perspective, ^{in a} ~~in~~ ^{standard fashion and in} a time-bound manner. Hon'ble Member (OSM) expressed that it was useful to have guidelines but at the same time it may be difficult to follow the guidelines in the absence of requisite staff ~~strength~~ ^{person} in the Commission. Hon'ble Vice-Chairman mentioned that the issue relating to shortage of staff in the Commission had also come up in the earlier meeting of the Commission and it was decided that the matter would be taken up at the level of the Minister, through a letter from ^{the} Hon'ble Vice-Chairman. This letter may be ~~put up on priority as adoption of the guidelines also require positioning of adequate staff strength in the Commission.~~ ^{sent expeditiously} ~~The Hon'ble Vice-Chairman also mentioned that the draft guidelines circulated for consideration may be studied once again so as to cover all aspects of the subject matters being dealt in the Commission.~~ In the same context, Hon'ble Member (TS) pointed out that the tribal characteristics mentioned in the guidelines relating to inclusion/ exclusion of ST communities in the list of Scheduled Tribes ~~also need to be looked into once again~~.

may also include distinctive forms of apparel worn by them, also

Agenda Item II The Scheduled Castes and Scheduled Tribes (Reservation in posts and services) Bill 2008 as passed by Rajya Sabha.

The Commission was informed that the Scheduled Castes and Scheduled Tribes (Reservation in posts and services) Bill 2008, which was passed by the Rajya Sabha on 23/12 /2008, is now to be tabled in the Lok Sabha for consideration. The Commission noted that the Bill in its

Secretary, NCST, assured that the draft guidelines would be edited/ refined in the light of accumulated experience since the time they were prepared before dissemination.

present form, varies in its contents from the earlier draft Reservation Bill, 2004 received from the DoPT for comments of the Commission, ~~which were~~ (furnished by the Commission in December, 2004). The Commission also noted that views of the Commission have not been sought on the draft Bill, 2008. The Commission, therefore, desired that the concern of the Commission in this regard may be communicated to the concerned Ministry/ Department, ^{and it be suggested to them} The concerned Ministry may also be ^{also for comment} informed that views of this Commission on the Bill may be sought before it is introduced in the Lok Sabha.

the updated version of the Bill should be referred to

Agenda Item III

Grant of reservation to migrant SCs/ STs in civil posts under the Government of NCT of Delhi – Proposal of MHA received vide their letter dated 27.11.2009 for inclusion of all Scheduled Caste & Scheduled Tribe communities in the list of Scheduled Castes and Scheduled Tribes respectively in relation to the NCT of Delhi and all other Union Territories - consequent to the judgment dated 04.08.2009 of Hon'ble Supreme Court of India in Civil Writ Petition No. 507/06 titled Sarv Rural & Urban Welfare Society Vs. Union of India.

(i) ~~The~~ Secretary, NCST informed the Members that ~~the Commission had earlier received a draft Bill from the Government of NCT of Delhi for comments.~~ ^{separately,}

The Government of NCT of Delhi had ~~earlier~~ issued instructions for giving reservation of 1% only to the Scheduled Tribes in the matter of admission to Professional Educational Institutions which are under the control of Government of NCT of Delhi. The National Commission for Scheduled Tribes had taken objection to ~~the steps taken by the Delhi Government~~, by taking up the matter with the Ministry of Home Affairs. ^{thereafter,} On receipt of the advice from the Ministry of Home Affairs, ~~the~~ ^{the} Government of NCT of Delhi ^{had} prepared a draft Bill ^{to provide} for legalizing reservation for Scheduled Castes, Scheduled Tribes, and OBCs in the matters of admission to Professional Educational Institutions in Delhi. ~~The Bill relating to reservation in educational institutions in Delhi which are under the control of Government of NCT of Delhi was sent by the Government of NCT of Delhi for advice of the Commission. The matter was discussed in the 15th meeting of the Commission held on 06/11/2009. The Commission had recommended that the reservation for Scheduled Tribes for admission to educational institutions under the control of Govt. of NCT of Delhi should be 7.5% irrespective of the nativity of the Scheduled Tribes.~~ ^{in order to provide them due access to the educational facilities of a high order which have been created in the national capital with Central}

(ii) The Secretary further mentioned that in the meanwhile, the Hon'ble ^{revenue} Supreme Court of India in its judgment dated 04/08/2009 in the WP(C) No. 507 of 2006 has differed with the judgment of the three-Judges Constitutional Bench in the case of S. Pushpa & Ors. and opined in para 40 (page 50) of its judgment

the Govt of the NCT of Delhi had been following the all-India pattern in reservation of civil posts under them, irrespective of nativity.

that the Central/ State Governments "may lay down a policy decision in regard to reservation having regard to provisions under Article 15 & 16 of the Constitution, but such policy cannot violate other Constitutional provisions (Article 341 & 342)." The Hon'ble Court in para 41 (page 53) of the judgment has observed that "if the members of the SC and ST in other States are to be treated as backward classes for Delhi intensive studies were required to be made in regard to question whether they would come within the purview of the definition of "Backward Classes" so as to answer the description of socially and educationally backward; and held in para 46 (page 74-75) ^{that} as given below:

.....we are bound by a Constitution Bench decision. We have referred to Constitution Bench decisions, namely Marri Chandra Shekhar Rao and E.V. Chinnaiah. Marri Chandra Shekhar Rao, had been followed by this Court in a large number of decisions including three Judges Bench decisions. Pushpa, therefore, could not have ignored either Marri Chandra Shekhar Rao or other decisions following the same only on the basis of an administrative circular issued or otherwise and more so when the Constitutional scheme as contained in clause (4) of Article 341 and 342 of the Constitution of India putting the State and Union Territory in the same bracket.

Following Dayanand (supra), therefore, we are of the opinion that the dicta in Pushpa is an obiter and does not lay down any binding ratio.

(iii) Keeping in view the ^{is} judgment, the Ministry of Home Affairs has proposed ~~to draft a Bill for inclusion of the names of the communities of migratory Scheduled Castes and Scheduled Tribes in the lists of Scheduled Castes and Scheduled Tribes of Delhi and other Union Territories notified under Article 341 and Article 342 of the Constitution.~~ ^{The Ministry is also looking at the possibility of a common reservation policy for all UTs in respect of migratory SC/STs}

(iv) ^a The Commission expressed the view that Delhi is a National Capital Territory and ^a large number of people had migrated to Delhi after independence in 1947. ~~The population of Delhi in 1951 Census was 17.44 lakhs only. This included the population which had migrated from Pakistan during and after partition. The population of Delhi as per 2001 Census is 137.83 lakhs. This huge increase in population from 1951 to 2001 can not be attributed to normal growth only, but also combines the effect of continuous migration of people from other regions in search of opportunity or employment. Since services and posts under~~ ^{(17.44 lakhs) (137.83 lakhs)}

~~The Union Government and its organisations/ offices and financial institutions, which are mainly located in Delhi, recruit personnel on an All-India basis, the Scheduled Castes, Scheduled Tribes as well as other population from all over the country have settled in Delhi after their appointments under the Central Government. While no STs have been specified in relation to Delhi, the number of ST migrants from other States who have settled in Delhi, is ^{also} not available to indicate~~

possible reservation needs. ST migrants may unwittingly face discrimination in the matter of

Reservation in a-va

whose communities were

However, the communities of many SC migrants (s) also included in the list of SCs specified in relation to Delhi; and they may have been returned as SC of Delhi in various Census enumerations; and they also have secured Caste certificates issued from Delhi mentioning that they were ordinary residents of Delhi, entitling them to the benefits of Scheduled Castes meant only for the original SC communities of Delhi. This would tantamount to discriminatory treatment of ST migrants' population.

The position of Delhi is quite unique, as being the National Capital Territory, has facilities and services created/supported with Central funds and revenues. Therefore, it is quite appropriate that the migrant ST population settled in Delhi should not be discriminated against whether it is a matter of services or administrative educational institutes under the purview of the NCT of Delhi.

(v) The Commission also expressed that the situation prevailing in Delhi being the National Capital, is not prevailing in other UTs and therefore, making migrant STs and SCs from other States to those UTs eligible for availing reservation meant for local people would out-rightly cut into the rights of the local people. For instance, the rights of Vulnerable Tribes of Jarawas, Shompens, and Nicobarese etc. in A & N Islands, and all the native tribal inhabitants of Lakshadweep Islands would be heavily curtailed if Scheduled Tribes of other States and UTs are included in the list of Scheduled Tribes in respect of the UTs of A & N Islands and Lakshadweep. Therefore, inclusion of Scheduled Tribes and Scheduled Castes of other States and UTs in the list of Scheduled Tribes and Scheduled Castes in respect of all the UTs can not be agreed to.

(It was that since there are significant differences in the relative backwardness of different tribal communities living in different geographical regions of the country, it will be difficult to prevent marginalization of local tribal communities and monopolistic of benefits by more advanced (migrant) communities if a common reservation policy/Order is contemplated for all (disparate) UTs (which are also home to

(vi) In view of above, the Commission recommended as follows:-
(a) While refraining comment on the merit of the Hon'ble Supreme Court judgment since Commission does not have any legal expertise, the Commission recommend that a common list of ~~STs~~ ST communities notified under Article 341 and Article 342 in respect of all UTs including Delhi ~~may not be notified~~ as this may lead to marginalization of the original tribal (natives) of the concerned UT, beside compromising the sanctity of Article 341 and 342.

(b) Keeping in view the unique status of NCT of Delhi, being the National Capital of the Country and existence of various offices of the Union Government in Delhi and the fact that the employment opportunities and educational facilities of high order have been created in the NCT of Delhi through the use of central revenues, it is desirable to extend the benefit of reservation, to the STs and SCs resident in Delhi irrespective of their nativity and period of residence while retaining reservation level of 7.5% for Scheduled Tribes and 15% for Scheduled Castes as admissible at National level.

(c) A constitutionally valid scheme of reservation may, however, be evolved to extend benefits of reservation to migratory ~~STs~~ STs living outside their original place of nativity, as indicated in para 41 of the judgement of the Hon'ble Supreme Court in SCP 24327 of 2005 (NP 57/2005).

Agenda Item IV Amendment to Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Rules, 1995

(i) Secretary NCST informed the Commission that the purpose of

proposed amendment No. (I) to insert Rule 7-A has been explained for obtaining the information at Ministry level in respect of the cases of atrocities, especially pertaining to heinous offences. At present, there is no definition of heinous offences in the Indian Penal Code. It is also not mandatory to register an FIR immediately a complaint is made.

prepared

touch

Under the Criminal Procedure Code

(ii) The Commission noted that in respect of the STs, most of the atrocities of serious nature primarily pertain to lands alienation, displacement and against women folk. However, the proposed areas for monitoring by the State Govt./UT Administration, Central Govt. and the NGSG/NCST, vide sub-clause (i), (iv) or (v) of sub-section 2 of Section 3 under proposed Rule 7(A) don't serve the stated objective mentioned above.

a large number

against STs

grabbing of tribal lands

crimes (them)

Therefore, it is advisable to report cases registered under sub-clause (iii), (v), (xi) or (xii) of sub-section (1) of Section 3 for monitoring purposes. The Commission also felt that there should be prompt reporting of such complaint made to the police, without awaiting the registration of an FIR. The report should preferably be sent through the Superintendent of Police, keeping in view the varying responsibilities for criminal administration in different regions.

100

(iii) After detailed deliberations, the Commission agreed with the proposal of amendment in Rule (7) to insert the Rule "7(A) submission of the report to Central Government etc. in case of serious offences". The Commission, however, noted that in accordance with the Section (1) of the proposed new Rule 7(A), whenever FIR was registered under sub-clause (i), (iv) or (v) of sub-section 2 of Section 3, the concerned DM shall submit a preliminary report within 4 days of the proposed amendment should be substituted as "whenever a complaint is made to be registered under sub-clause (iii), (v), (xi) or (xii) of sub-section (1) of Section 3, the concerned (Supdt.) of Police shall submit a preliminary report within 4 days".

recommended that the phrase

District Magistrate

of Rule 7-A

a police officer

whenever a complaint is made to be registered under sub-clause (iii), (v), (xi) or (xii) of sub-section (1) of Section 3, the concerned (Supdt.) of Police shall submit a preliminary report within 4 days.

(iv) The Commission also recommended its agreement to the proposed amendments at S.No. (ii), (iii) and (iv) of the proposal, with the observation that the added reference in item 17 pertaining to mischief by fire is probably unnecessary since it is already submitted (in the writ petition No. 3528 of 2009 filed by Shri Purushottam Sonkusre Vs Delimitation Commission, New Delhi & Ors. in the High Court of Bombay, Nagpur Bench challenging the list of Assembly constituencies reserved for STs in the Maharashtra Legislative Assembly).

endorsed

(i) The Secretary informed Commission that Commission had received a representation, dated 08-05-2006 from the petitioner regarding reconstitution of Assembly segments of Maharashtra Legislative Assembly under the Delimitation Act, which had been forwarded the representation of the petitioner to the Delimitation (Election) Commission of India for necessary action. In response, the Election Commission sent a list of constituencies of Maharashtra Legislative

Regarding an offence punishable

Superintendent

Agenda Item V

all such complaint made to the police, without awaiting the registration of an FIR. The report should preferably be sent through the Superintendent of Police, keeping in view the varying responsibilities for criminal administration in different regions.

Assembly to this Commission vide their letter, dated 09-03-2009, ~~A copy of the Election Commission's letter, dated 09-03-2009 alongwith the enclosures~~ ^{which} was forwarded to the petitioner on 20-03-2009. The petition has made a mention of this correspondence in para 16 of Writ Petition, and has opposed to the procedure adopted by the Delimitation Commission in identifying the Assembly Constituencies reserved for the Scheduled Tribes in Maharashtra State Assembly.

(ii) The Secretary further mentioned that the contention of the petitioner in challenging the list of assembly constituencies reserved for STs is not clear, ~~since~~ ^{since} the procedure adopted by the Delimitation Commission, ~~seem to be in order~~ ^{seems to be in order}. Besides, the subject matter of the Writ Petition is primarily the concern of the Delimitation Commission ^{and the Ministry of Law & Justice} ~~(Election Commission of India)~~ ^(The Ministry of Tribal Affairs and Registrar General of India are also concerned with the issue). The Commission may therefore leave the matter for decision by the Hon'ble High Court. ^{with} The Commission ~~agreed to~~ ^{agreed to} the suggestion made by the Secretary, and decided that ~~there was no need to file any statement in the Court.~~ ^{the Ministry}

^{of Tribal Affairs / Law and Justice be informed accordingly.}

3. The meeting ended with a vote of thanks to the Chair.

not intervene in the case and

because the highest proportion of tribal population as well as absolute number is tantamount to the same in the case of single member constituencies when they are of nearly uniform size.

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

National Commission for Scheduled Tribes

Meeting of the Commission held on 22/02/2010 at 11:00 AM in the Conference Room of the Commission- List of participants.

S.No. **Name and Designation**

1. Shri Maurice Kujur, Vice-Chairman^{person} (In chair)
2. Shri Tsering Samphel, Member
3. Shri Oris Syiem Myriaw, Member
4. Shri R.S. Sirohi, Secretary
5. Shri Aditya Mishra, Joint Secretary
6. Shri R.C. Durga, Director
7. Shri Vinod Aggarwal, Director
8. Shri R.P. Vasishtha, Dy. Secretary
9. Mrs. K.D. Bhansor, Dy. Director

NATIONAL COMMISSION FOR SCHEDULED TRIBES

Sub : Summary record of the 18th meeting of the National Commission for Scheduled Tribes held at 11:00 AM on 22/02/2010.

The 18th meeting of the National Commission for Scheduled Tribes was held at 11:00 AM on 22/02/2010 in the Conference room of the Commission in Lok Nayak Bhawan New Delhi. The meeting was presided over by Shri Maurice Kujur, Hon'ble Vice-Chairman, as the post of Chairman is lying vacant. List of participants is enclosed at **ANNEXURE**.

2. Secretary welcome^d the Hon'ble Vice-Chairman and Members present. ~~There~~ were 5 Agenda Items on the list for discussion. Secretary informed the Commission that Agenda Items 3, 4 and 5 were important and therefore, these items may be discussed on priority and remaining items may be taken up as per time availability. With the permission of Chair the Agenda Items No. 3, 4 and 5 were discussed first in that order followed by Agenda Items No. 1 & 2] Summary record of the discussions held in the meeting, **item-wise**, is given below:

Agenda Item I Guidelines for dealing with cases relating to matters/ complaints received in the Commission. NCST.

The Secretary, National Commission for Scheduled Tribes informed the Commission that ~~in the absence of proper guidelines for dealing with various cases received in the Commission~~ ^{were prepared with a view to expediting} the processing of the papers got delayed. After preparing the guidelines in respect of each type of matter every official of the Commission ~~will be able~~ to examine and process the matters/ issues and complaints in the right perspective in a time bound manner. Hon'ble Member (OSM) expressed that it was useful to have guidelines but at the same time it may be difficult to follow the guidelines in the absence of requisite staff strength in the Commission. Hon'ble Vice-Chairman mentioned that the issue relating to shortage of staff in the Commission had also come up in the earlier meeting of the Commission and it was decided that the matter ^{would} be taken up at the level of the Minister through a letter from Hon'ble Vice-Chairman. This letter may be put up on priority. ^{also requires positioning of} The adoption of the guidelines may be taken up after adequate staff strength is ~~provided~~ in the Commission. The Hon'ble Vice-Chairman also mentioned that the draft guidelines circulated for consideration may be studied once again so as to cover all aspects of the subject matters being dealt in the Commission. In the same context Hon'ble Member(TS) pointed out that the tribal characteristics mentioned in the guidelines relating to inclusion/ exclusion of ST communities in the list of Scheduled Tribes also need to be looked into once again.

2008

Agenda Item II The Scheduled Castes and Scheduled Tribes (Reservation in posts and services) Bill 2008 as passed by Rajya Sabha.

The Commission recommended to communicate to the Department of Personnel and Training that Commission is not happy with the provisions in the reservation Bill, 2008. In case, it is reintroduced in the Lok Sabha the comments of the Commission may be called for

Agenda Item III Grant of reservation to migrant SCs/ STs in civil posts under the Government of NCT of Delhi – Proposal of MHA received vide their letter dated 27.11.2009 for inclusion of all Scheduled Caste & Scheduled Tribe communities in the list of Scheduled Castes and Scheduled Tribes respectively in relation to the NCT of Delhi and all other Union Territories - consequent to the judgment dated 04.08.2009 of Hon'ble Supreme Court of India in Civil Writ Petition No. 507/06 titled Sarv Rural & Urban Welfare Society Vs. Union of India.

The Secretary, NCST informed the Members that the Commission had earlier received a draft Bill from Government of NCT of Delhi for comments. The Government of NCT of Delhi had earlier issued instructions for giving reservation of 1% only to the Scheduled Tribes in the matter of admission to Professional Educational Institutions which are under the control of Government of NCT of Delhi. The National Commission for Scheduled Tribes had taken objection to the steps taken by the Delhi Government by taking up the matter with the Ministry of Home Affairs. On receipt of advice from the Ministry of Home Affairs, Government of NCT of Delhi prepared a draft Bill for legalizing reservation for Scheduled Castes, Scheduled Tribes, and OBCs in the matters of admission to Professional Educational Institutions in Delhi. The Bill relating to reservation in educational institutions in Delhi which are under the control of Government of NCT of Delhi was sent by the Government of NCT of Delhi for advice of the Commission. The matter was discussed in the 15th meeting of the Commission held on 06/11/2009. The Commission had recommended that the reservation for Scheduled Tribes for admission to educational institutions under the control of Govt. of NCT of Delhi should be 7.5% irrespective of the nativity of the Scheduled Tribes.

The Secretary further mentioned that the Hon'ble Supreme Court of India in its judgment in the WP(C) No. 507 of 2006 has differed with the judgment of the three-Judges Constitutional Bench in the case of S. Pushpa & Ors. and opined in para 40 (page 50) of judgment that the Central/ State Governments "may lay down a policy decision in regard to reservation having regard to provisions under Article 15 & 16 of the Constitution, but such policy cannot violate other Constitutional provisions (Article 341 & 342)." The Hon'ble Court in para 41

(page 53) of the judgment has observed that "if the members of the SC and ST in other States are to be treated as backward classes for Delhi intensive studies were required to be made in regard to question whether they would come within the purview of the definition of "Backward Classes" so as to answer the description of socially and educationally backward; and held in para 46 (page 74-75) as given below:

.....we are bound by a Constitution Bench decision. We have referred to Constitution Bench decisions, namely Marri Chandra Shekhar Rao and E.V. Chinnaiah. Marri Chandra Shekhar Rao, had been followed by this Court in a large number of decisions including three Judges Bench decisions. Pushpa, therefore, could not have ignored either Marri Chandra Shekhar Rao or other decisions following the same only on the basis of an administrative circular issued or otherwise and more so when the Constitutional scheme as contained in clause (1) of Article 341 and 342 of the Constitution of India putting the State and Union Territory in the same bracket.

Following Dayanand (supra), therefore, we are of the opinion that the dicta in Pushpa is an obiter and does not lay down any binding ratio.

Keeping in view the judgment, the Ministry of Home Affairs has proposed to draft a Bill for inclusion of the names of the communities of migratory Scheduled Castes and Scheduled Tribes in the lists of Scheduled Castes and Scheduled Tribes of Delhi notified under Article 341 and Article 342.

The Commission expressed the view that Delhi is a National Capital Territory and large number of people had migrated to Delhi after independence in 1947. The population of Delhi in 1951 Census was 17.44 lakhs only. This included the population which had migrated from Pakistan during and after partition. The population of Delhi as per 2001 Census is 137.83 lakhs. This huge increase in population from 1951 to 2001 can not be attributed to normal growth only, but also combines the effect of continuous migration of people from other regions in search of opportunity or employment. Since services and posts under Union Government and its organisations/ offices and financial institutions, which are mainly located in Delhi, recruit personnel on an All-India basis, the Scheduled Castes, Scheduled Tribes as well as other population from all over the country have settled in Delhi after their appointments under the Central Government. While no STs have been specified in relation to Delhi, the number of ST migrants from other States who have settled in Delhi, is not available. However, the communities of many SC migrants is also included in the list of SCs specified in relation to Delhi and they may have been returned as SC of Delhi in various Census enumerations; and may also have secured Caste certificates issued

Anduram

L and
other UTS

from Delhi mentioning that they were ordinary residents of Delhi entitling them to the benefits of Scheduled Castes meant only for the original SC communities of Delhi. This would tantamount to discriminatory treatment of ST migrants population.

In view of above the Commission recommended as follows:-

- i) While refraining comment on the merit of the Hon'ble Supreme Court judgment since Commission does not have any legal expertise, the Commission recommend that a common list of SC & ST communities notified under Article 341 and Article 342 in respect of all UTs including Delhi may not be notified as this may lead to marginalization of the original tribal natives of the concerned UT beside compromising the sanctity of Article 341 and 342.
- ii) Keeping in view the unique status of NCT of Delhi being the National Capital and the fact that the employment opportunities and educational facilities of high order have been created through the use of central revenues in the NCT of Delhi, it is desirable to extend the benefit of reservation, to the STs and SCs resident in Delhi irrespective of their nativity and period of residence retaining reservation level of 7.5% for Scheduled Tribes and 15% for Scheduled Castes as admissible at National level.
- iii) A constitutionally valid scheme of reservation may be evolved to extend benefits of reservation to migratory SCs & STs living outside their original place of nativity.

Agenda Item IV Amendment to Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Rules, 1995

After considering the proposal the Commission recommended the following:

- (i) The Commission appreciated the proposal of amendment in Rule (7) to insert the Rule "7(A) submission of the report to Central Government etc. in case of serious offences". The Commission recommended following changes in the proposal
As per Section (1) of the proposed Rule 7(A) that "whenever FIR was registered under sub-clause (i), (iv) or (v) of sub-section 2 of Section 3, the concerned DM shall submit a preliminary report within 4 days". It should be replaced as "whenever a complaint is made to be registered under sub-clause (iii), (v), (xi) or (xii) of sub-section (1) of Section 3, the concerned Supdt. of Police shall submit a preliminary report within 4 days".
- (ii) The proposed amendments at S.No. (ii), (iii) and (iv) are agreed as proposed.

Agenda Item V Writ Petition No. 3528 of 2009 filed by Shri Purushottam Sonkusre Vs Delimitation Commission, New Delhi & Ors. in the High Court of Bombay, Nagpur Bench challenging the list of Assembly constituencies reserved for STs in the Maharashtra Legislative Assembly.

The Secretary informed Commission was that Commission had received a

representation, dated 08-05-2006 from the petitioner regarding reconstitution of Assembly segments of Maharashtra Legislative Assembly under the Delimitation Act. The Commission had forwarded the representation of the petitioner to the Delimitation (Election) Commission of India for necessary action. In response, the Election Commission sent a list of constituencies of Maharashtra Legislative Assembly to this Commission vide their letter, dated 09-03-2009. A copy of the Election Commission's letter, dated 09-03-2009 alongwith the enclosures was forwarded to the petitioner on 20-03-2009. The petition has made a mention of this correspondence in para 16 of Writ Petition and has opposed to the procedure adopted by the Delimitation Commission in identifying the Assembly Constituencies reserved for the Scheduled Tribes in Maharashtra State Assembly. [

The Secretary further mentioned that the contention of the petitioner in challenging the list of assembly constituencies reserved for STs is not clear. Besides, the subject matter of the Writ Petition is primarily the concern of the Delimitation Commission (Election Commission of India). The Ministry of Tribal Affairs and Registrar General of India are also concerned with the issue. The Commission may, therefore, leave the matter for decision by the Hon'ble High Court. The Commission agreed to the suggestion made by the Secretary and decided that there was no need to file any statement in the Court.

3. The meeting ended with a vote of thanks to the Chair.

(as to procedure adopted by Delimitation Commission seems to be in order.)

8th 1/11/09

National Commission for Scheduled Tribes

Sub: Meeting of the National Commission for Scheduled Tribes – Agenda points for discussion – Fixation of date of the meeting.

Reference discussion with Secretary, NCST on 08/02/2010, the following issued/received from various Units of the Commission which require discussion in the meeting of the Commission for formulating its views and forwarding of the same to the concerned Ministry/ Department are pending for discussion.

Consolidated proposal?

S.No.	Subject	Received from	Concerned F.No. / Circulated with letter/ OM No.	Member concerned	Remarks
1	Guidelines for dealing with cases relating to matters/ complaints received in the Commission.	Internal	05/05/2008	-	Pending from 3rd meeting, Agenda-IV 12/5/2008 16th Meeting, A-I, 17/11/09
2	Amendment of Rules of Procedure of National Commission for Scheduled Tribes	Internal	12/3/2009-Coord.	-	Pending from 12th meeting, Agenda-I on 30/6/2009
3	The Scheduled Castes and Scheduled Tribes (Reservation in posts and services) Bill 2008 as passed by Rajya Sabha.	Downloaded from the Website of Rajya Sabha (Matter being dealt by DoPT)	Policy-13/1/ NCST/2004- Admn.-(RU-I)	Member (TS)	Pending From 16th meeting, Agenda-V on 17/11/2009
4	Recommendations made by Administrative Reforms Commission in its 7th Report titled "Capacity Building for Conflict Resolution-Friction to Fusion" – Remaining issues	Department of Administrative Reforms & Public Grievances, MoPT.	RR/ Policy/ 17/ VIP/ 1000/ 2008/ RU-I	Member (OSM)	Pending From 13th meeting, Agenda-I on 3/7/2009
5	Civil Writ Petition No. 507/06 titled Sarv Rural & Urban Welfare Society Vs Union of India regarding grant of reservation to migrant SCs/ STs in civil posts under the Government of NCT of Delhi.	MHA	RU-I	VC	
6	Amendment in Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Rules, 1995	MSJE	Policy-1/ ATROCITY/ MTA / 2010/ RU-II	VC	

2. In the meeting of the NCST held on 05/02/2010, it was tentatively decided to hold next meeting of the NCST on 22/02/2010. If agreed, all the issue mentioned above may be discussed in the next meeting of the Commission.

3. File is submitted for kind approval of Hon'ble Vice-Chairman, who is also Acting Chairman, NCST at present.

[Signature]
(R.C. Durga)
Director
09/02/2010

JOINT SECRETARY *[Signature]*

Secretary Note on Agenda item 2,4 requires revision before the consideration by the Commission and may be taken up later. Agenda note re: Writ Petition 3508/2009 circulated on 9/2/2010 may be considered in the meeting so that the

~~from page~~
Commissions views on delimitation of ST constituencies
can be finalised and presented before the Bombay
High Court.

~~Vice Chairman~~

~~Representative of~~

O.K. at 11.11.11/2/010

11/2/2010

Issue
Justice/Agenda
for Unity
12/2/10

~~Secretary~~

ca
1/12

DIRCD

11/11/11/2/010
12/02/2010

			No. 1/5/09-Coord dt. 09/02/09		
5.	Writ Petition No. 3528 of 2009 filed by Shri Purushottam Sonkusre Vs Delimitation Commission, New Delhi & Ors. in the High Court of Bombay, Nagpur Bench challenging the list of Assembly constituencies reserved for STs in the Maharashtra Legislative Assembly.	Maharashtra	CC/1/ 2009/ STGMH/ DEOTH/ RU-IV dt. 09/02/09	VC	

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 (Admn.)
- (vi) DD(RU-IV)

Copy for information and record in F. No. 1/5/09-Coord



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राष्ट्रीय अनुसूचित जनजाति आयोग
GOVERNMENT OF INDIA

NATIONAL COMMISSION FOR SCHEDULED TRIBES

(A Constitutional Commission set up under Art. 338A of the Constitution to investigate and monitor all matters relating to violation of rights and safeguards provided for STs.)

संख्या/ No. 1/2/10-Coord.

दिनांक/ Date: 12.02.2010

To

- 1) Shri Maurice Kujur, Vice-Chairperson
- 2) Shri Tsering Samphel, Member
- 3) Shri Oris Syiem Myriaw, Member

[Handwritten signature and date 16/2/10]

Sub: 18th Meeting of the Commission to be held at 11:00 AM on 22/02/2010.

Sir/ Madam,

I am directed to refer to the decision taken in the meeting of the Commission held on 05/02/2010 and to say that the next meeting of the Commission will be held on 22/02/2010 at 11:00 AM in the Conference Room of the Commission. The meeting will be presided over by Shri Maurice Kujur, Acting Chairman. The following will be the Agenda for discussion:

S.No.	Subject	Received from	Concerned F.No. / Circulated with letter/ OM No.	Member concerned	Remarks
1	Guidelines for dealing with cases relating to matters/ complaints received in the Commission.	Internal	Circulated vide letter No. 1/3/08-Coord. dt 05/05/2008	-	Pending from 3rd meeting, Agenda-IV 12/5/2008 16th Meeting, A-I, 17/11/09
2	The Scheduled Castes and Scheduled Tribes (Reservation in posts and services) Bill 2008 as passed by Rajya Sabha.	Downloaded from the Website of Rajya Sabha (Matter being dealt by DoPT)	Policy-13/1/ NCST/2004-Admn.- (RU-I) Circulated vide letter No. 1/12/09-Coord. dt. 27/02/09	Member (TS)	Pending From 16th meeting, Agenda-V on 17/11/2009
3	Civil Writ Petition No. 507/06 titled Sarv Rural & Urban Welfare Society Vs Union of India regarding grant of reservation to migrant SCs/ STs in civil posts under the Government of NCT of Delhi.	Ministry of Home Affairs	RU-I Circulated vide letter No. 1/5/09-Coord. dt 31/12/09	VC	
4	Amendment in Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Rules, 1995	Ministry of Social Justice & Empowerment	Policy-1/ ATROCITY/ MTA / 2010/ RU-II Circulated vide letter	VC	

5.	Writ Petition No. 3528 of 2009 filed by Shri Purushottam Sonkusre Vs Delimitation Commission, New Delhi & Ors. in the High Court of Bombay, Nagpur Bench challenging the list of Assembly constituencies reserved for STs in the Maharashtra Legislative Assembly.	Maharashtra	No. 1/5/09-Coord dt. 09/02/09 CC/1/ 2009/ STGMH/ DEOTH/ RU-IV dt. 09/02/09	VC	
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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 (Admn.) 
- (vi) DD(RU-IV) 

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I

Draft

Guidelines to deal with representation/ complaints pertaining to various safeguards received from ST person

In order to ensure systematic and expeditious disposal of petitions/complaints and representations received in the National Commission for Scheduled Tribes pertaining to violation of safeguards provided to Scheduled Tribes, the following guidelines are laid down for dealing with these cases:

(1) All cases of individual/associations' complaints /representation pertaining to violation of safeguards in respect all ministries of Govt. of India and there attached offices/PSEs, Bank etc., matter related to State Govt./UTs will be dealt by the respective Units.

The allocation of work pertaining to service safeguards, economic and social development educational development and atrocities and has already been allotted to the research units vide Commission's O.M. dated -----

(2) On receipt of any complaint/representation, the Unit-in-Charge will go through the contents of complaints/representations carefully and take action as given below:

In case, the complaints/representation is

- (i) unsigned or anonymous .
- (ii) an endorsement to the Commission but not addressed to Commission.
- (iii) The cases which are sub-judice before the court of law or has been decided legally by court the Commission will not interfere and intervene.
(The unit in charge RO/AD will file the representation after recording the reasons and the petitioner will be informed accordingly).
- (iv) The representations pertaining to administrative matter such as of non payment of salary pension, grant of leave transfer, allotment of houses etc. will be put up by the unit in charge. Prima-facie if the Director/DS will find, it is neither a case of a violation safeguards nor of harassment of the discrimination then he may at his level either close the case or merely forward it to concerned Ministry Departments of State Govt. / Banks for necessary appropriate action. The petitioner may be informed stating that his case has been forwarded and he may pursue the matter at his level with the organization.
- (v) Complaint/ representations regarding transfer, disciplining proceedings and ACRs, where it appears prima-facie that there is some harassment and discrimination, the Director/DS may approve for calling the comments of the departments/offices in which the petitioner is posted, within 30 days time.

While examining the Service matter

representation of service grievances pertaining to Direct Recruitment & promotion and other from of harassment bias discrimination notice may be sent for calling comments in cases, where it is found appropriate the recruitment rules, seniority list, DPC minutes, and attested copies of rosters may be called for analysis on examination, if it is found to be a fit case in which violation of Recruitment Rules have not been followed. The concerned officers may be advised to take suitably action carry out corrective remedial action.

In transfer cases where it is found that discrimination is meted out to the petitioner transfer policy may be called for examination. On examination if it is noted that transfer policy is applied fairly or arbitrarily. In case arbitrating action is found, in the circumstances action to suitable proceed with the action of investigation and put up the case to Dir/ DS for further action/ hearing. If there will be no issue of discrimination/harassment the Commission should not intervene and inform the petitioner of the position after the approval of Joint Secretary,

So for as maintainers of seniority and its determination is concerned, there is set procedure of DoPT and accordingly seniority is determined and restored, on such issues correspondences may be checked that seniority is being maintained and restored as per rules in accordance under latest rules of DOPT on the subject for restoration of seniority and send that petitioner seniority is wrongly fixed, case may be put upto Dir/ DS for further advice/ direction/ hearing.

A copy of the communication can also been endorsed to the liaison officer of the Ministry department, bank/ PSEs for his intervention. On receipt of the information, the case may be got examined and if the Director/DS is of the opinion that there is no case of violation of safeguards/harassments discrimination etc. he may close the case at his level and inform the petitioner. If found otherwise, the case may be processed further.

Compassionate appointments

In cases of representations/petitions/rejoinders of compassionate appointments, it is a need base appointment there are large number of cases because the Scheduled Tribes families suffer of pecuniary conditions the Commission should write to the departments/organizations for sympathetic considerations..

Appointment

There are cases where requests are made by the petitioner to the NCST recommendations for appointments; in such cases the petitioners may be informed that NCST does not entertain such requests. They may be advised to apply against the vacant posts advertised/sponsored by the employment exchanges according to fulfillment of qualifications and conditions.

Rosters

The unit in charge should call for the comments with relevant information of concerned Ministry/ Deptts/ PSEs/ Banks State/ UTs Deptts. giving the 30 days time. All communication in this regard should clearly mention/ Deptt. whose attention is drawn with correct address. The name and address of the official should clearly mention on the envelop. A copy of the letter addressed to the officers concerned may also be sent to the petitioner as acknowledgment and in case no reply is received within 1 month, second and third reminder from higher level will be sent. In non-response of above a d.o. letter from further higher authority i.e. Joint Secretary may be addressed.

Complaints are received regarding non maintenance of rosters properly by the departments. These cases are to be taken up with the department/organization concerned at the time of review/monitoring meetings on implementation of reservation of service safeguards. On sample basis copies of the rosters can be called. Petitioner/association may be informed accordingly (to be discuss as JS).

Complaint/ representation received from individual members of Scheduled Tribes or their Associations with regard to grievances relating to socio-economic development of STs such as policy issues and admission in Education Institutions, land alienation, displacement, rehabilitation allotments etc. The matter may be taken up with Ministry/ Deptt./ State Govts./ UTs and concerned institutions, while taking up the issues the Unit Incharge may please ensure:

Education/admissions

Complaints/representation with regards to educational matters like admission delay in issuance of degree, change of subjects etc. The cases with regard to state Universities/ Central University in the jurisdiction of Regional office of NCST may be sent to Regional office of the Commission under intimation to the petitioners.

Rehabilitation and displacement.

Representation/ complaints received from individual association affecting the STs, the complaints grievances may be sent to concerned rehabilitation authority in the State/UTs and Ministry concerned. The petitioner may be informed of the action taken.

Policy matter of rehabilitation/ displacement the Dir/ DS may decide to study the case carefully and put up to higher for action Members may take up the matter at National and local levels about applicability/application and policy and defectiveness in the policy to decide the grievances of ST petitions/ in habitation.



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GOVERNMENT OF INDIA

NATIONAL COMMISSION FOR SCHEDULED TRIBES

(A Constitutional Commission set up under Art. 338A of the Constitution to investigate and monitor all matters relating to violation of rights and safeguards provided for STs.)

संख्या/ No. 1/2/10-Coord.

दिनांक/ Date: 12.02.2010

To

- 1) Shri Maurice Kujur, Vice-Chairperson
- 2) Shri Tsering Samphel, Member
- 3) Shri Oris Syiem Myriaw, Member

Sub: 18th Meeting of the Commission to be held at 11:00 AM on 22/02/2010.

Sir/ Madam,

I am directed to refer to the decision taken in the meeting of the Commission held on 05/02/2010 and to say that the next meeting of the Commission will be held on 22/02/2010 at 11:00 AM in the Conference Room of the Commission. The meeting will be presided over by Shri Maurice Kujur, Acting Chairman. The following will be the Agenda for discussion:

S.No.	Subject	Received from	Concerned F.No. / Circulated with letter/ OM No.	Member concerned	Remarks
1	Guidelines for dealing with cases relating to matters/ complaints received in the Commission.	Internal	Circulated vide letter No. 1/3/08-Coord. dt 05/05/2008	-	Pending from 3rd meeting, Agenda-IV 12/5/2008 16th Meeting, A-I, 17/11/09
2	The Scheduled Castes and Scheduled Tribes (Reservation in posts and services) Bill 2008 as passed by Rajya Sabha.	Downloaded from the Website of Rajya Sabha (Matter being dealt by DoPT)	Policy-13/1/ NCST/2004-Admn.- (RU-I) Circulated vide letter No. 1/12/09-Coord.dt. 27/02/09	Member (TS)	Pending From 16th meeting, Agenda-V on 17/11/2009
3	Civil Writ Petition No. 507/06 titled Sarv Rural & Urban Welfare Society Vs Union of India regarding grant of reservation to migrant SCs/ STs in civil posts under the Government of NCT of Delhi.	Ministry of Home Affairs	RU-I Circulated vide letter No. 1/5/09-Coord. dt 31/12/09	VC	
4	Amendment in Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Rules, 1995	Ministry of Social Justice & Empowerment	Policy-1/ ATROCITY/ MTA / 2010/ RU-II Circulated vide letter	VC	

Where it is noticed that displacement/rehabilitations is of major measure affect for Scheduled Tribes. Member should enquire and take up the matter for investigation.

Census

Information/query asked about census report/studies, such cases may be forwarded to RGI for appropriate action with a copy to petitioner.

Complaint/ representation received from individual members of Scheduled Tribes or their Associations with regard to grievances relating to socio-economic development of STs such as atrocity, Institution, Association etc. The matter may be taken up with Ministry/ Deptt./ State Govts./ UTs and concerned institutions, while taking up the issues the Unit Incharge may please enter:

Court Cases:

Where National Commission for Scheduled Tribes is made respondent in individual cases The case is to be examined accordingly and put up to Dir/ DS for further action. (To discuss with Joint Secretary). While dealing in the socio-economic cases and atrocity cases the comments are to be called as per laid down proceed for other service matters.

- (vi) Case is to be finalized within 90 days and every case is to reviewed every month within 30 days. If this also does not bring an adequate response than the matter may be placed before the Member through Joint Secretary for summoning/ hearing the concerned officers.
- (vii) The reply received from the departments/state/UTs will be examined by the Unit in detail and clearly established in its note, the rules / regulations and safeguard State Govt./UTs, if any that have been violated by the departments. The Director/DS will go through the case carefully and if, it is found that there is no violation/harassment/discrimination of any reservation /regulation policy and there is no case than the case may be put up with remarks, if Joint Secretary agrees to this view he may close the case at his level.
- (viii) Procedure and guidelines for summons
- (ix) Summons may be issued only when concerned Ministry/ Deptts./ PSEs/ Banks/ State/ PSUs etc. have failed to response/ or to deal to emergent situations for inquiry after identifying the issues and analysis of the reply received and examined. (The time frame for summons has to be decided application of rule 29 in emergent situation is also to be discussed).
- (x) No case will be closed at the level of RO/AD.
- (xi) On examination if it is found that certain rules/ regulations and instructions of Govt. have been violated than the Director/DS will..

- process the case and put up the case who would record the comments and sent to the concerned Member.
- (xii) The member may like to the conduct hearing and hear the petitioner, the department concerned member may like to call the liaison officer to whom the petitioner endorsed at initials stage it self. During the hearing the unit officer will assist the member concerned and make a record and brief note for discussion held during the hearings.
 - (xiii) The hearing will be fixed by the members indicating the suitable convenient date and time according to suitability and need based in emergent situation.
 - (xiv) To facilitate this hearing the personal staff of the member will maintain diaries listing the cases which the Members have fixed for hearing.
 - (xv) Details of such hearings may also be placed on the notice board in the Room of Secy. and JS for their information. The personal staff of the Member will ensure that file pertaining to hearing case reach the member before two days of hearing. The unit officer and the staff will maintain the similar diary and ensure that there is no delay in processing of cases as per above schedule of the Member. Unite officer will also ensure keeping with his the relevant copies of the order/rule /regulation which are relevant to the cases after conducting the hearing, if it is found there is a violation of specific rules and regulations, a letter may be sent to the concerned head of the department for redressal of grievance or if it is decided the finding are to be issued it may be ensured that the same are routed through the joint Secy./Secy. A copy finding may also be endorsed to the petitioner.
 - (xvi) The concerned unit will maintain all records in office Computer System Ministry wise, Deptt./State/UTs wise as per the prescribed procedure. After following the above procedures separate details cases dealt and closed/successful/to be in corporate in Annual Report are to be kept for record purpose.
 - (xvii) Some times the concerned individual/associations send their representations simultaneously to Members of the Commission, in such eventualities, the unit Officer AD/RO may ensure that these representations are all linked together in one file and the case process accordingly.

National Commission for Scheduled Tribes

Suggestions relating to Crimes and Atrocities on the Scheduled Tribes

1. Suitable amendments need to be carried out in Rule 7 (1) and also Rule 5 (3) of the SCs and STs (POA) Rules, 1995 to empower, apart from the Deputy Supdts. of Police, the Police Inspectors also with a view to expedite the investigation of cases of atrocity on members of Scheduled Tribes..
2. In all the districts of the Fifth Schedule States, Special Courts may be exclusively set up instead of designating Additional Session Courts or Session Courts as a Special Courts. There is also need to appoint Special Public Prosecutors.
3. Chief Secretaries of the nine 5th Schedule States which have not yet prepared and notified the Contingency Plans in terms of Rule 15 of the SCs and STs (POA) Rules, 1995 may be requested to the needful.
4. State/UT Govts. may be requested to make necessary arrangements to ensure that the investigation process is completed within the prescribed period of 30 days and that the victims/their dependents are provided economic assistance immediately after the incident.
5. In case the ST victim is not satisfied with the performance of the Public Prosecutor (PP), he/she should be allowed to change the P.P. and engage a private lawyer/advocate and the expenses for engaging private lawyer should be borne by the State Govt.
6. Legal aid, for which there is provision in the SCs and STs (POA) 1989, should be disbursed to the ST victim as early as possible. Awareness programme about grant of legal aid should be launched in tribal areas so that the victims could come to know about availability of free legal aids.
7. The amount of financial relief under Rule 12(4) of the SCs & STs (POA) Rules, 1995 is required to be provided to the victim immediately after the incident. However, it has been noticed that some of the district authorities are not providing the relief particularly in cases of murder, grievous hurt, rape and arson immediately after the incident. Necessary orders should be issued to all the District Magistrates to ensure immediate payment of financial relief especially in heinous offences and in other offences of atrocity as per provision of these Rules.
8. The amount of financial relief to the victims of the atrocities under Rule 12(4) of the SCs & STs (POA) Rules, 1995 should be reviewed and suitably increased in recognition of the hard fact that the cost of living over the past one decade, starting from 1995 has enormously gone up.

National Commission for Scheduled Tribes

Guidelines for dealing with De-reservation matters received in the Commission.

- (i) Proposals for dereservation of vacancies reserved for Scheduled Tribes in promotion
 - a) A post reserved for Scheduled Tribes has to be filled by a candidate from amongst Scheduled Tribes only and in normal course such reserved posts should be kept vacant until filled by the eligible ST candidate.
 - b) There is complete ban on dereservation of vacancies reserved for Scheduled Tribes (and also Scheduled Castes) in Direct Recruitment.
 - c) In case of appointment by promotion, if a post reserved for ST can not be filled due to non-availability of the eligible ST candidate at the time of promotion as also in near future and for the reason that keeping the post vacant for a very long time may adversely affect the functioning of the Ministry/ Organisation the competent authority may seek dereservation of the post by sending a proposal, in the prescribed proforma, to the National Commission for Scheduled Tribes and to the Department of Personnel and Training.
 - d) After approval by DoPT and NCST the vacancy can be dereserved by the competent authority and the dereserved vacancy may be filled by promoting the eligible non-ST candidate as per promotion rules. However, dereservation does not lead to lapse of the point of reservation for Scheduled Tribes and this point has to be carried forward for promotion in the next Recruitment year. The vacancy occurring in the near future or in the next Recruitment year has to be reserved for ST, keeping in view other conditions relating to filling the vacancies in a Recruitment year. In case no eligible ST candidate is available for appointment by promotion against the post reserved against the carried forward from previous year, the competent authority has to seek dereservation again.
 - e) In order to ensure that the rights of Scheduled Tribes are not likely to be encroached through the process of dereservation, we should call the following information from the concerned authorities.
 - ↓ Recruitment Rules for the post for which dereservation has been sought
 - ↓ Post Based Roster and up-to-date Seniority list of the Officers holding the posts (one of which has been proposed for dereservation)

- ✚ Recruitment Rules for the post which is a feeder post for the post which has been proposed to be dereserved.
 - ✚ Post Based Roster and up-to-date Seniority list of the Officers holding the feeder cadre posts.
 - ✚ Reasons for non-availability of ST candidates in near future from amongst the officers of the feeder cadre posts and efforts made in the past to fill the vacancies reserved for Scheduled Tribes in the feeder cadre as well as the posts out of which dereservation is sought.
- f) After receipt of above information, if it is noticed that an eligible ST candidate is likely to be available in near future/ within a year the concerned Ministry/ Organisation may be advised to grant promotion on ad-hoc basis to such a candidate and he may be regularized on completion of eligibility condition. However, if no eligible ST candidate is likely to be available in near future or next Recruitment year, the proposal to de-reserve the post may be agreed to, subject to the following conditions:
- ✚ The reserved point agreed for dereservation will be carried forward to be filled in future or in the next recruitment year from amongst the ST candidates and the next vacancy occurring in the cadre may be reserved for ST.
 - ✚ If there is no likelihood of availability of ST candidate in the feeder cadre posts in the near future/ next recruitment years, the vacancy to be filled against carried forward point may be filled by Direct Recruitment, if the RRs provide for DR and later on a DR vacancy may be exchange with promotion process.
 - ✚ In case RRs of feeder cadre post do not provide for DR and there is non-availability or no likelihood of availability of ST candidate, the concerned Ministry/ Organisation may consider amending the RRs of feeder cadre post and the post under consideration for making provision of the clause "failing which by DR" in the RR so that the point reserved for STs are timely filled from amongst ST candidates.

The above exercise is necessary to ensure that the need for dereservation of the same post does not arise in future and due share is made available to Scheduled Tribes in each level of post and also to ensure that the public interest of the Ministry/ Organisation does not suffer.

National Commission for Scheduled Tribes

Draft Internal guidelines for examining the proposals of inclusion in/exclusion from the list of Scheduled Tribes.

In the Constitution of India, no criteria have been spelt out for the specification of a community as a Scheduled Tribe. However, taking into account the definitions in the 1931 Census and the Reports of the first Backward Classes Commission (Kalelkar) 1955, the Advisory Committee on Revision of SC/ST lists (Lokur Committee) 1965 and the Joint Committee of Parliament on the SCs & STs Orders (Amendment) Bill, 1967 (Chanda Committee) 1969, the following criteria are followed for specification of a community as a Scheduled Tribe:-

- a. Indications of primitive traits,
- b. Distinctive culture,
- c. Geographical isolation,
- d. Shyness of contact with the community at large, and
- e. Backwardness.

2. As per the approved modalities for deciding the claims of inclusion/exclusion w.r.t. ST lists, proposals favoured by the State Governments and the RGI are referred to the NCST for opinion by the Ministry of Tribal Affairs. The Commission also directly receives some representations from individuals, associations, etc on the subject. The Commission is not concerned with these representation and therefore the same may be forwarded to the Ministry of Tribal Affairs for appropriate action under intimation to the representationists.

3. The Commission may examine the proposals received form the MTA as per its own procedure. With a view to ascertain that the proposals are based on the broad criteria, referred to in para 1 above, the Commission may apply the following tests with reference to any particular community:-

(A) Way of Living.

- (i) Habitations in geographically isolated areas, hilly terrains, islands, deserts, etc.
- (ii) Prevalence of primitive traits in the matters of clothing, cleanliness etc.

- (iii) Engagement in occupations like hunting, trapping of bird & animals, stone carving, making of articles from forest wood and bamboo, hide & skin work, etc.
- (iv) Mostly non-vegetarians with distinctive food habits like consuming roots and tubers, meat of animals, home made alcoholic drinks etc.

(B) Social customs and Religious practices.

- (i) Distinctive and specific sphere/circle for marriages. Most of the tribal groups are Endogamous and the system of consanguineous marriages is prevalent in most of the tribal areas.
- (ii) Peculiar rituals and ceremonies for marriages.
- (iii) Specific 'Deities' and peculiar ways of worshipping.
- (iv) Peculiarity in dress, e.g. wearing of headgears including turbans, ornaments, body marking, tattooing, etc.
- (v) Unflinching faith in the dictates of Clan Heads.

(C) Dialect.

Peculiarity of language/dialect generally distinct from the general population in the area.

(D) Educational and Economic Status

- (i) Very low rate of literacy as compared to the general literacy rate in the area.
- (ii) Living in very poor conditions much below the poverty line. No sense of savings and dependence on money lenders.

4. The above criteria/tests have to be applied keeping in view the fact that the tribes in India are tribes in transition. The criterion of backwardness thus remains as the main criterion. The relative backwardness of a community as compared to the society at large and other communities in the area has therefore to be judged. For this propose, data on economic development, educational development and social development of the community should be analysed. Such data should, inter-alia, include the data on the representation of the community in government/public sector services, political institutions like Parliament, State Assemblies and local bodies.

5. The following procedure may be adopted for applying the above tests:-
- (a) The opinion/comments from public (**supporters as well as opponents**) may be obtained. For this purpose, necessary notices may be got **published in the newspapers** and also put up on the website of the Commission. Thereafter, interested persons/associations may be called in the Commission for discussion. If necessary, a **public hearing** may also be held.
 - (b) Recommendations of the State Government and RGI may be examined thoroughly. **Reasons for not inclusion in the ST list earlier may be ascertained.** Relevant data from 1931 Census and onwards may be scrutinized. If necessary, the concerned officers from the State Government and RGI may be called for a meeting in the Commission.
 - (c) Report on the ethnographical survey, and case studies, if available, may be taken into account.
 - (d) Opinion of experts in the field of Anthropology/Sociology may also be obtained if considered necessary.
 - (e) If considered necessary, a study may be entrusted to some expert agency for determining the relative backwardness of the community.
6. A final view on any proposal may be taken by the Commission in its meeting after the matter has been examined by applying the above procedure.

DRAFT

Guidelines for dealing with the complaints/representations received in the NCST about issuance of ST certificate/false certificates/delay in issuance by the authorities empowered to issue ST certificate.

Area of concern.

- (i) Complaints are often received that ST certificate are given to persons who do not in fact belonged to STs.
- (ii) Certificates of belonging to a particular ST have not been issued strictly in accordance with the principle governing the issue of such certificates.
- (iii) The certificates have been issued to in eligible persons, carelessly or deliberately without proper verification by officials empowered to issue such certificates and benefits availed by a person on false pretext.
- (iv) The STs who have migrated from one state to another for purpose of employment, education, etc experience difficulty in obtaining ST certificates from the State of migration as well as the State which they have migrated.

In order to remove these difficulties on verification and claims of STs the Govt. of India has issued instruction modified from time to time by the Govt. of India, the officers may take notice of the instructions in dealing with the complaints/representation about their seriousness, and follow it up a under:-

1. On receipt of complaint/representation or a reference received from Department/Ministry/organization the contents of the complaint/representation may be examined carefully to ensure whether it is a fit case for Commission to intervene. Check the merit of the complaint and suggest action as per guidelines.

- (i) The complaint/representation or reference is not unsigned or anonymous
- (ii) It should not be need endorsement to the Commission but addressed to it.
- (iii) Matter of the petition is not subjudice in the Court of Law or the case has not been earlier decided by any Court.

The merit of the case may be indicated by the unit officer on the representation and action taken accordingly under intimation to petitioner at initial stage.

In the matter where in clarification has been sought with regard to caste nomenclature/notification in the presidential (Constitutional Orders) and Govt. instructions, the petitioner may be advised to seek the clarification from Ministry of Tribal Affairs or Ministry of Social Justice and Empowerment, and if the matter is urgent the petitioner may be forwarded to MTA or MSJE with an endorsement to the petitioner advising him to make further correspondence with the Ministry concerned.

In reference/clarification where the verification and proof of caste certificate and claims is asked by the organization/Ministry/Department with regard to appointment purposes, it is the duty of the appointing authorities to verify the claim of candidates before employment and therefore, the organizations may be advised to approach the concerned District Magistrates/Collectors, who are the empowered authorities to issue such certificates.

Where the complaint is received that there are cases in which persons have produced false caste certificates as belonging to STs and secured a job/admission benefits of reservation against reserved post/ seat, the petition should be forwarded to the Organisation/ Educational Institution for seeking verification from the competent authorities i.e. District Magistrate/Collector who have issued the Certificates and are empowered to cancel the certificates under intimation to the complainant. The concerned Organisation/ Institute may also be advised that they may ask the concern beneficiaries to seek validation of the caste certificate from the Distt./ State Govt. Scrutiny Committee.

There may be petition alleging that Distt/ State Govt. Scrutiny Committee were not issuing validation certificate even after lapse of time frame prescribed by the Supreme Court, such petition may be sent to the Principal Secretary, Tribal Welfare Deptt. of State concern for advising the Scrutiny Committee to process the request on priority basis.

Inclusion/Exclusion

The NCST receives representation from the Individuals/petitioners/Associations and other forums for inclusion/exclusion of STs communities. The reference are to be examined carefully and suitably disposed off, keeping in view the provision under Article 342(1) and Article 342(2) and the various Constitutionals presidential orders from time to time.

There are certain guidelines/modalities framed by the Ministry of Social Justice and Empowerment vide letter No. 12016/36/96/SCD-(RL cell) – Vol. III dated 30.07.02., these modalities are to be considered necessary in dealing with such representations reference. However, in case a direct request/representation is received regarding inclusion/exclusion, it should be forwarded to the Ministry of Tribal Affairs, and to the concerned state Govts for appropriate action under intimation to the petitioner with advise to pursue the matter with Ministry of Tribal Affairs/State Govt. may also be informing them about the role of the Commission per modalities and duties under the Constitution. Who are the nodal Ministries/ Departments.

The involvement of the NCST and entertainment of such request can be taken care by the NCST (as per modalities) and as prescribed under Article 338(9) of the constitution as and when such proposals for inclusion/exclusion is received from Ministry of Tribal Affairs. Detailed guidelines for the purpose have been framed & circulated earlier.

copy
SNO 1300
भारत सरकार



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

HAND

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दिनांक/ Date: 27/02/2009

संख्या/ No. 1/12/08-Coord.

To:

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

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. *Not in this file (see file 1999)*
- (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,

(Aditya Mishra)
Joint Secretary

Copy with copy of enclosure for information to:

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

Agenda Note

Sub : Comments of National Commission for Scheduled Tribes on Reservation Bill 2008.

I Background.

A Draft Reservation Bill was forwarded by DoP&T in December, 2004 to National Commission for Scheduled Tribes for comments(Annexure – I). A joint meeting of NCSC and NCST was held on 13.12.2004 to finalize the comments on the draft reservation bill. Comments of National Commission for Scheduled Tribes were forwarded on 13.12.2004 (Annexure II). Again a meeting of National Commission for Scheduled Tribes was called on 17.12.2004 to formulate the views of the Commission on draft reservation bill for SCs, STs and OBCs. Supplementary comments on the draft reservation bill, 2004 were sent to DoP&T on 17.12.2004 (Annexure – III). A further supplementary comment was forwarded by NCST on 20.12.2004 to DoP&T (Annexure-IV).

The Reservation Bill, 2004 was introduced in the Rajya Sabha and Rajya Sabha Secretariat forwarded the Bill to National Commission for Scheduled Tribes for its views on the Bill. The earlier comments of the Commission forwarded to DoP&T were forwarded to the Rajya Sabha Secretariat. (Annexure – V)

Reservation Bill, 2008 for SCs and STs was introduced in Rajya Sabha and now tabled in Lok Sabha (Annexure – VI). It is understood that Government is planning to get the bill passed in the current Parliament Session. NCSC have forwarded their comments on the Reservation Bill, 2008 on 13.02.2009 to the President of India. (Annexure VII). Chairman, National Commission for Scheduled Castes has also recommended and forwarded the suggestions of a Forum of SCs and STs MPs to the Prime Minister of India on 21.02.2009 (Annexure VIII).

A statement showing provisions in the Draft Reservation Bill, 2004, the recommendations of National Commission for Scheduled Tribes and provisions in the reservation bill, 2008 has been prepared (Annexure IX).

II Earlier recommendations of the NCST on the subject of reservation in public services in its first report.

The rule of reservation should be extended in promotion by selection within Group 'A' posts in terms of the Constitution (77th Amendment) Act, 1995 and the Constitution (85th Amendment) Act, 2001, which amended Article 16 (4) to provide inter alia for making reservation in matters of promotion, with consequential seniority, to any class or classes of posts in services under the State in favour of SCs and STs.

As per the existing instructions, there is a ban on dereservation of reserved posts in direct recruitment. A similar ban should be imposed on dereservation of posts to be filled by promotion in view of the implementation of the post-based roster, with a view to protect the interests of candidates belonging to Scheduled Tribes in the matter of their promotions.

The principle of positive discrimination i.e. the rule of reservation should be extended to private sector also to fulfill the constitutional obligations of bringing about social equality

The scientific and technical posts including those intended for conducting research, or for organizing, guiding and directing research were brought for the first time within the scheme of reservation for SCs and STs up to the lowest rung of Group 'A' vide DP&AR's O.M. dated 23 June 1975. The Commission recommends that the scheme of reservation for SCs and STs in scientific and technical posts should also be extended beyond the lowest rung of Group 'A' posts/ services (i.e. within Group 'A').

Judiciary, Lok Sabha/Rajya Sabha Secretariat and Armed Forces should also be brought within the purview of reservation for Scheduled Castes and Scheduled Tribes as per recommendations of the erstwhile National Commission for Scheduled Castes and Scheduled Tribes as contained in para 4.75 and 4.77 of its Seventh Annual Report for the year 2001-02.

There should be reservation in appointments for work-charged posts as well as for appointments for a period of less than 45 days duration.

The scope of reservation for SC/ST candidates should be extended above the lowest rung of Group 'A' in respect of scientific and technical posts which are required for conducting research or for organizing, guiding and directing research. [As per the existing instructions, the reservation for SC/ST candidates in such posts is available only upto the lowest rung of Group 'A' posts.]

The minimum experience required for promotion to a post may be relaxed in the case of members of Scheduled Tribes if at any stage of their consideration for such promotion, sufficient number of candidates belonging to these communities possessing the requisite experience is not available to fill the reserved posts.

III Proposed Recommendations of the Commission

It is proposed that Commission may consider the further action to be taken in respect of the Reservation Bill, 2008.



भारत सरकार

राष्ट्रीय अनुसूचित जनजाति आयोग
GOVERNMENT OF INDIA

NATIONAL COMMISSION FOR SCHEDULED TRIBES

(A Constitutional Commission set up under Art. 338A of the Constitution to investigate and monitor all matters relating to violation of rights and safeguards provided for STs.)

संख्या/ No. 1/2/10-Coord.

दिनांक/ Date: 19.02.2010

To

- 1) Shri Maurice Kujur, Vice-Chairperson
- 2) Shri Tsering Samphel, Member
- 3) Shri Oris Syiem Myriaw, Member

Sub: 18th Meeting of the Commission to be held at 11:00 AM on 22/02/2010.

Sir,

I am directed to refer to the Commission's letter of even No. dated 12/02/2010 regarding next meeting of the Commission to be held on 22/02/2010 at 11:00 AM in the Conference Room of the Commission and to enclose herewith a copy of the Agenda Note on the following item:

S.No.	Subject
Agenda Item 3	Grant of reservation to migrant SCs/ STs in civil posts under the Government of NCT of Delhi – Proposal of MHA received vide their letter dated 27.11.2009 for inclusion of all Scheduled Caste & Scheduled Tribe communities in the list of Scheduled Castes and Scheduled Tribes respectively in relation to the NCT of Delhi and all other Union Territories - consequent to the judgment dated 04.08.2009 of Hon'ble Supreme Court of India in Civil Writ Petition No. 507/06 titled Sarv Rural & Urban Welfare Society Vs. Union of India.

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 (Admn.)
- (vi) DD(RU-IV)

Copy for information and record in F. No. 1/5/09-Coord and F.No. 12/1/10-Coord.

Agenda Note for Agenda Item No. 3

For the meeting of the Commission on 22/02/2010

NATIONAL COMMISSION FOR SCHEDULED TRIBES

Sub: Grant of reservation to migrant SCs/ STs in civil posts under the Government of NCT of Delhi – Proposal of MHA received vide their letter dated 27.11.2009 for inclusion of all Scheduled Caste & Scheduled Tribe communities in the list of Scheduled Castes and Scheduled Tribes respectively in relation to the NCT of Delhi and all other Union Territories consequent to the judgment dated 04.08.2009 of Hon'ble Supreme Court of India in Civil Writ Petition No. 507/06 titled Sarv Rural & Urban Welfare Society Vs. Union of India -Analysis and proposed recommendations.

I. Background:

The background position stated in the letter on the above subject received from Ministry of Home Affairs is as given below:

(i). The Hon'ble Supreme Court of India in its judgment dated 04.08.2009 in SLP No. 24327/2005 titled 'Subhash Chandra & Anr. Vs. Delhi Subordinate Service Selection Board & Ors' clubbed with WP (Civil) No. 507 of 2006 titled 'Sarv Rural & Urban Welfare Society Vs. Union of India & Ors' in the matter of reservation to migrant Scheduled Castes and Scheduled Tribes in NCT of Delhi has held that reservation in State or UT under Article 15 (relating to education) and Article 16 (relating to employment) can be given only to those Scheduled Castes and Scheduled Tribes who figure in the notified list under Article 341 or 342 for the State or UT, as the case may be.

(ii). It may be added here that, even though certain castes are notified as Scheduled Castes in respect of Delhi, the Government of NCT of Delhi has been following the all India pattern for a long time now in respect of reservation to civil posts under that Government and thereby giving reservation to all categories of SCs and STs irrespective of nativity.

(iii). Since the implementation of the said Supreme Court judgment may involve a major shift in the policy decision, Ministry of Home Affairs has decided that the Govt. may approach Cabinet posing all options. Keeping in view the unique case of NCT of Delhi, being the national capital Territory attracting migrants, it was felt that the scope for inclusion of migratory Scheduled Castes and migratory Scheduled Tribes in the lists notified under Article 341 and Article 342 in respect of all UTs including Delhi may be explored in consultation with the National Commission for Scheduled Castes and National Commission for Scheduled Tribes while also looking for the possibilities for providing a common reservation policy in respect of migratory Scheduled Castes and Scheduled Tribes to be made applicable to all UTs including Delhi.

2. In view of above the Ministry of Home Affairs have requested the National Commission for Scheduled Tribes to look into the matter and furnish views in this regard to the Ministry expeditiously keeping in view the said judgment of Hon'ble Supreme Court.

II. Examination of issues

3. The Commission does not possess the legal expertise to debate the merit of judicial pronouncement in the case. However, the matter relating to reservation for Scheduled Tribes in services and posts under Government of NCT of Delhi has earlier been discussed in detail in Chapter 6 of the 1st Report of the Commission (copy at ANNEXURE). The issues involved in the proposal are also more extensive since they also involve the principles of identification of Scheduled Tribes; and are discussed below:

(i). Tribal Characteristics:- There is no definition of STs provided in Article 342 of the Constitution of India, which merely lists communities declared to be Scheduled Tribes. Traditionally, however, the criterion followed for specification of a community as ST are indications of primitive traits, distinctive culture and geographical isolation, shyness of contact with the community at large and backwardness. This criterion is broadly used for determining of a community or a group of people as ST or otherwise. Geographical isolation is a major consideration which is considered for establishing ST characteristics of a community or group of people. Therefore, a community listed as ST in a State or Union Territory may not be a ST in another State or Union Territory, because the disadvantages suffered by a community in a geographical area of State or Union Territory may not be so in another State or Union Territory.

(ii). There may also be significant differences in the relative backwardness of different tribal communities living in different geographical regions of the country. Unless stratified reservation is mandated, it will be difficult to prevent marginalization of indigenous tribals and monopolization of reservation benefits by more advanced tribal communities. Thus, a common Reservation Order, e.g. for Delhi & A&N Islands may well lead to a farce.

(iii). Nativity:- At present, nativity of the person is of critical importance for getting the benefit of reservation. This issue was discussed in detail by the Hon'ble Supreme Court while deciding the case of Marri Chandra Shekhar Rao on 02.05.1990. It was directed by the Hon'ble Supreme Court in this case that the petitioner is not entitled to be admitted to the medical college in Maharashtra on the basis that he belongs to the ST in Andhra Pradesh. Following points were deliberated in the judgment:-

(a) There is a circular dated 22.02.1985 issued by the Govt. of India, Ministry of Home Affairs which inter-alia states "It is also

clarified that a SC/ST person who has migrated from the State of origin to some other State for the purpose of seeking education/employment etc will be deemed to be a SC/ST of the State of his origin and will be entitled to derive benefits from the State of origin not from the State to which he has migrated."

(b) In Article 342 of the Constitution it is mentioned that the President may with respect to any State or Union Territorywhich shall be for the purpose of this Constitution to be deemed to be STs in relation to that State or Union Territory.

(c) The SCs and STs in some States had to suffer the social disadvantages and did not have the facilities for development and growth. It is, therefore, necessary in order to make them equal in those areas where they have so suffered and are in the state of under development, to have reservation or protection in their favour so that they can compete on equal terms with the more advantageous or developed sections of the community.

(d) The decision in the case of Marri Chandra Shekhar Rao was also deliberated and cited in the judgment dated 11.02.2005, passed by a three Judge Bench consisting of Chief Justice of India (Justice R.C. Lahoti, Justice K.G. Balakrishnan, and Justice G.P. Mathur) in the Civil Appeal No. 6-7 of 1998 in the case of S. Pushpa & Ors. Vs. Sivachanmugavellu & Ors., which was made applicable in the matter relating to restoration of reservation of 7.5% for Scheduled Tribes in services and posts under Government of NCT of Delhi. The Court had held that the Union Territory of Pondicherry having adopted a policy of Central Govt. whereunder all Scheduled Castes or Scheduled Tribes, irrespective of their State were eligible for posts which were reserved for SC/ST candidates, no legal infirmity could be ascribed to such a policy and the same could not be held to be contrary to any provision of law.

(e) The same spirit was made applicable in restoring reservation for Scheduled Tribes in Delhi since Delhi, redesignated as National Capital Territory is primarily a Union Territory and the services under Government NCT of Delhi are also Central Services.

(f) The Hon'ble Supreme Court of India in its judgment in the WP(C) No. 507 of 2006 has differed with the judgment of the three Judges Constitutional Bench in the case of S. Pushpa & Ors. and opined in para 40 (page 50) of judgment that the Central/ State Governments "may lay down a policy decision in regard to reservation having regard to provisions under Article 15 & 16 of the Constitution, but such policy cannot violate other Constitutional provisions (Article 341 & 342)." The Hon'ble Court in para 41 (page 53) of the judgment has observed that "if the members of the SC and ST in other States are to be treated as backward classes for

Delhi intensive studies were required to be made in regard to question whether they would come within the purview of the definition of "Backward Classes" so as to answer the description of socially and educationally backward; and held in para 46 (page 74-75) as given below:

.....we are bound by a Constitution Bench decision. We have referred to Constitution Bench decisions, namely Marri Chandra Shekhar Rao and E.V. Chinniah. Marri Chandra Shekhar Rao, had been followed by this Court in a large number of decisions including Three Judge Bench decisions. Pushpa, therefore, could not have ignored either Marri Chandra Shekhar Rao or other decisions following the same only on the basis of an administrative circular issued or otherwise and more so when the Constitutional scheme as contained in clause (1) of Article 341 and 342 of the Constitution of India putting the State and Union Territory in the same bracket .

Following Dayanand (supra), therefore, we are of the opinion that the dicta in Pushpa is an obiter and does not lay down any binding ratio.

(iv) It is a fact that Delhi is a National Capital Territory and large number of people had migrated to Delhi after independence in 1947. The population of Delhi in 1951 Census was 17.44 lakhs only. This included the population which had migrated from Pakistan during and after partition. The population of Delhi as per 2001 Census is 137.83 lakhs. This huge increase in population from 1951 to 2001 can not be attributed to normal growth only, but also combines the effect of continuous migration of people from other regions in search of opportunity or employment. Since services and posts under Union Government and its organisations/ offices and financial institutions, which are mainly located in Delhi, recruit personnel on an All-India basis, the Scheduled Castes, Scheduled Tribes as well as other population from all over the country have settled in Delhi after their appointments under the Central Government. While no STs have been specified in relation to Delhi, the number of ST migrants from other States who have settled in Delhi, is not available. However, the communities of many SC migrants is also included in the list of SCs specified in relation to Delhi and they may have been returned as SC of Delhi in various Census enumerations; and may also have secured Caste certificates issued from Delhi mentioning that they were ordinary residents of Delhi entitling them to the benefits of Scheduled Castes meant only for the original SC communities of Delhi. This would tantamount to discriminatory treatment of ST migrants population.

(v) While considering the draft Delhi Educational Institutions (Reservation in Admission) Bill, 2009 at its meeting held on 06.11.2009, the Commission had observed that "Delhi being the National Capital of the country and the fact that the educational facilities of a high order have been created through the use of Central revenues, it was quite desirable to extend the benefits of reservation to the STs, from all over the country". While a residence requirement may indeed be prescribed for employment under the Government, local authority within a State or UT [Article 15(3)], the position of Delhi is rather unique, as being a National Capital Territory, facilities and services are created/ supported with the Central funds and revenues and the services and posts under Government of NCT of Delhi are treated as Central services. Therefore, it is quite appropriate that migrant ST population settled in Delhi should not be discriminated while giving recognition to Scheduled Castes who have migrated from other States and settled in NCT of Delhi, whether it is a matter of services under Delhi Government or admission to Schools and Colleges under Delhi Government.

III. **Proposed recommendation of the Commission:**

4. In view of above the Commission may like to recommend as follows:-

- i) While refraining comment on the merit of the Hon'ble Supreme Court judgment since it does not have any legal expertise, the Commission may not recommend a common SC & ST list notified under Article 341 and Article 342 in respect of all UTs including Delhi as this may lead to marginalization of the indigenous tribal people beside compromising the sanctity of Article 341 and 342.
- ii) Keeping in view the unique status of NCT of Delhi being the National Capital and the fact that the employment opportunities and educational facilities of high order have been created through the use of central revenues in the NCT of Delhi, it is desirable to extend the benefit of reservation to the STs resident in Delhi irrespective of their nativity and period of residence retaining reservation level of 7.5% for Scheduled Tribes and 15% for Scheduled Castes as admissible at National level.
- iii) A constitutionally valid scheme of reservation may be evolved to extend benefits of reservation to migratory SCs & STs living outside their original place of nativity.

Most Immediate
Court Case

F.No. U-13028/31/2006-Delhi-I
Government of India/Bharat Sarkar
Ministry of Home Affairs/Grih Mantralaya

North Block, New Delhi.
Dated the 27th November, 2009.

1. Shri R.S. Sirohi,
Secretary,
National Commission for Scheduled Tribes,
6th Floor, Lok Nayak Bhawan,
Khan Market, New Delhi – 110003.

2. Shri T. Theethan,
Joint Secretary,
National Commission for Scheduled Castes,
5th Floor, Lok Nayak Bhawan,
Khan Market, New Delhi – 110003.

*It circulate to Members
for consideration in
forthcoming meeting
of the Commission.*

*2. Intimate N/HA that
NCT's views would
be communicated thereafter
(per standard draft)*

Subject: **Civil Writ Petition No.507/06 titled Sarv Rural & Urban Welfare Society Vs Union of India regarding grant of reservation to migrant SCs/STs in civil posts under the Government of NCT of Delhi.**

Sir,

I am directed to say that the Hon'ble Supreme Court in its judgment dated 4.8.2009 in SLP No.24327/2005 titled 'Subhash Chandra & Anr Vs. Delhi Subordinate Services Selection Board & Ors' clubbed with Writ Petition(Civil) No.507 of 2006 titled 'Sarv Rural & Urban Welfare Society Vs. UOI & Ors' in the matter of reservation to migrant Scheduled Castes and Scheduled Tribes in NCT of Delhi has held that reservation in State or UT under Article 15(relating to education) and Article 16(relating to employment) can be given only to those SCs or STs who figure in the notified list under Article 341 or 342 for the State or UT, as the case may be. A copy of judgment dated 4.8.2009 is enclosed for ready reference. It may be added here that, eventhough certain castes are notified as SCs in respect of Delhi, the Government of NCT of Delhi has been following the all India pattern for a long time now in respect of reservation to civil posts under that Government and thereby giving reservation to all categories of SCs and STs irrespective of nativity.

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*Maybe to deal
as discussed in today's
meeting (1071) copy*
*For Consideration
of N/HA*
AD (Law) Dir/RC
14/11/09
4/12/09

2. Since the implementation of the said Supreme Court judgment may involve a major shift in the policy decision, it has been decided that we may approach Cabinet posing all options. Keeping in view the unique case of NCT of Delhi, being the national capital attracting migrants, it was felt that the scope for inclusion of migratory SCs and migratory STs in the lists notified under Article 341 and Article 342 in respect of all UTs including Delhi may be explored in consultation with the National Commissions for STs and SCs while also looking for the possibilities for providing a common reservation policy in respect of migratory SCs and STs be made applicable to all UTs including Delhi.

3. In these circumstances, National Commission for Scheduled Tribes and National Commission for Scheduled Castes are requested to look into the matter and furnish their views in this regard to this Ministry expeditiously keeping in view the said judgment of Hon'ble Supreme Court.

Encl.: as above

Yours faithfully,



(A.K. Saxena)

Director(Delhi)

Telefax: 2309 4387

REPORTABLE

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. _____ OF 2009
(Arising out of SLP (C) No.24327 of 2005)

Subhash Chandra & Anr.

... Appellants

Versus

Delhi Subordinate Services Selection Board & Ors. ... Respondents

WITH

WRIT PETITION (C) NO.507 OF 2006

**Sarv Rural & Urban Welfare
Society through its President**

...Petitioner

Versus

Union of India & ors.

...Respondents

JUDGMENT

S.B. Sinha, J.

1. Leave granted in SLP (C) No.24327 of 2005.
2. Interpretation and/ or application of the notifications and/or the circulars issued by the National Capital Territory of Delhi in terms of clause (1) of Article 341 of the Constitution of India is involved herein.

3. It arises out of a judgment and order dated 13.05.2005 passed by a Division Bench of the High Court of Delhi dismissing an appeal preferred from an order passed by a learned Single Judge of the said Court.

The writ petition was filed by the appellant society which is registered under the Societies Registration Act, with its objects amongst others 'upliftment of Backwards, Scheduled Castes and others of Delhi in education, social and cultural fields and to apply for and get all kinds of facilitation and relaxation and for safeguarding their interest in Government jobs'.

4. The background facts involving filing of this appeal are as follows :

The members of Scheduled Casts and Scheduled Tribes have an important place in our constitutional scheme. Article 341 of the Constitution empowers the President to specify the castes, races or tribes or part of or groups within castes, races or tribes with respect to any State or Union Territory for the purposes of the Constitution deemed to be Scheduled Castes in relation to that State or Union Territory as the case may be. Similar provision is contained in Article 342 of the Constitution of India with regard to the members of the Scheduled Tribes. Clause (2) of Article 341 which is relevant for our purpose reads as under :

“(2) Parliament may by law include in or exclude from the list of Scheduled Castes specified in a notification issued under clause (1) any caste, race or tribe or part of or group within any caste, race or tribe, but save as aforesaid a notification issued under the said clause shall not be varied by any subsequent notification.”

5. Private respondents and/or their parents are migrants to Delhi. In their native places, they were declared to be the members of the Scheduled Castes.

6. Indisputably, the Ministry of Home Affairs issued a circular on or about 2.5.1975, in terms whereof the manner in which the claim of a person as being belonging to Scheduled Castes or Scheduled Tribes is required to be verified was laid down. Such verification was to be made having regard to the Presidential order specifying the Scheduled Castes and Scheduled Tribes in relation to the concerned State.

In the matter of verification of the caste of migrants, it was laid down:

“1. General (Applications in all cases):-

Where a person claims to belong to a Scheduled Castes and Scheduled Tribes by birth it could be verified:-

- (i) That the person and his parents actually belong to the community claimed.
- (ii) That this community includes in the Presidential Orders specifying the Scheduled Caste and Scheduled Tribes in relation to the concerned State.
- (iii) That the person belongs to that State and to the area within that State in respect of which the community has been scheduled.
- (iv) If the person claims to be a Scheduled Caste, he should profess either the Hindu or the Sikh religion.
- (v) If the person claims to be a Scheduled Tribe, he may profess any religion.

2. Case of Migration:-

- (i) Where a person migrates from the portion of the State in respect of which his community is scheduled to another part of the same State in respect of which his community is not scheduled he will continue to be deemed to be a member of the Scheduled Caste or the Scheduled Tribe as the case may be in relation to that State.
- (ii) Where a person migrates from one State to another, he can claim to belong to a Scheduled Caste or Scheduled Tribe only in relation to the State to which he originally belonged and not in respect of the State to which he has migrated.”

7. Yet again, by way of a clarification issued by the National Capital

Territory of Delhi dated 22.3.1977, it was, inter alia, stated :

“2. As required under Article 341 and 342 of the Constitution, the President has, with respect to every State and Union Territory and where it is State after consultation with the Governor of the concerned State, issued orders notifying various Castes and Tribes as **Scheduled Castes and Scheduled Tribes** in relation that State or Union Territory from time to time. The inter State area restrictions have been deliberately imposed so that the people belonging to the specific community residing in a specific area, which has been assessed to qualify for Scheduled Castes or Scheduled Tribes status, only benefit from the facility provided for them. Since the people belonging to the same caste but living in different State/Union Territories may not necessarily suffer from the such disabilities, it is possible that two persons belonging to the same caste but living in different State/Union Territories may not both be treated to belong Scheduled Caste/Tribes or vice versa. Thus the residence of a particular person a particular locality assumes a special significance. The residence has not been understood in the literal or ordinary sense of the word. On the other hand it connotes the permanent residence of a person on the date of the notification of the Presidential Order scheduling his caste/tribe in relation to that locality. Thus a person who is temporarily away from his permanent place of abode at the time of the notification of the Presidential Order applicable in his case say for example to earn a living or seek education etc. can also be regarded as Scheduled Caste or a Scheduled Tribe, as the case may be, with regard to his relation to his State U.T. but he cannot be treated as such in relation to the place of

his temporary residence notwithstanding the fact that the name of his caste/tribe has been scheduled in respect of that area in any Presidential Order.”

8. Despite the same, however, on or about 8.4.1994, yet again a circular letter was issued; the relevant portions whereof read as under :

“Subject: Issuing of other Backward Class certificates to migrants from other States/UT.

Sir,

1. In continuation of the DEPT's letter of 36012/22/93-Estt./SCT) dated 15th November, 1993, I am directed to say that it has been represented to this Department that persons belonging to OBCS who have migrated from one State to another for the purpose of employment, education etc. experience great difficulty in obtaining caste certificates from the States from which they have migrated, in order to remove this difficulty it has been decided that the prescribed authority of a State/UT Administration in terms of the DEPT letter aNo.16012/22/93-Estt. (SCT) dated 15th November, 1993 may issue the OBCS certificates to a person who has migrated from another States on the production of a genuine certificate issued to his father by the prescribed authority of the State his father's origin except where the prescribed authority feels that a detailed enquiry is necessary through the state of origin before the issue of the certificate.
2. The certificates will be issued irrespectively of whether the OBC candidate in question is included in the list of OBC pertaining to the State/U.T. to which the person has migrated. The facility does not alter the OBC status of the person in relation to the one at the other State/U.T. The OBC person on migration

from the State/U.T. of his origin in another State/U.T. where his caste is not in the OBC list is entitled to the concession/benefits admissible to the OBCS from the state of his origin and Union Government but not from the State where he has migrated.”

9. Keeping in view the aforementioned directions issued by the Union Territory, an advertisement was issued by the State Subordinate Selection Board. General instructions issued therein, inter alia, read as under :

“(2) SC and OBC candidates must furnish certificates issued by the competent authority of Government of NCT of Delhi issued on or before the closing date of receipt of application forms. (Illegible)”

10. Questioning the legality and/or validity of the said circular, Shri Kunwar Pal and 22 others, claiming themselves to be entitled to the benefits of the aforementioned Presidential Notification declaring their caste to be Scheduled Castes but keeping in view the nature of verification specified by reason of the aforementioned circulars, filed writ petition in the High Court of Delhi at New Delhi which was registered as Civil Writ Petition No.5061 of 2001 praying, inter alia, for the following reliefs :

“(i) certiorari quashing the entire action of the respondents in not considering the Scheduled Castes certificates of the petitioners (Annexure P3) collectively and stating them not to be valid certificates:

- (ii) mandamus directing the respondents to consider and appoint the petitioners to be posts of Assistant Teachers (Primary)-Hindi under reserved categories of Scheduled Castes as per petitioners' Scheduled castes certificates (Annexure P3) Collectively.

11. The Government of National Capital Territory having been served with a notice in the said writ application filed a counter affidavit contending, inter alia, that the notification involved two sets of castes/categories certificate' one in relation to the original inhabitants and the other relating to the migrants and stating :

“In other words candidates belonging to SC/ST/OBC Castes/communities whose state/UT of origin is other than the NCT of Delhi are not at all, eligible for benefit of reservation in the services/posts under the Govt. Of Delhi and the Local/Autonomous Bodies sub-ordinate to the said Government. The benefit of reservation in the services/posts in Government of Delhi and Local/Autonomous bodies is legally available to only those candidates who fall in the first category. The candidates falling in the second category can claim the benefit of reservation in the services/posts under the Central Government as well as Govt. of the state/U.T. of their origin. Such candidates are not, at all, entitled for grant of benefit of reservation in the services/posts under the Government of Delhi and Local/Autonomous bodies subordinate to the said Govt.”

12. A learned Single Judge of the said Court, however, upon construction of clause (2) of the circular letter dated 2.5.1975, held as under:

“A reading of the aforesaid clause, however, shows that the same relates to a person who migrates from one State to another. In the present case the candidates are the progenies of person who had migrated. In my considered view there is a difference between the first generation migrant and the progenies of the said migrant. The benefit may be denied to the first generation migrant on the basis of the said circular but it cannot be denied to his progenies who are born and brought up in the migrated State.”

13. Taking note of the fact that Delhi is an amalgam of people from various parts of the country and, thus, the benefit of the aforementioned Presidential notification, may not be extended to those who had migrated from other States, inter alia, raised a question as to what should be the cut off date to determine as to who is a Delhite.

I

Opining that the circular letters had been issued with the object of protecting the rights of the persons who may be away from his State would fall in the category of that State and that only with a view to prevent injustice to such persons that the said circular had been issued. Referring to

the decisions in Marri Chandra Shekhar Rao v. Dean, Seth G.S. Medical College & Ors. [(1990) 3 SCC 130] and Action Committee on Issue of Caste Certificate to Scheduled Castes and Scheduled Tribes in the State of Maharashtra & anr. [(1994) 5 SCC 244], it was held :

“In my considered view the aforesaid judgment would not come to the aid to the respondents since the present case is not one of a similar nature. The benefit of reservation is sought by such of the petitioners who are born and brought up in Delhi but whose father or forefathers happened to migrate to Delhi over the last number of years.”

The writ petitioners before the High Court, however, strongly relied upon the decision of this Court in K. Balakrishnan v. K. Kamalam & Ors. [(2004) 1 SCC 580] and S.Pushpa & Ors. v. Sivachanmugavelu & Ors. [(2005) 3 SCC 1].

Noticing the dictionary meaning of the words ‘domicile’ and ‘residents’, as noticed by this Court in Union of India & Ors. v. Dudh Nath Prasad [(2000) 2 SCC 20], the learned Judge was held that widest amplitude for granting benefits of reservations should be given to the said circulars.

Holding that there is no rationale as to why the respondents suddenly sought to bring in the restriction now, it was opined :

“In view of the aforesaid a writ of mandamus is issued to appoint such of the petitioners in the present writ petitions who are born and brought up in Delhi, the caste is notified as a reserved caste in Delhi but the certificate issued to them is on the basis of the certificate issued to their fathers who were the migrants from other States.”

14. The Division Bench of the said court dismissed the intra court appeal preferred thereagainst by the Delhi Subordinate Service Selection Board and another, holding :

“Therefore, it is clear that for States inter se, the matters are considered differently. In the instant case, it is an accepted position that the original petitioners were born in the State of Delhi. Therefore, they are Scheduled Tribes in Delhi and the Tribe/Caste is also recognised in Delhi as a reserved category. There is no dispute that the same caste to which their parents belonged in other State is also recognized as a reserved category.”

15. Mr. U.U. Lalit, learned senior counsel appearing on behalf of the appellants, would contend :

- (1) a person belonging to a caste notified as Scheduled Castes in one State cannot automatically claim the benefit of any notification specifying a similar caste in another State or Union Territory.

- (2) Although a distinction lies between a State Civil Service and a Central Civil Service, and inasmuch as in the latter, people from all over the country are entitled to be considered for appointment keeping in view the plain language contained in clause (1) of Article 341 of the Constitution of India, such a benefit cannot be conferred on a person who had migrated from one State to another State/Union Territory.
- (3) In interpreting such a notification, the High Court should have used the principle of contextual interpretation and not a beneficent legislation.

16. Mr. Mariarputham, learned Senior Counsel appearing on behalf of the Union of India, Mr. Rakesh Kumar Khanna, learned Senior Counsel appearing on behalf of the New Delhi Municipal Corporation and Dr. Krishan Singh Chauhan, learned counsel appearing on behalf of the private respondents, on the other hand, urged :

- (i) The Central Government being within the administrative control of Union Territory in terms of Article 239 of the Constitution of India is entitled to lay down policies involving Union Territory Services wherefor executive instructions can be issued.

- (ii) Direction of this nature being in regard to the classes of people who would be eligible to enter into Union Territory Service which is akin to Central Civil Services being for the purpose of achieving the constitutional goal provided for under clause (4) of Article 16 of the Constitution of India is permissible in law.
- (iii) The State may take such policy decisions which would advance the cause of the backward class as envisaged under clause (4) of Article 16 of the Constitution of India and clause (4) of Article 15 thereof.
- (iv) Doctrine of protective discrimination envisaged in Article 16 would bring within its ambit all such people who are backward not only in a State or Union Territory but also throughout the length and breadth of the country as envisaged under clause (1) of Article 16 thereof.
- (v) For the purpose of considering the validity of the circular letters impugned in the writ petitions, the preamble of the Constitution of India as also the provisions relating to reservation should be allowed to have its full play particularly in view of the binding precedents of this Court in Chandigarh Administration & Anr.

vs. Surinder Kumar & ors. [(2004) 1 SCC 530] and S. Pushpa & ors. vs. Sivachanmugavelu & ors. [(2005) 3 SCC 1].

(vi) Although at one point of time the stand of the Union Territory of Delhi which was impugned in the writ petition before the Delhi High Court by the private respondents was in the light of the law laid down by this Court in Marri Chandra Shekhar Rao (supra) and Action Committee (supra) but in view of the later decisions of this Court in Chandigarh Administration (supra) and S. Pushpa (supra), the Union of India as also the N.C.T. of Delhi must be held to be bound thereby, being law declared under Article 141 of the Constitution of India.

(vii) Migrants from other States who are members of Scheduled Castes and Scheduled Tribes in their State must be allowed to take the benefit of the said status particularly those who had been residing in Delhi for a period of more than five years and those who are born and brought up in Delhi.

17. Ms. Shashi Kiran, learned counsel appearing on behalf of the N.C.T. of Delhi would submit that having regard to the provisions contained in Article 239 of the Constitution of India, the N.C.T. of Delhi has no other

option but to follow the directives issued by the Central Government from time to time.

18. In view of the rival contentions of the parties, the questions which arise for our consideration are :

- (1) Having regard to the decisions of this Court in Marri Chandra Shekhar Rao (supra) and Action Committee (supra), the specification of a particular Caste or Tribe to be a Scheduled Caste and Scheduled Tribe being in relation to that State or Union Territory, whether a person on his migration to another State would carry the same status with him?
- (2) Whether in view of the decisions of this Court in Action Committee (supra) even where the similar Caste bearing the same name having been declared to be the Scheduled Caste both in the State to which he originally belonged and the State and/or Union Territory to which he has migrated would make any difference in view of the provisions contained in Article 341 of the Constitution of India?
- (3) Whether in view of the decisions of the Constitution Bench of this Court in State of Maharashtra vs. Milind & ors. [(2001) 1 SCC 4] and E.V. Chinnaiah vs. State of A.P. & ors. [(2005) 1 SCC 394] extension of notification even to a migrant would amount to modification and/or

alteration of the notification which is impermissible in law in view of clause (2) of Article 341 and clause (2) of Article 342 of the Constitution of India?

- (4) Whether having regard to the provisions contained in Articles 239 and 239AA of the Constitution in relation to Union Territory it is permissible for the Central Government to direct recruitment to the Union Territory Services treating it to be akin to Central Civil Services in view of the decisions of this Court in Chandigarh Administration (supra) and S. Pushpa (supra)?
- (5) Whether the ratio laid down by this Court in Chandigarh Administration (supra) and S. Pushpa (supra) having not taken into consideration the binding precedents in Constitution Bench in Milind (supra), Chinnaiah (supra) and M.C.D. vs. Veena & ors. [(2001) 6 SCC 571] would constitute binding precedents?

19. The Constitution of India is *suprema lex*. The Preamble of the Constitution of India envisages 'Sovereign Socialist Secular Democratic Republic'. In terms of Article 1 of the Constitution of India, that is, Bharat, shall be a Union of States as specified in the First Schedule.

The First Schedule contains two lists; (1) the list of States, and (2) the list of Union Territories. They together constitute geographical and political territory of India.

The equality clause contained in Articles 14, 15 and 16 constitutes a set of fundamental rights of all persons whether they are citizens of India or not. Whereas in terms of Article 14 of the Constitution of India all persons similarly situated are entitled to enforcement of their fundamental right of equality before the law and equal protection of the laws. Articles 15 and 16 although aim at equality but also provide for certain exceptions.

20. In terms of the aforementioned provisions, enabling provisions have been made so as to enable the State to make any special provision for the advancement of any socially and educationally backward classes of citizens or for Scheduled Castes and Scheduled Tribes as provided for in clause (4) of Article 15 of the Constitution of India and for making any provision for the reservation of appointments or posts in favour of any backward class of citizens which, in the opinion of the State, is not adequately represented in the services of the State as provided for in clause (4) of Article 16 thereof.

21. We may at the outset notice the distinction between clause (4) of Article 15 and clause (4) of Article 16 of the Constitution. The words

'backward classes' and 'Scheduled Castes and Scheduled Tribes' find place in clause (4) of Article 15 but only the words 'backward class of citizens' find place in clause (4) of Article 16.

It is, however, beyond any doubt or dispute that the term 'backward class of citizens' contained in clause (4) of Article 16 includes Scheduled Castes and Scheduled Tribes for all intent and purport. Therefore, the protection sought to be accorded to a section of the citizenry must not only be to backward class but may also be to Scheduled Castes and Scheduled Tribes for whom a special provision can be made.

Article 341 of the Constitution of India, which finds place in Part XVI thereof provides for special provisions relating to certain classes of citizens.

It reads as under:

"341. Scheduled Castes.- (1) The President may with respect to any State or Union Territory, and where it is a State, after consultation with the Governor thereof, by public notification, specify the castes, races or tribes or parts of or groups within castes, races or tribes which shall for the purposes of this Constitution be deemed to be Scheduled Castes in relation to that State or Union territory, as the case may be.

(2) Parliament may by law include in or exclude from the list of Scheduled Castes specified in a notification issued under clause (1) any caste, race or tribe or part of or group within any caste,

race or tribe, but save as aforesaid a notification issued under the said clause shall not be varied by any subsequent notification.”

The terms ‘Scheduled Castes’ and ‘Scheduled Tribes’ have been defined in clauses (24) and (25) of Article 266 of the Constitution, which read as under:

“(24) “Scheduled Castes” means such castes, races or tribes or parts of or groups within such castes, races or tribes as are deemed under article 341 to be Scheduled Castes for the purposes of this Constitution;

(25) “Scheduled Tribes” means such tribes or tribal communities or parts of or groups within such tribes or tribal communities as are deemed under article 342 to be Scheduled Tribes for the purposes of this Constitution.”

Article 342 in identical terms deals with the cases of members of Scheduled Tribes.

22. Part VIII of the Constitution of India provides for the Union Territories stating that every Union Territory shall be administered by the President acting, to such extent as he thinks fit, through an administrator to be appointed by him with such designation as he may specify. Special

provisions with respect to Delhi has been made by inserting Article 239AA to the Constitution; Clause (1) thereof provides that despite coming into force of the Constitution (Sixty-ninth Amendment) Act, 1991, the Union Territory of Delhi shall be called the National Capital Territory of Delhi and shall be administered by an Administrator appointed under Article 239 who shall be designated as the Lieutenant Governor.

23. The President of India promulgated the Constitution (Scheduled Tribes) Order in the year 1950 specifying the Tribes which would be deemed to be the Scheduled Tribes. Similarly, in the year 1951, Constitution (Scheduled Castes) Order was promulgated. The names of several Tribes and Castes were added, deleted and altered subsequently by notifications issued by the President of India from time to time.

24. It may be advantageous to notice the relevant provisions of the Constitution (Scheduled Castes) Order, 1950 and the Constitution (Scheduled Tribes) Order, 1950 made by the President of India in exercise of powers conferred by Article 341(1) and Article 342(1) respectively of the Constitution. In the order first mentioned Clause (2) provides as under:

“2. Subject to the provisions of this Order, the castes, races or tribes or parts of, or groups within, castes or tribes specified in Parts I to XXIV of the

Schedule to this order shall, in relation to the States to which those parts respectively relate, be deemed to be Scheduled Castes so far as regards member thereof resident in the localities specified in relation to them in those Parts of the Schedule.”

Clause (2) of the second mentioned Order reads as under:

“2. The Tribes or tribal communities, or part of, or groups within, tribes or tribal communities, specified in Parts I to XXII of the Schedule to this Orders shall, in relation to the State to which those parts respectively relate, be deemed to be Scheduled Tribes so far as regards members thereof residents in the localities specified in relation to them respectively in those Parts of that Scheduled.”

25. Indisputably, having regard to clause (2) of Article 341 as also of Article 342 of the Constitution tinkering with the said list is impermissible, save and except by a law made by the Parliament.

Concededly, in respect of education or service, there exists a distinction between State Service and State run institutions including Union Territory Services and Union Territory run institutions on the one hand, and the Central Civil Services and the institutions run by the Central Government on the other. Whereas in the case of the former, the reservation whether for admission or appointment in an institution and employment or

appointment in the services or posts in a State or Union Territory must confine to the members of the Scheduled Castes and Scheduled Tribes as notified in the Presidential Orders but in respect of All India Services, Central Civil Services or admission to an institution run and founded by the Central Government, the members of Scheduled Castes and Scheduled Tribes and other reserved category candidates irrespective of their State for which they have been notified are entitled to the benefits thereof.

It is not denied or disputed that services in the Union Territory is essentially different from All India Services. It is also beyond any controversy that machinery for recruitment is also different. Indisputably again, not only the conditions of recruitment but also conditions of service differ.

Before us, it has furthermore been conceded that for the purpose of Union Territory of Delhi no separate notification in respect of Scheduled Tribe has been issued.

The Constitution (Scheduled Castes) (Union Territories) Order, 1951, is a Presidential Notification, issued under Article 341 of the Constitution of India specifying Scheduled Castes in relation to the Union Territory of Delhi. However, no such notification exists under Article 342 of the

Constitution of India, listing scheduled tribes for the Union Territory of Delhi.

The question therefore is, whether in the absence of a Presidential Notification, listing any group of persons as a Scheduled Tribe in Delhi, can by policy, the benefit of reservation in services be accorded to migrant Scheduled Tribes in the Union Territory of Delhi?

We may, however, notice that a learned Single Judge of the Delhi High Court had rejected extension of such benefit of reservation to migrant Scheduled Tribes but a Division Bench of High Court applied the ratio of this Court in S. Pushpa (supra) to extend such benefits to members belonging to Scheduled Tribes. The correctness of the said view is also in question before us.

It is in the aforementioned context, the constitutional provisions as noticed by us heretofore call for interpretation.

When a Caste or a Tribe is designated as a Scheduled Caste or Scheduled Tribe, the members belonging thereto derive a bunch of benefits. Such benefits may not only be confined to admission in educational institutions, appointment in State or Central Civil Services, but also for contesting elections to the seats reserved for them in the Panchayats and

Municipalities in lieu of the provisions of 73rd and 74th Amendments to the Constitution. Benefits to the members of the Scheduled Castes and Scheduled Tribes and other backward classes may also be conferred by means of schemes formulated by the Central Government or the State Government.

Article 341 of the Constitution of India does not make any distinction between a State and Union Territory except for the purpose of consultation with the Governor or the Administrator, as the case may be. Such consultation is necessary in view of the fact that it is for the State machinery to identify such Caste or Tribe who had suffered the centuries old ignominy and/ or suffered other disadvantages. It is possible for a State to point out that although a group of people may be belonging to a caste or Tribe which is otherwise backward but having regard to the social and economic advancement made by that group, they should be excluded.

Persons belonging to a particular Caste or Tribe may suffer some disadvantages in one State but may not suffer the same disadvantages in the other. Our constitutional scheme, therefore, seeks to identify the social and economic backwardness of people having regard to the State or Union Territory as a unit. The same principle applies even to the minorities as has

been laid down by an Eleven Judge Bench of this Court in T.M.A. Pai Foundation and Ors. v. State of Karnataka and Ors [(2002) 8 SCC 481]

26. It is also a trite law that a study has to be undertaken before a section of the people can be identified as being belonging to backward class people. In our constitutional scheme backward class people are divided into three categories, namely, Scheduled Castes, Scheduled Tribes and other backward classes. Scheduled Caste and Scheduled Tribe would be backward but the same would not mean that the converse is true, i.e., all backwards would be members of the Scheduled Castes or Scheduled Tribes.

Why we say so is that the reservation in terms of clause (4) of Article 16 of the Constitution of India is fixed on a percentage basis. The advertisement issued by the Delhi Subordinate Services Selection Board clearly shows that the percentage of reservation having regard to the Central Government Rules which are applicable to the National Capital Territory of Delhi would be 7.5% for Scheduled Tribes, 15% for Scheduled Castes and 27.5% for other backward classes.

No Scheduled Tribe has been identified in the Union Territory. The Presidential Order in regard to the Scheduled Castes speaks of the residents of Delhi alone.

Some of the Castes identified as Scheduled Castes in some other States also find place in the Presidential Order issued for Delhi.

What would be the effect is the question.

27. With the aforementioned backdrop in mind, we may notice a few decisions of this Court.

A Constitution Bench of this Court in Marri Chandra Shekhar Rao (supra) had the occasion to consider the question as to whether a member of Gouda community which is recognized as 'Scheduled Tribe' in the Constitution (Scheduled Tribes) Order, 1950 would be entitled to admission in a medical institution situated in the State of Maharashtra. This Court noticed the fact that the father of the petitioner therein was an employee in Fertilizer Corporation of India, a public sector undertaking, in the Scheduled Tribes quota and thereafter in the Rashtriya Chemicals and Fertilizers Limited, a Government of India undertaking under the quota reserved for Scheduled Tribes whereafter he was stationed at Bombay. The petitioner therein came to Bombay at the age of nine years. He completed his studies in Bombay; he submitted an application for his admission in the medical institutions run by Bombay Municipal Corporation which was denied in view of Circular dated 22.2.1985 issued by the Government of India.

The Circular dated 22.2.1985 issued by the Government of India, inter alia, read as under :

“It is also clarified that a Scheduled Caste/Tribe person who has migrated from the State of origin to some other State for the purpose of seeking education, employment etc. will be deemed to be a Scheduled Caste/Tribe of the State of his origin and will be entitled to derive benefits from the State of origin and not from the State to which he has migrated.”

The question which was posed was the effect of specification by the President of the Scheduled Castes or Scheduled Tribes, as the case may be, for the State or Union territory or part of the State. Noticing that the specification was “for the purposes of this Constitution”, it was found to be necessary to determine what the expression ‘in relation to that State’ seeks to convey.

28. This Court noticed not only the various provisions of the Constitution but also the earlier decisions governing the field as well as the views of Dr. B.R. Ambedkar in the Constituent Assembly, to hold:

“22. In that view of the matter, we are of the opinion that the petitioner is not entitled to be admitted to the medical college on the basis of Scheduled Tribe Certificate in Maharashtra. In the view we have taken, the question of petitioner's

right to be admitted as being domicile does not fall for consideration.”

Marri Chandra Shekhar Rao (supra) was followed by another Constitution Bench of this Court in Action Committee (supra).

The question posed therein was:

“Where a person belonging to a caste or tribe specified for the purposes of the Constitution to be a Scheduled Caste or a Scheduled Tribe in relation to State A migrates to State B where a caste or tribe with the same nomenclature is specified for the purposes of the Constitution to be a Scheduled Caste or a Scheduled Tribe in relation to that State B, will that person be entitled to claim the privileges and benefits admissible to persons belonging to the Scheduled Castes and/or Scheduled Tribes in State B?”

While interpreting clause (1) of Articles 341 and 342, this Court held:

“What is important to notice is that the castes or tribes have to be specified in relation to a given State or Union Territory. That means a given caste or tribe can be a Scheduled Caste or a Scheduled Tribe in relation to the State or Union Territory for which it is specified. These are the relevant provisions with which we shall be concerned while dealing with the grievance made in this petition.”

Noticing that the persons belonging to Scheduled Castes/Scheduled Tribes who migrate from their State of origin to another State in search of

employment or for educational purposes had experienced great difficulty in obtaining Caste or Tribe Certificates wherefor the Circular letters were issued, this Court held:

“14. It is a matter of common knowledge that before and during the British Rule also the social order in India was of graded inequality. During the freedom struggle some of our leaders strived to bring about social integration to give a fillip to the independence movement. The need to bring about equality was strongly felt. After independence when the Constitution was being framed for free India, considerable emphasis was laid on the need to secure equality. The debates of the constituent Assembly bear testimony to this felt need.”

29. This Court also noticing Articles 14, 15(1), 15(4), 16(1), 16(4), 19, Part XVI of the Constitution of India and the decisions governing the field as also Articles 341 and 342 thereof opined that Marri Chandra Shekhar Rao lays down the correct law, holding :

“15. We may add that considerations for specifying a particular caste or tribe or class for inclusion in the list of Scheduled Castes/Scheduled Tribes or backward classes in a given State would depend on the nature and extent of disadvantages and social hardships suffered by that caste, tribe or class in that State which may be totally non-existent in another State to which persons belonging thereto may migrate. Coincidentally it may be that a caste or tribe bearing the same nomenclature is specified in two States but the considerations on the basis of

which they have been specified may be totally different. So also the degree of disadvantages of various elements which constitute the input for specification may also be totally different. Therefore, merely because a given caste is specified in State A as a Scheduled Caste does not necessarily mean that if there be another caste bearing the same nomenclature in another State the person belonging to the former would be entitled to the rights, privileges and benefits admissible to a member of the Scheduled Caste of the latter State 'for the purposes of this Constitution'. This is an aspect which has to be kept in mind and which was very much in the minds of the Constitution makers as is evident from the choice of language of Articles 341 and 342 of the Constitution.”

30. Whereas Marri Chandra Shekhar Rao (supra) was a case where no notification had been issued for the State of Maharashtra specifying the Caste to which the petitioner therein belonged to; in the case of Action Committee (supra), the question related to a situation where coincidentally some Castes were notified in both the States, i.e., a fortuitous circumstance arose therein that some classes had been notified in both the States.

31. In Veena (supra), a Division Bench of this Court in a case arising out of the National Capital Territory of Delhi, noticing Marri Chandra Shekhar Rao (supra) held as under:

“6. Castes or groups are specified in relation to a given State or Union Territory, which obviously means that such caste would include caste belonging to an OBC group in relation to that State or Union Territory for which it is specified. The matters that are to be taken into consideration for specifying a particular caste in a particular group belonging to OBCs would depend on the nature and extent of disadvantages and social hardships suffered by that caste or group in that State. However, it may not be so in another State to which a person belongs thereto goes by migration. It may also be that a caste belonging to the same nomenclature is specified in two States but the consideration on the basis of which they been specified may be totally different. So the degree of disadvantages of various elements which constitute the date for specification may also be entirely different. Thus, merely because a given caste is specified in one State as belonging to OBCs does not necessarily mean that if there be another group belonging to the same nomenclature in other State and a person belonging to that group is entitled to the rights, privileges and benefits admissible to the members of that caste. These aspects have to be borne in mind in interpreting the provisions of the Constitution with reference to application of reservation to OBCs.”

Upon noticing the Circular letter dated 15.11.1993 specifying two model forms of the certificate to be furnished by the OBC candidates seeking benefit of reservations and the form appended thereto, it was held:

“A careful reading of this notification would indicate that the OBCs would be recognised as

such in the Government of National Capital Territory of Delhi as notified in the Notification dated 20.01.1995 and further for the purpose of verification of claims for belonging to castes/communities in Delhi as per the list notified by the National Capital Territory of Delhi the certificates will have to be issued only by the specified authorities and certificates issued by any other authority could not be accepted.”

This Court opined:

“The only additional aspects stated by them in their respective applications or in the Certificates supported thereto is that they belong to OBC categories. Hence, their cases ought to have been considered in the general category as if they do not belong to OBC categories in the circumstances arising in this case.”

There the candidature of those candidates were directed to be considered as a general category candidate.

32. The said principle was reiterated in U.P. Public Service Commission, Allahabad vs. Sanjay Kumar Singh reported in (2003) 7 SCC 657, wherein a boy belonging to Scheduled Tribe ‘Naga’ and hailing from Nagaland sought admission in a medical college at Kanpur. This Court upon considering Marri Chandra Shekhar Rao (supra), Action Committee (supra) as also Veenā (supra) opined that the appellant therein could not be treated as

Scheduled Tribe candidate so as to qualify himself to claim reservation against the vacancy reserved for Scheduled Tribes in public services in the State of U.P.

33. At this juncture, we may also notice two other Constitution Bench decisions of this Court, namely, Milind (supra), Chinnaiah (supra) as also a judgment of this Court in Shree Surat Valsad Jilla K.M.G. Parishad vs. Union of India &ors. [(2007) 5 SCC 360].

Milind (supra) dealt with a question as to whether the notified Scheduled Tribe being Halba or Halbi as contained in Item No. 19 of the Presidential Order would include "Halba-Koshti" or not. Indisputably, beginning from the decision of the Nagpur High Court rendered in 1956 in Sonabai vs. Lakhmibai reported in 1956 Nagpur LJ 725, several other judgments as also circular letters issued by the State of Maharashtra from time to time, acknowledging that "Halba-Koshti" come within the definition of Halba and/or Halbi; the Constitution Bench opined that the rule of stare decisis will have no application in a case of this nature. It was opined that addition of "Halba-Koshti" in the Presidential Order would amount to amendment thereto which is impermissible in law, stating:

"The jurisdiction of the High Court would be much more restricted while dealing with the question

whether a particular caste or tribe would come within the purview of the notified Presidential Order, considering the language of Articles 341 and 342 of the Constitution. These being the parameters and in the case in hand, the Committee conducting the inquiry as well as the Appellate Authority, having examined all relevant materials and having recorded a finding that respondent No. 1 belong to 'Koshti' caste and has no identity with the 'Halba/Halbi', which is the Scheduled Tribe under Entry 19 of the Presidential Order, relating to State of Maharashtra, the High Court exceeded its supervisory jurisdiction by making a roving and in-depth examination of the materials afresh and in coming to the conclusion that 'Koshtis' could be treated as 'Halbas'. In this view the High Court could not upset the finding of fact in exercise of its writ jurisdiction. Hence, we have to essentially answer the question no. 2 also in the negative. Hence it is answered accordingly.”

Milind (supra), therefore, is an authority for the proposition that neither practice prevailing in a State nor the decisions of the High Court which are otherwise binding on the State would create a right in a person to obtain the benefit of reservation in the teeth of provisions of Articles 341 and 342 of the Constitution. It was furthermore stated:

“35. The arguments advanced before the High Court on behalf of an intervener relying on Articles 162, 256 to 258 and 339(2) of the Constitution of India that instructions issued by the Central Government in the matter have overriding effect over the instructions issued by the State Government, was lightly brushed aside on the

ground that this aspect assured little importance in the view taken by the High Court that the State Government was bound by the circulars issued by it. We have already expressed above the view in the light of Articles 341 and 342 of the Constitution that a Scheduled Tribes Order can be amended only by the Parliament. Hence it is not possible to accept that orders/circulars issued by the State Government, which have the effect of amending Scheduled Tribes Order, were binding on the Government or other affected parties.”

34. Another Constitution Bench of this Court in Chinnajiah (supra) while considering the question as to whether any sub-classification within a class is permissible having regard to the constitutional provision, answered it, thus:

“26. Thus from the scheme of the Constitution, Article 341 and above opinions of this Court in the case of N.M. Thomas (supra), it is clear that the castes once included in the Presidential List, form a class by themselves. If they are one class under the Constitution, any division of these classes of persons based on any consideration would amount to tinkering with the Presidential List.”

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37. We have already held that the members of Scheduled Castes form a class by themselves and any further sub- classification would be impermissible while applying the principle of reservation.

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111. The Constitution provides for declaration of certain castes and tribes as Scheduled Castes and Scheduled Tribes in terms of Articles 341 and 342 of the Constitution of India. The object of the said provisions is to provide for grant of protection to the backward class of citizens who are specified in the Scheduled Castes Order and Scheduled Tribes Order having regard to the economic and educationally backwardness wherefrom they suffer. The President of India alone in terms of Article 341(1) of the Constitution of India is authorized to issue an appropriate notification therefor. The Constitution (Scheduled Castes) Order, 1950 made in terms of Article 341(1) is exhaustive.”

As regards the question as to whether such a sub-classification is permissible having regard to clause (4) of Article 16 of the Constitution of India, it was held:

“43. The very fact that the members of the Scheduled Castes are most backward amongst the backward classes and the impugned legislation having already proceeded on the basis that they are not adequately represented both in terms of Clause (4) of Article 15 and Clause (4) of Article 16 of the Constitution of India, a further classification by way of micro classification is not permissible. Such classification of the members of different classes of people based on their respective castes would also be violative of the doctrine of reasonableness. Article 341 provides that exclusion even of a part or a group of castes from the Presidential List can be done only by the Parliament. The logical corollary thereof would be

that the State Legislatures are forbidden from doing that. A uniform yardstick must be adopted for giving benefits to the members of the Scheduled Castes for the purpose of Constitution. The impugned legislation being contrary to the above constitutional scheme cannot, therefore, be sustained."

In a separate but concurring judgment, one of us (S.B. Sinha, J.)
opined as under:

"62. It is true that by reason of Article 341 of the Constitution of India no benefit other than expressly provided for in the Constitution, as, for example, Article 320 or Article 322, had been conferred on a member of Scheduled Caste. It is also not in doubt or dispute that the State has the legislative competence to provide for reservations both in the field of public services as also education. Article 15(4) and Article 335 expressly refer to the Scheduled Castes and Scheduled Tribes. Clause (4) of Article 16 although does not refer to Scheduled Castes or Scheduled Tribes, having regard to the expressions "backward class of citizens" contained therein, it is judicially interpreted that Scheduled Castes and Scheduled Tribes would come within the purview thereof. Scheduled Caste indisputably is treated to be more backward than the backward class people."

The said principle had been applied by a Division Bench of this Court
in Shree Surat Valsad Jilla K.M.G. Parishad (supra).

Recently, a Constitution Bench of this Court in Ashok Kumar Thakur v. Union of India & Ors. [(2008) 6 SCC 1], noticed E.V. Chinnaiah (supra) in the following terms :

“65. The learned Senior Counsel further contended that the exclusion of creamy layer has no application to SCs and STs in regard to employment and education. Articles 341, 342, 366(24) and 366(25) of the Constitution would militate against such course of action.

66. It was held in *E.V. Chinnaiah v. State of A.P.* that the SCs and STs form a single class. The observations in *Nagaraj case* cannot be construed as requiring exclusion of creamy layer in SCs and STs. Creamy layer principle was applied for the identification of backward classes of citizens. And it was specifically held in *Indra Sawhney case* that the above discussion was confined to Other Backward Classes and has no relevance in the case of Scheduled Tribes and Scheduled Castes. The observations of the Supreme Court in *Nagaraj case* should not be read as conflicting with the decision in *Indra Sawhney case*. The observations in *Nagaraj case* as regards SCs and STs are obiter. In regard to SCs and STs, there can be no concept of creamy layer.

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184. So far, this Court has not applied the “creamy layer” principle to the general principle of equality for the purpose of reservation. The “creamy layer” so far has been applied only to identify the backward class, as it required certain parameters to determine the backward classes. [“Creamy layer” principle is one of the parameters to identify

backward classes. Therefore, principally, the "creamy layer" principle cannot be applied to STs and SCs, as SCs and STs are separate classes by themselves. Ray, C.J., in an earlier decision, stated that "Scheduled Castes and Scheduled Tribes are not a caste within the ordinary meaning of caste". And they are so identified by virtue of the notification issued by the President of India under Articles 341 and 342 of the Constitution. The President may, after consultation with the Governor, by public notification, specify the castes, races or tribes or parts of or groups within castes, races or tribes which for the purpose of the Constitution shall be deemed to be Scheduled Castes or Scheduled Tribes. Once the notification is issued, they are deemed to be the members of Scheduled Castes or Scheduled Tribes, whichever is applicable. In *E.V. Chinnaiah* concurring with the majority judgment, S.B. Sinha, J. said:

"The Scheduled Castes and Scheduled Tribes occupy a special place in our Constitution. The President of India is the sole repository of the power to specify the castes, races or tribes or parts of or groups within castes, races or tribes which shall for the purposes of the Constitution be deemed to be Scheduled Castes. The Constitution (Scheduled Castes) Order, 1950 made in terms of Article 341(1) is exhaustive. The object of Articles 341 and 342 is to provide for grant of protection to the backward class of citizens who are specified in the Scheduled Castes Order and Scheduled Tribes Order having regard to the economic and education backwardness wherefrom they suffer. *Any legislation which would bring them out of the purview thereof or tinker with the order issued by the President of India would be unconstitutional.*

(emphasis supplied)

185. A plea was raised by the respondent State that categorisation of Scheduled Castes could be justified by applying the “creamy layer” test as used in *Indra Sawhney case* which was specifically rejected in para 96 of *E.V. Chinniah case*. It is observed:

“96. But we must state that whenever such a situation arises in respect of Scheduled Caste, it will be Parliament alone to take the necessary legislative steps in terms of Clause (2) of Article 341 of the Constitution. The States concededly do not have the legislative competence therefor.”

186. Moreover, right from the beginning, the Scheduled Castes and Scheduled Tribes were treated as a separate category and nobody ever disputed identification of such classes. So long as “creamy layer” is not applied as one of the principles of equality, it cannot be applied to the Scheduled Castes and Scheduled Tribes. So far, it is applied only to identify the socially and educationally backward classes. We make it clear that for the purpose of reservation, the principles of “creamy layer” are not applicable for Scheduled Castes and Scheduled Tribes.”

The authoritative pronouncement of the Constitution Bench, thus, clearly shows that the proclamation made by the President of India by Scheduled Caste Order is exhaustive. Only the Parliament having regard to the Constitutional Scheme can tinker therewith.

35. We may now notice the decisions of this Court which have taken a somewhat different view.

In Chandigarh Administration (supra), one of the issues related to the effect of the State Reorganisation Act. This Court noticed Marri Chandra Shekhar Rao (supra) as also Action Committee (supra) but proceeded on the premise that Government of India was entitled to issue instructions qua service in the Union Territories and the same were binding on the Union Territory, holding :

“The judgments relied upon by the learned counsel for the appellant only decide the constitutional aspect of the Government policy on the subject at a given time while leaving the policy decision as to what benefits are to be conferred on persons belonging to reserved categories with the Government of India. In the present case the Government of India has conveyed its decision on the point vide its circular letter dated 26.8.1986 which has not been modified. Therefore, the instructions contained in the said letter which were admittedly being followed till 7.9.1999, in our view, continue to be in force. There is no reasonable basis to discontinue the said decision with effect from 7.9.1999. No reason or basis has been disclosed for discontinuing the same with effect from the said date.”

Indisputably, the Division Bench noticed a decision of this Court in State of Maharashtra vs. Kumari Tanuja [(1999) 2 SCC 462], to opine:

"12. In the present case we have noticed that the Government of India instructions contained in circular dated 26.8.1986 specifically permit that a recognised Scheduled Caste/Schedule Tribe of any other State or Union Territory would be entitled to the benefits and facilities provided for SC/ST in the services in the Union Territory of Chandigarh. This letter is specifically addressed by the Government of India to the Home Secretary, Chandigarh Administration and deals with employment in the Union Territory of Chandigarh. Therefore, there is no reason to ignore the instructions contained in the said letter. It is to be noticed in this behalf that in the rejoinder affidavit filed by the appellant before this Court it is specifically pleaded in para 12 that

'at the relevant time, the reservation benefit was being extended to all the candidates belonging to respective communities on the production of valid certificates of castes issued by the State of origin, but on receipt of clarification on 7.9.1999 the reservation benefits are only to be allowed to who are bonafide residents of Chandigarh and in whose favour valid certificates have been issued by the competent of Chandigarh Administration. After 7.9.1999 no appointment against reserved posts have been made to the candidates who are not residents of Chandigarh and are not having valid certificates of caste issue by the DM/SDM Chandigarh'".

This Court although noticed Marri Chandra Shekhar Rao (supra), Action Committee (supra) and Veena (supra) but did not distinguish the same.

36. We may now notice S. Pushpa (supra). It is a judgment rendered by a three judge Bench of this Court. The fact involved therein was noticed in paragraph 2 of the judgment, from a perusal whereof, it appears that 26 candidates produced community certificates from the Revenue Authority of Pondicherry. This Court proceeded on the basis that as the Administrator while acting under the authority given to him by the President in terms of Article 239 of the Constitution was bound by the directions issued by the Central Government in terms whereof the vacancies occurring in the Union Territory was to be treated as that of Central Civil Services which practice had consistently been followed by the Administration in terms whereof migrant SC/ST candidates were held to be eligible for appointment in the reserved posts in the Pondicherry Administration. It was held that the Marri Chandra Shekhar Rao (supra) would have no application as Union Territory of Pondicherry is not a State, stating :

“Since all SC/ST candidates which have been recognized as such under the orders issued by the President from time to time irrespective of the State/Union territory, in relation to which particular castes or tribes have been recognized as SCs/STs are eligible for reserved posts/services under the Central Government, they are also eligible for reserved posts/services under the Pondicherry administration. Consequently, all SC/ST candidates from outside the U.T. of Pondicherry would also be eligible for posts

reserved for SC/ST candidates in Pondicherry administration. Therefore, right from the inception, this policy is being consistently followed by the Pondicherry administration whereunder migrant SC/ST candidates are held to be eligible for reserved posts in Pondicherry administration.

37. It was furthermore held that in a case of that nature even clause (4) of Article 16 would be attracted, stating:

“21. Clauses (1) and (2) of Article 16 guarantee equality of opportunity to all citizens in the matter of appointment to any office or of any other employment under the State. Clauses (3) to (5), however, lay down several exceptions to the above rule of equal opportunity. Article 16(4) is an enabling provision and confers a discretionary power on the State to make reservation in the matter of appointments in favour of "backward classes of citizens" which in its opinion are not adequately represented either numerically or qualitatively in services of the State. But it confers no constitutional right upon the members of the backward classes to claim reservation. Article 16(4) is not controlled by a Presidential Order issued under Article 341(1) or Article 342(1) of the Constitution in the sense that reservation in the matter of appointment on posts may be made in a State or Union territory only for such Scheduled Castes and Scheduled Tribes which are mentioned in the schedule appended to the Presidential Order for that particular State or Union territory. This Article does not say that only such Scheduled Castes and Scheduled Tribes which are mentioned in the Presidential Order issued for a particular

State alone would be recognized as backward classes of citizens and none else. If a State or Union territory makes a provision whereunder the benefit of reservation is extended only to such Scheduled Castes or Scheduled Tribes which are recognized as such, in relation to that State or Union territory then such a provision would be perfectly valid. However, there would be no infraction of clause (4) of Article 16 if a Union territory by virtue of its peculiar position being governed by the President as laid down in Article 239 extends the benefit of reservation even to such migrant Scheduled Castes or Scheduled Tribes who are not mentioned in the schedule to the Presidential Order issued for such Union territory. The U.T. of Pondicherry having adopted a policy of Central Government whereunder all Scheduled Castes or Scheduled Tribes, irrespective of their State are eligible for posts which are reserved for SC/ST candidates, no legal infirmity can be ascribed to such a policy and the same cannot be held to be contrary to any provision of law.”

Chandigarh Administration (supra) and S. Pushpa (supra) read together, therefore, proceed on the basis that Marri Chandra Shekhar Rao (supra) would have no application in relation to Union Territory.

The contention of the respondents in this case is squarely based on these two decisions.

Can it be said that Marri Chandra Shekhar Rao does not apply to Union Territory? The answer thereto, in our opinion, is a big emphatic ‘no’.

Both Articles 341 and 342 not only refer to the State but also to the Union Territory .

Although Union Territories are administered by the Central Government, yet it is difficult to conceive that socio political aspect can be mixed up with the administrative aspect. Article 341 leads to grant of constitutional rights upon a person whose affinity to a caste/Tribe would attract the Constitution (Scheduled Caste) Order or Constitution (Scheduled Tribe) Order. Once a person comes within the purview of Presidential promulgation, he would be entitled to constitutional and other statutory or administrative benefits attached thereto. In our opinion, such socio political rights created in our Constitution cannot be segregated keeping in view the administrative exigencies.

38. If the principle applied in S. Pushpa (supra) is to be given a logical extension, it will lead to an absurdity, that the Scheduled Castes Order in a State brought under the control of the President under Article 356 could be altered by virtue of a notification issued in pursuance of Article 16(4) of the Constitution. Clause (4) of Article 16 of the Constitution, as noticed hereinbefore, cannot be made applicable for the purpose of grant of benefit of reservation for Scheduled Castes or Scheduled Tribes in a State or Union

Territory, who have migrated to another State or Union Territory and they are not members of the Scheduled Castes and Scheduled Tribes.

By virtue of Article 341, the Presidential orders made under clause (1) thereof acquire an overriding status. But for Articles 341 and 342 of the Constitution, it would have been possible for both the Union and the States, to legislate upon, or frame policies, concerning the subject of reservation, vis-à-vis inclusion of Castes/Tribes. The presence of Articles 338, 338A, 341, 342 in the Constitution clearly preclude that.

39. We may notice the Scheme and the legal position of the Constitution (Schedule Castes) Orders which is as under:

Originally a common Presidential Order was made in respect of States in 1950.

Another common Presidential Order was issued in respect of Union territories in 1951. The Union Territories Order continues to be in force. It comprehends three Union Territories including Delhi and Chandigarh.

Separate orders have been made in respect of the Union Territories of Pondicherry and Dadra and Nagar Haveli. There is no order in respect of Andaman Nicobar Island.

Amendments were made to the Schedule Caste/ Tribe Orders of the States and Union Territories Order of 1951, by an Act of Parliament first in 1956 and later in 1976. besides the above, in the event of States reorganization, Parliament has exercised its power under Article 341 (2) to enact specific Castes/ Tribes that had to be Scheduled Castes and Scheduled Tribes in relation to the reorganized States/Union Territories.

The Union Territories Scheduled Castes Order of 1951, amended by an Act of 1956 and later of 1976, and still later, in 1987, reads as follows:

APPENDIX "XI THE CONSTITUTION (SCHEDULED CASTES) (UNION TERRITORIES) ORDER, 1951 C.O. 32, dated the 20th September, 1951. "In exercise of the power conferred by Clause (1) of Article 341 of the Constitution of India, as amended by the Constitution (First Amendment) Act, 1951, the President is pleased to make the following order namely :

This order may be called the Constitution (Scheduled Castes) (Union Territories) Order, 1951.

Subject to the provision of this order, the castes, races or tribes or parts of, or groups within, castes or tribes, specified in parts I to III of the Schedule to this Order shall, in relation to the Union Territories to which those parts respectively relate, be deemed to be Scheduled Castes so far as regard members thereof resident in the localities specified in relation to them respectively in those parts of that schedule.

Notwithstanding anything contained in paragraph 2, no person who professes a religion different from the Hindu (or Sikh or the Buddhist) Religion shall be deemed to be a member of a Scheduled Castes.

Any reference in this order to a Union Territories in part I of the Schedule shall be construed as a reference to the territory constituted as a Union Territory as from the first day of November, 1956, any reference to a Union Territory in part II of the Schedule shall be construed as a reference to the territory constituted as a Union Territory as from the first day of the November, 1966 and any reference to a Union Territory in part III of the Schedule shall be construed as a reference to the territory constituted as a Union Territory as from the day appointed under clause (b) of the Section 2 of the Goa, Daman and Diu Reorganization Act, 1987.”

40. Both the Central Government and the State Government indisputably may lay down a policy decision in regard to reservation having regard to Articles 15 and 16 of the Constitution of India but such a policy cannot

violate other constitutional provisions. A policy cannot have primacy over the constitutional scheme.

If for the purposes of Articles 341 and 342 of the Constitution of India, State and the Union Territory are at par on the ground of administrative exigibility or in exercise of the administrative power, the constitutional interdict contained in clause (2) of Article 341 or clause (2) of Article 342 of the Constitution of India cannot be got rid of.

41. It is well known that what cannot be done directly cannot be done indirectly. (See Ramdev Food Products Pvt. Ltd. v. Arvindbhai Rambhai Patel and Ors. [(2006) 8 SCC 726, Para 73]. When an amendment or alteration is to be brought about by a Parliamentary Legislation, the same purpose cannot be achieved by taking recourse to circular letters.

If the Central Civil Services and the Union Territory Services are different, keeping in view the constitutional schemes particularly having regard to the proviso appended to Article 309 of the Constitution of India, the same cannot be done away with only because a Union Territory administratively is administered by the Central Government. Any direction or policy decision, thus, must satisfy the constitutional requirements laid down under Articles 341 and 342 of the Constitution of India. If any other

construction is made, a policy decision having regard to the decisions of this Court will have to be treated as a proviso appended to clause (2) of Article 341 of the Constitution of India and would amount to deriding of the Constitution which is impermissible in law.

For identification of backward classes, it is necessary to undertake a study in a particular State as to whether the migrants are required to be treated as backward classes.

Indisputably, the classes contemplated by Article 16(4) may be wider than those contemplated by Article 15(4). If they are backward classes for the purpose of Article 16(1) and 16(4) and not Scheduled Castes and Scheduled Tribes, they will come within the purview of the reservation for backward classes and not the one which is exclusively meant for Scheduled Castes and Scheduled Tribes within the purview of reservation policy of the States.

Moreover enabling provision contained in clause (4) of Article 16 of the Constitution of India can of course be enforced by reason of an executive direction but the same must be made in terms of Article 77 or Article 162 of the Constitution of India.

Furthermore, a circular letter does not have the force of law [See Punjab Water Supply and Sewerage Board, Hoshiarpur v. Ranjodh Singh and Ors.(2007) 2 SCC 491, Para 10].

Article 246 of the Constitution will, thus, have no application where law making power is not resorted to. Executive instructions contained in Article 77 and Article 162 refer to the law making power alone. No material has been placed before the High Court or before us to show that the Scheduled Castes or Scheduled Tribes candidates migrated from another State having regard to their socio economic position in Delhi were required to be treated as backward classes

We are unable to accept the contention that the members of scheduled castes and scheduled tribes notified as such in other States would come within the purview of the backward classes within the meaning of clause (4) of Article 16 of the Constitution of India. If a caste or tribe is notified in terms of the Scheduled Caste Order or Scheduled Tribe Order, the same must be done in terms of clause (1) of Article 341 as also that of 342 of the Constitution of India, as the case may be. No deviation from the procedure laid down therein is permissible in law. If any amendment/alteration thereto is required to be made, recourse to the procedure laid down under clause (2)

thereof must be resorted to. Reservations have been made in terms of the policy decision of the Central Government, namely, 7.5% for the members of scheduled tribes, 15% for the members of scheduled castes and 27% for the members of backward classes. If the members of the scheduled castes and scheduled tribes in other States are to be treated as backward classes for Delhi; intensive studies were required to be made in regard to the question whether they would come within the purview of the definition of 'backward classes' so as to answer the description of 'socially and educationally backward'. It was so held in Indra Sawhney & ors. v. Union of India & ors. [1992 Supp. (3) SCC 212] thus:

“...The language of clause (4) makes it clear that the question whether a backward class of citizens is not adequately represented in the services under the State is a matter within the subjective satisfaction of the State. This is evident from the fact that the said requirement is preceded by the words “in the opinion of the State”. This opinion can be formed by the State on its own, i.e., on the basis of the material it has in its possession already or it may gather such material through a Commission/Committee, person or authority. All that is required is, there must be some material upon which the opinion is formed. Indeed, in this matter the court should show due deference to the opinion of the State, which is in the present context means the executive....”

42. There is another aspect of the matter. When reservation for scheduled castes or scheduled tribes had been earmarked, persons answering the description thereto only can be appointed. No recruitment is permissible for a backward class against a scheduled caste or scheduled tribe quota. That itself would be violative of clauses (1) and (4) of Article 16 of the Constitution of India. Furthermore, if a person is to be treated as scheduled caste or scheduled tribe in terms of Article 341 of the Constitution of India, the benefit attached thereto in all other areas must be conferred on him. A person cannot be treated to be a member of scheduled caste for one purpose and not for another purpose.

43. The law relating to affirmative action and protective discrimination by way of reservation of posts for the members of the Scheduled Castes invoking Clause (4) of Article 16 of the Constitution of India is reflected by constitutionalism, i.e., the provisions of the Constitution of India read with the executive instructions issued by the National Capital Territory of Delhi in this behalf which has the force of law in terms whereof only the classes of persons who would be entitled thereto were determined. By judicial process or otherwise, the said executive instructions which are consistent with the constitutional scheme could not have brought about an altogether different

situation as a result whereof those who are residents of Delhi being belonging to the members of the Scheduled Castes and, thus, entitled to be regarded within the framework of the quota provided for by the Government could not have been deprived therefrom by way of bringing in another class of persons within the purview of the said category of Scheduled Castes who are not entitled to the said benefit. By reason of such an Act, those who are entitled to the benefit of the doctrine of protective discrimination contained in Clause (4) of Article 16 of the Constitution of India had been deprived of their constitutional right. Once it is found that the constitutional violation of this nature has been committed, in our opinion, the Courts would be entitled to apply the principle of strict scrutiny test or closer scrutiny test or higher level of scrutiny. It is commonly believed amongst a section of Academicians that strict scrutiny test in view of the Constitution Bench decision of this Court in Ashok Kumar Thakur (supra) is not applicable in India at all.

Therein reliance has been placed in Saurabh Chaudri & Ors. v. Union of India & Ors. [(2003) 11 SCC 146] wherein this Court stated :

“36. The strict scrutiny test or the intermediate scrutiny test applicable in the United States of America as argued by Shri Salve cannot be applied in this case. Such a test is not applied in Indian

courts. In any event, such a test may be applied in a case where a legislation ex facie is found to be unreasonable. Such a test may also be applied in a case where by reason of a statute the life and liberty of a citizen is put in jeopardy. This Court since its inception apart from a few cases where the legislation was found to be ex facie wholly unreasonable proceeded on the doctrine that constitutionality of a statute is to be presumed and the burden to prove contra is on him who asserts the same.”

In a concurrent opinion, one of us, S.B. Sinha, J., stated, thus:

“92. Mr Nariman contended that provision for reservation being a suspect legislation, the strict scrutiny test should be applied. Even applying such a test, we do not think that the institutional reservation should be done away with having regard to the present-day scenario...”

Saurabh Chaudri (supra) read as a whole therefor refused to apply the strict scrutiny test in the case of reservation evidently having regard to the Clauses (1) and (4) of Articles 15 and 16 of the Constitution of India. It is noteworthy to point out that the facts of this case did not bear out an ex facie unreasonableness and therefore the court did not employ the strict scrutiny test. The Constitution Bench in Ashok Kumar Thakur (supra), itself, held:

“252. It has been rightly contended by Mr Vahanvati and Mr Gopal Subramaniam that there is a conceptual difference between the cases decided by the American Supreme Court and the cases at hand. In Saurabh Chaudri v. Union of India⁶²⁶ it was held that the logic of strict classification and strict scrutiny does not have much relevance in the cases of the nature at hand...”

[Emphasis supplied]

Saurabh Chaudri (supra) itself, therefore, points out some category of cases where strict scrutiny test would be applicable. Ashok Kumar Thakur (supra) solely relies upon Saurabh Chaudri to clarify the applicability of strict scrutiny and does not make an independent sweeping observation in that regard.

We are of the opinion that in respect of the following categories of cases, the said test may be applied:

1. Where a statute or an action is patently unreasonable or arbitrary.
[See Mithu v. State of Punjab [(1983) 2 SCC 277].
2. Where a statute is contrary to the constitutional scheme. [See E.V. Chinniah (supra)].
3. Where the general presumption as regards the constitutionality of the statute or action cannot be invoked.

4. Where a statute or execution action causes reverse discrimination.
5. Where a statute has been enacted restricting the rights of a citizen under Article 14 or Article 19 as for example clauses (1) to (6) of Article 19 of the Constitution of India as in those cases, it would be for the State to justify the reasonableness thereof.
6. Where a statute seeks to take away a person's life and liberty which is protected under Article 21 of the Constitution of India or otherwise infringes the core human right.
7. Where a statute is 'Expropriatory' or 'Confiscatory' in nature.
8. Where a statute prima facie seeks to interfere with sovereignty and integrity of India.

However, by no means, the list is exhaustive or may be held to be applicable in all situations.

In Anuj Garg & Ors. v. Hotel Association of India & Ors. [(2008) 3 SCC 1], this Court, stated :

“46. It is to be borne in mind that legislations with pronounced “protective discrimination” aims, such as this one, potentially serve as double-edged swords. Strict scrutiny test should be employed

while assessing the implications of this variety of legislations. Legislation should not be only assessed on its proposed aims but rather on the implications and the effects. The impugned legislation suffers from incurable fixations of stereotype morality and conception of sexual role. The perspective thus arrived at is outmoded in content and stifling in means.”

In United India Insurance Company Ltd. v. Ajay Sinha & Anr.

[(2008) 7 SCC 454], it is stated :

“26. An option is given to any party to a dispute. It may be a public utility service provider or a public utility service recipient. The service must have some relation with public utility. Ordinarily, insurance service would not come within the public utility service. But having regard to the statutory scheme, it must be held to be included thereunder. It is one thing to say that an authority is created under a statute to bring about a settlement through alternate dispute resolution mechanism but it is another thing to say that an adjudicatory power is conferred on it. Chapter VI-A, therefore, in our opinion, deserves a closer scrutiny. In a case of this nature, the level of scrutiny must also be high. (See *Anuj Garg v. Hotel Assn. of India.*)”

As we have already stated, in the event the state issues any instruction through circular in the National Capital Territory of Delhi to this effect, the same will deserve strict scrutiny. After following the precedent with respect

to strict scrutiny it is pertinent to explore some foundational principles in this regard.

At the heart of the applicability of this doctrine in protective discrimination cases, including affirmative action matters, is the challenge before the court to facilitate the translation of the constitutional vision of substantive equality into a practical feature of the polity. The enabling environment must have objectively laid down policy attributes so much so that the targeted benefits are accrued to parts of polity for which they are meant. As the final arbiter on constitutional interpretation, the court is duty bound to delineate the four corners of the legislative policy which is amenable to the constitutional epithets of equality as also to Article 21. The state has to play within the rules set by the court in this regard.

It must be borne in mind at this juncture that in reality, various kinds of rights do not operate independently of each other. And importantly, when State puts its weight behind any particular set of rights by showing compelling interest, the courts have to ensure that the transfer or accrual of benefits as a result of the State action does not end up abrogating the competing rights of others to an unnecessary extent. The constitutional grant of power to state in this respect is channeled by the mandate of this court on the front of implementation.

First responsibility of the court is to determine whether the ends purported to be sought by the executive are "compelling." This process is under the intense gaze of the court because the government is impinging upon somebody else's core constitutional rights and therefore only the most pressing circumstances can justify the government action.

The other important responsibility is to inquire and assess that the law is a narrowly tailored means of furthering those governmental interests. Narrow tailoring should satisfy the court that the law capture within its reach just the adequate activity, neither more or less, than is necessary to advance those compelling ends. In the ultimate analysis, the State action must be narrowly drawn in a manner that it can qualify to be the least restrictive alternative available to pursue those ends. Without this inquiry into "fit" between the ends and the means enables it will not only be difficult for the courts to test the sincerity of the government's claimed objective but also the law may be suffer from the vice of arbitrariness. Article 14 guarantee against uncanalized and arbitrary laws has to be rigorously pursued by the court in this regard. The State in such cases may act not only through a law but also through an executive instrument like circular or even simple practice or convention and the intense gaze of the Court in this behalf is all pervasive.

In fact, more inarticulate the State action would be, greater would be the intensity of the scrutiny by the courts.

Objectivity, both in terms of quantifiable data and the intended objective, and time bound prescriptions, (preferably with a sunset clause) are two measures which shall keep the State in good stead while discharging the burden under the protective discrimination mandate. The law must showcase overinclusion or underinclusion or whatever other requirement there may be through statistics before moving ahead with the execution of law. In M. Nagaraj & Others v. Union of India & Others, (2006)8SCC212 this court employed the doctrine of guided power to suggest that the power of the state to enact such a law or give effect to protective discrimination under Article 16 (4-A) is to be exercised under the guidance of the Court. The doctrine of guided power in that sense has been used as a corollary of strict scrutiny rule. It is a distant relative of continuing mandamus.

Courts must guard against that protective discrimination clauses are not used as pretexts for an invidious purpose. The political compulsions and extraneous vote considerations in the functioning of the legislature are mentioned by a prominent political science scholar, John Hart Ely in his landmark book, *Democracy and Distrust*. He says that "special scrutiny, in particular its demand for an essentially perfect fit, turns out to be a way of

'flushing out' unconstitutional motivation." Justice Sandra Day O'Connor's in *Johnson v. California*, 543 U.S. 499, 505 (2005) observed that "racial classifications raise special fears that they are motivated by an invidious purpose" and that strict scrutiny is designed "to 'smoke out' illegitimate uses of race by assuring that the executive is pursuing a goal important enough to warrant use of a highly suspect tool."

Protective discrimination may be used to curtail the extremely hard won civil and political rights granted by the Constitution. We have the backdrop of freedom struggle to engage with in this regard. Rights of the accused as part of the fair trial rights, equality rights, right to liberty and personal autonomy and other such rights are to be fiercely protected against any blind policy onslaught of the times. The government must have a overwhelming compelling interest to justify limitations on the freedom of association, free exercise of religion, free speech, right to vote, right to travel et al.

Strict scrutiny thus paves the way for a more searching judicial scrutiny to guard against invidious discriminations which could have made by the State against group of people in violation of the constitutional guaranty of just and equal laws. The court must adopt a weighted balancing approach or in other words pursue an even-handed balancing of the interests

44. The only question which survives is as to whether S. Pushpa (supra) constitutes a binding precedent. A decision, as is well known, is an authority for what it decides and not what can logically be deduced therefrom.

In S. Pushpa (supra), decisions of the Constitution Benches of this Court in Milind (supra) had not been taken into consideration. Although the case of Chinnaiah (supra) was decided later on, we are bound by the same. It is now a well settled principle of law that a division bench, in case of conflict between a decision of a Division Bench of two Judges and a decision of a larger Bench and in particular Constitution Bench, would be bound by the latter. [See M/s Sardar Associates v. Punjab & Sind Bank, CAs @ SLP (C) Nos. 5249-5250 of 2008 decided on 31st July, 2009]

This Court in Marri Chandra Shekhar Rao (supra) categorically held that when a person is held to be a member of scheduled caste for one State, he cannot be treated as such in another. In Milind (supra), it was categorically held that the High Court, in exercise of its supervisory jurisdiction, under Article 227 of the Constitution of India, cannot make any roving inquiry for the purpose of finding out as to whether a person belonging to one caste would, for one reason or the other, can be held to be

belonging to another caste or tribe which had been notified as scheduled caste or scheduled tribe. It is also well known that a decision rendered in ignorance of a binding precedent and/or in ignorance of a constitutional provision, would be held to have been rendered *per incuriam*.

In Harminder Kaur & Ors. v. Union of India & Ors. [2009 (7) SCALE 204], this Court held:

“16. A judgment of a Constitution Bench of this Court laying down the law within the meaning of Article 141 of the Constitution of India must be read in its entirety for the purpose of finding out the ratio laid down therein. The Constitution Bench, in no uncertain terms, based its decision on the touchstone of the ‘equality clause’ contained in Articles 14 and 16 of the Constitution of India. Emphasis has been laid at more than one place for making appointments only upon giving an opportunity to all concerned. Appointment through side-door has been held to be constitutionally impermissible.”

[See also Oriental Insurance Company Limited v. Mohd. Nasir and Another (2009) 6 SCC 280]

In Black’s Law Dictionary, 8th edition, 2004, it is stated:

“There is at least one exception to the rule of *stare decisis*. I refer to judgments rendered *per*

incuriam. A judgment *per incuriam* is one which has been rendered inadvertently. Two examples come to mind: first, where the judge has forgotten to take account of a previous decision to which the doctrine of *stare decisis* applies. For all the care with which attorneys and judges may comb the case law, *errare humanum est*, and sometimes a judgment which clarifies a point to be settled is somehow not indexed, and is forgotten. It is in cases such as these that a judgment rendered in contradiction to a previous judgment that should have been considered binding, and in ignorance of that judgment, with no mention of it, must be deemed rendered *per incuriam*; thus, it has no authority.... The same applies to judgments rendered in ignorance of legislation of which they should have taken account. For a judgment to be deemed *per incuriam*, that judgment must show that the legislation was not invoked." Louis-Philippe Pigeon, *Drafting and Interpreting Legislation* 60 (1988) "As a general rule the only cases in which decisions should be held to have been given *per incuriam* are those of decisions given in ignorance or forgetfulness of some inconsistent statutory provision or of some authority binding on the court concerned, so that in such cases some features of the decision or some step in the reasoning on which it is based is found on that account to be demonstrably wrong. This definition is not necessarily exhaustive, but cases not strictly within it which can properly be held to have been decided *per incuriam*, must in our judgment, consistently with the *stare decisis* rule which is an essential part of our law, be of the rarest occurrence." Rupert Cross & J.W. Harris, *Precedent in English Law* 149 (4th ed. 1991)"

In an article "Final Appellate Courts Overruling Their Own "Wrong" Precedents: The Ongoing Search For Principle" by B.V. Harris published in (2002) 112 LQR 408-427, it is stated:

"A decision may be held to be per incuriam where relevant statutory provisions, or binding case law authority, have been overlooked or misinterpreted in arriving at the holding in the precedent....

Considerations Relevant To Deciding whether to Defer to or Overrule Precedent:

The first consideration for a final appellate court called upon, in the exercise of its discretion, to overrule an allegedly wrong precedent of its own, will be whether the precedent can be distinguished on the facts, including changing social and other contexts, or distinguished on the law. If the precedent can be distinguished, overruling will not be necessary. The subsequent appellate court will rather be free to choose not to follow the precedent which can be distinguished.

Second, the precedent should be considered closely to determine whether the decision was reached per incuriam. A per incuriam precedent may be overruled.

Third, the workability of the precedent should be assessed. Evidence of lack of workability may justify overruling.

The fourth consideration will be whether any reasons have been advanced in the appeal which were not considered in deciding the precedent. This category could arguably be included in many circumstances, either in the first category as a form of distinguishing, or in the second category if the omission is sufficiently serious to cause the precedent to be per incuriam.

All of the first four considerations have traditionally been accepted as exempting subsequent appellate courts from the obligation to follow precedent.”

In the context of overruling the two leading precedents {de Freitas v. Benny [1976] AC 239 and Reckley v. Minister of Public Safety and Immigration (No. 2) [1996] A.C.527} which had held the exercise of the prerogative of mercy to be non-justiciable, Lord Slynn of Hadley in Lewis v. Att. Gen. Of Jamaica [2001] 2 AC 50 at p. 75, stated:

“The need for legal certainty demands that they should be very reluctant to depart from recent fully reasoned decisions unless there are strong grounds to do so. But no less should they be prepared to do so when a man's life is at stake, where the death penalty is involved, if they are satisfied that the earlier cases adopted a wrong approach. In such a case rigid adherence to a rule of stare decisis is not justified.”

The case of Attorney General v. Blake [(1997) Ch D; (1998) Ch 439 CA; and (2001) 1 A.C.268 HL] has been referred by SIR Richard Buxob in his article *How the Common Law Gets Made: Hedley Byrne and Other Cautionary Tales*” [(2009) 125 L.Q.R. 60], as decision given per incuriam. Prof.A.W.Brain has prepared a memorandum on the said note. In the particular case in 1961 Blake pleaded guilty to five offences against Official

Secrets Act 1911. He had communicated information which he has come to possess as a member of the Secret Intelligence Service (SIS). He was sentenced to a term of 42 years imprisonment. The House of Lords decision stated that Blake was a member of the security and intelligence. However it is stated by the author that there is no practice of describing the SIS as a security service; it is not concerned with security but with foreign intelligence, including the sponsorship of espionage and was "*an offshoot of some sort of the Foreign Office, possibly also being associated with the Cabinet Office or the Prime Minister's Personal Office.*" Thus there were no details explained as regards to the employment of Blake and it was not clear. The author states that it was well settled in the 1940s that the relationship between a member of the armed services and the crown was non-contractual. However it is stressed that if the nature of employment of Blake was in civil capacity then the application of above observation needs to be considered. But more importantly, what needs to be addressed is that "*to treat incidental undertakings by members of the armed services as actionable contracts would lead to absurdity*". It is also pointed out that "*the relationship between the Crown and members of the armed services is and long has been regulated by disciplinary proceedings, by failure to promote, or by retirement, not by the private law of contract or tort. If this position is to be*

changed by a judicial decision then the court surely needs to attend to the radical nature of such a change.” Also it is noted that the “signing the Official Secrets Acts” created a binding contract relating just to one aspect of Blake’s duties, is something which is problematic. Thus author states that “the supposed contract case was decided without any careful investigation of the very existence of a binding contract, or of its scope and character, assuming there to have been one. It does not seem to be a good idea to proceed in this way, and at end of day there is therefore a strong case for regarding the decision as having been given per incuriam in their Lordships’ attention had never been adequately directed to either the relevant facts or the relevant law.” [See A Decision Per Incuriam? –Prof.A.W.Brian Simpson, The Law Quarterly Review, volume 125, July 2009, p.433]

We have noticed hereinbefore that the premise on which S. Pushpa (supra) was rendered, namely, Marri Chandra Shekhar Rao (supra), had no application to union territories was not correct.

45. Would we be violating the norms of judicial discipline in ignoring the decision of this Court in Pushpa is the question, having regard to the provisions contained in Article 141 of the Constitution of India?

The question is a difficult one. On the one hand, this Court emphasizes the need for speaking in one voice and/or adhering to the doctrine of certainty so as not only to enable this Court but also the High Court and the subordinate courts to know exactly what the law is and, on the other hand, it is now trite that having regard to the binding nature of the doctrine of *stare decisis*, whether we would be bound by our own decision and to what extent. [See Milind (supra) where in view of constitutional scheme, even doctrine of *stare decisis* not followed. See also India Cement Ltd. and Others v. State of Tamil Nadu and Others (1990) 1 SCC 12 and Synthetics and Chemicals Ltd. and Others v. State of U.P. and Others (1990) 1 SCC 109]

In Central Board of Dawoodi Bohra Community & Anr. v. State of Maharashtra & Anr. [(2005) 2 SCC 673], Lahoti, CJI (as he then was) speaking for a Constitution Bench following its earlier decision in Union of India v. Raghbir Singh [(1989) 2 SCC 754], stating :

“12. Having carefully considered the submissions made by the learned senior counsel for the parties and having examined the law laid down by the Constitution Benches in the abovesaid decisions, we would like to sum up the legal position in the following terms :-

(1) The law laid down by this Court in a decision delivered by a Bench of larger strength is binding on any subsequent Bench of lesser or co-equal strength.

(2) A Bench of lesser quorum cannot doubt the correctness of the view of the law taken by a Bench of larger quorum. In case of doubt all that the Bench of lesser quorum can do is to invite the attention of the Chief Justice and request for the matter being placed for hearing before a Bench of larger quorum than the Bench whose decision has come up for consideration. It will be open only for a Bench of coequal strength to express an opinion doubting the correctness of the view taken by the earlier Bench of coequal strength, whereupon the matter may be placed for hearing before a Bench consisting of a quorum larger than the one which pronounced the decision laying down the law the correctness of which is doubted.

(3) The above rules are subject to two exceptions :

(i) The abovesaid rules do not bind the discretion of the Chief Justice in whom vests the power of framing the roster and who can direct any particular matter to be placed for hearing before any particular Bench of any strength; and

(ii) In spite of the rules laid down hereinabove, if the matter has already come up for hearing before a Bench of larger quorum and that Bench itself feels that the view of the law taken by a Bench of lesser quorum, which view is in doubt, needs correction or reconsideration then by way of exception (and not as a rule) and for reasons given by it, it may proceed to hear the case and examine the correctness of the previous decision in question dispensing with the need of a specific reference or the order of Chief Justice constituting the Bench and such listing. Such was the situation in

Raghubir Singh and Ors. and Hansoli Devi and Ors. (supra).”

Yet again, recently in Nagar Palika Nigam v. Krishi Upaj Mandi Samiti & Ors. [(2008 AIR SCW 7914)] having regard to the provisions of Order VII Rule 2 of the Supreme Court Rules, 1966, this Court refused to allow the appellant therein to raise the question of vires of a statute as such a contention had not been raised before the High Court.

The question came up for consideration before a Three Judge Bench in Official Liquidator v. Dayanand & Ors. [(2008) 10 SCC 1], wherein the necessity to maintain judicial discipline was reiterated, stating :

“90. We are distressed to note that despite several pronouncements on the subject, there is substantial increase in the number of cases involving violation of the basics of judicial discipline. The learned Single Judges and Benches of the High Courts refuse to follow and accept the verdict and law laid down by coordinate and even larger Benches by citing minor difference in the facts as the ground for doing so. Therefore, it has become necessary to reiterate that disrespect to constitutional ethos and breach of discipline have grave impact on the credibility of judicial institution and encourages chance litigation. It must be remembered that predictability and certainty is an important hallmark of judicial jurisprudence developed in this country in last six decades and increase in the frequency of conflicting judgments of the superior judiciary will do incalculable harm to the system

inasmuch as the courts at the grass root will not be able to decide as to which of the judgment lay down the correct law and which one should be followed.

91. We may add that in our constitutional set up every citizen is under a duty to abide by the Constitution and respect its ideals and institutions. Those who have been entrusted with the task of administering the system and operating various constituents of the State and who take oath to act in accordance with the Constitution and uphold the same, have to set an example by exhibiting total commitment to the Constitutional ideals. This principle is required to be observed with greater rigour by the members of judicial fraternity who have been bestowed with the power to adjudicate upon important constitutional and legal issues and protect and preserve rights of the individuals and society as a whole. Discipline is sine qua non for effective and efficient functioning of the judicial system. If the Courts command others to act in accordance with the provisions of the Constitution and rule of law, it is not possible to countenance violation of the constitutional principle by those who are required to lay down the law.”

46. Should we consider Pushpa to be an obiter following the said decision is the question which arises herein.

We think we should. The decisions referred to hereinbefore clearly suggest that we are bound by a Constitution Bench decision. We have referred to two Constitution Bench decisions, namely Marri Chandra Shekhar Rao and E.V. Chinnaiah. Marri Chandra Shekhar Rao had been

followed by this Court in a large number of decisions including Three Judge Bench decisions. Pushpa, therefore, could not have ignored either Marri Chandra Shekhar Rao or other decisions following the same only on the basis of an administrative circular issued or otherwise and more so when the Constitutional scheme as contained in clause (1) of Articles 341 and 342 of the Constitution of India putting the State and Union Territory in the same bracket.

Following Dayanand (supra), therefore, we are of the opinion that the dicta in Pushpa is an obiter and does not lay down any binding ratio.

47. For the reasons aforementioned, the impugned judgments cannot be sustained which are set aside accordingly. The appeal and the writ petition are allowed. In the facts and circumstances of the case, there shall be no orders as to costs.

.....J.
(S.B. Sinha)

.....J.
(Cyriac Joseph)

New Delhi;
August 04, 2009



भारत सरकार

राष्ट्रीय अनुसूचित जनजाति आयोग

GOVERNMENT OF INDIA
NATIONAL COMMISSION FOR SCHEDULED TRIBES

(A Constitutional Commission set up under Art. 338A of the Constitution to investigate and monitor all matters relating to violation of rights and safeguards provided for STs.)

संख्या/ No. 1/5/09-Coord.

दिनांक/ Date: 09.02.2010

To

- 1) Shri Maurice Kujur, Vice-Chairperson
- 2) Shri Tsering Samphel, Member
- 3) Shri Oris Syiem Myriaw, Member

Sub: **Meeting of the National Commission for Scheduled Tribes – Advanced Agenda Item.**

Sir/ Madam,

In continuation of the Commission's letter No. Policy-1/ATROCITY/ MTA/2010-RU-II dated 4th January, 2010 I am directed to enclose a copy of the Agenda Note on the following matter/ issue received from Ministry of Social Justice & Empowerment through Ministry of Tribal Affairs for comments.

<u>S.No.</u>	<u>Subject matter</u>	<u>Concerned File No.</u>
(i)	Consideration of amendments in Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Rule, 1995 – Reference from the Ministry of Social Justice & Empowerment through Ministry of Tribal Affairs.	F. No. Policy-1/ATROCITY/ MTA/2010-RU-II

2. The above matter is 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 Vice-Chairman, NCST.

Yours faithfully,

(R.C. Durga)
Director

Copy with copy of enclosures for information and comments to:

- (i) Secretary
- (ii) Joint Secretary
- (iii) Director (RU -I & RU -II)
- (iv) Director (RU - III & Coord.)
- (v) DS (Admn.)
- (vi) DD(RU-IV)

Agenda Note

Sub: Consideration of amendments in SCs and STs (Prevention of Atrocities) Rules, 1995 – Reference from the M/o SJ&E thru MTA.

1. Proposal in brief

A proposal has been received from Ministry of Social Justice and Empowerment through Ministry of Tribal Affairs for amending the following provisions of the SCs and STs (POA) Rules, 1995 :-

- i) Amendment in Rule 7 to insert Rule 7-A.
- ii) Amendment in Schedule to Rule 12(4) at Annexure – I.
- iii) Amendment in Schedule to POA Rules at Annexure-II.
- iv) Amendment in Rule 16 (1) (iv).

The SCs and STs (POA) Rules. 1995 were notified 31.03.1995, under the SCs and the STs (POA) Act, 1989. These Rules provide norms for relief and rehabilitation under the said Act, which extends to whole of India except Jammu and Kashmir. These POA Rules were not revised after notification, the need for their amendment has become imperative and following amendments in the POA Rules are being considered :-

i) Amendment in Rule 7 to insert Rule 7-A.

Proposed insertion of Rule 7-A

"7-A. Submission of Reports to Central Government etc. in case of serious offences.

(1) Whenever a First Information Report is registered for an offence punishable under sub-clause (i), (iv) or (v) of sub section (2) of section 3, the concerned District Magistrate shall submit a preliminary report within four days, in the matter, in such manner as may be prescribed, to the following:

- (i) concerned State Government/Union Territory Administration,

(ii) The Central Government in the Ministry of Home Affairs and the Ministry of Social Justice & Empowerment / Tribal Affairs, depending on whether the offence relates to a Schedule Caste or a Schedule Tribe, and
(iii) the National Commission for Scheduled Castes / the National Commission for Scheduled Tribes, depending on whether the offence relates to an SC or an ST.

(2) Within 45 days of the registration of the FIR relating to an offence mentioned in sub-rule(1), the concerned State Government/Union Territory Administration shall submit to the Ministries of the Central Government and the concerned National Commission, as specified in sub-rule (1) above, a detailed report in the matter in such manner as may be prescribed, in the light of the report submitted under sub-rule (2) of the rule 7."

Reason

At present there is no mechanism, from where M/o SJ&E on continuing basis can obtain authentic and full details of specific incidents of offences of atrocities, especially heinous offences. The Ministry largely comes to know of such incidents through media or representations. Towards evolving a formal system which binds the concerned institution to provide such information to the concerned agency, it is proposed to insert a new Eule 7-A, as above.

ii) Amendment in Schedule to Rule 12(4) at Annexure-I

Schedule to POA Rules at Annexure-I is captioned " Norms for relief amount" and prescribes " Minimum amount of relief". The relief amount varies between Rs. 20,000/- to Rs 2,00,000/-, depending upon the nature of offence and its payment is staggered. The Minimum relief amount as per Schedule to POA Rules as Annexure -I is proposed to be revised to between Rs. 48,000/- to Rs. 4,80,000/-.

Need

NCST in Chapter 9 of its first Report (2004-05 & 2005-06) had recommended that the amount of financial relief should be reviewed and suitably increased in recognition of the hard fact that the cost of living over past one decade has gone up. In the 'Action taken' statement to the said

recommendation, this Ministry (SJ&E) has said that revision of minimum amounts will be taken up.

For consideration of increase in the minimum amount of relief, the benchmark has been proposed to be taken as the Consumer Price Index for Industrial Workers (CPIIW). CPIIW was 293 in March, 1995, when the POA Rules were notified (Base 1982 = 100). CPIIW for May, 2009, works out to 699 (website of Labour Bureau). Therefore, the factor for working out revised minimum amount of relief at CPI 699 would be $699/293 = 2.4$.

iii) Amendment in Annexure-II of Schedule to POA Rules

At Sr.No.19 of Schedule to Rule 12(4), it is mentioned that the definition of Disability are contained in the Ministry of Welfare, G.O.I. notification No.4-2/83-H.W.III, dated 6.8.1986, (at Annexure-II of the Rules).

“Disability. The definitions of physical & mental disabilities are contained in the Ministry of Welfare, G.O.I. Notification No.4-2/83-HW.III, dated 6.8.1986, as amended from time to time. A copy of the Notification is at Annexure-II to the Schedule.”

Reason for proposed amendment

Since “disability” has subsequently been defined in Section 2 of the PWD Act, and guidelines for assessment of disability have also been amended, the above Sr.No.19 of the Scheduled may be amended as follows:-

“Disability. The definition of disability shall be as given in Section 2 of the PWD Act, and guidelines for their assessment shall be as contained in Ministry of Social Justice & Empowerment, G.O.I. notification No.154, dated 01.06.2001, as amended from time to time. A copy of the Notification is at Annexure-II to the Schedule.”

Accordingly the existing Annexure-II to Schedule to PoA Rules, may be replaced by the latest instructions {Notification dated -01.06.2001 (Annexure-B)} in this regard.

iv) Amendment in Rule 16(1)(iv)

Rule 16 of the POA Rules, provides for constitution of State-level vigilance and Monitoring Committee. The composition of the Committee is stated in rule 16(1), Rule 16(1)(iv), as reproduced below, inter-alia, mentions Director/Deputy Director, National Commission for the Scheduled Castes and the Scheduled Tribes as a Member:-

“16. CONSTITUTION OF STATE-LEVEL VIGILANCE AND MONITORING COMMITTEE

- (l) The State Government shall constitute high power vigilance and monitoring committee of not more than 25 members consisting of the following:
- (iv) Chief Secretary, the Home Secretary, the Director General of Police, Director/Deputy Director, National Commission for Scheduled Castes and the Scheduled Tribes – Members.”

Reason for proposed modification

As in February, 2004, the NCSCST was bifurcated into two separate Commissions, namely the National Commission for Scheduled Castes and the National Commission for Scheduled Tribes, therefore, Rule 16(1)(iv) requires to be amended as under:-

“16. CONSTITUTION OF STATE-LEVEL VIGILANCE AND MONITORING COMMITTEE

- (l) The State Government shall constitute high power vigilance and monitoring committee of not more than 25 members consisting of the following:
- (iv) Chief Secretary, the Home Secretary, the Director General of Police, Representative of the National Commission for Scheduled Castes and/or National Commission for Scheduled Tribes – Members.”

II Proposed Recommendations of the Commission on the matter.

The Commission may deliberate on the proposal keeping in view the following:

i) It is mentioned in the section (1) of proposed Rule 7-A that whenever a FIR is registered under sub clause (i), (iv) or (v) of sub section (2) of section 3, the concerned DM shall submit a preliminary report within four days..... (copy of section 3 is annexed).

There is no definition of heinous offenses in the Indian Penal Code. It is still not mandatory to register an FIR immediately a complaint is made (matter is being heard in the Supreme Court). As per NCRB crime statistics for 2002 to 2006, nearly 1200-1800 complaints were registered every year (except 2004) in respect of crimes against STs.

Comparative Incidence of Crime against Scheduled Tribes

Sl. No.	Crime-Head	Years					% Variati in 200 over 2005
		2002	2003	2004	2005	2006	
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
1.	Murder	189	189	156	164	195	18.9
2.	Rape	597	597	566	640	699	9.2
3.	Kidnapping & Abduction	69	69	79	72	88	22.2
4.	Dacoity	37	37	40	27	12	-55.6
5.	Robbery	62	62	50	49	29	-40.8
6.	Arson	58	58	33	38	46	21.1
7.	Hurt	788	788	767	767	838	9.3
8.	PCR Act	47	47	11	162	49	-69.8
9.	SC/ST (POA) Act	1800	1800	115	1283	1232	-4.0
10.	Others	3127	3127	2658	2511	2603	3.7

The Commission may deliberate regarding the clauses of the POA/ type of offences to be reported. Also, whether the proposed report should be made immediately a complaint is made or only after an FIR disclosing a cognizable offence has been recorded; and whether the responsibility for sending the report should be imposed on the Superintendent of police instead.

ii) Other three amendments proposed may be considered for agreement.

(f) words and expressions used but not defined in this Act and defined in the Code or the Indian Penal Code shall have the meanings assigned to them respectively in the Code, or as the case may be, in the Indian Penal Code.

(2) Any reference in this Act to any enactment or any provision thereof shall, in relation to an area in which such enactment or such provision is not in force, be construed as a reference to the corresponding law, if any, in force in that area.

CHAPTER- II

OFFENCES OF ATROCITIES

3. (1) Whoever, not being a member of a Scheduled Caste or a Scheduled Tribe-

- (i) forces a member of a Scheduled Caste or a Scheduled Tribe to drink or eat any inedible or obnoxious substance;
- (ii) acts with intent to cause injury, insult or annoyance to any member of a Scheduled Caste or a Scheduled Tribe by dumping excreta, waste matter, carcasses or any other obnoxious substance in his premises or neighborhood;
- (iii) Forcibly removes clothes from the person of a member of a Scheduled Caste or a Scheduled Tribe or parades him naked or with painted face or body or commits any similar act which is derogatory to human dignity;
- (iv) wrongfully occupies or cultivates any land owned by, or allotted to, or notified by any competent authority to be allotted to, a member of a Scheduled Caste or a Scheduled Tribe or gets the land allotted to him transferred;
- (v) wrongfully dispossesses a member of a Scheduled Caste or a Scheduled Tribe from his land or premises or interferes with the enjoyment of his rights over any land, premises or water;
- (vi) Compels or entices a member of a Scheduled Castes or a Scheduled Tribes to do 'begar' or other similar forms of forced or bonded labour other than any compulsory service for public purposes imposed by Government;
- (vii) forces or intimidates a member of a Scheduled Caste or a Scheduled Tribe not to vote or to vote to a particular candidate or to vote in a manner other than that provided by law;
- (viii) institutes false, malicious or vexatious suit or criminal or other legal proceedings against a member of a Scheduled Caste or a Scheduled Tribe;
- (ix) gives any false or frivolous information to any public servant and thereby causes such public servant to use his lawful power to the injury or annoyance of a member of a Scheduled Caste or Scheduled Tribe;
- (x) intentionally insults or intimidates with intent to humiliate a member of a Scheduled Caste or a Scheduled Tribe in any place within public view;
- (xi) assaults or uses force to any woman belonging to a Scheduled Caste or a Scheduled Tribe with intent to dis-honour or outrage her modesty;
- (xii) being in a position to dominate the will of a woman belonging to a Scheduled Caste or a Scheduled Tribe and uses that position to exploit her sexually to which she would not have otherwise agreed;
- (xiii) corrupts or fouls the water of any spring, reservoir or any other source ordinarily used

by members of the Scheduled Castes or the Scheduled Tribes so as to render it less fit for the purpose for which it is ordinarily used;

- (xiv) denies a member of a Scheduled Caste or a Scheduled Tribe any customary right of passage to a place of public resort or obstructs such member so as to prevent him from using or having access to a place of public resort to which other members of public or any section thereof have a right to use or access to;
- (xv) forces or causes a member of a Scheduled Caste or a Scheduled Tribe to leave his house, village or other place of residence;
Shall be punishable with imprisonment for a term, which shall not be less than six months but which may extend to five years and with fine.

(2) Whoever, not being a member of a Scheduled Caste or a Scheduled Tribe-

(i) gives or fabricates false evidence intending thereby to cause, or knowing it to be likely that he will thereby cause, any member of a Scheduled Caste or a Scheduled Tribe to be convicted of an offence which is capital by the law for the time being in force shall be punished with imprisonment for life and with fine; and if an innocent member of a Scheduled Caste or a Scheduled Tribes be convicted and executed in consequence of such false or fabricated evidence, the person who gives or fabricates such false evidence, shall be punished with death;

(ii) gives or fabricates false evidence intending thereby to cause, or knowing it to be likely that he will thereby cause, any member of a Scheduled Caste or a Scheduled Tribe to be convicted of an offence which is not capital but punishable with imprisonment for a term of seven years or upwards, shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to seven years or upwards and with fine;

(iii) commits mischief by fire or any explosive substance intending to cause or knowing it to be likely that he will thereby cause damage to any property belonging to a member of a Scheduled Caste or a Scheduled Tribe, shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to seven years and with fine;

(iv) commits mischief by fire or any explosive substance intending to cause or knowing it to be likely that he will thereby cause destruction of any building which is ordinarily used as a place of worship or as a place for human dwelling or as a place for custody of the property by a member of Scheduled Caste or a Scheduled Tribe, shall be punishable with imprisonment for life and with fine;

(v) commits any offence under the Indian Penal Code punishable with imprisonment for a term of ten years or more against a person or property on the ground that such person is a member of a Scheduled Caste or a Scheduled Tribe or such property belongs to such member, shall be punishable with imprisonment for life and with fine;

(vi) knowingly or having reason to believe that an offence has been committed under this Chapter, causes any evidence of the commission of that offence to disappear with the intention of screening the offender from legal punishment, or with that intention gives any information respecting the offence which he knows or believes to be false shall be punishable with the punishment provided for that offence; or

(vii) being a public servant, commits any offence under this section, shall be punishable with imprisonment for a term which shall not be less than one year but which may extend to the punishment provided for that offence.

4. Whoever, being a public servant but not being a member of a Scheduled Caste or a Scheduled Tribe, willfully neglects his duties required to be performed by him under this Act, shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to one year.

5. Whoever, having already been convicted of an offence under this Chapter is convicted for the second offence or any offence subsequent to the second offence, shall be punishable with imprisonment for a term which shall not be less than one year but which may extend to the punishment provided for that offence.

6. Subject to the other provisions of this Act, the provisions of section 34, Chapter III, Chapter IV, Chapter V, Chapter VA, section 149 and Chapter XXIII of the Indian Penal Code, shall, so far as may be, apply for the purposes of this Act as they apply for the purposes of the Indian Penal Code.

7. (1) Where a person has been convicted of any offence punishable under this Chapter, the Special Court may, in addition to awarding any punishment, by order in writing, declare that any property, movable or immovable or both, belonging to the person, which has been used for the commission of that offence, shall stand forfeited to Government.

(2) Where any person is accused of any offence under this Chapter, it shall be open to the Special Court trying him to pass an order that all or any of the properties, movable or immovable or both, belonging to him, shall, during the period of such trial, be attached, and where such trial ends in conviction, the property so attached shall be liable to forfeiture to the extent it is required for the purpose of realisation of any fine imposed under this Chapter.

8. In a prosecution for an offence under this Chapter, if it is proved that-

9. (a) the accused rendered any financial assistance to a person accused of, or reasonably suspected of committing, an offence under this Chapter the, Special Court shall presume, unless the contrary is proved, that such person had abetted the offence;

(b) a group of persons committed an offence under this Chapter and if it is proved that the offence committed was sequel to any existing dispute regarding land or any other matter, it shall be presumed that offence was committed in furtherance of the common intention or in prosecution of the common object.

10. (1) Notwithstanding anything contained in the code or in any other provision of this Act, the State Government may, if it considers it necessary or expedient so to do-

(a) for the prevention of and for coping with any offence under this Act, or

(b) for any case or class or group of cases under this Act, in any district or part thereof, confer, by notification in the Official Gazette, on any officer of the State Government, the powers exercisable by a police officer under the Code in such district or part thereof or, as the case may be, for such case or class or group of cases, and in particular, the powers of arrest, investigation and prosecution of persons before any Special Court.

(2) All officers of police and all other officers of Government shall assist the officer referred to in sub-section (1) in the execution of the provisions of this Act or any rule, scheme or order made thereunder.

view to any public property, movable or immovable, or the removal of injury of any public landmark or buoy or other mark used for navigation.

153. Inspection of weights and measures.- (1) Any officer in charge of a police station may, without a warrant, enter any place within the limits of such station for the purpose of inspecting or searching for any weights or measures or instruments for weighing, used or kept therein, whenever he has reason to believe that there are in such place any weights, measures or instruments for weighing which are false.

(2) If he finds in such place any weights, measures or instruments for weighing which are false, he may seize the same, and shall forthwith give information of such seizure to a Magistrate having jurisdiction.

CHAPTER

XII

INFORMATION TO THE POLICE AND THEIR POWERS TO INVESTIGATE

154. Information in cognizable cases.- (1) Every information relating to the commission of a cognizable offence, if given orally to an officer in charge of a police station, shall be reduced to writing by him or under his direction, and be read over to the informant; and every such information, whether given in writing or reduced to writing as aforesaid, shall be signed by the person giving it, and the substance thereof shall be entered in a book to be kept by such officer in such form as the State Government may prescribe in this behalf.

(2) A copy of the information as recorded under sub-section (1) shall be given forthwith, free of cost, to the informant.

(3) Any person aggrieved by a refusal on the part of an officer in charge of a police station to record the information referred to in sub-section (1) may send the substance of such information, in writing and by post, to the Superintendent of Police concerned who, if satisfied that such information discloses the commission of a cognizable offence, shall either investigate the case himself or direct an investigation to be made by any police officer subordinate to him, in the manner provided by this Code, and such officer

shall have all the powers of an officer in charge of the police station in relation to that offence.

155. Information as to non-cognizable cases and investigation of such cases.- (1) When information is given to an officer in charge of a police station of the commission within the limits of such station of a non-cognizable offence, he shall enter or cause to be entered the substance of the information in a book to be kept by such officer in such form as the State Government may prescribe in this behalf, and refer the informant to the Magistrate.

(2) No police officer shall investigate a non-cognizable case without the order of a Magistrate having power to try such case or commit the case for trial.

(3) Any police officer receiving such order may exercise the same powers in respect of the investigation (except the power to arrest without warrant) as an officer in charge of a police station may exercise in a cognizable case.

(4) Where a case relates to two or more offences of which at least one is cognizable, the case shall be deemed to be a cognizable case, notwithstanding that the other offences are non-cognizable.

156. Police officers power to investigate cognizable case.- (1) Any officer in charge of a police station may, without the order of a Magistrate, investigate any cognizable case which a Court having jurisdiction over the local area within the limits of such station would have power to inquire into or try under the provisions of Chapter XIII.

(2) No proceeding of a police officer in any such case shall at any stage be called in question on the ground that the case was one which such officer was not empowered under this section to investigate.

(3) Any Magistrate empowered under section 190 may order such an investigation as above-mentioned.

(3) The police officer may reduce into writing any statement made to him in the course of an examination under this section; and if he does so, he shall make a separate and true record of the statement of each such person whose statement he records.

162. Statements to police not to be signed: Use of statements in evidence.-

(1) No statement made by any person to a police officer in the course of an investigation under this Chapter, shall, if reduced to writing, be signed by the person making it; nor shall any such statement or any record thereof, whether in a police diary or otherwise, or any part of such statement or record, be used for any purpose, save as hereinafter provided, at any inquiry or trial in respect of any offence under investigation at the time when such statement was made:

Provided that when any witness is called for the prosecution in such inquiry or trial whose statement has been reduced into writing as aforesaid, any part of his statement, if duly proved, may be used by the accused, and with the permission of the Court, by the prosecution, to contradict such witness in the manner provided by section 145 of the Indian Evidence Act, 1872; (1 of 1872) and when any part of such statement is so used, any part thereof may also be used in the re-examination of such witness, but for the purpose only of explaining any matter referred to in his cross-examination. (2) Nothing in this section shall be deemed to apply to any statement falling within the provisions of clause (1) of section 32 of the Indian Evidence Act, 1872, (1 of 1872) or to affect the provisions of section 27 of that Act.

Explanation.- An omission to state a fact or circumstance in the statement referred to in sub-section (1) may amount to contradiction if the same appears to be significant and otherwise relevant having regard to the context in which such omission occurs and whether any omission amounts to a contradiction in the particular context shall be a question of fact.

163. No inducement to be offered.- (1) No police officer or other person in authority shall offer or make, or cause to be offered or made, any such inducement, threat or promise as is mentioned in section 24 of the Indian Evidence Act, 1872 (1 of 1872).

(2) But no police officer or other person shall prevent, by any caution or otherwise, any person from making in the course of any investigation under this Chapter any statement which he may be disposed to make of his own free will:

Provided that nothing in this sub-section shall affect the provisions of sub-section (4) of section 164.

164. Recording of confessions and statements.- (1) Any Metropolitan Magistrate or Judicial Magistrate may, whether or not he has jurisdiction in the case, record any confession or statement made to him in the course of an investigation under this Chapter or under any other law for the time being in force, or at any time afterwards before the commencement of the inquiry or trial:

Provided that no confession shall be recorded by a police officer on whom any power of a Magistrate has been conferred under any law for the time being in force.

(2) The Magistrate shall, before recording any such confession, explain to the person making it that he is not bound to make a confession and that, if he does so, it may be used as evidence against him; and the Magistrate shall not record any such confession unless, upon questioning the person making it, he has reason to believe that it is being made voluntarily.

(3) If at any time before the confession is recorded, the person appearing before the Magistrate states that he is not willing to make the confession, the Magistrate shall not authorise the detention of such person in police custody.

(4) Any such confession shall be recorded in the manner provided in section 281 for recording the examination of an accused person and shall be signed by the person making the confession; and the Magistrate shall make a memorandum at the foot of such record to the following effect:-

"I have explained to (name) that he is not bound to make a confession and that, if he does so, any confession he may make may be used as evidence

against him and I believe that this confession was voluntarily made. It was taken in my presence and hearing, and was read over to the person making it and admitted by him to be correct, and it contains a full and true account of the statement made by him.

(Signed)

A.

B.

Magistrate".

(5) Any statement (other than a confession) made under sub-section (1) shall be recorded in such manner hereinafter provided for the recording of evidence as is, in the opinion of the Magistrate, best fitted to the circumstances of the case; and the Magistrate shall have power to administer oath to the person whose statement is so recorded.

(6) The Magistrate recording a confession or statement under this section shall forward it to the Magistrate by whom the case is to be inquired into or tried.

165. Search by police officer.- (1) Whenever an officer in charge of a police station or a police officer making an investigation has reasonable grounds for believing that anything necessary for the purposes of an investigation into any offence which he is authorised to investigate may be found in any place within the limits of the police station of which he is in charge, or to which he is attached, and that such thing cannot in his opinion be otherwise obtained without undue delay, such officer may, after recording in writing the grounds of his belief and specifying in such writing, so far as possible, the thing for which search is to be made, search, or cause search to be made, for such thing in any place within the limits of such station.

(2) A police officer proceeding under sub-section (1), shall, if practicable, conduct the search in person.

(3) If he is unable to conduct the search in person, and there is no other person competent to make the search present at the time, he may, after recording in writing his reasons for so doing, require any officer subordinate to him to make the search, and he shall deliver to such subordinate officer an order in writing, specifying the place to be searched, and so far as possible, the thing for which search is to be made; and such

subordinate officer may thereupon search for such thing in such place.

(4) The provisions of this Code as to search-warrants and the general provisions as to searches contained in section 100 shall, so far as may be, apply to a search made under this section.

(5) Copies of any record made under sub-section (1) or sub-section (3) shall forthwith be sent to the nearest Magistrate empowered to take cognizance of the offence, and the owner or occupier of the place searched shall, on application, be furnished, free of cost, with a copy of the same by the Magistrate.

166. When officer in charge of police station may require another to issue search warrant.- (1) An officer in charge of a police station or a police officer not being below the rank of sub-inspector making an investigation may require an officer in charge of another police station, whether in the same or a different district, to cause a search to be made in any place, in any case in which the former officer might cause such search to be made, within the limits of his own station.

(2) Such officer, on being so required, shall proceed according to the provisions of section 165, and shall forward the thing found, if any, to the officer at whose request the search was made.

(3) Whenever there is reason to believe that the delay occasioned by requiring an officer in-charge of another police station to cause a search to be made under sub-section (1) might result in evidence of the commission of an offence being concealed or destroyed, it shall be lawful for an officer in-charge of a police station or a police officer making any investigation under this Chapter to search, or cause to be searched, any place in the limits of another police station in accordance with the provisions of section 165, as if such place were within the limits of his own police station.

(4) Any officer conducting a search under sub-section (3) shall forthwith send notice of the search to the officer in charge of the police station within the limits of which such place is situate, and shall also send with such notice a copy of the list (if any) prepared under section 100, and shall also

send to the nearest Magistrate empowered to take cognizance of the offence, copies of the records referred to in sub-sections (1) and (3) of section 165.

(5) The owner or occupier of the place searched shall, on application, be furnished free of cost with a copy of any record sent to the Magistrate under sub-section (4).

167. Procedure when investigation cannot be completed in twenty four hours.- (1) Whenever any person is arrested and detained in custody, and it appears that the investigation cannot be completed within the period of twenty-four hours fixed by section 57, and there are grounds for believing that the accusation or information is well-founded, the officer in charge of the police station or the police officer making the investigation, if he is not below the rank of sub-inspector, shall forthwith transmit to the nearest Judicial Magistrate a copy of the entries in the diary hereinafter prescribed relating to the case, and shall at the same time forward the accused to such Magistrate.

(2) The Magistrate to whom an accused person is forwarded under this section may, whether he has or has not jurisdiction to try the case, from time to time, authorise the detention of the accused in such custody as such Magistrate thinks fit, for a term not exceeding fifteen days in the whole; and if he has no jurisdiction to try the case or commit it for trial, and considers further detention unnecessary, he may order the accused to be forwarded to a Magistrate having such jurisdiction:

Provided that-

(a) the Magistrate may authorise detention of the accused person, otherwise than in custody of the police, beyond the period of fifteen days if he is satisfied that adequate grounds exist for doing so, but no Magistrate shall authorise the detention of the accused person in custody under this section for a total period exceeding sixty days, and on the expiry of the said period of sixty days, the accused person shall be released on bail if he is prepared to and does furnish bail; and every person released on bail under this section shall be deemed to be so released under the provisions of

Chapter XXXIII for the purposes of that Chapter;

(b) no Magistrate shall authorise detention in any custody under this section unless the accused is produced before him;

(c) no Magistrate of the second class, not specially empowered in this behalf by the High Court, shall authorise detention in the custody of the police.

Explanation.- If any question arises whether an accused person was produced before the Magistrate as required under paragraph (b), the production of the accused person may be proved by his signature on the order authorising detention.

(3) A Magistrate authorising under this section detention in the custody of the police shall record his reasons for so doing.

(4) Any Magistrate other than the Chief Judicial Magistrate making such order shall forward a copy of his order, with his reasons for making it, to the Chief Judicial Magistrate.

(5) If in any case triable by a Magistrate as a summons-case, the investigation is not concluded within a period of six months from the date on which the accused was arrested, the Magistrate shall make an order stopping further investigation into the offence unless the officer making the investigation satisfies the Magistrate that for special reasons and in the interests of justice the continuation of the investigation beyond the period of six months is necessary.

(6) Where any order stopping further investigation into an offence has been made under sub-section (5), the Sessions Judge may, if he is satisfied, on an application made to him or otherwise, that further investigation into the offence ought to be made, vacate the order made under sub-section (5) and direct further investigation to be made into the offence subject to such directions with regard to bail and other matters as he may specify.

168. Report of investigation by subordinate police officer.- When any

subordinate police officer has made any investigation under this Chapter, he shall report the result of such investigation to the officer in charge of the police station.

169. Release of accused when evidence deficient.- If, upon an investigation under this Chapter, it appears to the officer in charge of the police station that there is not sufficient evidence or reasonable ground of suspicion to justify the forwarding of the accused to a Magistrate, such officer shall, if such person is in custody, release him on his executing a bond, with or without sureties, as such officer may direct, to appear, if and when so required, before a Magistrate empowered to take cognizance of the offence on a police report, and to try the accused or commit him for trial.

170. Cases to be sent to Magistrate when evidence is sufficient.- (1) If, upon an investigation under this Chapter, it appears to the officer in charge of the police station that there is sufficient evidence or reasonable ground as aforesaid, such officer shall forward the accused under custody to a Magistrate empowered to take cognizance of the offence upon a police report and to try the accused or commit him for trial, or, if the offence is bailable and the accused is able to give security, shall take security from him for his appearance before such Magistrate on a day fixed and for his attendance from day to day before such Magistrate until otherwise directed.

(2) When the officer in charge of a police station forwards an accused person to a Magistrate or takes security for his appearance before such Magistrate under this section, he shall send to such Magistrate any weapon or other article which it may be necessary to produce before him, and shall require the complainant (if any) and so many of the persons who appear to such officer to be acquainted with the facts and circumstances of the case as he may think necessary, to execute a bond to appear before the Magistrate as thereby directed and prosecute or give evidence (as the case may be) in the matter of the charge against the accused.

(3) If the Court of the Chief Judicial Magistrate is mentioned in the bond, such Court shall be held to include any Court to which such Magistrate may refer the case for inquiry or trial, provided reasonable notice of such

reference is given to such complainant or persons.

(4) The officer in whose presence the bond is executed shall deliver a copy thereof to one of the persons who executed it, and shall then send to the Magistrate the original with his report.

171. Complainant and witnesses not to be required to accompany police officer and not to be subjected to restraint.- No complainant or witness on his way to any Court shall be required to accompany a police officer, or shall be subjected to unnecessary restraint or inconvenience, or required to give any security for his appearance other than his own bond:

Provided that, if any complainant or witness refuses to attend or to execute a bond as directed in section 170, the officer in charge of the police station may forward him in custody to the Magistrate, who may detain him in custody until he executes such bond, or until the hearing of the case is completed.

172. Diary of proceedings in investigation.- (1) Every police officer making an investigation under this Chapter shall day by day enter his proceedings in the investigation in a diary, setting forth the time at which the information reached him, the time at which he began and closed his investigation, the place or places visited by him, and a statement of the circumstances ascertained through his investigation.

(2) Any Criminal Court may send for the police diaries of a case under inquiry or trial in such Court, and may use such diaries, not as evidence in the case, but to aid it in such inquiry or trial.

(3) Neither the accused nor his agents shall be entitled to call for such diaries, nor shall he or they be entitled to see them merely because they are referred to by the Court; but, if they are used by the police officer who made them to refresh his memory, or if the Court uses them for the purpose of contradicting such police officer, the provisions of section 161 or section 145 as the case may be, of the Indian Evidence Act, 1872, (1 of 1872) shall apply.

173. Report of police officer on completion of investigation.- (1) Every investigation under this Chapter shall be completed without unnecessary delay.

(2) (i) As soon as it is completed, the officer in charge of the police station shall forward to a Magistrate empowered to take cognizance of the offence on a police report, a report in the form prescribed by the State Government, stating

(a) the names of the parties;

(b) the nature of the information;

(c) the names of the persons who appear to be acquainted with the circumstances of the case;

(d) whether any offence appears to have been committed and, if so, by whom;

(e) whether the accused has been arrested;

(f) whether he has been released on his bond and, if so, whether with or without sureties;

(g) whether he has been forwarded in custody under section 170.

(ii) The officer shall also communicate, in such manner as may be prescribed by the State Government, the action taken by him, to the person, if any, by whom the information relating to the commission of the offence was first given.

(3) Where a superior officer of police has been appointed under section 158, the report shall, in any case in which the State Government by general or special order so directs, be submitted through that officer, and he may, pending the orders of the Magistrate, direct the officer in charge of the police station to make further investigation.

(4) Whenever it appears from a report forwarded under this section that the accused has been released on his bond, the Magistrate shall make such order for the discharge of such bond or otherwise as he thinks fit.

(5) When such report is in respect of a case to which section 170 applies, the police officer shall forward to the Magistrate along with the report-

(a) all documents or relevant extracts thereof on which the prosecution proposes to rely other than those already sent to the Magistrate during investigation;

(b) the statements recorded under section 161 of all the persons whom the prosecution proposes to examine as its witnesses.

(6) If the police officer is of opinion that any part of any such statement is not relevant to the subject-matter of the proceedings or that its disclosure to the accused is not essential in the interest of justice and is inexpedient in the public interest, he shall indicate that part of the statement and append a note requesting the Magistrate to exclude that part from the copies to be granted to the accused and stating his reasons for making such request.

(7) Where the police officer investigating the case finds it convenient so to do, he may furnish to the accused copies of all or any of the documents referred to in sub-section (5).

(8) Nothing in this section shall be deemed to preclude further investigation in respect of an offence after a report under sub-section (2) has been forwarded to the Magistrate and, where upon such investigation, the officer in charge of the police station obtains further evidence, oral or documentary, he shall forward to the Magistrate a further report or reports regarding such evidence in the form prescribed; and the provisions of sub-sections (2) to (6) shall, as far as may be, apply in relation to such report or reports as they apply in relation to a report forwarded under sub-section (2).

174. Police to enquire and report on suicide, etc.- (1) When the officer in charge of a police station or some other police officer specially empowered

157.Procedure for investigation.- (1) If, from information received or otherwise, an officer in charge of a police station has reason to suspect the commission of an offence which he is empowered under section 156 to investigate, he shall forthwith send a report of the same to a Magistrate empowered to take cognizance of such offence upon a police report and shall proceed in person, or shall depute one of his subordinate officers not being below such rank as the State Government may, by general or special order, prescribe in this behalf, to proceed, to the spot, to investigate the facts and circumstances of the case, and, if necessary, to take measures for the discovery and arrest of the offender:

Provided that-

(a) when information as to the commission of any such offence is given against any person by name and the case is not of a serious nature, the officer in charge of a police station need not proceed in person or depute a subordinate officer to make an investigation on the spot;

(b) if it appears to the officer in charge of a police station that there is no sufficient ground for entering on an investigation, he shall not investigate the case.

(2) In each of the cases mentioned in clauses (a) and (b) of the proviso to sub-section (1), the officer in charge of the police station shall state in his report his reasons for not fully complying with the requirements of that sub-section, and, in the case mentioned in clause (b) of the said proviso, the officer shall also forthwith notify to the informant, if any, in such manner as may be prescribed by the State Government, the fact that he will not investigate the case or cause it to be investigated.

158.Report how submitted.- (1) Every report sent to a Magistrate under section 157 shall, if the State Government so directs, be submitted through such superior officer of police as the State Government, by general or special order, appoints in that behalf.

(2) Such superior officer may give such instructions to the officer in charge of the police station as he thinks fit, and shall, after recording such

instructions on such report, transmit the same without delay to the Magistrate.

159. Power to hold investigation or preliminary inquiry.- Such Magistrate, on receiving such report, may direct an investigation, or, if he thinks fit, at once proceed, or depute any Magistrate subordinate to him to proceed, to hold a preliminary inquiry into, or otherwise to dispose of, the case in the manner provided in this Code.

160. Police officers power to require attendance of witnesses.- (1) Any police officer making an investigation under this Chapter may, by order in writing, require the attendance before himself of any person being within the limits of his own or any adjoining station who, from the information given or otherwise, appears to be acquainted with the facts and circumstances of the case; and such person shall attend as so required:

Provided that no male person under the age of fifteen years or woman shall be required to attend at any place other than the place in which such male person or woman resides.

(2) The State Government may, by rules made in this behalf, provide for the payment by the police officer of the reasonable expenses of every person, attending under sub-section (1) at any place other than his residence.

161. Examination of witnesses by police.- (1) Any police officer making an investigation under this Chapter, or any police officer not below such rank as the State Government may, by general or special order, prescribe in this behalf, acting on the requisition of such officer, may examine orally any person supposed to be acquainted with the facts and circumstances of the case.

(2) Such person shall be bound to answer truly all questions relating to such case put to him by such officer, other than questions the answers to which would have a tendency to expose him to a criminal charge or to a penalty or forfeiture.

by the State Government in that behalf receives information that a person has committed suicide, or has been killed by another or by an animal or by machinery or by an accident, or has died under circumstances raising a reasonable suspicion that some other person has committed an offence, he shall immediately give intimation thereof to the nearest Executive Magistrate empowered to hold inquests, and, unless otherwise directed by any rule prescribed by the State Government, or by any general or special order of the District or Sub-divisional Magistrate, shall proceed to the place where the body of such deceased person is, and there, in the presence of two or more respectable inhabitants of the neighbourhood, shall make an investigation, and draw up a report of the apparent cause of death, describing such wounds, fractures, bruises, and other marks of injury as may be found on the body, and stating in what manner, or by what weapon or instrument (if any); such marks appear to have been inflicted.

(2) The report shall be signed by such police officer and other persons, or by so many of them as concur therein, and shall be forthwith forwarded to the District Magistrate or the Sub-divisional Magistrate.

(3) When there is any doubt regarding the cause of death, or when for any other reason the police officer considers it expedient so to do, he shall, subject to such rules as the State Government may prescribe in this behalf, forward the body, with a view to its being examined, to the nearest Civil Surgeon, or other qualified medical man appointed in this behalf by the State Government, if the state of the weather and the distance admit of its being so forwarded without risk of such putrefaction on the road as would render such examination useless.

(4) The following Magistrates are empowered to hold inquests, namely, any District Magistrate or Sub-divisional Magistrate and any other Executive Magistrate specially empowered in this behalf by the State Government or the District Magistrate.

175. Power to summon persons.- (1) A police officer proceeding under section 174 may, by order in writing, summon two or more persons as aforesaid for the purpose of the said investigation, and any other person who appears to be acquainted with the facts of the case and every person

so summoned shall be bound to attend and to answer truly all questions other than questions the answers to which would have a tendency to expose him to a criminal charge or to a penalty or forfeiture.

(2) If the facts do not disclose a cognizable offence to which section 170 applies, such persons shall not be required by the police officer to attend a Magistrate's Court.

176. Inquiry by Magistrate into cause of death.- (1) When any person dies while in the custody of the police, the nearest Magistrate empowered to hold inquests shall, and in any other case mentioned in sub-section (1) of section 174, any Magistrate so empowered may hold an inquiry into the cause of death either instead of, or in addition to, the investigation held by the police officer; and if he does so, he shall have all the powers in conducting it which he would have in holding an inquiry into an offence.

(2) The Magistrate holding such an inquiry shall record the evidence taken by him in connection therewith in any manner hereinafter prescribed according to the circumstances of the case.

(3) Whenever such Magistrate considers it expedient to make an examination of the dead body of any person who has been already interred, in order to discover the cause of his death, the Magistrate may cause the body to be disinterred and examined.

(4) Where an inquiry is to be held under this section, the Magistrate shall, wherever practicable, inform the relatives of the deceased whose names and addresses are known, and shall allow them to remain present at the inquiry.

Explanation.- In this section, the expression "relative" means parents, children, brothers, sisters and spouse.

177. Ordinary place of inquiry and trial.- Every offence shall ordinarily be inquired into and tried by



No: 16/12/2009-CP&R
Government of India
Ministry of Tribal Affairs

Room No. 280, August Kranti Bhawan,
Bhikaji Cama Place, New Delhi-110 066
Date 04.12.2009

To

The Secretary,
National Commission for STs,
6th Floor, Lok Nayak Bhawan,
Khan Market,
New Delhi - 110 003

Subject: **Consideration of amendments in the SCs and SCs (Prevention of Atrocities) Rules, 1995 – Reference from the M/o SJ&E.**

Sir,

I am directed to forward herewith a copy of O.M. No.11012/2/2008-PCR (DESK) dated 20.11.2009 received from the Ministry of Social Justice and Empowerment on the subject mentioned above. That Ministry has sent a proposal for amending the following provisions of the SCs and SCs (Prevention of Atrocities) Rules, 1995:-

- | |
|--|
| <p>(i) Amendment in Rule 7 to insert Rule 7-A.
(ii) Amendment in Schedule to Rule 12 (4) at Annexure- I.
(iii) Amendment in Schedule to PoA Rules at Annexure- II.
(iv) Amendment in Rule 16 (1) (iv).</p> |
|--|

2. The National Commission are requested to kindly send their views/comments on these amendment proposals to this Ministry by 18.12.2009 at the latest.

Yours faithfully,


(C. Gosakan)

Deputy Secretary to the Government of India
Telefax: 2618 2150

Encl. As above.

Endt. No. 16/12/2009-CP&R

Date 04.12.2009

Copy forwarded for information to Ministry of SJ&E {Shri V.R. Malhotra, Director (SCD)}, w.r.t. their O.M. mentioned above.

(C. Gosakan)
Deputy Secretary

Pls open a policy file, get
10 copies of the bunch & put up
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3033 / Govt/2009
12/12/09

Pls
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Most Immediate

No. 11012/2/2008-PCR (Desk)
Government of India
Ministry of Social Justice & Empowerment

Shastri Bhawan, New Delhi
Dated: 20-11-2009

Office Memorandum

Subject:- Consideration of amendments in the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Rules, 1995..regarding.

The undersigned is directed to refer to the subject noted above and to say that the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Rules, 1995, were notified on 31.03.1995, under the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989. These Rules inter-alia provide norms for relief and rehabilitation under the said Act.

2. As the PoA Rules were notified on 31.03.1995 and not revised thereafter, the need for their amendment has become imperative. On having carefully considered the matter, following amendments in the PoA Rules are being considered:-

Amendment in Rule 7 to insert Rule 7-A

- (i) Amendment in Schedule to Rule 12(4) at Annexure-I
- (ii) Amendment in Annexure-II of Schedule to PoA Rules
- (iii) Amendment in Rule 16(1)(iv)

3. A detailed note in this regard is **enclosed**. It is requested that considered views of the Ministry (including those of their agencies like Commissions etc), on each of the proposed amendment as in para 2 above, may please be urgently furnished to this Ministry, so that further action may be taken towards processing proposed amendments in PoA Rules.

(Signature)
(V.R. Malhotra)
Director (SCD)
Tele: 23385220

Ministry of Tribal Affairs
(Kind Attn: Smt. Urvashi Sadhwani, Economic Adviser)
August Kranti Bhawan,
New Delhi.

Handwritten notes on the left margin, including "Smt. Urvashi Sadhwani" and other illegible scribbles.

1547/60(09)
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Smt. Urvashi
23/11/09

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Amendments under consideration in the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Rules, 1995.

The Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (No.33 of 1989) came into force with effect from 30.01.1990. This legislation aims at preventing commission of offences by persons other than Scheduled Castes and Scheduled Tribes against Scheduled Castes and Scheduled Tribes. Comprehensive Rules under this Act, titled "Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Rules, 1995" (hereafter referred to as PoA Rules) were notified in the year 1995, which, inter-alia, provide norms for relief and rehabilitation. The Act extends to whole of India except Jammu and Kashmir. The Act is implemented by the respective State Governments and Union Territory Administrations, which are provided due central assistance under the Centrally Sponsored Scheme for effective implementation of the provisions of the Act.

2. Salient provisions of the PoA Rules are as under: -

- (i) Precautionary and Preventive Measures to be taken by the State Governments regarding offences of atrocities (Rule 3).
- (ii) Investigation of offences under the Act to be done by a DSP level Officer (Rule 7 (1)).
- (iii) Investigation to be completed within 30 days and report forwarded to Director General of Police of the State (Rule 7 (2)).
- (iv) Setting up of the Scheduled Castes and the Scheduled Tribes Protection Cell at State headquarters under the charge of Director General of Police/IG Police (Rule 8).
- (v) Nomination of (a) a Nodal Officer at the State level (not below the rank of a Secretary to the State Government), and (b) a Special Officer at the district level (not below the rank of an Additional District Magistrate) for districts with identified atrocity prone areas to co-ordinate the functioning of DMs, SPs and other concerned officers, at the State and District levels, respectively. (Rule 9 and 10).
- (vi) Provision of relief in cash or kind to victims of atrocities as per prescribed norms. (Rule 12 (4) and Schedule).

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(vii) State Level Vigilance and Monitoring Committee under the Chief Minister to meet at least twice a year (Rule 16).

(ix) District Level Vigilance and Monitoring Committees under the District Magistrate to meet at least once every quarter (Rule 17).

3. Following **amendments in the PoA Rules** are under consideration: -

(I) Amendment in Rule 7 to insert Rule 7-A

(II) Amendment in Schedule to Rule 12(4) at Annexure-I

(III) Amendment in Annexure-II of Schedule to PoA Rules

(IV) Amendment in Rule 16(1)(iv)

4. Each of the point in para 3 above is elaborated as under:-

(I) **Amendment in Rule 7 to insert Rule 7-A**

Rule 7 of the existing POA Rules, 1995, is as under:-

" 7. INVESTIGATING OFFICER

(1) An offence committed under the Act shall be investigated by a police officer not below the rank of a Deputy Superintendent of Police. The investigating officer shall be appointed by the State Government/Director General of Police/Superintendent of Police after taking into account his past experience, sense of ability and justice to perceive the implications of the case and investigate it along with right lines within the shortest possible time.

(2) The investigating officer so appointed under sub-rule (1) shall complete the investigation on top priority within thirty days and submit the report to the Superintendent of Police who in turn will immediately forward the report to the Director General of Police of the State Government.

(3) The Home Secretary and the Social Welfare Secretary to the State Government, Director of Prosecution the officer in-charge of Prosecution and the Director General of Police shall review by the end of every quarter the position of all investigations done by the investigating officer. "

Proposed insertion of Rule 7-A

"7-A. Submission of Reports to Central Government etc. in case of serious offences

(1) Whenever a First Information Report is registered for an offence punishable under sub-clause (i), (iv) or (v) of sub section (2) of Section 3, the concerned District Magistrate shall submit a preliminary report within four days, in the matter, in such manner as may be prescribed, to the following:

(i) concerned State Government/Union Territory Administration,

(ii) the Central Government in the Ministry of Home Affairs and the Ministry of Social Justice & Empowerment/Tribal Affairs , depending on whether the offence relates to a Scheduled Caste or a Scheduled Tribe, and

(iii) the National Commission for Scheduled Castes / the National Commission for Scheduled Tribes, depending on whether the offence relates to an SC or an ST.

(2) Within 45 days of the registration of the FIR relating to an offence mentioned in sub-rule(1), the concerned State Government/Union Territory Administration shall submit to the Ministries of the Central Government and the concerned National Commission, as specified in sub-rule(1) above, a detailed report in the matter in such manner as may be prescribed, in the light of the report submitted under sub-rule (2) of rule 7."

⇒ **Reasons for insertion of proposed Rule 7-A as above**

At present there is no institutional mechanism, from where Ministry of Social Justice & Empowerment on continuing basis can obtain authentic and full details of specific incidents of

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offences of atrocities, especially heinous offences. The National Crime Records Bureau, Ministry of Home Affairs also does not provide such information on day to day basis. This Ministry largely comes to know of incidents largely through media sources. The other source is petitions/representations received from various forums. At least, in serious matters, a d.o. letter is addressed to the concerned State Government/Union Territory Administration, to seek factual information. Towards evolving a formal system which binds the concerned institution to provide such information to the concerned agency, it is proposed to insert a **new Rule 7-A**, as above.

(II) Amendment in Schedule to Rule 12(4) at Annexure-I

(i) Schedule to PoA Rules, at Annexure-I, is captioned "Norms for relief amount" and prescribes 'Minimum amount of relief'. The relief amount varies in between Rs. 20,000/- to Rs. 200,000/-, depending upon on the nature of offence and its payment is staggered, as specified in Annexure-I.

⇒ **Need for revision in the minimum scale of relief**

(ii) The POA Rules have not been revised since its notification on 31.03.1995; the prescribed minimum relief amount has also remained unrevised. The National Commission for Scheduled Tribes(NCST) in Chapter 9 of its First Report(period 2004-05 & 2005-06) had recommended that the amount of financial relief should be reviewed and suitably increased in recognition of the hard fact that the cost of living over the past one decade, starting from 1995 has enormously gone up. In the 'Action taken' statement to the said recommendation, this Ministry has said that revision of minimum amounts will be taken up. Thus, the need for revising the minimum relief amount is indeed imperative, in view substantial escalation in cost of living since 1995.

(iii) For consideration of increase in the minimum amount of Relief , the benchmark has been proposed to be taken as the Consumer Price Index for Industrial Workers(CPIIW) in March, 1995(when PoA Rules were notified), which was 293(Base 1982=100). The Linking Factor between 1982 and 2001 series for All India is 4.63. Thus, the CPIIW, at base 1982, for May, 2009, works out to 699(this data has been obtained from the website of Labour Bureau). The Factor for working out

revised minimum amount of Relief at CPI 699 would be $699/293 = 2.4$. Accordingly, the table at Annexure-A, indicates the existing relief amount as well as the amount linked with CPIIW for May, 2009. The effect of this proposed modification is as under:-

Existing Minimum relief amount as per Schedule to PoA Rules at Annexure-I	Proposed Minimum relief amount as per Schedule to PoA Rules at Annexure-I
Rs. 20, 000/- to Rs, 2, 00,000/-	Rs. 48, 000/- to Rs, 4, 80,000/-

(III) Amendment in Annexure-II of Schedule to PoA Rules

At Sr. No. 19 of Schedule to Rule 12(4), it is mentioned that the definition of Disability are contained in the Ministry of Welfare, G.O.I. notification No.4-2/83-HW.III, dated 6-8-1986, {at Annexure-II of the Rules}:

"Disability. The definitions of physical & mental disabilities are contained in the Ministry of Welfare, G.O.I. Notification No.4-2/83-HW.III, dated 6-8-1986, as amended from time to time. A copy of the Notification is at Annexure – II to the Schedule."

⇒ Reason for proposed amendment

Since "disability" has subsequently been defined in Section 2 of the PWD Act, and guidelines for assessment of disability have also been amended, the above Sr. No. 19 of the Scheduled may be amended as follows:-

"Disability. The definition of disability shall be as given in Section 2 of the PWD Act, and guidelines for their assessment shall be as contained in the Ministry of Social Justice & Empowerment, G.O.I. notification No. 154, dated 01.6.2001, as amended from time to time. A copy of the Notification is at Annexure – II to the Schedule."

Accordingly the existing Annexure-II to Schedule to PoA Rules, may be replaced by the latest instructions {Notification dated 01.06.2001(Annexure-B)} in this regard.

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(IV) Amendment in Rule 16(1)(iv)

Rule 16 of the POA Rules, provides for constitution of State-level Vigilance and Monitoring Committee. The composition of the Committee is stated in Rule 16(1). Rule 16(1)(iv), as reproduced below, inter-alia, mentions Director/Deputy Director, National Commission for the Scheduled Castes and the Scheduled Tribes as a Member:-

"16. CONSTITUTION OF STATE-LEVEL VIGILANCE AND MONITORING COMMITTEE

(1) The State Government shall constitute high power vigilance and monitoring committee of not more than 25 members consisting of the following:

(iv) Chief Secretary, the Home Secretary, the Director General of Police, Director/Deputy Director National Commission for the Scheduled Castes and the Scheduled Tribes – Members."

⇒ **Reason for proposed modification**

As in February, 2004, the NCSCST was bifurcated into two separate Commissions, namely the National Commission for Scheduled Castes and the National Commission for Scheduled Tribes, therefore, Rule 16(1)(iv) requires to be amended as under:-

"16. CONSTITUTION OF STATE-LEVEL VIGILANCE AND MONITORING COMMITTEE

(1) The State Government shall constitute high power vigilance and monitoring committee of not more than 25 members consisting of the following:

(iv) Chief Secretary, the Home Secretary, the Director General of Police, Representative of the National Commission for Scheduled Castes and/or National Commission for Scheduled Tribes – Members."

(9)

A

Annexure-A

Table indicating the existing relief amount as well as proposed amount linked with CPIIW for May, 2009.

Sr. No.	Name of offence	Existing amount of Relief. (The CPIIW for March, 1995 was 293)			Minimum proposed amount of Relief, as pegged with CPIIW, during May, 2009 i.e. 699. ➤ Factor for linking proposed minimum amount of Relief with CPI 699 is $699/293 = 2.4$		
		Minimum	Maximum	Fixed	Minimum	Maximum	Fixed
1	2	3	4	5	6	7	8
1.	Drink or eat inedible or obnoxious substances {Section 3 (1) (i)}	Rs.25,000 Payment to be made as follows:- I. 25% when the charge sheet is sent to the court. II. 75% when accused are convicted by the lower court.	-	-	Rs.60,000	-	-
2.	Causing injury, insult or annoyance {Section 3(1)(ii)--acts with intent to cause injury, insult or annoyance to any member of a Scheduled Caste, or a Scheduled Tribe by dumping excretas, waste matter, carcasses or any other obnoxious substance in his premises or neighbourhood}	Rs.25,000	-	-	Rs.60,000	-	-
3.	Derogatory act {Section 3(1)(iii)--forcibly removes clothes from the person of a member of a Scheduled Caste or a Scheduled Tribe or parades him naked or with painted face or body or commits any similar act which is derogatory to human dignity}	Rs.25,000	-	-	Rs.60,000	-	-

4.	Wrongful occupation or cultivation of land, etc. {Section 3(1)(iv)--wrongfully occupies or cultivates any land owned by, or allotted to, or notified by any competent authority to be allotted to, a member of a Scheduled Caste or a Scheduled Tribe or gets the land allotted to him transferred}	Rs.25,000	-	-	Rs.60,000	-	-
5.	Relating to land, premises and water {Section 3(1)(v)--wrongfully dispossesses a member of Scheduled Caste or a Scheduled Tribe from his land or premises or interferes with the enjoyment of his rights over any land, premises or water}	Rs.25,000	-	-	Rs.60,000	-	-
6.	Begar or forced or bonded labour. {Section 3(1)(vi)--compels or entices a member of a Scheduled Castes or a Scheduled Tribe to do 'begar'}.	Rs.25,000	-	-	Rs.60,000	-	-
7.	Relating to right to franchise {Section 3(1)(vii)--forces or intimidates a member of a Scheduled Caste or a Scheduled Tribe not to vote or to vote to a particular candidate or to vote in a manner other than that provided by law}	-	Rs.20,000	-	-	Rs.48,000	-
8.	False, malicious or vexatious legal proceedings. {Section 3(1)(viii)--institutes false, malicious or vexatious suit or criminal or other legal proceedings against a member of a Scheduled Caste or a Scheduled Tribe}.	-	-	Rs.25,000	-	-	Rs.60,000

(11)

(10)

9.	False and frivolous information {Section 3(1)(ix)--gives any false or frivolous information to any public servant and thereby causes such public servant to use his lawful power to the injury or annoyance of a member of a Scheduled Caste or a Scheduled Tribe}.	-	-	Rs.25,000	-	-	Rs.60,000
10.	Insult, intimidation and humiliation {Section 3(1)(x)--intentionally insults or intimidates with intent to humiliate a member of a Scheduled Caste or a Scheduled Tribe in any place within public view}.	-	Rs.25,000	-	-	Rs.60,000	-
11.	Outraging the modesty of a woman {Section 3(1)(xi)--assaults or uses force to any woman belonging to a Scheduled Caste or a Scheduled Tribe with intent to dishonour or outrage her modesty}	-	-	Rs.50,000	-	Rs.1,20,000	-
12.	Sexual exploitation of a woman {Section 3(1)(xii)--being in a position to dominate the will of a woman belonging to a Scheduled Caste or a Scheduled Tribe and uses that position to exploit her sexually to which she would not have otherwise agreed }.	-	-	Rs.50,000	-	-	Rs1,20,000
13.	Fouling of water {Section 3(1)(xiii)--corrupts or fouls the water of any spring, reservoir or any other source ordinarily used by members of the Scheduled Castes or the Scheduled Tribes so as to render it less fit for the purpose for which it is ordinarily used.}	-	Rs.1,00,000	-	-	Rs2,40,000	-

14.	Denial of customary rights of passage {Section 3(1)(xiv)-denies a member of a Scheduled Caste or a Scheduled Tribe, any customary right of passage to a place of public resort or obstructs such member so as to prevent him from using or having access to a place of public resort to which other members of public or any section thereof have a right to use or access to }	-	Rs.1,00,000	-	-	Rs.2,40,000	-
15.	Making one desert place of residence {Section 3(1)(xv)-forces or causes a member of a Scheduled Caste or a Scheduled Tribe to leave his house, village or other place of residence}	-	-	Rs.25,000	-	-	Rs.60,000
16.	Giving false evidence {Section 3(2)(i) and (ii)- {(i) gives or fabricates false evidence intending thereby to cause or knowing it to be likely that he will thereby cause, any member of a Scheduled Caste or a Scheduled Tribe to be convicted of an offence which is capital by the law for the time being in force shall be punished with imprisonment for life and with fine; and if an innocent member of a Scheduled Caste or a Scheduled Tribe be convicted and executed in consequence of such false or fabricated evidence, the person who gives or fabricates such false evidence, shall be punished with death}; (ii) {gives or fabricates false evidence intending thereby to cause, or	Rs.1,00,000	-	-	Rs2,40,000	-	-

	knowing it to be likely that he will thereby cause, any member of Scheduled Caste or a Scheduled Tribe to be convicted of an offence which is not capital but punishable with imprisonment for a term of seven years or upwards, shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to seven years or upwards and with fine.}						
17.	Committing offences under the Indian Penal Code punishable with imprisonment for a term of 10 years or more {Section 3(2)(v) -- commits mischief by fire or any explosive substance intending to cause or knowing it to be likely that he will thereby cause destruction of any building which is ordinarily used as a place of worship or as a place for human dwelling or as a place for custody of the property by a member of a Scheduled Caste or a Scheduled Tribe, shall be punishable with imprisonment for life and with fine.}	Rs.50,000	-	-	Rs1,20,000	-	-
18.	Victimization at the hands of a public servant {Section 3(2)(vii) - being a public servant, commits any offence under this section, shall be punishable with imprisonment for a term which shall not be less than one year but which may extend to the punishment provided for that offence.}	Full compensation on account of damages or loss or harms sustained.			Same as the compensation payable, if the accused was not a public servant.		

19.	<p>Disability. The definitions of physical & mental disabilities are contained in the Ministry of Welfare, G.O.I notification No 4-2/83- HW.III dated 6-8-1986 as amended from time to time. A copy of the Notification is at Annexure-II.</p> <p>(a) 100% incapacitation</p> <p>(i) Non-earning Member of family.</p> <p>(ii) Earning member of family</p> <p>(b) Where incapacitation is less than 100%</p>	<p>Rs1,00,000</p> <p>Rs2,00,000</p> <p>Rs.15,000 to non earning member and Rs. 30,000 to earning member of family.</p>	-	-	<p>Rs. 2,40,000</p> <p>Rs. 4,80,000</p> <p>Rs. 36,000 to non earning member and Rs.72,000 to earning member of family.</p>	
20.	<p><u>Murder/Death</u></p> <p>(a) Non-earning Member of family.</p> <p>(b) Earning Member of family.</p>	<p>Rs.1,00,000</p> <p>Rs.2,00,000</p>	-	-	<p>Rs.2,40,000</p> <p>Rs.4,80,000</p>	
21.	<p>Victim of murder, death, massacre, rape, mass rape and gang rape, permanent incapacitation and dacoits.</p>	<p>In addition to relief amount paid under above items, relief may be arranged within three months of date of atrocity as follows:-</p> <p>(i) Pension to each widow and /or other dependents of deceased SC & ST @ Rs. 1,000/- per month, or Employment to one member of the family of the deceased, or provision of agriculture land, and house, if necessary by outright purchase.</p> <p>(ii) Full cost of the education and maintenance of the children of the victims. Children may be admitted to Ashram School/residential schools.</p> <p>(iii) Provision of utensils, rice, wheat, dals, pulses, etc. for a period of three months.</p>	<p>In addition to relief amount paid under above items, relief may be arranged within three months of date of atrocity as follows:-</p> <p>(i) Pension to each widow and /or other dependents of deceased SC & ST @ Rs. 2,400/- per month, or Employment to one member of the family of the deceased, or provision of agriculture land, an house, if necessary by outright purchase.</p> <p>(ii) No change.</p> <p>(iii) No change.</p>			
22.	<p>Complete destruction/burnt houses.</p>	<p>Brick/stone masonry house to be constructed or provided at Government cost where it has been burnt or destroyed.</p>	<p>No change.</p>			

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Annexure-B

**MINISTRY OF SOCIAL JUSTICE AND EMPOWERMENT
NOTIFICATION
New Delhi, the 1st June, 2001**

Subject :-Guidelines for evaluation of various disabilities and procedure for certification.

No. 16-18/97-NI. I.-In order to review the guidelines for evaluation of various disabilities and procedure for certification as given in the Ministry of Welfare's O.M. No. 4-2/83-HW.-III, dated the 6th August, 1986 and to recommend appropriate modifications/alterations keeping in view the Persons with Disabilities (Equal Opportunitles, Protection of Rights and Full Participation) Act, 1995, Government of India in Ministry of Social Justice and Empowerment, vide Order No. 16-18/97-NI. I, dated 28-8-1998, set up four committees under the Chairmanships of Director General of Health Services-one each in the area of mental retardation, Locomotor/ Orthopaedic disability, Visual disability and Speech & Hearing disability. Subsequently, another Committee was also constituted on 21-7-1999 for evaluation, assessment of multiple disabilities and categorization and extent of disability and procedures for certification.

2. After having considered the reports of these committees the undersigned is directed to convey the approval of the President to notify the guidelines for evaluation of following disabilities and procedure for certification:-

1. Visual impairment
2. Locomotor / Orthopaedic disability
3. Speech & hearing disability
4. Mental retardation
5. Multiple Disabilities.

Copy of the Report is enclosed herewith as **Annexure**.

3. The minimum degree of disability should be 40% in order to be eligible for any concessions/benefits.

4. According to the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Rules, 1996 notified on 31.12.1996 by the Central Government in exercise of the powers conferred by sub-section (1) and (2) of section 73 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 (1of 1996), authorities to give disability Certificate will be a Medical Board duly constituted by the Central and the State Government. The State government may constitute a Medical Board consisting of at least three members out of which at least one shall be a specialist in the particular field for assessing locomotor/Visual including low vision/hearing and speech disability, mental retardation and leprosy cured, as the case may be.

5. Specified test as indicated in **Annexure** should be conducted by the medical board and recorded before a certificate is given.

6. The certificate would be valid for a period of five years for those whose disability is temporary. For those who acquire permanent disability, the validity can be shown as 'Permanent'.

7 The State Governments/UT Administrations may constitute the medical boards indicated in para 4 above immediately, if not done so far.

8 The Director General of Health Services Ministry of Health and Family Welfare will be the final authority, should there arise any Controversy/doubt regarding the interpretation of the definitions/classifications/evaluations tests etc.

GAURI CHATTERJI, Jt. Secy.

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ANNEXURE

Reports of the Committee set UP to review the guidelines for evaluation of various disabilities and procedure for certification and to recommend appropriate modifications/alternations keeping in view the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act 1995.

In order to review the definitions of various types of disability, the guidelines for evaluation of various disabilities and procedure for certification as given in the Ministry of Welfare's O.M.No.4-2/83-HW.III, dated the 6th August, 1986 and to recommend appropriate modifications/alterations keeping in view the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, five Sub-Committees were constituted in the areas of Mental Retardation; Orthopedic/Locomotor Disability, Visual Disability, Speech & Hearing and Multiple Disabilities, under the Chairmanship of Dr S.P.Agarwal, Director General of Health Services, vide the Ministry of Social Justice & Empowerment's Order No.16-18/97 NI.1, dated 28.8.1998 and 21.7.1999. A copy each of the Order is at **Appendix.I.**

2. These Sub-Committees, after detailed deliberations, have submitted their reports. List of participants of the meetings taken by the Committee is at **Appendix.II.** The reports of the Committees set up to review the guidelines for evaluation of various disabilities and procedure for certification on each of the area of the disabilities are given in **Appendix.III.**

APPENDIX I

**No 16-18/97-NI.I
Government of India
Ministry of Social Justice & Empowerment**

New Delhi Dated 28th August 1998.

ORDER

In order to review the definitions of various types of disability, the guidelines for evaluation of various disabilities and procedure for certification as given in the Ministry of Welfare's O.M.No.4-2/83-HW.III, dated the 6th August. 1986 and to recommend appropriate modifications/alterations keeping in view the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, the following. Sub-Committees are hereby constituted in the areas of Mental Retardation, Orthopedic/Locomotor Disability, Visual Disability, and Speech & Hearing disability:

I Sub-Committee on Mental Retardation:

- 1. Dr. S P Aggarwal, Chairperson
Director General
Health Services
Ministry of Health and Family Welfare,
Nirman Bhawan
New Delhi-11
- 2. Dr.R.Srinivastava Murthy, Co-Chairperson
Prof.&Head.
Deptt: of Psychiatry,
NIMHANS.
Bangalore-22.
- 3. Dr. G G.Prabhu, Member
Workchil Court
Mysore.
- 4. Dr. (Mrs.)NeenaVohra, Member
Consultant & HOD,
Psychiatry,
Dr.R.M.L.Hospital, New Delhi.
- 5. Dr Anand Pandit, Member
Hony. Prof & Director
KEM Hospital Pune-11.
- 6. Dr. D.K Menon, Member-Secretary
Director
National Instt. for Mentally Handicapped Secunderabad

II. Sub-Committee on Locomotor / Orthopaedic Disability:

- 1. Dr. S P Aggarwal, Chairperson
DGHS.
Ministry of Health Nirman Bhavan New Delhi-11
- 2. Dr. K.K. Singh. Co-Chairperson
Prof. & Head.
AHMS. New Delhi.

- | | |
|--|--------------------|
| 3. Dr. Balu Sankaran,
FX-DOHS FX-Chairman AL1MCO. New Delhi | Member |
| 4. Dr. Suranjan Bhattacharji,
HOD. Deptt. of PMR
CMC Hospital. Vellore. | Member |
| 5. Dr. R K Srivastava
Medical Superintendent.
Safdarjung Hospital New Delhi. | Member |
| 6. Dr. B P Yadav
Ex-Chairman
Rehab Council of India
New Delhi | Member |
| 7. Dr. B R Avadhani
Director IPH
New Delhi | Member - Secretary |

III. Sub - Committee on visual Disability.

- | | |
|---|------------------|
| 1. Dr. S P Aggarwal
D.G.H.S.
Ministry of Health
New Delhi | Chairperson |
| 2. Dr. V.K.Dada.
Head. Dr R.P.Centre.
AIIMS. New Delhi. | Co-Chairperson |
| 3. Dr. Hari Mohan.
Director.
Mohan Eye Institute.
Rajender Nagar.
New Delhi | Member |
| 4. Shri Lal Advani
Consultant
Saket. New Delhi | Member |
| 5. Dr. Bhushabn Punani
Blind Men's Association
Ahmedabad | Member |
| 6. Shri S A Datrange
National Association for the Blind
Mumbai. | Member |
| 7. Dr. S R Shukla
Director
NIVH.
Dehradun. | Member-Secretary |

IV. Sub- Committee on Speech & Hearing Disability:

- | | |
|--|----------------|
| 1. Dr. S P Aggarwal
D.G.H.S. Ministry of Health.
New Delhi | Chairperson |
| 2. Dr. S.K.Kacker. | Co-Chairperson |

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Ex-Director.
AIIMS, New Delhi.

3 Dr S Nikam
Director AIIMS, Mysore.

Member

4. Dr. J.M.Hans.
Sr.ENT Surgeon, Dr. RML Hospital, New Delhi

Member

5. Dr. M Raghunath
Professor in Audiology
PGIMER, Chandigarh

Member

6. Dr. (MRS) RekhaRoy
Director
AYJNH Mumbai-400050.

Member-Secretary

2. The terms of reference for the Committees are as follows:

- a) Providing uniform definitions and categorisation of degree and extent of the disability.
- b) Recommending authorities competent to give certification.
- c) The Committees will submit their report in two months.

3. TA/DA to the members of the Committee will be borne by the concerned Institute whose Director is included as Member-Secretary of the Sub- Committee.

(Gauri Chatterjee) Joint Secretary to Govt. of India
Tele No. 3381641

To.

All Members of the Committees.

Copy for information to :

PSs to Secretary (SJ&E)/AS(SJ&E),JS(DD)

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No. 16-18-97-NI.I
Government of India
Ministry of Social Justice & Empowerment

Shastri Bhavan,
New Delhi, Dated 21st July, 1999

ORDER

It has been decided to constitute a Sub-Committee in the sector of Multiple Disability, in order to have standard definitions and guidelines for evaluation and procedure for certification, and to make appropriate recommendations, keeping in view the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995. Accordingly, a Sub-Committee is hereby constituted in the sector of multiple disability, with the following Members:

- | | |
|---|-------------------|
| 1. Dr. SP Aggarwal,
Director General of Health Services
Ministry of Health & Family Welfare Nirman Bhavan, New Delhi. | Chairman |
| 2. Smt. Aloka Guha.
Director,
Spastics Society of Tamil Nadu,
Opp.TTTI, Taramani Road,
Ohennai-13 | Member |
| 3. Dr. H.C. Goyal,
Consultant,
Rehabilitation Department Safdarjung Hospital, New Delhi. | Member |
| 4. Dr. Uma Tuli,
General Secretary
Amar Jyoti Charitable Trust, N-192, Greater Kailash -1 New Delhi - 110048. | Member |
| 5. Dr DK. Menon,
Director,
National Institute for the Mentally Handicapped,
Manovikasnagar, Secunderabad-500 009, | Member- Secretary |

3. The terms of reference for the Committee are as follows:-

- Providing uniform definitions and categorisation of degree and extent of the disabilities.
- Recommending authorities competent to give certification.
- The Committee will submit its report in two months.

4. TA/DA to the members of the Committee will be borne by the National Institute for the Mentally Handicapped, Secunderabad.

Gauri Chatterji)
Joint Secretary to the Government of India.
Tele No.338 1641

To:
All Members of the Committees
Copy for information to:-
PSs to Secretary (SJ&E)/ AS (SJ&E)/ JS(DD).

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APPENDIX.II

List of participants of the meeting held on 29.2.2000 under the Chairmanship of Dr. S.P.Agarwal, Director General of Health Services with the Members of Subcommittee constituted vide Order No.16-18/96-NI.I (PWD). dated 28.8.1998 of Ministry of Social Justice & Empowerment.

1. Dr. R.K. Srivastava, Addl. Director General of Health Services.
2. Dr. V.K. Dada, Head, R.P. Centre, AIIMS, New Delhi.
3. Dr. R.Srinivasa Murthy, Prof. & HOD, Deptt. of Psychiatry, NIMHANS, Bangalore.
4. Dr. O.K. Menon, Director, NIMH, Hyderabad.
5. Dr. Rekha Roy, Director, NIHH, Mumbai.
6. Dr. S.R. Shukla, Director, NIVH, Dehradun.
7. Dr. Dharmendra Kumar, Officiating Director, NIRTAR, Cuttack.
8. Dr. A.S. Bais, Deputy Director General (Medical).
9. Dr. S.Chug, Consultant in Medicine & Chairman, Medical Board, Dr. RML Hospital.
10. Dr. LS. Chauhan, ADG (IH),
11. Dr. A.N. Sinha, CMO (HA).

List of participants of the meeting held on 17.8.2000 under the Chairmanship of Dr. S.P.Agarwal, Director General of Health Services with the Members of Sub-Committee constituted vide Order No.16-18/96-NI.I (PWD). dated 21.7.1999 of Ministry of Social Justice & Empowerment.

1. Dr. R.K. Srivastava, Addl. Director General of Health Services
2. Dr. H.C. Goyal, Consultant & HOD, Rehabilitation, S.J.Hospital. New Delhi.
3. Dr. O.K. Menon, Director, National Institute for the Mentally Handicapped, Secunderabad.
4. Smt. Aloka Guha, Director, Spastic Society of Tamil Nadu, Opp. TTTI, Taramani Road, Chennai-13.
5. Dr. A.N. Sinha, CMO (HA).

A. MENTAL RETARDATION

1. Definition:- Mental retardation is a condition of arrested or incomplete development of the mind, which is especially characterised by impairment of skills manifested during the development period which contribute to the over all level of intelligence, i.e., cognitive, language, motor and social abilities.

2. Categories of Mental Retardation:-

2.1 Mild Mental Retardation:- The range of 50 to 69 (standardised IQ test) is indicative of mild retardation. Understanding and use of language tend to be delayed to a varying degree and executive speech problems that interfere with the development of independence may persist into adult life.

2.2 Moderate Mental Retardation: - The IQ is in the range of 35 to 49. Discrepant profiles of abilities are common in this group with some individuals achieving higher levels in visuo-spatial skills than in tasks dependent on language while others are markedly clumsy by enjoy social interaction and simple conversation. The level of development of language is variable: some of those affected can take part in simple conversations while others have only enough language to communicate their basic needs.

2.3 Severe Mental Retardation:- The IQ is usually in the range of 20 to 34. In this category, most of the people suffer from a marked degree of motor impairment or other associated deficits indicating the presence of clinically significant damage to or mal-development of the central nervous system.

2.4 Profound Mental Retardation: - The IQ in this category estimated to be under 20. The ability to understand or comply with requests or instructions are severally limited. Most of such individuals are immobile or severally restricted in mobility, incontinent and capable at most of only very rudimentary forms of non-verbal communication. They possess little or no ability to care for their own basic needs and require constant help and supervision,

3. Process of Certifications:-

3.1 A disability certificate shall be issued by a Medical Board consisting of three members duly constituted by the Central/State Government. At least, one shall be a Specialist in the area of mental retardation, namely, Psychiatrist, Paediatrician and clinical Psychologist.

3.2 The examination process will consist of three components, namely, clinical assessment, assessment, of adaptive behaviour and intellectual functioning.

B. VISUAL DISABILITY

1. Definition: - Blindness refers to a condition where a persons suffers from any of the condition, namely,

- i) total absence of sight; or
- ii) visual acuity not exceeding 6/60 or 20/200(snellen) in the better eye with best correcting lenses; or
- iii) limitation of field of vision subtending an angle of 20 degree or worse;

2. Low Vision: - Persons with low vision means a person a with impairment of vision of less than 6/18 to 6/60 with best correction in the better eye or impairment of field in any one of the following categories:-

- a) reduction of fields less than 50 degrees
- b) Heminaopia with macular involvement
- c) Altitudinal defect involving lower fields.

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Categories of Visual Disability
All with correction

Category	Better eye	Worse eye	% age impairment
Category 0	6/9-6/18	6/24 to 6/36	20%
Category I	6/18-6/36	6/60 to Nil	40%
Category II	6/40-4/60 or field of vision 10° -20°	3/60 to Nil	75%
Category III	3/60 to 1/60 or field of vision 10°	F.C. at 1 ft. to Nil	100%
Category IV	F. C. at 1 ft. to Nil or field of vision 10°	F.C. at 1 ft. to Nil	100%
One eyed persons	6/6	F. C. at 1 ft. to Nil or field of vision 10°	30%

Note: F.C. means Finger Count

4. Process of Certification

A disability certificate shall be issued by a Medical Board duly constituted by the Central/State Government having; at least three members. Out of which, at least one member shall be a specialist in ophthalmology.

B. SPEECH & HEARING DISABILITY

1. Definition of Hearing: - A persons with hearing impairment having difficulty of various degrees in hearing sounds is an impaired person.

2. : Categories of Hearing Impairment.

Category	Type of Impairment	D B Level.	Speech discrimination	% age of impairment
I	Mild hearing Impairment	DB 26 to 40 dB in better ear	80 to 100% in better ear	Less than 40% to 50%
II (a)	Moderate hearing	41 to 60 dB in better ear	50 to 80% in better ear	40% to 50%
II (b)	Severe hearing Impairment	61 to 70 dB hearing Impairment in better ear	40 to 50% in better ear	51% to 70%
III	a) Profound hearing Impairment	71 to 90 dB	Less than 40% in better ear	71% to 100%
	c) Total deafness	91 dB and above/in better ear/to hearing	Very Poor discrimination	100%

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- i) Pure tone average of hearing in 500, and 2000 HZ, 4000 HZ by conduction (AC and BC) should be taken as basis for consideration as per the test recommendations.
- ii) When there is only as island of hearing present in one or two frequencies in better ear, it should be considered as total loss of hearing.
- iii) Wherever there is no response (NR) at any of the 4 frequencies (500, 1000, 2000 and 4000 HZ), it should be considered as equivalent to 100 dB loss for the purpose of classification of disability and in arriving at the average.

3. Process of Certification

A disability certificate shall be issued by a Medical Board duly constituted by the Central and the State Government. Out of which, at least, one member shall be a specialist in the field of ENT.

C. LOCOMOTOR DISABILITY

1 Definition .-

- i) Impairment: An impairment in any loss or abnormality of psychological, physiological or anatomical structure or function in a human being.
- ii) Functional Limitations: Impairment may cause functional limitations which are partial or total inability to perform those activities, necessary for motor, sensory or mental function within the range or manner of which a human being is normally capable.
- iii) Disability: A disability, is any restriction or lack. (resulting from an impairment) of ability to perform an activity in the manner or within the range considered normal for a human being.
- iv) Locomotor Disability: Locomotor disability is defined as a persons inability to execute distinctive activities associated with moving both himself and objects, from place to place and such inability resulting from affliction of musculoskeletal and/or nervous system.

2. Categories of Locomotor Disability

The categories of locomotor disabilities are enclosed at Annexure-A.

3. Process of Certification

A disability certificate shall be issued by a Medical Board of three members duly constituted by the Central and the State Government, out of which, at least, one member shall be a specialist from either the field of Physical Medicine and Rehabilitation or Orthopaedics.

Two specimen copies of the disability certificate for mental retardation and others (visual disability, speech and hearing disability and locomotor disability) are enclosed at Annexure-B.

It was also decided that whenever required the Chairman of the Board may co-opt other experts including that of the members constituted for the purpose by the Central and the State Government.

On representation by the applicant, the Medical Board may review its decision having regard to all the facts and circumstances of the case and pass such order in the matter as it thinks fit.

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ANNEXURE-A

LOCOMOTOR DISABILITY
REVISED GUIDELINES FOR EVALUATION OF THE
PERMANENT PHYSICAL IMPAIRMENT

1.1 Guidelines for Evaluation of Permanent Physical Impairment of Upper Limb

1. The estimation of permanent impairment depends upon the measurement of functional impairment and is not expression of a personal opinion.
2. The estimation and measurement should be made when the clinical condition has reached the stage of maximum improvement from the medical treatment. Normally the time period is to be decided by the medical doctor who is evaluating the case for issuing the PPI Certificate as per standard format of the certificate.
3. The upper limb is divided into two component parts; the arm component and the hand component.
4. Measurement of the loss of function of arm component consists of measuring the loss of motion, muscle strength and co-ordinated activities.
5. Measurement of loss of function of hand component consists of determining the prehension, sensation and strength. For estimation of prehension opposition, lateral pinch cylindrical grasp, spherical grasp and hook grasp have to be assessed as shown in Hand Component of Form A Assessment Proforma for upper extremity.

6. The impairment of the entire extremity depends on the combination of the functional impairments of both components

1.2 ARM COMPONENT

Total value of arm component is 90%

1.2.1 Principles of evaluation of range of motion (ROM) of joints

1. The value of maximum ROM in the arm component is 90%
2. Each of the three joints of the arm is weighed equally (30%)

Example:

The intra articular fractures of the bones of right shoulder joint may affect range of motion even after healing. The loss of ROM should be calculated in each arc of motion as envisaged in the Assessment Form A (Assessment Proforma for Upper Extremity).

Arc of ROM	Normal value	Active ROM	Loss of ROM
Shoulder Flexion-	0-220	110	50%
Rotation	0-180	90	50%
Abduction-Adduction	0-180	90	50%

Hence the mean loss of ROM of shoulder will be
 $50+50+50/3 = 150/3 = 50\%$

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Shoulder movements constitute 30% of the motion of the arm component, therefore the loss of motion for arm component will be $50 \times 0.3d = 15\%$ If more than one joint of the arm is involved the loss of percentage in each joint is calculated separately as above and then added together.

1.2.2. Principles of evaluation of strength of muscles:

1. Strength of muscles can be tested by manual method and graded from 0-5 as advocated by Medical Research Council of Great Britain depending upon the strength of the muscles.
2. Loss of muscle power can be given percentages as follows:

Manual muscle Strength grading	Loss of Strength in percentage
0	100%
1	80%
2	60%
3	40%
4	20%
5	0%

3. The mean percentage of loss of muscle strength around a joint is multiplied by 0.30.
4. If loss of muscle strength involves more than one joint the mean loss of percentage in each joint is calculated separately and then added together as has been described for loss of motion.

1.2.3 Principles of evaluation of coordinated activities:

1. The total value for coordinated activities is 90%
2. Ten different coordinated activities should be tested as given in **Form A. (Appendix.I of Annexure-A)**
3. Each activity has a value of 9%

1.2.4 Combining values for the Arm Component:

The total value of loss of function of arm component is obtained by combining the value of loss of ROM, muscle strength and coordinated activities, using the combining formula.

$$\frac{a+b(90-a)}{90}$$

where a = higher value
 b = lower value

Example

Let us assume that an individual with an intra articular fracture of bones of shoulder joint in addition to 16.5% loss of motion in arm has 8.3% loss of strength of muscles and 5% loss of coordination. These values should be combined as follows:

$$\text{Loss of ROM - 16.5\%} \qquad \frac{16.5+8.3(90-16.5)}{90}$$

Loss of strength of muscles - 8.3%	=23.33%
To add	
Loss of coordination - 5%	$23.3 + \frac{5(90-23.3)}{90} = 27.0\%$

So the total value of loss of function in Arm component will be 27.0%

1.3 HAND COMPONENT:

1 Total value of hand component is 90%

2 The functional impairment of hand is expressed as loss of prehension, loss of sensation and loss of strength

1.3.1 Principles of evaluation of prehension:

1. Total value of prehension is 30%

it includes

- a) Opposition - 8%
 - Tested against - Index finger -2%
 - Middle finger -2%
 - Ring -2%
 - Little finger - 2%
- b) Lateral pinch -5% - Tested by asking the patient to hold a key between the thumb and lateral side of index finger.
- c) Cylindrical grasp - 6% Tested for
 - i) Large object of 4 inches size -3%
 - ii) Small object of 1 inch size - 3%
- d) Spherical grasp -6% Tested for
 - i) Large object of 4 inches size - 3%
 - ii) Small object of 1 inch size - 3%
- e) Hook grasp - 5% -Tested by asking the patient to lift a bag

1.3.2. Principles of Evaluation of sensation:

1. Total value of sensation in hand is 30%
2. It should be assessed according to the distribution given below:
 - i) Complete loss of sensation
 - Thumb ray 9%
 - Index finger 6%
 - Middle finger 5%
 - Ring finger 5%
 - Little finger 5%
 - ii) Partial loss of sensation: Assessment should be made according to percentage of loss of sensation in thumb/finger(s)

1.3.3. Principles of Evaluation of strength

1. Total value of strength is 30%

2. It includes:

- i) Grip strength 20%
- ii) Pinch strength 10%

Strength of hand should be tested with hand dynamo-meter or by clinical method (grip method).

Additional weightage - A total of 10% additional weightage can be given to following accompanying factors if they are continuous and persistent despite treatment.

- 1. Pam
- 2. Infection
- 3. Deformity
- 4. Mat-alignment
- 5. Contractures
- 6. Cosmetic disfiguration
- 7. Dominant extremity-4%
- 8. Shortening of upper limb

First 1" - No weightage
For each 1" beyond first 1" -2%

The extra points should not exceed 10% of the total Arm Component and total PPI should not exceed 100% in any case.

1.3.4. Combining values of hand component:

The final value of loss of function of hand component is obtained by summing up values of loss of prehension, sensation and strength.

1.3.5. Combining values for the Extremity:

Values of impairment of arm component and impairment of hand component should be added by using combining formula:

$$a+b \frac{(90-a)}{90}$$

a = higher value
b = lower value

Example:

Impairment of Arm - 27%	64+	$\frac{27(90-64)}{90}$
Impairment of hand - 64%		=71.8%

The total value can also be obtained by using the Ready Recknoer table for combining formula given at **Appendix.II of Annexure.A.**

2. Guidelines for Evaluation of permanent physical Impairment in Lower Limb.

The measurement of loss of function in lower extremity is divided into two components: Mobility and standing components

2.1 Mobility Component:-

- 1 Total value of mobility component is 90%
- 2. It includes range of movement (ROM) and muscle strength

2.1.1. Principles of Evaluation of Range of Movement:

- 1. The value of maximum range of movement in mobility component is 90%
- 2. Each of three joints i.e. hip, knee and foot-ankle component is weighed equally - 30%.

Example:

A fracture of right hip joint bones may affect range of motion of the hip joint. Loss of ROM of the affected hip in different are should be assessed as given in Form B (Assessment Proforma for lower extremity). (Appendix.I of Annexure.A)

Affected Joint - Rt. Hip:

Arc of Movement	Normal ROM	Active ROM	Loss in percentage
Flexion-Extension	0-140	70	50%
Abduction-Adduction	0-90	60	33%
Rotations	0-90	30	66%

$$\text{Mean loss of ROM of Rt Hip} = \frac{50+33+66}{3} = 50\%$$

Since the hip constitute 30% of the total mobility component of the lower limb the loss of motion in relation to the lower limb will be $50 \times 0.30 = 15\%$

If more than one joint of the limb is involved the mean loss of ROM in percentage should be calculated in relation to individual joint separately and then added together as follows to calculate the loss of mobility component in relation to that particular limb.

For example.

Mean loss of ROM of Rt. Hip 50%
 Mean loss of ROM Rt. Knee 40%
 Loss of mobility component of Rt. Lower Limb will be
 $(50 \times 0.30) + (40 \times 0.30) = 27\%$

2.1.2. Principle of Evaluation of Muscle Strength:

- 1. The value for maximum muscle strength in the limb is 90%
- 2. Strength of muscles can be tested by Manual Method and graded 0-5 as advocated by MRC of Great Britain depending upon the residual strength in the muscle group.
- 3. Manual muscle grading can be given percentage like below:

Power Grade of Ms	Loss of strength in percentage
0	100%



Every 1/2" beyond first 1/2" 4%

v) Complications Superficial complications 3%
Deep complications

3. Guidelines for Evaluation of Permanent Physical Impairment of Trunk (Spine)
Basic guidelines:

1. As permanent physical impairment caused by spinal deformity tends to change over the years, the certificate issued in relation to spine should be reviewed as per the standard format of the certificate given at **Annexure -B of Appendix.III.**
2. Permanent physical impairment should be awarded in relation to spine and not in relation to whole body.
3. Permanent physical impairment due to neurological deficit in addition to spinal impairment should be added by combining formula. The local effects of the lesions of the spine can be conventionally divided into traumatic and non-traumatic. The percentage of PPI in relation to each situation should be valued as follows:

3.1 TRAUMATIC LESIONS:

3.1.1 Cervical spine injuries

Percentage of PPI in relation to Spine

- i) 25% or more compression of one or two adjacent vertebral bodies with No involvement of posterior elements, No nerve root involvement, moderate Neck rigidity and persistent Soreness. 20%
- ii) Posterior element damage with radiological Evidence of moderate parties dislocation/subluxation including whiplash injury.
 - A) With fusion healed, No permanent motor or sensory changes. 10%
 - b) Persistent pain with radiologically demonstrable instability. 25%
- iii) Severe Dislocation:
 - a) Fair to good reduction with or without fusion with no residual motor or sensory involvement; 10%
 - b) Inadequate reduction with fusion and persistent radicular pain 15%

3.1.2. Cervical Intervertebral Disc Lesions

Percentage of PPI In relation to Spine

- i) Treated case of disc lesion with persistent pain and no neurological deficit 10%
- ii) Treated case with pain and instability 15%

3.1.3. Thoracic and Thoracolumbar Spine Injuries:

- i) Compression of less than 50% involving one vertebral body with no neurological manifestation 10%
- ii) Compression of more than 50% involving single vertebra or more with involvement of posterior elements,healed, no neurological manifestations persistent pain, fusion indicated 20%

- iii) Same as (b) with fusion, pain only on heavy use of back 15%
- iv) Radiologically demonstrable instability with fracture or fracture dislocation with persistent pain. 30%

3.1.3. Thoracic and Thoracolumbar Spine Injuries:

- i) Compression of less than 50% involving one vertebral body with no neurological manifestation 10%
- ii) Compression of more than 50% involving single vertebra or more with involvement of posterior elements, healed, no neurological manifestations persistent pain, fusion indicated 20%
- iii) Same as (b) with fusion, pain only on heavy use of back 15%
- iv) Radiologically demonstrable instability with fracture or fracture dislocation with persistent pain. 30%

3.1.4 Lumbar and Lumbosacral Spine: Fracture

a)	Compression of 25% or less of one or two adjacent Vertebral bodies, No definite pattern or neurological Deficit	15%
b)	Compression of more than 25% with disruption of Posterior elements, persistent pain and stiffness, healed With or without fusion, inability to lift more than 10 kgs.	30%
c)	Radiologically demonstrable instability in low lumbar or Lumbosacral spine with pain	35%

3.1 5 Disc lesion:

a)	Treated case with persistent pain	15%
b)	Treated case with pain and instability	20%
c)	Treated case of disc disease with pain activities of lifting moderately modified	25%
d)	Treated case of disc disease with persistent pain and stiffness, aggravated by heavy lifting necessitating modification of all activities requiring heavy weight lifting	30%

3.2 NON TRAUMATIC LESIONS:

3.2.1 Scoliosis:

Basic guidelines - following modification is suggested.

- The largest structural curve should be accounted for while calculating the PPI and not

the compensatory curve or both structural curves.

3.2.2 Measurement of Spine Deformity:

Cobb's method for measurement, of angle of curve in the radiograph taken in standing position should be used. The curves have been divided into following groups depending upon the angle of major structural scoliotic deformity.

Group	Cobb's Angle	PPI in relation to Spine
I	0-20	NIL
II	21-50	10%
III	51-100	20%
IV	101 & above	30%

3.2.3 Torso Imbalance:

In addition to the above PPI should also be evaluated in relation the torso imbalance. The torso imbalance should be measured by dropping a plumb line from C7 spine and measuring the distance of plumb line from gluteal crease.

Deviation of Plumb line	PPI
Upto 1.5 Cm	4%
1.6 - 30 Cm	8%
3.1 - 50 Cm	16%
5.1 and above	32%

3.2.4 Head Tilt over C7 spine PPI

Upto 15	4%
More than 15	10%

3.2.5 Cardiopulmonary Test

In cases with scoliosis of severe type cardiopulmonary function tests and percentage deviation from normal should be assessed by one of the following method whichever seems more reliable clinically at the time of assessment. The value thus obtained may be added by combining formula.

a. Chest Expansion	PPI
4 - 5 Cm.	Normal
Less than 4 cm	5% for each cm
reduction in Chest expansion	
No expansion	25%

b counting in one breathe:

Breathe Count	PPI
More than 40	Normal
0-40	5%
0-30	10%
0-20	15%
0-10	20%
Less than 5	25%

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3.2.6 Associated Problems: To be added directly but the total value of PPI in relation to spine should not exceed 100%.

a) Pain

- mildly interfering with ADL 4%
- moderately restricting ADL 6%
- severely restricting ADL 10%

b) Cosmetic Appearance:

- No obvious disfiguration with clothes on Nil
- mild disfigurement 2%
- severe disfigurement 4%

c) Leg Length Discrepancy.

- First 1/2 " shortening Nil
- Every 1/2" beyond first 1/2" 4%

d) Neurological deficit - Neurological deficit should be calculated as per established method of evaluation of PPI in such cases. Value thus obtained should be added telescopically using combining formula.

3.3 KYPHOSIS

Evaluation should be done on the similar guidelines as use for scoliosis with the following modifications:

3.3.1 Spinal Deformity

	PPI
Less than 20	Nil
21-40	10%
41-60	20%
Above 60	30%

3.3.2 Torso Imbalance - Plumb line dropped from external ear normally falls at ankle level. The deviation from normal should be measured from ankle anterior joint line to the plumb line.

Less than 5 cm in front of ankle	4%
5 to 10 cm in front of ankle	8%
10 to 15 cm in front of ankle	16%
More than 15 cm in front of ankle	32%
(Add directly)	

Miscellaneous conditions:

Those conditions of the spine which cause stiffness and pain etc. are rated as follows.

	Conditions	Percentage PPI
A	Subjective symptoms of pain, no involuntary muscle spasm,, not substantiated by demonstrable structural pathology	-0%
B	Pain, persistent muscles spasm and stiffness of spine, substantiated by mild radiological change.	-20%
C	Same as B with moderate radiological changes	-25%
D	Same as B with severe radiological changes involving any one of the regions of spine	-30%
E	Same as D involving whole spine	-40%

4. **Guidelines for Evaluation of PPI in cases of Short Stature/Dwarfism:**

1. Recumbent length or longitudinal height below 3rd percentile or less than 2 Standard Deviation from the mean is considered to have short stature.
2. The evaluation of a Short Statured person should be considered only when it is of disproportionate variety and is accompanied by an underlying pathological conditions, e.g., Achondroplasia, Chandrodysplasia Punctata, spondyloepiphysical dysplasia, mucopoly and acchrydosis, etc.
3. The ICMR norms as enclosed at Appendix III of Annexure. A should be used as a guideline for the height.
4. Every 1" vertical height reduction should be valued as 4% permanent physical impairment.
5. Associated skeletal deformities should be evaluated, separately and total percentage of both should be added by combining formula.

5. **Guidelines for Evaluation of Permanent Physical Impairment in Amputees:**

Basic Guidelines:

1. In cases of multiple amputees if the total sum of permanent physical impairment is above 100%, it should be taken as 100% only.
2. If the stump is unfit for fitting the prosthesis additional weightage of 5% should be added to the value.
3. In case of amputation in more than one limb percentage of each limb is added by combining formula and another 10% will be added but when only toes or fingers are involved only 5% will be added
4. Any complication in form of stiffness of proximal joint, neuroma infection, etc., should be given upto a total of 10% additional weightage.
5. Dominant upper extremity should be given 4% additional weightage.

Upper Limb Amputations		PPI & loss of physical function of each limb			
1.	Fore-quarter amputations	100%			
2.	Shoulder Disarticulation	90%			
3.	Above Elbow upto upper 1/3 of arm	85%			
4.	Above Elbow upto lower 1/3 of forearm	80%			
5.	Elbow disarticulation	75%			
6.	Below Elbow upto upper 1/3 of forearm	70%			
7.	Below Elbow upto lower 1/3 of forearm	65%			
8.	Wrist disarticulation	60%			
9.	Hand through carpal bones	55%			
10.	Thumb through C.M. or though 1 st MC joint	30%			
11.	Thumb disarticulation through metacarpophalangeal Joint or through proximal phalanx.	25%			
12.	Thumb disarticulation through inter phalangeal joint or Through distal phalanx.	15%			
		Index Finger (15%)	Middle Finger (5%)	Ring Finger (3%)	Little Finger (2%)
13.	Amputation through Proximal phalanx or Disarticulation through M.P. Joint	15%	5%	3%	2%
14.	Amputation through Middle phalanx or Disarticulation through PP joint.	10%	4%	2%	1%

15.	Amputation through Distal phalanx or disarticulation through DIP joint.	5%	2%	1%	1%
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6. 1.3 Lower Limb Amputations:

1. Hind quarter	100%
2. Hip disarticulation	90%
3. Above knee upto upper 1/3 of thigh	85%
4. Above knee upto lower 1/3 of thigh	80%
5. Through knee	75%
6. B.K. upto 8 cm	70%
7. B.K. upto lower 1/3 of leg	60%
8. Through ankle	55%
9. Syme's	50%
10. Upto mid-foot	40%
11. Upto fore foot	30%
12. All toes	20%
13. Loss of first toe	10%
14. Loss of second toe	5%
15. Loss of third toe	4%
16. Loss of fourth toe	3%
17. Loss of fifth toe	2%

6. Guidelines for Evaluation of Permanent Physical Impairment of Congenital deficiencies of the limbs.

6.1 Transverse Deficiencies-

1. Functionally congenital transverse limb deficiencies are comparable to acquired amputations and can be called synonymously as congenital amputation, however, in some cases revision of amputation is required to fit in a prosthesis.

2. The transverse limb deficiencies therefore should be assessed on basis of the guidelines applicable to the evaluation of PPI in cases of amputees as given in the preceding chapter.

For example:

	PPI
Transverse deficiency Rt. Arm complete (shoulder disarticulation)	90%
Transverse deficiency at thigh complete (hip disarticulation)	90%
Transverse deficiency Proximal Upper arm (Above elbow Amp.)	85%
Transverse deficiency at lower thigh (Above knee Amp. Lower 1/3)	80%
Transverse deficiency forearm complete (elbow disarticulation)	75%
Transverse deficiency lower forearm (Below Elbow Amp.)	65%
Transverse deficiency carpal complete (wrist disarticulation)	60%
Transverse deficiency Metacarpal complete (Disarticulation through carpal bones)	55%

6.2 Longitudinal Deficiencies:

6.2.1 Basic Guidelines

1. In cases of longitudinal deficiencies of limbs due consideration should be given to functional impairment.
2. In upper limb, loss of ROM loss muscular strength and hand functions like prehension, etc should be tested while assessing the case for PPI.
3. In lower limb clinical method of stability component and shortening of lower limb should be given due weightage.
- 4 Apart from functional assessment the lost joint/part of body should also be valued as per distribution Given in chapter Guidelines for Evaluation of PPI in upper extremity and lower extremity The values so obtained should be added with the help of combining formula.

Example:

Congenital Absence of humerus where forearm bones directly articulate with scapula.

There will be mild reduction in ROM and strength of muscles in the existing joints apart from loss of body part.

Loss of shoulder joint can be given - 30%
Loss of ROM of Elbow/Shoulder & Wrist

All the components should be added together by the combining formula of

$$a + \frac{b(90-a)}{90}$$

6.2.2 In cases of loss of single bone in forearm the evaluation should be based on the principles of evaluation of Arm component which include Evaluation of ROM, Muscle strength and coordinated activities. The values so obtained should be added together with the help of combining formula.

6.2.3 In cases of loss of single bone in leg the evaluation should be based on the principles of evaluation of mobility component and stability components of the lower extremity. The values obtained should be added together with the help of combining formula.

7.Guidelines for Evaluation of Physical Impairments in Neurological conditions.

1.1 Basic Guidelines:

1. Assessment in neurological conditions is not the assessment of disease but the assessment of its effects, i.e. clinical manifestations.
2. These guidelines should only be used for central and upper motor neurone lesions.
3. Proformas (form A & B) will be utilized for assessment of lower motor neurone lesions, muscular disorders and other locomotor conditions.
4. Normally any neurological assessment for the purpose of certification has to be done six months after the onset of disease however exact time period is to be decided by the Medical Doctor who is evaluating the case and has to recommend the review of certificate as given in the standard format of certificate.
5. Total percentage of physical impairment in any neurological condition should not exceed 100%
6. In mixed cases the highest score will be taken into consideration. The lower score will be added telescopically to it by the help of combining formula $a + \frac{b(90-a)}{90}$

7. Additional rating of 4% will be given for dominant upper extremity.

8. Additional weightage up to 10% can be given for loss of sensation in each extremity but the total physical impairment should not exceed 100%.

7.2 Table-I

Neurological Status	Physical Impairment
Altered sensorium	100%

7.3 Table-II

Intellectual Impairment (to be assessed by Clinical Psychologist)

Degree of Mental Retardation	IQ Range	Intellectual Impairment
Border line	70-79	25%
Mild	50-69	50%
Moderate	35-49	75%
Severe	20-34	90%
Profound	Less than 20	100%

7.4 Table - III

Speech defect	Physical Impairment
Mild dysarthria	Nil
Moderate dysarthria	25%
Severe dysarthria	50%

7.5 Table - IV

Type of Cranial Nerve Involvement	Physical Impairment
Motor cranial nerve	20% for each nerve
Sensory cranial nerve	10% for each nerve

Sensory cranial nerve 10% for each nerve

7.6 Table-V

Motor system Disability

Neurological Involvement	Physical Impairment
Hemiparesis:-	
- Mild	25%
- Moderate	50%
- Severe	75%

7.7 Table-VI

Sensory System Disability

<i>Extent of Sensory Deficit</i>	<i>Physical Impairment</i>
<i>Anaesthesia</i>	Upto 10% for each limb
<i>Hypoaesthesia</i>	Depending upon % of
<i>Paraesthesia</i>	Loss of sensation up to 30% depending
<i>Hands/feet sensory loss</i>	Upon % of loss sensation

7.8 Table - VIII

Bladder disability due to neurogenic Involvement

<i>Bladder Involvement</i>	<i>Physical Impairment</i>
Mild (Hesitancy/Frequency)	25%
Moderate (precipitancy)	50%
Severe(occasional but recurrent Incontinence)	75%
Very Severe (Retention/Total Incontinence)	100%

7.9 Table - VIII

Post Head Injury Fits and Epileptic Convulsions

<i>Frequency/Severity of Convulsions</i>	<i>Physical Impairment</i>
Mild – occurrence of one convulsion Only	Nil
Moderate 1-5 Convulsions/month on Adequate – Medication	25%
Severe 6-10 Convulsions/month on Adequate medication	50%
Very Severe more than 10 fits/months On adequate – Medication	75%

7.10 Table - IX

Ataxia (Sensory or Cerebellar)

<i>Severity of Ataxia</i>	<i>Physical Impairment</i>
Mild (Detected on examination)	25%
Moderate	50%
Severe	75%
Very Severe	100%

8. Guidelines for Evaluation of Physical Impairment due to Cardiopulmonary Diseases.

8.1 Basic Guidelines:-

1. Modified New York Heart Association subjective classification should be utilised to assess the functional disability.

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2. The assessing physician should be alert to the fact that patients who come for disability claims are likely to exaggerate their symptoms. In case of any doubt patients should be referred for detailed physiological evaluation.

3. Disability evaluation of cardiopulmonary patients should be done after full medical, surgical and rehabilitative treatment available, because most of these diseases are potentially treatable.

4. Assessment of cardiopulmonary impairment should also be done in diseases which might have associated cardiopulmonary problems, e.g., amputees, myopathies, etc.

5. For respiratory assessment, routine respiratory functions test should be done, however, in cases of interstitial lung diseases, diffusion studies may be done.

6. In cases of Angina pectoris (chest pain) base line studies in resting ECG should be done. When there is persistence of symptoms, exercise or stress test should be done.

8.2 The proposed classification with loss of function is as follows:-

Group 0: A patient with cardiopulmonary disease who is asymptomatic (i.e. has no symptoms of breathlessness, palpitation, fatigue or chest pain).

Group 1: A patient with cardiopulmonary disease who becomes symptomatic during his ordinary physical activity but has mild restriction (25%) of his physical activities.

Group 2: A patient with cardiopulmonary disease who becomes symptomatic during his ordinary physical activity and has 25-50% restriction of his ordinary physical activities.

Group 3: A patient with cardiopulmonary disease who becomes symptomatic during less than ordinary physical activity so that his ordinary physical activities are 50-75% restricted.

Group 4: A patient with cardiopulmonary disease who is symptomatic even at rest or on mildest exertion so that his ordinary physical activities are severely or completely restricted (75-100%).

Group 5: A patient with cardiopulmonary disease who gets intermittent symptoms at rest (i.e. patients with bronchial asthma, paroxysmal nocturnal dyspnoea, etc.)

1. Definition of Multiple Disabilities:

Multiple disabilities means a combination of two or more disabilities as defined in clause (i) of Section (2) of the Persons with Disabilities. (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, namely -

- I. Locomotor disability including leprosy cured
- II. Blindness/low vision
- III. Speech and hearing impairment
- IV. Mental retardation
- V. Mental illness.

2. Guidelines for Evaluation: -

In order to evaluate the multiple disability, the same guidelines shall be used as have been developed by the respective sub-committees of various single disability, viz. Mental retardation, locomotor disability, visual disability, and speech and hearing disability and recommended in the meeting held on 29.2.2000 under the Chairmanship of Dr. S.P. Agarwal, Director General of Health Services, Government of India, with reference to Order No.16-18/96-NI.I, dated 28th August, 1998 and communicated to Ministry of Social Justice & Empowerment, Government of India, vide letter No.S-13020/4/98-MH, dated 16th March, 2000.

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However, in order to arrive at the total percentage of multiple disability, the combining formula $a + \frac{b(90-a)}{90}$, as given in the "Manual for Doctors to Evaluate

Permanent Physical Impairment, Developed by Expert Group meeting on Disability Evaluation", shall be used, where "a" will be the higher score and "b" Will be the lower score. However, the maximum total percentage of multiple disabilities shall not exceed 100%.

For example, if the percentage of hearing disability is 30% and visual disability is 20%, then by applying the combining formula given above, the total percentage of multiple disability will be calculated as follows:-

$$30 + \frac{20(90-30)}{90} = 43\%$$

3. Procedure for Certification of Multiple Disability:-

The procedure will remain the same as has been developed by the respective sub-committees on various single disabilities and finalized in a meeting under the Chairpersonship of Dr. S.P. Agarwal held on 29.2.2000. The final disability certificate for multiple disability will be issued by Disability Board which has given higher score of disability by combining the score of different disabilities using the combining formula, i.e., $a + \frac{b(90-a)}{90}$. In case, where two scores of disability are

equal, the final certificate of multiple disability will be issued by any one of them as decided by Local authority.

APPENDIX.I OF ANNEXURE.A

FROM A

ASSESSMENT PERFORMA FOR UPPER EXTERMITY

Name Age..... Sex..... Diagnosis.....

Address..... O.P.D..... Deptt.....

ARM COMPONENT (Total Value 90%)

Arm Component	Component	Normal Value(Degrees)	Rt. Side	Lt. Side	Loss of % Rt. Side	Loss of % Lt. Side	Mean % Loss Rt. Lt.	Sum of % Loss Rt. Lt.	Combining Value Rt. Lt.	% Summary Value for component
Range of Movement (Active) Value 90%	1. Flexion-Extension Arc	0-220°								
	2. Rotation Arc	0-180°								
Elbow	3. Abduction-Adduction Arc	0-180°								
	1. Flexion-Extension Arc	0-160°								
Shoulder Range of Movement (Active) Value 90%	2. Radial- Ulnaardeviator Arc	0-55°								
Wrist	1. Flexion									
	2. Extension									
	3. Rotation - Ext									
	4. Rotation - Int.									
Muscle Strength Value 90%	5. Abduction									
	6. Adduction									
Shoulder	1. Flexion									
	2. Extension									
	3. Pronation									
	4. Supination									

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Muscle Strength Value 90%	1. Dors Flexion	
	2. Palmar Flexion	
	3. Radial Deviation	
	4. Ulnardeviator	
	1. Lifting overhead objects remove and placing at the same place	9%
	2. Touching nose with end of extremity	9%
	3. Eating Indian Style	9%
	4. Combing and Plaiting	9%
Coordinated Activities Value 90%	5. Putting on a shirt/kurta	9%
	6. Ablution glass of water	9%
	7. Drinking Glass of water	9%
	8. Buttoning	9%
	9 Tie Nara Dhoti	9%
	10. Writing	9%

HAND COMPONENT (TOTAL VALUE 90%)

30% prehension	Movement	Normal Value
1. Hand Component	1. Index	2}
A. Opposition(8%)	2. Middle	2} 8%
	3. Ring	2}
	4. Little	2}
B. Lateral Pinch (5%)	Key Holding	5%
C. Cylindrical Grasp	a. Large Object (4°)	
	b. Small Object (1°)	
	a. Large Object (4°)	3}
	b. Small Object (1°)	3} 6%
D. Spherical Grasp	Lifting Bag	3}
		3} 6%
E. Hook Grasp		5%
2. Sensation 30%	1. Radial Side }	4:1
	2. Ulnar Side } Thumb	
	3. Radial } Fingers	(4.8 : 1.2)
	4. Ulnar }	
3. Strength 30%	1. Grip Strength	20%
	2. Pinch Strength	10%

Summary value for upper extremity is calculated from component and hand component values Add 4% for dominant extremity 10%. Additional weightage to be given to infection, deformity, malalignment, contracture, cosmetic appearance and abnormal mobility

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Handwritten signature or initials.

APPENDIX .I OF ANNEXURE . A

FROM B

ASSESSMENT PROFORMA FOR LOWER EXTERMITY

Name.....Age.....Sex.....Diagnosis.....

Address.....O.P.D. No.....Deptt.....

Diagnosis.....

MCBILITY COMPONENT (Total Value (90%))

Joint	Component	Normal Value	Rt. Side	Lt. Side	Loss of % Rt. Side	Loss of % Lt. Side	Mean % Rt. Lt.	Mean 0.30 Rt. Lt	Combing Value Rt. Lt.	% Summary Value for mobility Component $a+b \frac{(90+a)}{90}$
HIP	1. Flexion-Extension arc	0-140°								
	2. Abduction									
	Adduction	0-90°								
	3. Rotation arc	0-90°								
Range of Movement (Active) KNEE	1. Flexion	0-125°								
	Extension are									
Range of Movement (Active) ANKLE	1. Dors flexion Panterlexion are	0-70°								
	2. Invesior - Extension arc	0-60°								

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& FOOT										
HH	1. Flexor Muscles									
	2. Extensor Muscles									
	3. Abductor Muscles									
	4. Adductor Muscles									
	5. Rotator Muscles									
	(Ext. Int.)									
Muscles Strength	1. Flexor Muscles									
	2. Extensor Muscles									
KNEE										
Muscle Strength	1. Anteroflexor Muscles									
	2. Dorsiflexor Muscles									
ANKLE & FOOT										
	3. Invertor Muscles									
	4. Exertor Muscles									

STABILITY COMPONENT (Total Value 90%)
Based CLINICAL METHOD of Evaluation

- 1. Walking on plain surface 10
- 2. Walking on slope 10
- 3. Climbing Stairs 10

45

Handwritten signature or initials

4. Standing on both legs	10
5. Standing on affected leg	10
6. Squatting on floor	10
7. Sitting Cross leg	10
8. Kneeling	10
9. Taking turns	10
Total	90

10% is given for complications like (i) Infection (ii) Deformity (iii) Loss of sensation.

(46)

(47)

APPENDIX.II OF ANNEXURE .A

Ready Reckon Table for A + B(90-A)
90

	B(1)	B(2)	B(3)	B(4)	B(5)	B(6)	B(7)	B(8)	B(9)	B(10)	B(11)	B(12)	B(13)	B(14)	B(15)
A(1)	1.99	3.98	3.97	4.96	5.94	6.93	7.92	8.91	9.90	10.89	11.88	12.87	13.86	14.84	15.83
A(2)	2.98	3.96	4.93	5.91	6.89	7.87	8.84	9.82	10.80	11.78	12.76	13.73	14.71	15.69	16.67
A(3)	3.97	4.93	5.90	6.87	7.83	8.80	9.77	10.73	11.70	12.67	13.63	14.60	15.57	16.53	16.67
A(4)	4.96	5.91	6.87	7.82	8.78	9.73	10.69	11.64	12.65	13.50	14.44	15.39	16.33	17.28	18.33
A(5)	5.94	6.89	7.83	8.78	9.72	10.67	11.61	12.56	13.50	14.44	15.39	16.33	17.28	18.22	19.17
A(6)	6.93	7.87	8.80	9.73	10.67	11.60	12.50	13.46	14.38	15.30	16.27	17.20	18.13	19.07	20.00
A(7)	7.92	8.84	9.77	10.69	11.61	12.53	13.46	14.38	15.29	16.20	17.11	18.07	18.99	19.91	20.83
A(8)	8.91	9.82	10.73	11.64	12.56	13.47	14.38	15.29	16.20	17.10	18.02	18.93	19.84	20.76	21.67
A(9)	9.90	10.80	11.70	12.60	13.50	14.40	15.30	16.20	17.10	18.00	18.90	19.80	20.70	21.60	22.50
A(10)	10.89	11.87	12.67	13.56	14.44	15.33	16.22	17.11	18.00	18.89	19.78	20.67	21.56	22.44	23.33
A(11)	11.88	12.76	13.63	14.51	15.39	16.27	17.14	18.02	18.90	19.78	20.66	21.53	22.41	23.29	24.17
A(12)	12.87	13.73	14.60	15.47	16.33	17.20	18.07	18.93	19.80	20.67	21.53	22.40	23.27	24.13	25.00
A(13)	13.86	14.71	15.57	16.42	17.28	18.13	18.99	19.84	20.70	21.56	22.41	23.27	24.12	24.98	25.83
A(14)	14.84	15.69	16.53	17.38	18.22	19.07	19.91	20.76	21.60	22.44	23.29	24.13	24.98	25.82	26.67
A(15)	15.83	16.67	17.50	18.33	19.17	20.00	20.83	21.67	22.50	23.33	24.17	25.00	25.83	26.67	27.50
A(16)	16.82	17.64	18.47	19.20	20.11	20.93	21.76	22.58	23.40	24.22	25.04	25.87	26.69	27.51	28.33
A(17)	17.81	18.62	19.37	20.24	21.06	21.87	22.68	23.49	24.30	25.11	25.92	26.73	27.54	28.36	29.17
A(18)	18.80	19.60	22.33	21.20	22.00	22.80	23.60	24.40	25.20	26.00	26.80	27.60	28.40	29.20	30.00
A(19)	19.79	20.58	23.30	22.16	22.94	23.73	24.52	25.31	26.10	26.89	27.68	28.47	29.26	30.04	30.83
A(20)	20.78	21.56	24.27	23.11	23.89	24.67	25.44	26.22	27.00	27.78	28.56	29.33	30.11	30.89	31.67
A(21)	21.77	22.53	25.23	24.07	24.83	25.60	26.37	27.13	27.90	28.67	29.43	30.20	30.97	31.73	32.50
A(22)	22.76	23.51	26.20	25.02	25.78	26.33	27.29	28.04	28.80	29.56	30.31	31.07	31.82	32.58	33.33
A(23)	23.44	24.49	27.17	25.08	26.72	27.47	28.21	28.96	29.70	30.44	31.19	31.93	32.68	33.42	34.17
A(24)	24.73	25.47	28.13	26.93	27.67	28.40	29.13	29.87	30.60	31.33	32.07	32.80	33.53	34.27	35.00
A(25)	25.72	26.44	29.10	27.89	28.61	29.33	30.06	30.78	31.50	32.22	32.94	33.67	34.39	35.11	35.83
A(26)	26.71	27.42	30.07	28.84	29.56	30.27	30.98	31.69	32.40	33.11	33.82	34.53	35.21	35.96	36.67
A(27)	27.70	28.40	31.03	29.80	30.50	31.20	31.90	32.60	33.30	34.00	34.40	25.40	36.10	36.80	37.50
A(28)	28.69	29.38	32.00	30.76	31.44	32.13	32.80	33.51	34.40	34.89	35.58	36.27	36.96	37.64	38.33
A(29)	29.68	30.36	32.97	31.71	32.39	33.07	33.74	24.42	35.10	35.78	36.46	37.13	37.81	38.49	39.17
A(30)	30.67	31.33	32.00	32.67	33.33	34.67	35.33	36.00	36.67	36.67	37.33	38.00	38.67	39.33	40.00
A(31)	31.66	32.31	34.97	33.62	34.28	34.93	35.59	36.24	36.90	37.96	38.21	38.87	39.50	40.18	40.83
A(32)	32.64	33.29	33.93	34.58	35.22	35.87	36.51	37.16	37.80	38.44	39.09	39.73	40.38	41.02	41.67
A(33)	33.63	34.27	34.90	35.53	36.17	36.80	37.43	38.07	38.70	39.33	39.97	40.60	41.23	41.87	42.50
A(34)	34.62	35.24	35.87	36.49	37.11	37.73	38.36	38.98	39.60	40.22	40.84	41.47	42.09	42.71	43.33
A(35)	35.61	36.22	36.83	37.44	38.06	38.67	39.28	39.89	40.50	41.11	41.72	42.33	42.94	43.56	44.17
A(36)	36.60	37.20	37.80	38.40	39.00	39.60	40.20	40.80	41.40	42.00	42.60	43.20	43.80	44.40	45.00
A(37)	37.59	38.18	38.77	39.36	39.94	40.53	41.12	41.71	42.30	42.89	43.48	44.07	44.66	45.24	45.83
A(38)	38.58	39.16	39.73	40.31	40.89	41.47	42.04	42.62	43.20	43.78	44.36	44.93	45.51	46.09	46.67
A(39)	39.57	40.13	40.70	41.27	41.83	42.40	42.97	43.53	44.10	44.67	45.23	44.80	46.37	46.93	47.50
A(40)	40.56	41.11	41.67	42.22	42.78	43.33	43.89	44.44	45.00	45.56	46.11	46.67	47.22	47.78	48.33
A(41)	40.54	40.09	42.62	43.18	43.72	44.27	44.81	45.36	45.90	46.44	46.99	47.53	48.08	48.62	49.17
A(42)	42.53	43.07	43.60	44.13	44.67	45.20	45.73	46.27	46.80	47.33	47.87	48.40	48.93	49.47	50.00
A(43)	43.52	44.04	44.57	45.09	45.61	46.13	46.66	47.18	47.70	48.22	48.74	49.24	49.79	50.13	50.83
A(44)	44.51	45.02	44.53	46.04	46.56	47.07	47.58	48.09	48.60	49.11	49.62	50.13	50.64	51.61	51.67
A(45)	45.50	46.00	46.50	47.00	47.50	48.00	48.50	49.00	49.50	50.00	50.50	51.00	51.50	52.00	52.50

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READY RECKONER TABLE FOR A + B(90-A)
90

	B(1)	B(2)	B(3)	B(4)	B(5)	B(6)	B(7)	B(8)	B(9)	B(10)	B(11)	B(12)	B(13)	B(14)	B(15)
A(46)	46.49	46.98	47.47	47.96	48.44	48.93	49.42	49.91	50.40	50.89	51.38	51.87	52.36	52.84	53.33
A(47)	47.48	47.96	48.43	48.91	49.39	49.87	50.34	50.82	51.30	51.78	52.26	52.73	53.21	53.69	54.17
A(48)	48.47	48.93	49.40	49.87	50.33	50.80	51.27	51.73	52.20	52.67	53.13	53.60	54.07	54.53	55.00
A(49)	49.46	49.91	50.37	50.82	51.28	51.73	52.19	52.64	53.10	53.56	54.01	54.47	54.92	55.38	55.83
A(50)	50.44	50.89	51.33	51.78	52.22	52.67	53.11	53.56	54.00	54.44	54.89	55.33	55.78	56.22	56.67
A(51)	51.43	51.87	52.30	52.73	53.17	53.60	54.03	54.47	54.90	55.33	55.77	56.20	56.63	57.07	57.50
A(52)	52.42	52.84	53.27	53.69	54.11	54.53	54.96	55.38	55.80	56.22	56.64	57.07	57.49	57.91	58.33
A(53)	53.41	53.82	54.23	54.64	55.06	55.47	55.88	56.29	56.70	57.11	57.52	57.93	58.34	58.76	59.17
A(54)	54.40	54.80	55.20	55.60	56.00	56.40	56.80	57.20	57.60	58.00	58.40	58.80	59.20	59.60	60.00
A(55)	55.39	55.78	56.17	56.56	56.94	57.33	57.72	58.11	58.50	58.89	59.28	59.67	60.06	60.44	60.83
A(56)	56.38	56.76	57.13	57.51	57.89	58.27	58.64	59.02	59.40	59.78	60.16	60.53	60.91	61.28	61.66
A(57)	57.37	57.73	58.10	58.47	58.83	59.20	59.57	59.93	60.30	60.67	61.03	61.40	61.77	62.13	62.50
A(58)	58.36	58.71	59.07	59.42	59.78	60.13	60.49	60.84	61.20	61.56	61.91	62.26	62.62	62.98	63.33
A(59)	59.34	59.69	60.03	60.38	60.72	61.07	61.41	61.76	62.10	62.44	62.79	63.13	63.48	63.82	64.17
A(60)	60.33	60.67	61.00	61.33	61.67	62.00	62.33	62.67	63.00	63.33	63.67	64.00	64.33	64.67	65.00
A(61)	61.32	61.64	61.97	62.29	62.61	62.93	63.26	63.58	63.90	64.22	64.54	64.87	65.19	65.51	65.83
A(62)	62.31	62.62	62.93	63.24	63.56	63.87	64.18	64.49	64.80	65.11	65.42	65.73	66.04	66.36	66.67
A(63)	63.30	63.60	63.90	64.20	64.50	64.80	65.10	65.40	65.70	66.00	66.30	66.60	66.90	67.20	67.50
A(64)	64.29	64.58	64.87	65.16	65.44	65.73	66.02	66.31	66.60	66.89	67.18	67.47	67.76	68.04	68.33
A(65)	65.28	65.56	65.83	66.11	66.39	66.67	66.94	67.22	67.50	67.78	68.06	68.33	68.61	68.89	69.17
A(66)	66.27	66.53	66.80	67.07	67.33	67.60	67.87	68.13	68.40	68.67	68.93	69.20	69.47	69.73	70.00
A(67)	67.26	67.51	67.77	68.02	68.28	68.53	68.79	69.04	69.30	69.56	69.81	70.07	70.32	70.58	70.83
A(68)	68.24	68.49	68.73	68.98	69.22	69.47	69.71	69.96	70.20	70.44	70.69	70.93	71.18	71.42	71.67
A(69)	69.23	69.47	69.70	69.93	70.17	70.40	70.63	70.87	71.10	71.33	71.57	71.80	72.03	72.27	72.50
A(70)	70.22	70.44	70.67	70.89	71.11	71.33	71.56	71.78	72.00	72.22	72.44	72.67	72.89	73.11	73.33
A(71)	71.21	71.42	71.63	71.84	72.06	72.27	72.48	72.69	72.90	73.11	73.32	73.53	73.74	73.96	74.17
A(72)	72.20	72.40	72.60	72.80	73.00	73.20	73.40	73.60	73.80	74.00	74.20	74.40	74.60	74.80	75.00
A(73)	73.19	73.38	73.57	73.76	73.94	74.13	74.32	74.51	74.70	74.89	75.08	75.27	75.46	75.64	75.83
A(74)	74.18	74.36	74.53	74.71	74.89	75.07	75.24	75.42	75.60	75.78	75.96	76.13	76.31	76.49	76.67
A(75)	75.17	75.33	75.50	75.67	75.83	76.00	76.17	76.33	76.50	76.67	76.83	77.00	77.17	77.33	77.50
A(76)	76.16	76.31	76.47	76.62	76.78	76.93	77.09	77.24	77.40	77.56	77.71	77.87	78.02	78.18	78.33
A(77)	77.14	77.29	77.43	77.58	77.72	77.87	78.01	78.16	78.30	78.44	78.59	78.73	78.88	79.02	79.17
A(78)	78.13	78.27	78.40	78.53	78.67	78.80	78.93	79.07	79.20	79.33	79.47	79.60	79.73	79.87	80.00
A(79)	79.12	79.24	79.37	79.49	79.61	79.73	79.86	79.98	80.10	80.22	80.34	80.47	80.59	80.71	80.83
A(80)	80.11	80.22	80.33	80.44	80.56	80.67	80.78	80.89	81.00	81.11	81.22	81.33	81.44	81.56	81.67
A(81)	81.10	81.20	81.30	81.40	81.50	81.60	81.70	81.80	81.90	82.00	82.10	82.20	82.30	82.40	82.50
A(82)	82.09	82.18	82.27	82.36	82.44	82.53	82.62	82.71	82.80	82.89	82.98	83.07	83.16	83.24	83.33
A(83)	83.08	83.16	83.23	83.31	83.39	83.47	83.54	83.62	83.70	83.78	83.86	83.93	84.01	84.09	84.17
A(84)	84.07	84.13	84.20	84.27	84.33	84.40	84.47	84.53	84.60	84.67	84.73	84.80	84.87	84.93	85.00
A(85)	85.06	85.11	85.17	85.22	85.28	85.33	85.39	85.44	85.50	85.56	85.61	85.67	85.72	85.78	85.83
A(86)	86.04	86.09	86.13	86.18	86.22	86.27	86.31	86.36	86.40	86.44	86.49	86.53	86.58	86.62	86.67
A(87)	87.03	87.07	87.10	87.13	87.17	87.20	87.23	87.27	87.30	87.33	87.37	87.40	87.43	87.47	87.50
A(88)	88.02	88.04	88.07	88.09	88.11	88.13	88.16	88.18	88.20	88.22	88.24	88.27	88.29	88.33	88.33
A(89)	89.01	89.02	89.03	89.04	89.06	89.07	89.08	89.09	89.10	89.11	89.12	89.13	89.14	89.16	89.17
A(90)	90.00	90.00	90.00	90.00	90.00	90.00	90.00	90.00	90.00	90.00	90.00	90.00	90.00	90.00	90.00

READY RECKONER TABLE FOR A + B(90-A)
90

A(1)	16.82	17.81	18.80	19.79	20.78	21.77	22.76	23.74	24.73	25.72	26.71	27.70	28.69	29.68	30.67
A(2)	17.64	18.62	19.60	20.58	21.56	22.53	23.51	24.49	25.47	26.44	27.42	28.40	29.38	30.36	31.33
A(3)	18.47	19.43	20.40	21.37	22.33	23.30	24.27	25.23	26.20	27.17	28.13	29.10	30.07	31.03	32.00
A(4)	19.29	20.24	21.20	22.16	23.11	24.07	25.02	25.98	26.93	27.89	28.84	29.80	30.76	31.71	32.67
A(5)	20.11	21.06	22.00	22.94	23.89	24.83	25.78	26.72	27.67	28.61	29.56	30.50	31.44	32.39	33.33
A(6)	20.93	21.87	22.80	23.73	24.67	25.61	26.55	27.47	28.40	29.33	30.27	31.20	32.13	33.07	34.00
A(7)	21.76	22.68	23.60	24.52	25.45	26.38	27.31	28.24	29.16	30.08	31.00	31.92	32.84	33.76	34.67
A(8)	22.58	23.49	24.40	25.31	26.22	27.13	28.04	28.95	29.86	30.77	31.68	32.59	33.50	34.41	35.32
A(9)	23.40	24.30	25.20	26.10	27.00	27.90	28.80	29.70	30.60	31.50	32.40	33.30	34.20	35.10	36.00
A(10)	24.22	25.11	26.00	26.89	27.78	28.67	29.56	30.44	31.33	32.22	33.11	34.00	34.89	35.78	36.67
A(11)	25.04	25.92	26.80	27.68	28.56	29.45	30.31	31.19	32.07	32.94	33.82	34.70	35.58	36.46	37.33
A(12)	25.87	26.73	27.60	28.47	29.33	30.20	31.07	31.93	32.80	33.67	34.53	35.40	36.27	37.13	38.00
A(13)	26.69	27.54	28.40	29.26	30.11	30.97	31.82	32.68	33.53	34.39	35.24	36.10	36.96	37.81	38.67
A(14)	27.51	28.36	29.20	30.01	30.89	31.73	32.58	33.42	34.27	35.11	35.96	36.80	37.64	38.49	39.33
A(15)	28.33	29.17	30.00	30.83	31.67	32.50	33.33	34.17	35.00	35.83	36.67	37.50	38.33	39.17	40.00
A(16)	29.16	29.98	30.80	31.62	32.44	33.27	34.09	34.91	35.73	36.56	37.38	38.20	39.02	39.84	40.67
A(17)	29.98	30.79	31.60	32.41	33.22	34.03	34.84	35.66	36.47	37.28	38.09	38.90	39.71	40.52	41.33
A(18)	30.80	31.60	32.40	33.20	34.00	34.80	35.60	36.40	37.20	38.00	38.80	39.60	40.40	41.20	42.00
A(19)	31.62	32.41	33.20	33.99	34.78	35.57	36.36	37.14	37.93	38.72	39.51	40.30	41.09	41.88	42.67
A(20)	32.44	33.22	34.00	34.78	35.56	36.33	37.11	37.89	38.67	39.44	40.22	41.00	41.78	42.56	43.33
A(21)	33.27	34.03	34.80	35.57	36.33	37.10	37.87	38.63	39.40	40.17	40.93	41.70	42.47	43.23	44.00
A(22)	34.09	34.84	35.60	36.36	37.11	37.87	38.62	39.38	40.13	40.89	41.64	42.40	43.15	43.91	44.67
A(23)	34.91	35.66	36.40	37.14	37.89	38.63	39.38	40.12	40.87	41.61	42.36	43.10	43.84	44.59	45.33
A(24)	35.73	36.47	37.20	37.93	38.67	39.40	40.13	40.87	41.60	42.33	43.07	43.80	44.53	45.27	46.00
A(25)	36.56	37.28	38.00	38.72	39.44	40.17	40.89	41.61	42.33	43.06	43.78	44.50	45.22	45.94	46.67
A(26)	37.38	38.09	38.80	39.51	40.22	40.93	41.64	42.36	43.07	43.78	44.49	45.20	45.91	46.62	47.33
A(27)	38.20	38.90	39.60	40.30	41.00	41.70	42.40	43.10	43.80	44.50	45.20	45.90	46.60	47.30	48.00
A(28)	39.02	39.71	40.40	41.09	41.78	42.47	43.16	43.84	44.53	45.22	45.91	46.60	47.29	47.98	48.67
A(29)	39.84	40.52	41.20	41.88	42.56	43.23	43.91	44.59	45.27	45.94	46.62	47.30	47.98	48.66	49.33
A(30)	40.67	41.33	42.00	42.67	43.33	44.00	44.67	45.33	46.00	46.67	47.33	48.00	48.67	49.33	50.00
A(31)	41.49	42.14	42.80	43.46	44.11	44.77	45.42	46.08	46.73	47.39	48.04	48.70	49.36	50.01	50.67
A(32)	42.31	42.96	43.60	44.24	44.89	45.53	46.18	46.82	47.47	48.11	48.76	49.40	50.04	50.69	51.33
A(33)	43.13	43.77	44.40	45.03	45.67	46.30	46.93	47.57	48.20	48.83	49.47	50.10	50.73	51.37	52.00
A(34)	43.96	44.58	45.20	45.82	46.44	47.07	47.69	48.31	48.93	49.56	50.18	50.80	51.42	52.04	52.67
A(35)	44.78	45.39	46.00	46.61	47.22	47.83	48.44	49.06	49.67	50.28	50.89	51.50	52.11	52.72	53.33
A(36)	45.60	46.20	46.80	47.40	48.00	48.60	49.20	49.80	50.40	51.00	51.60	52.20	52.80	53.40	54.00
A(37)	46.42	47.01	47.60	48.19	48.78	49.37	49.96	50.54	51.13	51.72	52.31	52.90	53.48	54.08	54.67
A(38)	47.24	47.82	48.40	48.98	49.56	50.13	50.71	51.29	51.87	52.44	53.02	53.60	54.18	54.76	55.33
A(39)	48.07	48.63	49.20	49.77	50.33	50.90	51.47	52.03	52.60	53.17	53.73	54.30	54.87	55.43	56.00
A(40)	48.89	49.44	50.00	50.56	51.11	51.67	52.22	52.78	53.33	53.89	54.44	55.00	55.56	56.11	56.67
A(41)	49.71	50.26	50.80	51.34	51.89	52.43	52.98	53.52	54.07	54.61	55.16	55.70	56.24	56.79	57.33
A(42)	50.53	51.07	51.60	52.13	52.67	53.20	53.73	54.27	54.80	55.33	55.87	56.40	56.93	57.47	58.00
A(43)	51.36	51.88	52.40	52.92	53.44	53.97	54.49	55.01	55.53	56.06	56.58	57.10	57.62	58.14	58.67
A(44)	52.18	52.69	53.20	53.71	54.22	54.73	55.24	55.76	56.27	56.78	57.29	57.80	58.31	58.82	59.33
A(45)	53.00	53.50	54.00	54.50	55.00	55.50	56.00	56.50	57.00	57.50	58.00	58.50	59.00	59.50	60.00

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READY RECKONER TABLE FOR A + B(90-A)
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A(46)	53.82	54.31	54.80	55.29	55.78	56.27	56.76	57.24	57.73	58.22	58.71	59.20	59.69	60.18	60.67
A(47)	54.64	55.12	55.60	56.08	56.56	57.03	57.51	57.99	58.47	58.94	59.42	59.90	60.38	60.86	61.33
A(48)	55.47	55.93	56.40	56.87	57.33	57.80	58.27	58.73	59.20	59.67	60.13	60.60	61.07	61.53	62.00
A(49)	56.29	56.74	57.20	57.66	58.11	58.57	59.02	59.48	59.93	60.39	60.84	61.30	61.76	62.21	62.67
A(50)	57.11	57.56	58.00	58.44	58.89	59.33	59.78	60.22	60.67	61.11	61.56	62.00	62.44	62.89	63.33
A(51)	57.93	58.37	58.80	59.23	59.67	60.10	60.55	60.97	61.40	61.83	62.27	62.70	63.13	63.57	64.00
A(52)	58.76	59.18	59.60	60.02	60.44	60.87	61.29	61.71	62.13	62.56	62.98	63.40	63.82	64.26	64.67
A(53)	59.58	59.99	60.40	60.81	61.22	61.63	62.04	62.46	62.87	63.28	63.69	64.10	64.51	64.92	65.33
A(54)	60.40	60.80	61.20	61.60	62.00	62.40	62.80	63.20	63.60	64.00	64.40	64.80	65.20	65.60	66.00
A(55)	61.22	61.61	62.00	62.39	62.78	63.17	63.56	63.94	64.33	64.72	65.11	65.50	65.89	66.28	66.67
A(56)	62.04	62.42	62.80	63.18	63.56	63.93	64.31	64.69	65.07	65.44	65.82	66.20	66.58	66.96	67.33
A(57)	62.87	63.23	63.60	63.97	64.33	64.70	65.07	65.43	65.80	66.17	66.53	66.90	67.27	67.63	68.00
A(58)	63.69	64.04	64.41	64.76	65.11	65.47	65.82	66.18	66.53	66.89	67.24	67.60	67.96	68.31	68.67
A(59)	64.51	64.86	65.20	65.54	65.89	66.23	66.58	66.92	67.27	67.61	67.96	68.30	68.64	68.99	69.33
A(60)	65.33	65.67	66.00	66.33	66.67	67.00	67.33	67.67	68.00	68.33	68.67	69.00	69.33	69.67	70.00
A(61)	66.16	66.48	66.80	67.12	67.44	67.77	68.09	68.41	68.73	69.06	69.38	69.70	70.02	70.34	70.67
A(62)	66.98	67.29	67.60	67.91	68.22	68.53	68.84	69.16	69.47	69.78	70.09	70.40	70.71	71.02	71.33
A(63)	67.80	68.10	68.40	68.70	69.00	69.30	69.60	69.90	70.20	70.50	70.80	71.10	71.40	71.70	72.00
A(64)	68.62	68.91	69.20	69.49	69.78	70.07	70.36	70.65	70.93	71.22	71.51	71.80	72.09	72.38	72.67
A(65)	69.44	69.72	70.00	70.28	70.56	70.83	71.11	71.39	71.67	71.94	72.22	72.50	72.78	73.06	73.33
A(66)	70.27	70.53	70.80	71.07	71.33	71.60	71.87	72.13	72.40	72.67	72.93	73.20	73.47	73.73	74.00
A(67)	71.09	71.34	71.60	71.86	72.11	72.37	72.62	72.88	73.13	73.39	73.64	73.90	74.16	74.41	74.67
A(68)	71.91	72.16	72.40	72.64	72.89	73.13	73.38	73.62	73.87	74.11	74.36	74.60	74.84	75.09	75.33
A(69)	72.73	72.97	73.20	73.43	73.67	73.90	74.13	74.37	74.60	74.83	75.07	75.30	75.53	75.77	76.00
A(70)	73.56	73.78	74.00	74.22	74.44	74.67	74.89	75.11	75.33	75.56	75.78	76.00	76.22	76.44	76.67
A(71)	74.38	74.59	74.80	75.01	75.22	75.43	75.64	75.86	76.07	76.28	76.49	76.70	76.91	77.12	77.33
A(72)	75.20	75.40	75.60	75.80	76.00	76.20	76.40	76.60	76.80	77.00	77.20	77.40	77.60	77.80	78.00
A(73)	76.02	76.21	76.40	76.59	76.78	76.97	77.16	77.34	77.53	77.72	77.91	78.10	78.29	78.48	78.67
A(74)	76.84	77.02	77.20	77.38	77.56	77.73	77.91	78.09	78.27	78.44	78.62	78.80	78.98	79.16	79.33
A(75)	77.67	77.83	78.00	78.17	78.33	78.50	78.67	78.83	79.00	79.17	79.33	79.50	79.67	79.83	80.00
A(76)	78.49	78.64	78.80	78.96	79.11	79.27	79.42	79.58	79.73	79.89	80.04	80.20	80.36	80.51	80.67
A(77)	79.31	79.46	79.60	79.74	79.89	80.03	80.18	80.32	80.47	80.61	80.76	80.90	81.04	81.19	81.33
A(78)	80.13	80.27	80.27	80.40	80.67	80.80	80.93	81.07	81.20	81.33	81.47	81.60	81.73	81.87	82.00
A(79)	80.96	81.08	81.20	81.32	81.44	81.57	81.69	81.81	81.93	82.06	82.18	82.30	82.42	82.54	82.67
A(80)	81.76	81.89	82.00	82.11	82.22	82.33	82.44	82.56	82.67	82.78	82.89	83.00	83.11	83.22	83.33
A(81)	82.60	82.70	82.80	82.90	83.00	83.10	83.20	83.30	83.40	83.50	83.60	83.70	83.80	83.90	84.00
A(82)	83.42	83.51	83.60	83.69	83.78	83.87	83.96	84.04	84.13	84.22	84.31	84.40	84.50	84.58	84.67
A(83)	84.24	84.24	84.40	84.48	84.56	84.63	84.71	84.79	84.87	84.89	85.02	85.10	85.18	85.26	85.33
A(84)	85.07	85.07	85.20	85.27	85.33	85.40	85.47	85.53	85.60	85.67	85.73	85.80	85.87	85.93	86.00
A(85)	85.89	85.89	86.00	86.06	86.11	86.17	86.22	86.28	86.33	86.39	86.44	86.50	86.56	86.61	86.67
A(86)	86.71	86.76	86.80	86.84	86.89	86.89	86.98	87.02	87.07	87.11	87.16	87.20	87.24	87.29	87.33
A(87)	87.53	87.57	87.57	87.60	87.63	87.67	87.73	87.77	87.80	87.83	87.87	87.90	87.93	87.97	88.00
A(88)	88.36	88.38	88.38	88.40	88.42	88.44	88.49	88.51	88.53	88.56	88.59	88.60	88.62	88.64	88.67
A(89)	89.18	89.13	89.19	89.20	89.21	89.23	89.24	89.26	89.27	89.28	89.29	89.30	89.31	89.32	89.33
A(90)	90.00	90.00	90.00	90.00	90.00	90.00	90.00	90.00	90.00	90.00	90.00	90.00	90.00	90.00	90.00

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READY RECKONER TABLE FOR A+ B(90-A)
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	B(31)	B(32)	B(33)	B(34)	B(35)	B(36)	B(37)	B(38)	B(39)	B(40)	B(41)	B(42)	B(43)	B(44)	B(45)
A(1)	31.66	32.64	33.63	34.62	35.61	36.60	37.59	38.58	39.57	40.56	41.54	42.53	42.52	44.51	45.50
A(2)	32.31	33.29	34.27	35.24	36.22	37.20	38.18	39.16	40.13	41.11	42.09	43.07	44.04	45.02	46.00
A(3)	32.97	33.93	34.90	35.87	36.83	37.80	38.77	39.73	40.70	41.67	42.63	43.60	44.57	45.53	46.50
A(4)	33.62	34.58	35.53	36.49	37.44	38.40	39.36	40.31	41.27	42.22	43.18	44.13	45.09	46.04	47.00
A(5)	34.28	35.22	36.17	37.11	38.06	39.00	39.94	40.89	41.83	42.78	43.72	44.67	45.61	46.56	47.50
A(6)	34.93	35.87	36.80	37.73	38.67	39.60	40.53	41.47	42.40	43.33	44.27	45.20	46.13	47.07	48.00
A(7)	35.59	36.51	37.43	38.36	39.28	40.20	41.12	42.04	42.97	43.89	44.81	45.73	46.66	47.58	48.50
A(8)	36.24	37.16	38.07	38.98	39.89	40.80	41.71	42.62	43.53	44.44	45.36	46.27	47.18	48.09	49.00
A(9)	36.90	37.80	38.70	39.60	40.50	41.40	42.30	43.20	44.10	45.00	45.90	46.80	47.70	48.60	49.50
A(10)	37.56	38.44	38.33	40.22	41.11	42.00	42.89	43.78	44.67	45.56	46.44	47.33	48.22	49.11	50.00
A(11)	38.21	39.09	39.97	40.84	41.72	42.60	43.48	44.36	45.23	46.11	46.99	47.87	48.74	49.62	50.50
A(12)	38.87	39.73	40.60	41.47	42.33	43.20	44.07	44.93	45.80	46.67	47.53	48.40	49.27	50.13	51.00
A(13)	39.52	40.38	41.23	42.09	42.94	43.80	44.66	45.51	46.37	47.22	48.08	48.93	49.79	50.64	51.50
A(15)	40.83	41.67	42.50	43.33	44.17	45.00	45.83	46.67	47.50	48.33	49.17	50.00	50.83	51.67	52.50
A(16)	41.49	42.31	43.13	43.96	44.78	45.60	46.42	47.24	48.07	48.89	49.71	50.53	51.36	52.18	53.00
A(17)	42.14	42.96	43.77	44.58	45.39	46.20	47.01	47.82	48.63	49.44	50.26	51.07	51.88	52.69	53.50
A(18)	42.80	43.60	44.40	45.20	46.00	46.80	47.60	48.40	49.20	50.00	51.00	52.00	53.00	54.00	55.00
A(19)	43.46	44.24	45.03	45.82	46.61	47.40	48.19	48.98	49.77	50.56	51.34	52.13	52.92	53.71	54.50
A(20)	44.11	44.89	45.67	46.44	47.22	48.00	48.78	49.56	50.33	51.11	51.89	52.67	53.44	54.22	55.00
A(21)	44.77	45.53	46.30	47.07	47.83	48.60	49.37	50.13	50.90	51.67	52.43	53.20	53.97	54.73	55.50
A(22)	45.42	46.18	46.93	47.69	48.44	49.20	49.96	50.71	51.47	52.22	52.98	53.73	54.49	55.24	56.00
A(23)	46.08	46.82	47.57	48.31	49.06	49.80	50.54	51.29	52.03	52.78	53.52	54.27	55.01	55.76	56.50
A(24)	46.73	47.47	48.20	48.93	49.67	50.40	51.13	51.87	52.60	53.33	54.07	54.80	55.53	56.27	57.00
A(25)	47.39	48.11	48.83	49.56	50.28	51.00	51.72	52.44	53.17	53.89	54.61	55.33	56.06	56.78	57.50
A(26)	48.04	48.76	49.47	50.18	50.89	51.60	52.31	53.02	53.73	54.44	55.16	55.87	56.58	57.29	58.00
A(27)	48.70	49.40	50.10	50.80	51.50	52.20	52.90	53.50	54.30	55.00	55.70	56.40	57.10	57.80	58.50
A(28)	49.36	50.04	50.73	51.42	52.11	52.80	53.49	54.18	54.87	55.56	56.24	56.93	57.62	58.31	59.00
A(29)	50.01	50.60	51.37	52.04	52.72	53.40	54.08	54.76	55.43	56.11	56.79	57.47	58.14	58.82	59.50
A(30)	50.67	51.33	52.00	53.67	53.33	54.00	54.67	55.33	56.00	56.67	57.33	58.00	58.67	59.33	60.00
A(31)	51.32	51.98	52.63	53.29	53.94	54.60	55.26	55.91	56.57	57.22	57.88	58.53	59.19	59.84	60.50
A(32)	51.98	52.62	53.27	53.91	54.56	55.20	55.84	56.48	57.13	57.78	58.42	59.07	59.71	60.36	61.00
A(33)	52.63	53.27	53.90	54.53	55.17	55.80	56.43	57.07	57.70	58.33	58.97	59.60	60.23	60.87	61.50
A(34)	53.29	53.91	54.53	55.16	55.78	56.40	57.02	57.64	58.27	58.89	59.51	60.13	60.76	61.38	62.00
A(35)	53.94	54.56	55.17	55.78	56.39	57.00	57.61	58.22	58.83	59.44	60.06	60.67	61.28	61.89	62.50
A(36)	54.60	55.20	55.80	56.40	57.00	57.60	58.20	58.80	59.40	60.00	60.60	61.20	61.80	62.40	63.00
A(37)	55.26	55.84	56.43	57.02	57.61	58.20	58.79	59.38	59.97	60.56	61.14	61.73	62.32	62.91	63.50
A(38)	55.91	56.49	57.07	57.64	58.22	58.80	59.38	59.96	60.53	61.11	61.69	62.27	62.84	63.42	64.00
A(39)	56.57	57.13	57.70	58.27	58.83	59.40	59.97	60.53	61.10	61.67	62.23	62.80	63.37	63.93	64.50
A(40)	57.22	57.78	58.33	58.89	59.44	60.00	60.56	61.11	61.67	62.22	62.78	63.33	63.89	64.44	65.00
A(41)	57.88	58.42	58.97	59.51	60.06	60.60	61.14	61.69	62.27	62.78	63.32	63.87	64.41	64.96	65.50
A(42)	58.53	59.07	59.60	60.13	60.67	61.20	61.73	62.27	62.80	63.33	63.87	64.40	64.93	65.47	66.00
A(43)	59.19	59.71	60.23	60.76	61.28	61.80	62.32	62.84	63.37	63.89	64.41	64.93	65.46	65.98	66.50
A(44)	59.84	60.36	60.87	61.38	61.89	62.40	62.91	63.42	63.93	64.44	64.96	65.47	65.98	66.49	67.00
A(45)	60.50	61.00	61.50	62.00	62.50	63.00	63.50	64.00	64.50	65.00	65.50	65.50	65.50	67.00	67.50

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READY RECKONER TABLE FOR A + B(90-A)
90

	B(31)	B(32)	B(33)	B(34)	B(35)	B(36)	B(37)	B(38)	B(39)	B(40)	B(41)	B(42)	B(43)	B(44)	B(45)
A(46)	61.16	61.64	62.13	62.62	63.13	63.60	64.09	64.58	65.07	65.56	66.04	66.53	67.02	67.51	68.00
A(47)	61.81	62.29	62.77	63.24	63.72	64.20	64.68	65.16	65.63	66.11	66.59	67.07	67.54	68.02	68.50
A(48)	62.47	62.93	63.40	63.87	64.33	64.80	65.27	65.73	66.20	66.67	67.13	67.60	68.07	68.53	69.00
A(49)	63.12	63.58	64.03	64.49	64.94	65.40	65.86	66.3	66.77	67.22	67.68	68.13	68.59	69.04	69.50
A(50)	63.78	64.22	64.67	65.11	65.56	66.00	66.44	66.89	67.33	67.78	68.22	68.67	69.11	69.56	70.00
A(51)	64.43	64.87	65.30	65.73	66.17	66.60	67.03	67.47	67.90	68.33	68.77	69.20	69.63	70.07	70.50
A(52)	65.09	65.51	65.93	66.33	66.78	67.20	67.62	68.04	68.47	68.89	69.31	69.73	70.16	70.58	71.00
A(53)	65.74	66.16	66.57	66.98	67.39	67.80	68.21	68.62	69.03	69.44	69.86	70.27	70.68	71.09	71.50
A(54)	66.40	66.80	67.20	67.60	68.00	68.40	68.80	68.20	69.60	70.00	70.40	70.80	71.20	71.60	72.00
A(55)	67.06	67.44	67.83	68.22	68.61	69.00	69.39	69.78	70.17	70.56	70.94	71.33	71.72	72.11	72.50
A(56)	67.71	68.09	68.47	68.84	69.22	69.60	69.98	70.36	70.73	71.11	71.49	71.87	72.24	72.62	73.00
A(57)	68.37	68.73	69.10	69.47	69.83	70.20	70.57	70.93	71.30	71.67	72.03	72.40	72.77	73.13	73.50
A(58)	69.02	69.38	69.79	70.09	70.44	70.80	71.16	71.51	71.87	72.22	72.58	72.93	73.29	73.64	74.00
A(59)	69.68	70.02	70.37	70.71	71.06	71.40	71.74	72.09	72.43	72.78	73.12	73.47	73.81	74.16	74.50
A(60)	70.33	70.67	71.00	71.33	71.67	72.00	72.33	72.67	73.00	73.33	73.67	74.00	74.33	74.67	75.00
A(61)	70.99	71.31	71.63	71.96	72.28	72.60	72.92	73.24	73.57	73.89	74.21	74.53	74.86	75.18	75.50
A(62)	71.64	71.96	72.27	72.58	72.89	73.20	73.51	73.82	74.13	74.44	74.76	75.07	75.38	75.69	76.00
A(63)	72.30	72.60	72.90	73.20	73.50	73.80	74.10	74.40	74.70	75.00	75.30	75.60	75.90	76.20	76.50
A(64)	72.96	73.24	73.53	73.82	74.11	74.40	74.69	74.98	75.27	75.56	75.84	76.13	76.42	76.71	77.00
A(65)	73.61	73.89	74.17	74.44	74.72	75.00	75.28	75.56	75.83	76.11	76.39	76.67	76.94	77.22	77.50
A(66)	74.27	74.53	74.80	75.07	75.33	75.60	75.87	76.13	76.40	76.67	76.93	77.20	77.47	77.73	78.00
A(67)	74.92	75.18	75.43	75.69	75.94	76.20	76.46	76.71	76.97	77.22	77.48	77.73	77.99	78.24	78.50
A(68)	75.58	75.82	76.07	76.31	76.56	76.80	77.04	77.29	77.53	77.78	78.02	78.27	78.51	78.76	79.00
A(69)	76.23	76.47	76.70	76.93	77.17	77.40	77.63	77.87	78.10	78.33	78.57	78.80	79.03	79.27	79.50
A(70)	76.89	77.11	77.33	77.56	77.78	78.00	78.22	78.44	78.67	78.89	79.11	79.33	79.56	79.78	80.00
A(71)	77.54	77.76	77.97	78.18	78.39	78.60	78.81	79.02	79.23	79.44	79.66	79.87	80.08	80.29	80.50
A(72)	78.20	78.40	78.60	78.80	79.00	79.20	79.40	79.60	79.80	80.00	80.20	80.40	80.60	80.80	81.00
A(73)	78.86	79.04	79.23	79.42	79.61	79.80	79.99	80.18	80.37	80.56	80.74	80.93	81.12	81.31	81.50
A(74)	79.51	79.69	79.87	80.04	80.22	80.40	80.58	80.76	80.93	81.11	81.29	81.47	81.64	81.82	82.00
A(75)	80.17	80.33	80.50	80.67	80.83	81.00	81.17	81.33	81.50	81.67	81.83	82.00	82.17	82.33	82.50
A(76)	80.82	80.98	81.13	81.29	81.44	81.60	81.76	81.91	82.07	82.22	82.38	82.53	82.69	82.84	83.00
A(77)	81.48	81.62	81.77	81.91	82.06	82.20	82.34	82.49	82.63	82.78	82.92	83.07	83.21	83.36	83.50
A(78)	82.13	82.27	82.40	82.53	82.67	82.80	82.93	83.07	83.20	83.33	83.47	83.60	83.73	83.87	84.00
A(79)	82.79	82.91	83.03	83.16	83.28	83.40	83.52	83.64	83.77	83.89	84.01	84.13	84.26	84.38	84.50
A(80)	83.44	83.56	83.67	83.78	83.89	84.00	84.11	84.22	84.33	84.44	84.56	84.67	84.78	84.89	85.00
A(81)	84.10	84.20	84.30	84.40	84.50	84.60	84.70	84.80	84.90	85.00	85.10	85.20	85.30	85.40	85.50
A(82)	84.76	84.84	84.93	85.02	85.11	85.20	85.29	85.38	85.47	85.56	85.64	85.73	85.82	85.91	86.00
A(83)	85.41	85.49	85.57	85.64	85.72	85.80	85.88	85.96	86.03	86.11	86.19	86.27	86.34	86.42	86.50
A(84)	86.07	86.13	86.20	86.27	86.33	86.40	86.47	86.53	86.60	86.67	86.73	86.80	86.87	86.93	87.00
A(85)	86.72	86.78	86.83	86.89	86.94	87.00	87.06	87.11	87.17	87.22	87.28	87.33	87.39	87.44	87.50
A(86)	87.38	87.42	87.47	87.51	87.56	87.60	87.64	87.69	87.73	87.78	87.82	87.87	87.91	87.96	88.00
A(87)	88.03	88.07	88.10	88.13	88.17	88.20	88.23	88.27	88.30	88.33	88.37	88.40	88.43	88.47	88.50
A(88)	88.69	88.71	88.73	88.76	88.78	88.80	88.82	88.84	88.87	88.89	88.91	88.93	88.96	88.98	89.00
A(89)	89.34	89.36	89.37	89.38	89.39	89.40	89.41	89.42	89.43	89.44	89.45	89.46	89.47	89.48	89.50
A(90)	90.00	90.00	90.00	90.00	90.00	90.00	90.00	90.00	90.00	90.00	90.00	90.00	90.00	90.00	90.00

B(60)	A(1)	46.49	48.47	49.46	50.44	51.43	52.44	53.41	54.38	55.33	56.27	57.19	58.08	58.94	59.78	60.60	61.40	62.18	62.94	63.68	64.40	65.10	65.78	66.44	67.08	67.70	68.30	68.88	69.44	69.98	70.50	71.00	71.48	71.94	72.38	72.80	73.20	73.58	74.00	74.50	75.00																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																									
B(59)	A(2)	46.98	48.93	49.91	50.89	51.87	52.84	53.82	54.80	55.76	56.70	57.62	58.51	59.38	60.24	61.08	61.90	62.70	63.48	64.24	64.98	65.70	66.40	67.08	67.74	68.38	69.00	69.60	70.18	70.74	71.28	71.80	72.30	72.78	73.24	73.68	74.10	74.50	74.90	75.30	75.70	76.10	76.50	76.90	77.30	77.70	78.10	78.50	78.90	79.30	79.70	80.10	80.50	80.90	81.30	81.70	82.10	82.50	82.90	83.30	83.70	84.10	84.50	84.90	85.30	85.70	86.10	86.50	86.90	87.30	87.70	88.10	88.50	88.90	89.30	89.70	90.10	90.50	90.90	91.30	91.70	92.10	92.50	92.90	93.30	93.70	94.10	94.50	94.90	95.30	95.70	96.10	96.50	96.90	97.30	97.70	98.10	98.50	98.90	99.30	99.70	100.10	100.50	100.90	101.30	101.70	102.10	102.50	102.90	103.30	103.70	104.10	104.50	104.90	105.30	105.70	106.10	106.50	106.90	107.30	107.70	108.10	108.50	108.90	109.30	109.70	110.10	110.50	110.90	111.30	111.70	112.10	112.50	112.90	113.30	113.70	114.10	114.50	114.90	115.30	115.70	116.10	116.50	116.90	117.30	117.70	118.10	118.50	118.90	119.30	119.70	120.10	120.50	120.90	121.30	121.70	122.10	122.50	122.90	123.30	123.70	124.10	124.50	124.90	125.30	125.70	126.10	126.50	126.90	127.30	127.70	128.10	128.50	128.90	129.30	129.70	130.10	130.50	130.90	131.30	131.70	132.10	132.50	132.90	133.30	133.70	134.10	134.50	134.90	135.30	135.70	136.10	136.50	136.90	137.30	137.70	138.10	138.50	138.90	139.30	139.70	140.10	140.50	140.90	141.30	141.70	142.10	142.50	142.90	143.30	143.70	144.10	144.50	144.90	145.30	145.70	146.10	146.50	146.90	147.30	147.70	148.10	148.50	148.90	149.30	149.70	150.10	150.50	150.90	151.30	151.70	152.10	152.50	152.90	153.30	153.70	154.10	154.50	154.90	155.30	155.70	156.10	156.50	156.90	157.30	157.70	158.10	158.50	158.90	159.30	159.70	160.10	160.50	160.90	161.30	161.70	162.10	162.50	162.90	163.30	163.70	164.10	164.50	164.90	165.30	165.70	166.10	166.50	166.90	167.30	167.70	168.10	168.50	168.90	169.30	169.70	170.10	170.50	170.90	171.30	171.70	172.10	172.50	172.90	173.30	173.70	174.10	174.50	174.90	175.30	175.70	176.10	176.50	176.90	177.30	177.70	178.10	178.50	178.90	179.30	179.70	180.10	180.50	180.90	181.30	181.70	182.10	182.50	182.90	183.30	183.70	184.10	184.50	184.90	185.30	185.70	186.10	186.50	186.90	187.30	187.70	188.10	188.50	188.90	189.30	189.70	190.10	190.50	190.90	191.30	191.70	192.10	192.50	192.90	193.30	193.70	194.10	194.50	194.90	195.30	195.70	196.10	196.50	196.90	197.30	197.70	198.10	198.50	198.90	199.30	199.70	200.10	200.50	200.90	201.30	201.70	202.10	202.50	202.90	203.30	203.70	204.10	204.50	204.90	205.30	205.70	206.10	206.50	206.90	207.30	207.70	208.10	208.50	208.90	209.30	209.70	210.10	210.50	210.90	211.30	211.70	212.10	212.50	212.90	213.30	213.70	214.10	214.50	214.90	215.30	215.70	216.10	216.50	216.90	217.30	217.70	218.10	218.50	218.90	219.30	219.70	220.10	220.50	220.90	221.30	221.70	222.10	222.50	222.90	223.30	223.70	224.10	224.50	224.90	225.30	225.70	226.10	226.50	226.90	227.30	227.70	228.10	228.50	228.90	229.30	229.70	230.10	230.50	230.90	231.30	231.70	232.10	232.50	232.90	233.30	233.70	234.10	234.50	234.90	235.30	235.70	236.10	236.50	236.90	237.30	237.70	238.10	238.50	238.90	239.30	239.70	240.10	240.50	240.90	241.30	241.70	242.10	242.50	242.90	243.30	243.70	244.10	244.50	244.90	245.30	245.70	246.10	246.50	246.90	247.30	247.70	248.10	248.50	248.90	249.30	249.70	250.10	250.50	250.90	251.30	251.70	252.10	252.50	252.90	253.30	253.70	254.10	254.50	254.90	255.30	255.70	256.10	256.50	256.90	257.30	257.70	258.10	258.50	258.90	259.30	259.70	260.10	260.50	260.90	261.30	261.70	262.10	262.50	262.90	263.30	263.70	264.10	264.50	264.90	265.30	265.70	266.10	266.50	266.90	267.30	267.70	268.10	268.50	268.90	269.30	269.70	270.10	270.50	270.90	271.30	271.70	272.10	272.50	272.90	273.30	273.70	274.10	274.50	274.90	275.30	275.70	276.10	276.50	276.90	277.30	277.70	278.10	278.50	278.90	279.30	279.70	280.10	280.50	280.90	281.30	281.70	282.10	282.50	282.90	283.30	283.70	284.10	284.50	284.90	285.30	285.70	286.10	286.50	286.90	287.30	287.70	288.10	288.50	288.90	289.30	289.70	290.10	290.50	290.90	291.30	291.70	292.10	292.50	292.90	293.30	293.70	294.10	294.50	294.90	295.30	295.70	296.10	296.50	296.90	297.30	297.70	298.10	298.50	298.90	299.30	299.70	300.10	300.50	300.90	301.30	301.70	302.10	302.50	302.90	303.30	303.70	304.10	304.50	304.90	305.30	305.70	306.10	306.50	306.90	307.30	307.70	308.10	308.50	308.90	309.30	309.70	310.10	310.50	310.90	311.30	311.70	312.10	312.50	312.90	313.30	313.70	314.10	314.50	314.90	315.30	315.70	316.10	316.50	316.90	317.30	317.70	318.10	318.50	318.90	319.30	319.70	320.10	320.50	320.90	321.30	321.70	322.10	322.50	322.90	323.30	323.70	324.10	324.50	324.90	325.30	325.70	326.10	326.50	326.90	327.30	327.70	328.10	328.50	328.90	329.30	329.70	330.10	330.50	330.90	331.30	331.70	332.10	332.50	332.90	333.30	333.70	334.10	334.50	334.90	335.30	335.70	336.10	336.50	336.90	337.30	337.70	338.10	338.50	338.90	339.30	339.70	340.10	340.50	340.90	341.30	341.70	342.10	342.50	342.90	343.30	343.70	344.10	344.50	344.90	345.30	345.70	346.10	346.50	346.90	347.30	347.70	348.10	348.50	348.90	349.30	349.70	350.10	350.50	350.90	351.30	351.70	352.10	352.50	352.90	353.30	353.70	354.10	354.50	354.90	355.30	355.70	356.10	356.50	356.90	357.30	357.70	358.10	358.50	358.90	359.30	359.70	360.10	360.50	360.90	361.30	361.70	362.10	362.50	362.90	363.30	363.70	364.10	364.50	364.90	365.30	365.70	366.10	366.50	366.90	367.30	367.70	368.10	368.50	368.90	369.30	369.70	370.10	370.50	370.90	371.30	371.70	372.10	372.50	372.90	373.30	373.70	374.10	374.50	374.90	375.30	375.70	376.10	376.50	376.90	377.30	377.70	378.10	378.50	378.90	379.30	379.70	380.10	380.50	380.90	381.30	381.70	382.10	382.50	382.90	383.30	383.70	384.10	384.50	384.90	385.30	385.70	386.10	386.50	386.90	387.30	387.70	388.10	388.50	388.90	389.30	389.70	390.10	390.50	390.90	391.30	391.70	392.10	392.50	392.90	393.30	393.70	394.10	394.50	394.90	395.30	395.70	396.10	396.50	396.90	397.30	397.70	398.10	398.50	398.90	399.30	399.70	400.10	400.50	400.90	401.30	401.70	402.10	402.50	402.90	403.30	403.70	404.10	404.50	404.90	405.30	405.70	406.10	406.50	406.90	407.30	407.70	408.10	408.50	408.90	409.30	409.70	410.10	410.50	410.90	411.30	411.70	412.10	412.50	412.90	413.30	413.70	414.10	414.50	414.90	415.30	415.70	416.10	416.50	416.90	417.30	417.70	418.10	418.50	418.90	419.30	419.70	420.10	420.50	420.90	421.30	421.70	422.10	422.50	422.90	423.30	423.70	424.10	424.50	424.90	425.30	425.70	426.10	426.50	426.90	427.30	427.70	428.10	428.50	428.90	429.30	429.70	430.10	430.50	430.90	431.30	431.70	432.10	432.50	432.90	433.30	433.70	434.10	434.50	434.90	435.30	435.70	436.10	436.50	436.90	437.30	437.70	438.10	438.50	438.90	439.30	439.70	440.10	440.50	440.90	441.30	441.70	442.10	442.50	442.90	443.30	443.70	444.10	444.50	444.90	445.30	445.70	446.10	446.50	446.90	447.30	447.70	448.10	448.50	448.90	449.30	449.70	450.10	450.50	450.90	451.30	451.70	452.10	452.50	452.90	453.30	453.70	454.10	454.50	454.90	455.30	455.70	456.10	456.50	456.90	457.30	457.70	458.10	458.50	458.90	459.30	459.70	460.10	460.50	460.90	461.30	461.70	462.10	462.50	462.90	463.30	463.70	464.10	464.50	464.90	465.30	465.70	466.10	466.50	466.90	467.30	467.70	468.10	468.50	468.90	469.30	469.70	470.10	470.50	470.90	471.30	471.70	472.10	472.50	472.90	473.30	473.70	474.10	474.50	474.90	475.30	475.70	476.10	476.50	476.90	477.30	477.70	478.10	478.50	478.90	479.30	479.70	480.10	480.50	480.90	481.30	481.70	482.10	482.50	482.90	483.30	483.70	484.10	484.50	484.90	485.30	485.70	486.10	486.50	486.90	487.30	487.70	488.10	488.50	488.90	489.30	489.70	490.10	490.50	490.90	491.30	491.70	492.10	492.50	492.90	493.30	493.70	494.10	494.50	494.90	495.3

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READY RECKONER TABLE FOR A + B(90-A)

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B(46)	A(46)	68.49	68.98	69.47	69.96	70.44	70.87	71.33	71.78	72.22	72.67	73.11	73.56	74.00	74.44	74.88	75.32	75.76	76.20	76.64	77.08	77.52	77.96	78.40	78.84	79.28	79.72	80.16	80.60	81.04	81.48	81.92	82.36	82.80	83.24	83.68	84.12	84.56	85.00	85.44	85.88	86.32	86.76	87.20	87.64	88.08	88.52	88.96	89.40	89.84	90.28																														
B(47)	A(47)	68.58	69.07	69.56	70.05	70.54	71.03	71.52	72.01	72.50	72.99	73.48	73.97	74.46	74.95	75.44	75.93	76.42	76.91	77.40	77.89	78.38	78.87	79.36	79.85	80.34	80.83	81.32	81.81	82.30	82.79	83.28	83.77	84.26	84.75	85.24	85.73	86.22	86.71	87.20	87.69	88.18	88.67	89.16	89.65	90.14	90.63	91.12	91.61	92.10	92.59	93.08	93.57	94.06	94.55	95.04	95.53	96.02	96.51	97.00	97.49	97.98	98.47	98.96	99.45	99.94															
B(48)	A(48)	68.67	69.16	69.65	70.14	70.63	71.12	71.61	72.10	72.59	73.08	73.57	74.06	74.55	75.04	75.53	76.02	76.51	77.00	77.49	77.98	78.47	78.96	79.45	79.94	80.43	80.92	81.41	81.90	82.39	82.88	83.37	83.86	84.35	84.84	85.33	85.82	86.31	86.80	87.29	87.78	88.27	88.76	89.25	89.74	90.23	90.72	91.21	91.70	92.19	92.68	93.17	93.66	94.15	94.64	95.13	95.62	96.11	96.60	97.09	97.58	98.07	98.56	99.05	99.54	100.03															
B(49)	A(49)	68.76	69.25	69.74	70.23	70.72	71.21	71.70	72.19	72.68	73.17	73.66	74.15	74.64	75.13	75.62	76.11	76.60	77.09	77.58	78.07	78.56	79.05	79.54	80.03	80.52	81.01	81.50	81.99	82.48	82.97	83.46	83.95	84.44	84.93	85.42	85.91	86.40	86.89	87.38	87.87	88.36	88.85	89.34	89.83	90.32	90.81	91.30	91.79	92.28	92.77	93.26	93.75	94.24	94.73	95.22	95.71	96.20	96.69	97.18	97.67	98.16	98.65	99.14	99.63	100.12															
B(50)	A(50)	68.85	69.34	69.83	70.32	70.81	71.30	71.79	72.28	72.77	73.26	73.75	74.24	74.73	75.22	75.71	76.20	76.69	77.18	77.67	78.16	78.65	79.14	79.63	80.12	80.61	81.10	81.59	82.08	82.57	83.06	83.55	84.04	84.53	85.02	85.51	86.00	86.49	86.98	87.47	87.96	88.45	88.94	89.43	89.92	90.41	90.90	91.39	91.88	92.37	92.86	93.35	93.84	94.33	94.82	95.31	95.80	96.29	96.78	97.27	97.76	98.25	98.74	99.23	99.72	100.21															
B(51)	A(51)	68.94	69.43	69.92	70.41	70.90	71.39	71.88	72.37	72.86	73.35	73.84	74.33	74.82	75.31	75.80	76.29	76.78	77.27	77.76	78.25	78.74	79.23	79.72	80.21	80.70	81.19	81.68	82.17	82.66	83.15	83.64	84.13	84.62	85.11	85.60	86.09	86.58	87.07	87.56	88.05	88.54	89.03	89.52	90.01	90.50	90.99	91.48	91.97	92.46	92.95	93.44	93.93	94.42	94.91	95.40	95.89	96.38	96.87	97.36	97.85	98.34	98.83	99.32	99.81	100.30															
B(52)	A(52)	69.03	69.52	70.01	70.50	70.99	71.48	71.97	72.46	72.95	73.44	73.93	74.42	74.91	75.40	75.89	76.38	76.87	77.36	77.85	78.34	78.83	79.32	79.81	80.30	80.79	81.28	81.77	82.26	82.75	83.24	83.73	84.22	84.71	85.20	85.69	86.18	86.67	87.16	87.65	88.14	88.63	89.12	89.61	90.10	90.59	91.08	91.57	92.06	92.55	93.04	93.53	94.02	94.51	95.00	95.49	95.98	96.47	96.96	97.45	97.94	98.43	98.92	99.41	99.90	100.39															
B(53)	A(53)	69.12	69.61	70.10	70.59	71.08	71.57	72.06	72.55	73.04	73.53	74.02	74.51	75.00	75.49	75.98	76.47	76.96	77.45	77.94	78.43	78.92	79.41	79.90	80.39	80.88	81.37	81.86	82.35	82.84	83.33	83.82	84.31	84.80	85.29	85.78	86.27	86.76	87.25	87.74	88.23	88.72	89.21	89.70	90.19	90.68	91.17	91.66	92.15	92.64	93.13	93.62	94.11	94.60	95.09	95.58	96.07	96.56	97.05	97.54	98.03	98.52	99.01	99.50	100.00																
B(54)	A(54)	69.21	69.70	70.19	70.68	71.17	71.66	72.15	72.64	73.13	73.62	74.11	74.60	75.09	75.58	76.07	76.56	77.05	77.54	78.03	78.52	79.01	79.50	80.00	80.49	80.98	81.47	81.96	82.45	82.94	83.43	83.92	84.41	84.90	85.39	85.88	86.37	86.86	87.35	87.84	88.33	88.82	89.31	89.80	90.29	90.78	91.27	91.76	92.25	92.74	93.23	93.72	94.21	94.70	95.19	95.68	96.17	96.66	97.15	97.64	98.13	98.62	99.11	99.60	100.09																
B(55)	A(55)	69.30	69.79	70.28	70.77	71.26	71.75	72.24	72.73	73.22	73.71	74.20	74.69	75.18	75.67	76.16	76.65	77.14	77.63	78.12	78.61	79.10	79.59	80.08	80.57	81.06	81.55	82.04	82.53	83.02	83.51	84.00	84.49	84.98	85.47	85.96	86.45	86.94	87.43	87.92	88.41	88.90	89.39	89.88	90.37	90.86	91.35	91.84	92.33	92.82	93.31	93.80	94.29	94.78	95.27	95.76	96.25	96.74	97.23	97.72	98.21	98.70	99.19	99.68	100.17																
B(56)	A(56)	69.39	69.88	70.37	70.86	71.35	71.84	72.33	72.82	73.31	73.80	74.29	74.78	75.27	75.76	76.25	76.74	77.23	77.72	78.21	78.70	79.19	79.68	80.17	80.66	81.15	81.64	82.13	82.62	83.11	83.60	84.09	84.58	85.07	85.56	86.05	86.54	87.03	87.52	88.01	88.50	88.99	89.48	89.97	90.46	90.95	91.44	91.93	92.42	92.91	93.40	93.89	94.38	94.87	95.36	95.85	96.34	96.83	97.32	97.81	98.30	98.79	99.28	99.77	100.26																
B(57)	A(57)	69.48	69.97	70.46	70.95	71.44	71.93	72.42	72.91	73.40	73.89	74.38	74.87	75.36	75.85	76.34	76.83	77.32	77.81	78.30	78.79	79.28	79.77	80.26	80.75	81.24	81.73	82.22	82.71	83.20	83.69	84.18	84.67	85.16	85.65	86.14	86.63	87.12	87.61	88.10	88.59	89.08	89.57	90.06	90.55	91.04	91.53	92.02	92.51	93.00	93.49	93.98	94.47	94.96	95.45	95.94	96.43	96.92	97.41	97.90	98.39	98.88	99.37	99.86	100.35																
B(58)	A(58)	69.57	70.06	70.55	71.04	71.53	72.02	72.51	73.00	73.49	73.98	74.47	74.96	75.45	75.94	76.43	76.92	77.41	77.90	78.39	78.88	79.37	79.86	80.35	80.84	81.33	81.82	82.31	82.80	83.29	83.78	84.27	84.76	85.25	85.74	86.23	86.72	87.21	87.70	88.19	88.68	89.17	89.66	90.15	90.64	91.13	91.62	92.11	92.60	93.09	93.58	94.07	94.56	95.05	95.54	96.03	96.52	97.01	97.50	97.99	98.48	98.97	99.46	99.95	100.44																
B(59)	A(59)	69.66	70.15	70.64	71.13	71.62	72.11	72.60	73.09	73.58	74.07	74.56	75.05	75.54	76.03	76.52	77.01	77.50	77.99	78.48	78.97	79.46	79.95	80.44	80.93	81.42	81.91	82.40	82.89	83.38	83.87	84.36	84.85	85.34	85.83	86.32	86.81	87.30	87.79	88.28	88.77	89.26	89.75	90.24	90.73	91.22	91.71	92.20	92.69	93.18	93.67	94.16	94.65	95.14	95.63	96.12	96.61	97.10	97.59	98.08	98.57	99.06	99.55	100.04																	
B(60)	A(60)	69.75	70.24	70.73	71.22	71.71	72.20	72.69	73.18	73.67	74.16	74.65	75.14	75.63	76.12	76.61	77.10	77.59	78.08	78.57	79.06	79.55	80.04	80.53	81.02	81.51	82.00	82.49	82.98	83.47	83.96	84.45	84.94	85.43	85.92	86.41	86.90	87.39	87.88	88.37	88.86	89.35	89.84	90.33	90.82	91.31	91.80	92.29	92.78	93.27	93.76	94.25	94.74	95.23	95.72	96.21	96.70	97.19	97.68	98.17	98.66	99.15	99.64	100.13																	
A(90)	A(89)	89.51	89.52	89.53	89.54	89.55	89.56	89.57	89.58	89.59	89.60	89.61	89.62	89.63	89.64	89.65	89.66	89.67	89.68	89.69	89.70	89.71	89.72	89.73	89.74	89.75	89.76	89.77	89.78	89.79	89.80	89.81	89.82	89.83	89.84	89.85	89.86	89.87	89.88	89.89	89.90	89.91	89.92	89.93	89.94	89.95	89.96	89.97	89.98	89.99	90.00	90.01	90.02	90.03	90.04	90.05	90.06	90.07	90.08	90.09	90.10	90.11	90.12	90.13	90.14	90.15	90.16	90.17	90.18	90.19	90.20	90.21	90.22	90.23	90.24	90.25	90.26	90.27	90.28	90.29	90.30

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**READY RECKONER TABLE FOR
A+B (90-A)
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	B(61)	B(62)	B(63)	B(64)	B(65)	B(66)	B(67)	B(68)	B(69)	B(70)	B(71)	B(72)	B(73)	B(74)	B(75)
A(1)	61.32	62.31	63.30	64.29	65.28	66.27	67.26	68.24	69.23	70.22	71.21	72.20	73.19	74.18	75.17
A(2)	61.64	62.62	63.60	64.58	65.56	66.53	67.51	68.49	69.47	70.44	71.42	72.40	73.38	74.36	75.33
A(3)	61.97	62.93	63.90	64.87	65.83	66.80	67.77	68.73	69.70	70.67	71.63	72.60	73.57	74.53	75.50
A(4)	62.29	63.24	64.20	65.16	66.11	67.07	68.02	68.98	69.93	70.89	71.84	72.80	73.76	74.71	75.67
A(5)	62.61	63.56	64.50	65.44	66.39	67.33	68.28	69.22	70.17	71.11	72.06	73.00	73.94	74.89	75.83
A(6)	62.93	63.87	64.80	65.73	66.67	67.60	68.53	69.47	70.40	71.33	72.27	73.20	74.13	75.07	76.00
A(7)	63.26	64.18	65.10	66.02	66.94	67.87	68.79	69.71	70.63	71.56	72.48	73.40	74.32	75.24	76.17
A(8)	63.58	64.49	65.40	66.31	67.22	68.13	69.04	69.96	70.87	71.78	72.69	73.60	74.51	75.42	76.33
A(9)	63.90	64.80	65.70	66.60	67.50	68.40	69.30	70.20	72.10	72.00	72.90	73.80	74.70	75.60	76.50
A(10)	64.22	65.11	66.00	66.89	67.78	68.67	69.56	70.44	71.33	72.22	73.11	74.00	74.89	75.78	76.67
A(11)	64.54	65.42	66.30	67.18	68.06	68.93	69.81	70.69	71.57	72.44	73.32	74.20	75.08	75.96	76.83
A(12)	64.87	65.73	66.60	67.47	68.33	69.20	70.07	70.93	71.80	72.67	73.53	74.40	75.27	76.13	77.00
A(13)	65.19	66.04	66.90	67.78	68.61	69.47	70.32	71.18	72.03	72.89	73.74	74.60	75.46	76.32	77.18
A(14)	65.51	66.36	67.20	68.04	68.89	69.73	70.58	71.42	72.27	73.11	73.96	74.80	75.63	76.47	77.31
A(15)	65.83	66.67	67.50	68.33	69.17	70.00	70.83	71.67	72.50	73.33	74.17	75.00	75.83	76.66	77.49
A(16)	66.16	66.98	67.80	68.62	69.44	70.27	71.09	71.91	72.73	73.56	74.38	75.20	76.02	76.84	77.67
A(17)	66.48	67.29	68.10	68.91	69.72	70.53	71.34	72.16	72.97	73.78	74.59	75.40	76.20	77.00	77.80
A(18)	66.80	67.60	68.40	69.20	70.00	70.80	71.60	72.40	73.20	74.00	74.80	75.60	76.40	77.20	78.00
A(19)	67.12	67.91	68.70	69.49	70.28	71.07	71.86	72.64	73.43	74.22	75.01	75.80	76.59	77.38	78.17
A(20)	67.44	68.22	69.00	69.78	70.56	71.33	72.11	72.89	73.67	74.44	75.22	76.00	76.78	77.56	78.33
A(21)	67.77	68.53	69.30	70.07	70.80	71.60	72.37	73.13	73.90	74.67	75.43	76.20	76.97	77.73	78.50
A(22)	68.09	68.84	69.60	70.36	71.11	71.87	72.62	73.38	74.13	74.89	75.64	76.40	77.16	77.91	78.67
A(23)	68.41	69.10	69.90	70.64	71.39	72.13	72.88	73.62	74.37	75.11	75.86	76.60	77.34	78.09	78.83
A(24)	68.73	69.47	70.20	70.93	71.67	72.40	73.13	73.87	74.60	75.33	76.07	76.80	77.53	78.27	79.00
A(25)	69.06	69.78	70.50	71.22	71.94	72.67	73.39	74.11	74.83	75.56	76.28	77.00	77.72	78.44	79.17
A(26)	69.38	70.00	70.80	71.51	72.22	72.93	73.64	74.36	75.07	75.78	76.49	77.20	77.91	78.62	79.33
A(27)	69.70	70.40	71.10	71.80	72.50	73.20	73.90	74.60	75.30	76.00	76.70	77.40	78.10	78.80	79.50
A(28)	70.02	70.71	71.40	72.09	72.78	73.47	74.16	74.84	75.53	76.22	76.91	77.60	78.29	78.98	79.67
A(29)	70.34	71.02	71.70	72.38	73.06	73.73	74.41	75.09	75.77	76.44	77.12	77.80	78.48	79.16	79.83
A(30)	70.67	71.33	72.00	72.67	73.33	74.00	74.67	75.33	76.00	76.67	77.33	78.00	78.67	79.33	80.00
A(31)	70.99	71.64	72.30	72.96	73.61	74.27	74.92	75.58	76.23	76.89	77.54	78.20	78.86	79.51	80.17
A(32)	71.31	71.96	72.60	73.24	73.89	74.53	75.18	75.82	76.47	77.11	77.76	78.40	79.04	79.69	80.33
A(33)	71.63	72.27	72.90	73.53	74.17	74.80	75.43	76.07	76.70	77.33	77.97	78.60	79.23	79.87	80.50
A(34)	71.96	72.58	73.20	73.82	74.44	75.07	75.69	76.31	76.93	77.56	78.18	78.80	79.42	80.04	80.67
A(35)	72.28	72.89	73.50	74.11	74.72	75.33	75.94	76.56	77.17	77.78	78.39	79.00	79.61	80.22	80.83
A(36)	72.60	73.20	73.80	74.40	75.00	75.60	76.20	76.80	77.40	78.00	78.60	79.20	79.80	80.40	81.00
A(37)	72.92	73.51	74.10	74.69	75.28	75.87	76.46	77.04	77.63	78.22	78.81	79.40	79.99	80.58	81.17
A(38)	73.24	73.82	74.40	74.99	75.56	76.13	76.71	77.29	77.87	78.44	79.02	79.60	80.18	80.76	81.33
A(39)	73.57	74.13	74.70	75.27	75.83	76.40	76.97	77.53	78.10	78.67	79.23	79.80	80.37	80.93	81.50
A(40)	73.89	74.44	75.00	75.56	76.11	76.67	77.22	77.78	78.33	78.89	79.44	80.00	80.56	81.11	81.67
A(41)	74.21	74.76	75.30	75.84	76.39	76.93	77.48	78.02	78.57	79.11	79.66	80.20	80.74	81.29	81.83
A(42)	74.53	75.07	75.60	76.13	76.67	77.20	77.73	78.27	78.80	79.33	79.87	80.40	80.93	81.47	82.00
A(43)	74.86	75.38	75.90	76.42	76.94	77.47	77.99	78.51	79.03	79.56	80.08	80.60	81.12	81.64	82.17
A(44)	75.18	75.69	76.20	76.71	77.22	77.73	78.24	78.76	79.27	79.78	80.29	80.80	81.31	81.82	82.33
A(45)	75.50	76.00	76.50	77.00	77.50	78.00	78.50	79.00	79.50	80.00	80.50	81.00	81.50	82.00	82.50

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READY RECKONER TABLE FOR
A+B (90-A)
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	B(61)	B(62)	B(63)	B(64)	B(65)	B(66)	B(67)	B(68)	B(69)	B(70)	B(71)	B(72)	B(73)	B(74)	B(75)
A(46)	75.82	76.31	76.80	77.29	77.78	78.27	78.76	79.24	79.73	80.22	80.71	81.20	81.69	82.18	82.67
A(47)	76.14	76.62	77.10	77.58	78.06	78.53	79.01	79.49	79.97	80.44	80.92	81.40	81.88	82.36	82.83
A(48)	76.47	76.93	77.40	77.87	78.33	78.80	79.27	79.73	80.20	80.67	81.13	81.60	82.07	82.53	83.00
A(49)	76.79	77.24	77.70	78.16	78.61	79.07	79.52	79.98	80.43	80.89	81.34	81.80	82.26	82.71	83.17
A(50)	77.11	77.56	78.00	78.44	78.89	79.33	79.78	80.22	80.67	81.11	81.56	82.00	82.44	82.89	83.33
A(51)	77.43	77.87	78.30	78.73	79.17	79.60	80.03	80.47	80.90	81.33	81.77	82.20	82.63	83.07	83.50
A(52)	77.76	78.18	78.60	79.02	79.44	79.87	80.29	80.71	81.13	81.56	81.98	82.40	82.82	83.24	83.67
A(53)	78.08	78.49	78.90	79.31	79.72	80.13	80.54	80.96	81.37	81.78	82.19	82.60	83.01	83.42	83.83
A(54)	78.40	78.80	79.20	79.60	80.00	80.40	80.80	81.20	81.60	82.00	82.40	82.80	83.20	83.60	84.00
A(55)	78.72	79.11	79.50	79.60	80.28	80.67	81.06	81.44	81.83	82.22	82.61	83.00	83.39	83.78	84.17
A(56)	79.04	79.42	79.80	80.18	80.56	80.93	81.33	81.69	82.07	82.44	82.82	83.20	83.58	83.96	84.33
A(57)	79.37	79.73	80.10	80.47	80.83	81.20	81.57	81.93	82.30	82.67	83.03	83.40	83.77	84.13	84.50
A(58)	79.69	80.04	80.40	80.76	81.11	81.47	81.82	82.18	82.53	82.89	83.24	83.60	83.96	84.31	84.67
A(59)	80.01	80.36	80.70	81.04	81.39	81.73	82.08	82.42	82.77	83.11	83.46	83.80	84.14	84.49	84.83
A(60)	80.33	80.67	81.00	81.33	81.67	82.00	82.33	82.67	83.00	83.33	83.67	84.00	84.33	84.67	85.00
A(61)	80.66	80.98	81.30	81.62	81.94	82.27	82.59	82.91	83.23	83.56	83.88	84.20	84.52	84.84	85.17
A(62)	80.98	81.29	81.60	81.91	82.22	82.53	82.84	83.16	83.47	83.78	84.09	84.40	84.71	85.02	85.33
A(63)	81.30	81.60	81.90	82.20	82.50	82.80	83.10	83.40	83.70	84.00	84.30	84.60	84.90	85.20	85.50
A(64)	81.62	81.91	82.20	82.49	82.78	83.07	83.36	83.64	83.93	84.22	84.51	84.80	85.09	85.38	85.67
A(65)	81.94	82.22	82.50	82.78	83.06	83.33	83.61	83.89	84.17	84.44	84.72	85.00	85.28	85.56	85.83
A(66)	82.27	82.53	82.80	83.07	83.33	83.60	83.87	84.13	84.40	84.67	84.93	85.20	85.47	85.73	86.00
A(67)	82.59	82.84	83.10	83.36	83.61	83.87	84.12	84.38	84.63	84.89	85.14	85.40	85.66	85.91	86.17
A(68)	82.91	83.16	83.40	83.64	83.89	84.13	84.38	84.62	84.87	85.11	85.36	85.60	85.84	86.09	86.33
A(69)	83.23	83.47	83.70	83.93	84.17	84.40	84.63	84.87	85.10	85.33	85.57	85.80	86.03	86.27	86.50
A(70)	83.56	83.78	84.00	84.22	84.44	84.67	84.89	85.11	85.33	85.56	85.78	86.00	86.22	86.44	86.67
A(71)	83.88	84.09	84.30	84.51	84.72	84.93	85.14	85.36	85.57	85.78	85.99	86.20	86.41	86.62	86.83
A(72)	84.20	84.40	84.60	84.80	85.00	85.20	85.40	85.60	85.80	86.00	86.20	86.40	86.60	86.80	87.00
A(73)	84.52	84.71	84.90	85.09	85.28	85.47	85.66	85.84	86.03	86.22	86.41	86.60	86.79	86.98	87.17
A(74)	84.84	85.02	85.20	85.38	85.56	85.73	85.91	86.09	86.27	86.44	86.62	86.80	86.98	87.16	87.33
A(75)	85.17	85.33	85.50	85.67	85.83	86.00	86.17	86.33	86.50	86.67	86.83	87.00	87.17	87.33	87.50
A(76)	85.49	85.64	85.80	85.96	86.11	86.27	86.42	86.58	86.73	86.89	87.04	87.20	87.36	87.51	87.67
A(77)	85.81	85.96	86.10	86.24	86.39	86.53	86.68	86.82	86.97	87.11	87.26	87.40	87.54	87.69	87.83
A(78)	86.13	86.27	86.40	86.53	86.67	86.80	86.93	87.07	87.20	87.33	87.47	87.60	87.73	87.87	88.00
A(79)	86.46	86.58	86.70	86.82	86.94	87.07	87.19	87.31	87.43	87.56	87.68	87.80	87.92	88.04	88.17
A(80)	86.78	86.89	87.00	87.11	87.22	87.33	87.44	87.56	87.67	87.78	87.89	88.00	88.11	88.22	88.33
A(81)	87.10	87.20	87.30	87.40	87.50	87.60	87.70	87.80	87.90	88.00	88.10	88.20	88.30	88.40	88.50
A(82)	87.42	87.51	87.60	87.69	87.78	87.87	87.96	88.04	88.13	88.22	88.31	88.40	88.49	88.58	88.67
A(83)	87.74	87.82	87.90	87.98	88.06	88.13	88.21	88.29	88.37	88.44	88.52	88.60	88.68	88.76	88.83
A(84)	88.07	88.13	88.20	88.27	88.33	88.40	88.47	88.53	88.60	88.67	88.73	88.80	88.87	88.93	89.00
A(85)	88.39	88.44	88.50	88.56	88.61	88.67	88.72	88.78	88.83	88.89	88.94	89.00	89.06	89.11	89.17
A(86)	88.71	88.76	88.80	88.84	88.89	88.93	88.98	89.02	89.07	89.11	89.16	89.20	89.24	89.29	89.33
A(87)	89.03	89.07	89.10	89.13	89.17	89.20	89.23	89.27	89.30	89.33	89.37	89.40	89.43	89.47	89.50
A(88)	89.36	89.38	89.40	89.42	89.44	89.47	89.49	89.51	89.53	89.56	89.58	89.60	89.62	89.64	89.67
A(89)	89.68	89.69	89.70	89.71	89.72	89.73	89.74	89.76	89.77	89.78	89.79	89.80	89.81	89.82	89.83
A(90)	90.00	90.00	90.00	90.00	90.00	90.00	90.00	90.00	90.00	90.00	90.00	90.00	90.00	90.00	90.00

(57)

READY RECKONER TABLE FOR
A+B (90-A)
90

	B(76)	B(77)	B(78)	B(79)	B(80)	B(81)	B(82)	B(83)	B(84)	B(85)	B(86)	B(87)	B(88)	B(89)	B(90)
A(1)	76.16	77.14	78.13	79.12	80.11	81.10	82.09	83.08	84.07	85.06	86.04	87.03	88.02	89.01	90.00
A(2)	76.31	77.29	78.27	79.24	80.22	81.20	82.18	83.16	84.13	85.11	86.09	87.07	88.04	89.02	90.00
A(3)	76.47	77.43	78.40	79.37	80.33	81.30	82.27	83.23	84.20	85.17	86.13	87.10	88.07	89.03	90.00
A(4)	76.62	77.58	78.53	79.49	80.44	81.40	82.36	83.31	84.27	85.22	86.18	87.13	88.09	89.04	90.00
A(5)	76.78	77.72	78.67	79.61	80.56	81.50	82.44	83.39	84.33	85.28	86.22	87.17	88.11	89.06	90.00
A(6)	76.93	77.87	78.80	79.73	80.67	81.60	82.53	83.47	84.40	85.33	86.27	87.20	88.13	89.07	90.00
A(7)	77.09	78.01	78.93	79.86	80.78	81.70	82.62	83.54	84.47	85.39	86.31	87.23	88.16	89.09	90.00
A(8)	77.24	78.16	79.07	79.98	80.89	81.80	82.71	83.62	84.53	85.44	86.36	87.27	88.18	89.09	90.00
A(9)	77.40	78.30	79.20	80.10	81.00	81.90	82.80	83.70	84.60	85.50	86.40	87.30	88.20	89.10	90.00
A(10)	77.56	78.44	79.33	80.22	81.11	82.00	82.89	83.78	84.67	85.56	86.44	87.33	88.22	89.11	90.00
A(11)	77.71	78.59	79.47	80.34	81.22	82.10	82.98	83.86	84.73	85.61	86.49	87.37	88.24	89.12	90.00
A(12)	77.87	78.73	79.60	80.47	81.33	82.20	83.07	83.93	84.80	85.67	86.53	87.40	88.27	89.13	90.00
A(13)	78.02	78.88	79.73	80.59	81.44	82.30	83.16	84.01	84.87	85.72	86.58	87.43	88.29	89.16	90.00
A(14)	78.18	79.02	79.87	80.71	81.56	82.40	83.24	84.09	84.93	85.78	86.62	87.47	88.31	89.16	90.00
A(15)	78.33	79.17	80.00	80.83	81.67	82.50	83.33	84.17	85.00	85.83	86.66	87.50	88.33	89.17	90.00
A(16)	78.49	79.31	80.13	80.96	81.78	82.60	83.42	84.24	85.07	85.89	86.71	87.53	88.36	89.18	90.00
A(17)	78.64	79.46	80.27	81.08	81.89	82.70	83.51	84.32	85.13	85.94	86.76	87.57	88.38	89.19	90.00
A(18)	78.80	79.60	80.40	81.20	82.00	82.80	83.60	84.40	85.20	86.00	86.80	87.60	88.40	89.20	90.00
A(19)	78.96	79.74	80.53	81.32	82.11	82.90	83.69	84.48	85.27	86.06	86.84	87.63	88.42	89.21	90.00
A(20)	79.11	79.89	80.67	81.44	82.22	83.00	83.78	84.56	85.33	86.11	86.89	87.67	88.44	89.22	90.00
A(21)	79.27	80.03	80.80	81.57	82.33	83.10	83.87	84.63	85.40	86.17	86.93	87.70	88.47	89.23	90.00
A(22)	79.42	80.18	81.93	81.69	82.44	83.20	83.96	84.71	85.47	86.22	86.98	87.73	88.49	89.24	90.00
A(23)	79.58	80.32	81.07	81.81	82.56	83.30	84.04	84.79	85.53	86.28	87.02	87.77	88.51	89.26	90.00
A(24)	79.73	80.47	81.20	81.93	82.67	83.40	84.13	84.87	85.60	86.33	87.07	87.80	88.53	89.27	90.00
A(25)	79.89	80.61	81.33	82.06	82.78	83.50	84.22	84.94	85.67	86.39	87.11	87.80	88.56	89.28	90.00
A(26)	80.04	80.76	81.47	82.18	82.89	83.60	84.31	85.02	85.73	86.44	87.16	87.89	88.58	89.29	90.00
A(27)	80.20	80.90	81.60	82.30	83.00	83.70	84.40	85.10	85.80	86.50	87.20	87.90	88.60	89.30	90.00
A(28)	80.36	81.04	81.73	82.42	83.11	83.80	84.49	85.18	85.87	86.56	87.24	87.93	88.62	89.31	90.00
A(29)	80.51	81.19	81.87	82.54	83.22	83.90	84.58	85.26	85.93	86.61	87.29	87.97	88.64	89.32	90.00
A(30)	80.67	81.33	82.00	82.67	83.33	84.00	84.67	85.33	86.00	86.67	87.33	88.00	88.67	89.33	90.00
A(31)	80.82	81.48	82.13	82.79	83.44	84.10	84.76	85.41	86.07	86.72	87.38	88.03	88.69	89.34	90.00
A(32)	80.98	81.62	82.27	82.91	83.56	84.20	84.84	85.49	86.13	86.78	87.42	88.07	88.70	89.36	90.00
A(33)	81.13	81.77	82.40	83.03	83.67	84.30	84.93	85.57	86.20	86.83	87.47	88.10	88.73	89.37	90.00
A(34)	81.29	81.91	82.53	83.16	83.78	84.40	85.02	85.64	86.27	86.89	87.51	88.13	88.76	89.38	90.00
A(35)	81.44	82.06	82.67	83.28	83.89	84.50	85.11	85.72	86.33	86.94	87.56	88.17	88.78	89.39	90.00
A(36)	81.60	82.20	82.80	83.40	84.00	84.60	85.20	85.80	86.40	87.00	87.60	88.20	88.80	89.40	90.00
A(37)	81.76	82.34	82.93	83.53	84.11	84.70	85.29	85.88	86.47	87.06	87.64	88.23	88.82	89.41	90.00
A(38)	81.91	82.49	83.07	83.64	84.22	84.80	85.38	85.96	86.53	87.11	87.69	88.27	88.84	89.42	90.00
A(39)	82.07	82.63	83.20	83.77	84.33	84.90	85.47	86.03	86.60	87.17	87.73	88.30	88.87	89.43	90.00
A(40)	82.22	82.78	83.33	83.89	84.44	85.00	85.56	86.11	86.67	87.22	87.78	88.33	88.89	89.44	90.00
A(41)	82.38	82.92	83.47	84.01	84.56	85.10	85.64	86.19	86.73	87.28	87.82	88.37	88.91	89.45	90.00
A(42)	82.53	83.07	83.60	84.13	84.67	85.20	85.73	86.27	86.80	87.33	87.87	88.40	88.93	89.46	90.00
A(43)	83.69	83.21	83.73	84.26	84.78	85.30	85.82	86.34	86.87	87.39	87.91	88.43	88.96	89.47	90.00
A(44)	82.84	83.36	83.87	84.38	84.89	85.40	85.91	86.42	86.93	87.44	87.96	88.47	88.98	89.48	90.00
A(45)	83.00	83.50	84.00	84.50	85.00	85.50	86.00	86.50	87.00	87.50	88.00	88.50	89.00	89.50	90.00

READY RECKONER TABLE FOR A+B (90-A) 90

	B(76)	B(77)	B(78)	B(79)	B(80)	B(81)	B(82)	B(83)	B(84)	B(85)	B(86)	B(87)	B(88)	B(89)	B(90)
A(46)	83.16	83.64	84.13	84.62	85.11	85.60	86.09	86.58	87.07	87.56	88.04	88.53	89.02	89.51	90.00
A(47)	83.31	83.79	84.27	84.74	85.22	85.70	86.18	86.66	87.13	87.61	88.09	88.57	89.04	89.52	90.00
A(48)	83.47	83.93	84.40	84.87	85.33	85.80	86.27	86.73	87.20	87.67	88.13	88.60	89.07	89.53	90.00
A(49)	83.62	84.08	84.53	84.99	85.44	85.90	86.36	86.81	87.27	87.72	88.18	88.63	89.09	89.54	90.00
A(50)	83.78	84.22	84.67	85.11	85.56	86.00	86.44	86.89	87.33	87.78	88.22	88.67	89.11	89.56	90.00
A(51)	83.93	84.37	84.80	85.23	85.67	86.10	86.53	86.97	87.40	87.83	88.27	88.70	89.13	89.57	90.00
A(52)	84.09	84.66	84.93	85.36	85.78	86.20	86.62	87.04	87.47	87.89	88.31	88.73	89.16	89.58	90.00
A(53)	84.24	84.66	85.07	85.48	85.89	86.30	86.71	87.12	87.53	87.94	88.36	88.77	89.18	89.59	90.00
A(54)	84.40	84.80	85.20	85.60	86.00	86.40	86.80	87.20	87.60	88.00	88.40	88.80	89.20	89.60	90.00
A(55)	84.56	84.94	85.33	85.72	86.11	86.50	86.89	87.28	87.67	88.06	88.44	88.83	89.22	89.61	90.00
A(56)	84.71	85.09	85.47	85.84	86.22	86.60	86.98	87.36	87.73	88.11	88.49	88.87	89.24	89.62	90.00
A(57)	84.87	85.23	85.60	85.97	86.33	86.70	87.07	87.43	87.80	88.17	88.53	88.90	89.27	89.63	90.00
A(58)	85.02	85.38	85.73	86.09	86.44	86.80	87.16	87.51	87.87	88.22	88.58	88.93	89.29	89.64	90.00
A(59)	85.18	85.52	85.87	86.21	86.56	86.90	87.24	87.59	87.93	88.28	88.62	88.97	89.31	89.66	90.00
A(60)	85.33	85.67	86.00	86.33	86.67	87.00	87.33	87.67	88.00	88.33	88.67	89.00	89.33	89.67	90.00
A(61)	85.49	85.81	86.13	86.46	86.78	87.10	87.42	87.74	88.07	88.39	88.71	89.03	89.36	89.68	90.00
A(62)	85.64	85.96	86.27	86.58	86.89	87.20	87.51	87.82	88.13	88.44	88.76	89.07	89.38	89.69	90.00
A(63)	85.80	86.10	86.40	86.70	87.00	87.30	87.60	87.90	88.20	88.50	88.80	89.10	89.40	89.70	90.00
A(64)	85.96	86.24	86.53	86.82	87.11	87.40	87.69	87.98	88.27	88.56	88.84	89.13	89.42	89.71	90.00
A(65)	86.11	86.39	86.67	86.94	87.22	87.50	87.78	88.06	88.33	88.61	88.89	89.17	89.44	89.72	90.00
A(66)	86.27	86.53	86.80	87.07	87.33	87.60	87.87	88.13	88.40	88.67	88.93	89.20	89.47	89.73	90.00
A(67)	86.42	86.68	86.93	87.19	87.44	87.70	87.96	88.21	88.47	88.72	88.98	89.23	89.49	89.74	90.00
A(68)	86.58	86.87	87.07	87.31	87.56	87.80	88.04	88.29	88.53	88.78	89.02	89.27	89.51	89.76	90.00
A(69)	86.73	86.97	87.20	87.43	87.67	87.90	88.13	88.37	88.60	88.83	89.07	89.30	89.53	89.77	90.00
A(70)	86.89	87.41	87.33	87.56	87.78	88.00	88.22	88.44	88.67	88.89	89.11	89.33	89.56	89.78	90.00
A(71)	87.04	87.18	87.47	87.68	87.89	88.10	88.31	88.52	88.73	88.94	89.16	89.37	89.58	89.79	90.00
A(72)	87.20	87.40	87.60	87.80	88.00	88.20	88.40	88.60	88.80	89.00	89.20	89.40	89.60	89.80	90.00
A(73)	87.36	87.54	87.73	87.92	88.11	88.30	88.49	88.68	88.87	89.06	89.24	89.43	89.62	89.81	90.00
A(74)	87.51	87.69	87.87	88.04	88.17	88.33	88.50	88.67	88.83	89.00	89.11	89.29	89.47	89.64	90.00
A(75)	87.67	87.83	88.00	88.17	88.33	88.50	88.67	88.83	89.00	89.17	89.33	89.50	89.67	89.83	90.00
A(76)	87.82	87.98	88.13	88.29	88.44	88.60	88.76	88.91	89.07	89.22	89.38	89.53	89.69	89.84	90.00
A(77)	87.98	88.12	88.27	88.41	88.56	88.70	88.84	88.99	89.13	89.28	89.42	89.57	89.71	89.86	90.00
A(78)	88.13	88.27	88.40	88.53	88.67	88.80	88.93	89.07	89.20	89.33	89.47	89.60	89.73	89.87	90.00
A(79)	89.29	88.41	88.53	88.66	88.78	88.90	89.02	89.14	89.27	89.39	89.51	89.63	89.76	89.88	90.00
A(80)	88.45	88.56	88.67	88.78	88.89	89.00	89.11	89.22	89.33	89.44	89.56	89.67	89.78	89.89	90.00
A(81)	88.60	88.70	88.80	88.90	89.00	89.10	89.20	89.30	89.40	89.50	89.60	89.70	89.80	89.90	90.00
A(82)	88.76	88.84	88.93	89.02	89.11	89.20	89.29	89.38	89.47	89.56	89.64	89.73	89.82	89.91	90.00
A(83)	88.91	88.99	89.07	89.14	89.22	89.30	89.38	89.46	89.53	89.61	89.69	89.77	89.84	89.92	90.00
A(84)	89.07	89.13	89.20	89.27	89.33	89.40	89.47	89.53	89.60	89.67	89.73	89.80	89.87	89.93	90.00
A(85)	89.22	89.28	89.33	89.39	89.44	89.50	89.56	89.61	89.67	89.72	89.78	89.83	89.89	89.94	90.00
A(86)	89.38	89.42	89.47	89.51	89.56	89.60	89.64	89.69	89.73	89.78	89.82	89.87	89.91	89.96	90.00
A(87)	89.53	89.57	89.60	89.63	89.67	89.70	89.73	89.77	89.80	89.83	89.87	89.90	89.93	89.97	90.00
A(88)	89.69	89.71	89.73	89.76	89.78	89.80	89.82	89.84	89.87	89.89	89.91	89.93	89.96	89.98	90.00
A(89)	89.87	89.86	89.87	89.88	89.89	89.90	89.91	89.92	89.93	89.94	89.96	89.97	89.98	89.99	90.00
A(90)	90.00	90.00	90.00	90.00	90.00	90.00	90.00	90.00	90.00	90.00	90.00	90.00	90.00	90.00	90.00

Appendix - III of Annexure: A

STANDING HEIGHTS FOR INDIAN POPULATION (IN INCHES) MEAN AND STANDARD DEVIATIONS

Age	Mean	S.D.	-2S.D.	Mean	S.D.	-2S.D.
Less than 3 months	22.13	2.32	17.49	21.65	2.13	17.39
3 months +	24.68	1.58	21.52	23.98	2.40	21.80
6 months +	25.55	3.19	19.17	25.35	1.43	22.49
9 months +	27.36	1.77	23.82	26.26	1.52	23.22
1 year +	29.09	2.07	24.95	28.54	2.04	24.46
2 year +	32.13	2.10	27.93	31.53	2.28	26.97
3 year +	34.96	2.58	29.80	34.33	2.50	29.33
4 year +	37.80	2.65	32.50	37.20	2.50	32.20
5 year +	40.19	3.16	33.84	39.92	2.90	34.12
6 year +	42.71	2.81	37.09	42.28	3.41	35.46
7 year +	44.84	3.41	38.02	44.04	3.34	37.72
8 year +	46.96	2.89	41.18	46.53	3.03	40.47
9 year +	48.70	3.65	41.40	48.38	2.96	42.46
10 year +	48.97	3.93	41.11	50.55	3.15	44.25
11 year +	52.51	3.83	44.86	52.60	3.73	45.14
12 year +	54.45	3.99	46.47	54.80	4.03	46.74
13 year +	56.93	3.84	49.25	56.65	3.63	49.39
14 year +	59.10	3.95	51.20	58.07	3.82	50.43
15 year +	61.22	3.94	53.34	58.89	3.27	52.35
16 year +	62.79	3.84	55.11	59.44	2.80	53.84
17 year +	63.54	4.11	55.32	59.64	2.95	53.74
18 year +	64.21	3.76	56.69	59.72	2.31	55.10
19 year +	64.37	3.79	56.79	59.72	2.31	55.10
20 year +	64.60	2.75	59.10	59.72	2.32	55.08
21 year +	64.64	2.40	59.84	60.24	2.24	55.76

(60)

ANNEXURE - B

CERTIFICATE OF MENTAL RETARDATION FOR GOVERNMENT BENEFITS

This is to certify that Shri/Smt./Kum _____

Son/ Daughter of _____ of Village/Town/City

_____ with particulars given below:-

a) Age

b) Sex

c) Signature/Thumb impression

CATEGORISATION OF MENTAL RETARDATION

Mild/Moderate/Server/Profound

Validity of the Certificate : Permanent

Signature of the Government
Doctor/Hospital with seal
Chairperson Mental Retardation
Certification Board

Recent Attested Photograph Showing the disability affixed Here.

Dated:

Place:

101

ANNEXURE - B

STANDARD FORMAT OF THE CERTIFICATE

Certificate No. _____

Date _____

CERTIFICATE FOR THE PERSONS WITH DISABILITIES

This _____ is _____ to _____ certify _____ that
Shri/Smt/Kum _____
Son/wife/daughter of Shri _____
Age _____ old male/female, Registration No. _____ is a case of
_____ He/She is
physically disabled/visual disabled/speech & hearing disabled and has _____% (_____
per cent) permanent (physical impairment/visual impairment/speech & hearing impairment) in relation
to his/her _____

Note:-

1. This condition is progressive/non-progressive/likely to improve/not likely to improve.*
2. Re-assessment is not recommended/is recommended after a period of _____
_____ months/years.*

*Strike out which is not applicable.

Sd/- Sd/- Sd/-
(DOCTOR) (DOCTOR) (DOCTOR)
Seal Seal Seal

Signature/Thumb impression
Of the patient.

Countersigned by the
Medical Superintendent/CMO/Head of
Hospital (with seal)

Recent Attested Photograph Showing the disability affixed Here.

No.CC/1/2009/STGMH/DEOTH/RU-IV
Government of India
National Commission for Scheduled Tribes

6th Floor, 'B' Wing,
Loknayak Bhawan,
Khan Market,
New Delhi-110003

Dated: 09-02-2010

1. Shri Maurice Kujur, Vice Chairperson, NCST
2. Shri Tsering Samphel, Member, NCST
3. Shri Oris Syiem Myriaw, Member, NCST

Subject: Writ Petition No.3528 of 2009 filed by Shri Purushottam Vs Delimitation Commission, New Delhi & others in the High Court of Bombay, Nagpur Bench challenging the list of Assembly constituencies reserved for STs in the Maharashtra Legislative Assembly

Sir,

I am directed to say that the Assistant Registrar, High Court of Bombay, Nagpur Bench has forwarded a copy of aforesaid Writ Petition to the Commission (Respondent No.7). The petitioner has raised a policy issue relating to earmarking of Assembly Constituencies for the Scheduled Tribes in the Maharashtra Legislative Assembly. A copy of Agenda Note on the issue alongwith the copy of the Writ Petition is circulated herewith.

3. It is requested that the comments/views in the matter may kindly be got furnished at the earliest, as the issue is likely to be discussed in the next meeting of the Commission.

Yours faithfully,


(Aditya Mishra)
Joint Secretary

Copy with copy of enclosure for information and necessary action to:-

1. Secretary, NCST
2. Joint Secretary, NCST
3. Dir.(VA)
4. Dir.(RCD)
5. DS(RPV)
6. DD(KDB)

Handwritten notes:
11/2/10
AD (Clear)

AGENDA NOTE

Subject: Writ Petition No.3528 of 2009 filed by Shri Purushottam Vs Delimitation Commission, New Delhi & others in the High Court of Bombay, Nagpur Bench challenging the list of Assembly constituencies reserved for STs in the Maharashtra Legislative Assembly.

Issue: Reservation of ST constituencies in the Maharashtra Legislative Assembly according to the comparative tribe-wise population rather than the proportion of the ST population to the total population.

Background:-

The Assistant Registrar, High Court of Bombay, Nagpur Bench has sent a copy of the above Writ Petition No. 35828 of 2009 (**Annex-I**) to the Commission as one of the Respondents – (Respondent No.7). The Delimitation Commission (through Secretary, Election Commission), Chief Election Commissioner of India, Election Commissioner, Maharashtra and the Registrar General of India have been listed as Respondent No.1,2,3 and 6 respectively (Respondent Nos. 4&5 have been deleted). The National Commission for Scheduled Tribes, Ministry of Law and Justice and the Ministry of Tribal Affairs have been listed as Respondents No.7,8 and 9 respectively.

2. The Commission had received a representation, dated 08-05-2006 from the petitioner regarding reconstitution of Assembly segments of Maharashtra Legislative Assembly under the Delimitation Act. The Commission had forwarded the representation of the petitioner to the Delimitation (Election) Commission of India for necessary action. In response, the Election Commission sent a list of constituencies of Maharashtra Legislative Assembly to this Commission vide their letter, dated 09-03-2009. A copy of the Election Commission's letter, dated 09-03-2009 (**Annex-II**) alongwith a copy of the list of constituencies was forwarded by this Commission to the petitioner on 20-03-2009. There is a mention of this correspondence between the petitioner and this Commission in para 16 of Writ Petition.

Examination:

3. The petitioner has made the following main prayers:-

- i) Quash and set aside the impugned list of Scheduled Tribes dated 09-03-2009 issued by the Respondent No.1 being against the provisions of Delimitation Act and overreaching the provisions of Delimitation Act while carving the reserved constituencies, amounts to arbitrary exercise of power on the part of respondent No.1 i.e. Delimitation Commission through its Secretary.

- ii) Call for the actual constituency wise Scheduled Tribes population of (1) Gond Rajgond (2) Koli (3) Koli Mahadev (4) Mana (5) Halba, Halbi (Marathia) (6) Dhor Koli and 25 reserved seats from the Respondent No.1,2 in the interest of Justice.
- iii) It be declared that the Constituency comparatively having more Scheduled Tribes wise voters than the constituency be declared reserved for Scheduled Tribes instead of present seats reserved for Scheduled Tribes in accordance with the Delimitation Act, 2002 and respondent be declared to cause such reservation according to law.

4. It would be observed that the subject matter of the Writ Petition is primarily the concern of the Delimitation Commission (Election Commission of India). The Ministry of Tribal Affairs and Registrar General of India are also concerned with prayer (ii) above.

5. The contention of the petitioner in challenging the list of assembly constituencies reserved for STs is not clear. It appears that the petitioner has, inter-alia, contended that the tribe-wise population in the actual ST population of the constituencies in descending order should form the basis of reserving the constituencies for ST category. In other words the petitioner seems to hold the view that once a particular constituency is treated as reserved for ST on the basis of the proportion of ST population to the total population the constituency it should be reserved for the ST community having largest population among the STs in that constituency and thereafter, in descending order of tribe-wise population in that constituency in subsequent elections.

Proposed Suggestions:

6. The relevant provisions of Article 81 of the Constitution and the Delimitation Act, 2002 are annexed. The Constitution requires that the ratio between the population of each constituency and the number of seats allotted to it should remain the same throughout the State. Since all constituencies are single-member constituencies, this implies that the population of each assembly constituency in a State be nearly uniform; and a higher number of ST population will also imply a comparatively higher proportion. The contention of the petitioner as explained above does not seem to be practicable in the event of multiple-member constituencies. Also, it may create unnecessary divisions in the tribal community. The Commission may therefore not agree to the contention of the petitioner and leave the matter for decision by the Hon'ble High Court.

2318/Gad/2009
24/09/09

IN THE HIGH COURT OF JUDICATURE AT BOMBAY Notice to R-No.s
(NAGPUR BENCH), NAGPUR 1 to 3 & 6 to 11, R^e able on
01/10/2009.

APPELLATE SIDE, CIVIL JURISDICTION

CIVIL APPLICATION No.

107/19/

WRIT PETITION No. 3528

OF 19xx 2009.

(Under Articles 226 and 227 of the Constitution of India)

Purushottam S/o Umajirao Sonkusre, R/o Plot No.7, Shri
Satya Sai Baba Society, Battwadi, Nagpur-23.

Through Advocate Mr. P. U. Sonkusre

PETITIONER 1

...Versus...

Delimitation Commission, through its Secretary, Election
House Ashok Road, New Delhi and others,

.. Respondents..

TO,

R-1) Delimitation Commission Through its Secretary, Election House
Ashok Road, New Delhi-1.

R-2) The Chief Election Commissioner, Govt. of India Election House
Ashok Road, New Delhi-1.

R-3) The Election Commissioner, State of Maharashtra, Administrative
Building, Mumbai.

R-6) The Registrar General India, Govt. of India, Ministry of Home
Affairs New Delhi-11.

R-7) The Chairman National Commission for Scheduled Tribes Lok Nayak
J. B. P. Bhawan, New Delhi-3.

R-8) The Secretary, Govt. of India, Min. of law and justice, New Delhi.

OPPONENTS.

Whereas the Petitioner abovenamed has presented a petition to this Court under Articles 226 and 227 of the Constitution of India praying for reliefs as stated in the accompanying copy of the petition, and whereas the same has been registered in this Court as Special Civil Application, and this Court has on the 2nd day of September, 1999, ordered Rule to issue, take notice that the hearing of the said Application will take place on the day of 1st October, 2009, or on any subsequent day which to this Court may seem convenient and that if no appearance is made on your behalf, either in person or by an Advocate of this Court or an Agent duly authorised and instructed by you, it will be heard and determined in your absence.

Shri Swatanter Kumar

2nd Sept, 2009.

Witness _____ Esquire, Chief Justice at Bombay aforesaid this day of _____ 19

CORAM: A. P. LAVANDE AND P. D. KODE, JJ. DATED: SEPTEMBER 2, 2009.

"Heard Mr. P. U. S. onkusre, learned counsel for the petitioner.

Learned counsel for the petitioner seeks leave to delete respondent nos. 4 and 5. Leave granted. Amendment to be carried out forthwith.

Issue notice to the respondents returnable on 1.10.2009."

R-9) The Secretary, Govt. of India, Tribal Affairs
New Delhi-1.

By the Court,

R-10) The Directorate of Census Operations
Maharashtra Govt. of India. Min. of Home
Affairs Mumbai.

Assistant Registrar
High Court of Bombay

R-11) The Secretary to the Govt. of Maharashtra
General Administration Deptt. (Census)
Mantralaya, Mumbai-32.

Nagpur Bench Nagpur T.O

6153

By Hand
24/9/09
RU-IV

Handwritten signature and initials

Handwritten initials

Enclosures: (i) Copy of the application with annexures

as enclosed in the application

(i)

WITH COPY

(ii)

N.B.—Attention is invited to Rules 9 and 11 of Chapter XVII of the Bombay High Court Appellate side Rules 1960 which are as follows:

Rule 9.—An answer to the rule nisi showing cause against such application shall be made by filing an affidavit in the office of the Registrar and by serving a copy thereof upon the Applicant or his Advocate or Attorney, as the case may be, at least two days before the returnable date of the rule.

Rule 11.—No further affidavit or affidavits shall be filed by any party except with the leave of the Court.

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Sl. No. 2 (R) ~~no. 2~~

73-

IN THE HON'BLE HIGH COURT OF JUDICATURE AT

BOMBAY, NAGPUR BENCH : NAGPUR

WRIT PETITION NO. ²¹ ~~12752~~ OF 2009

(In the matter of Delimitation Act, 2002)

PETITIONER : Purshottam S/o Umajirao Sonkusre

Vs

RESPONDENTS : Delimitation Commission, New Delhi and
others.

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Sr. No.	Ann No	Particulars of documents	Date	Pages
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2		Petition under Articles 226 and 227 of the Constitution of India.	14/08/09	1-25
3		List of Annexures	14/08/09	26-27A
4	1.	Copy of letter from Govt. of Mah General Administration Department Mumbai with true translation	18/05/01	28-28A
5	2	Copy of letter from the Hon'ble Registrar General of India, New Delhi	16/12/05	29
6	3	Copy of letter from the Delimitation Commission	19/12/05	30
7	4	Copy of letter from the State Information Commission, Mumbai	13/01/06	31

995/Gach/09
20/8/09

RUV

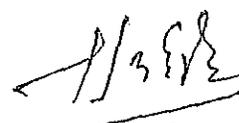
gd.

8	5	Copy of letter from the petitioner to State Election Commission, Mumbai	10/02/06	32-34
9	6	Copy of letter from the petitioner to state Election Commission, Mumbai	21/02/06	35
10	7	Copy of letter from the petitioner the Directorate of Census Operations, Maharashtra, Mumbai	21/02/06	36
11	8	Copy of letter from the petitioner to the Chief Election Officer M.S. Mumbai	02/03/06	37
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15	12	Copy of letter from the Govt. of India Min: of Law and Justice , New Delhi	25/09/07	44
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17	14	Copy of Gazett of India SCs/STs order (Amendment) Act, 176	20/09/76	46
18	15	Copy of Part-IX Maharashtra (List of Scheduled Tribes)	20/09/76	47

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20	17	Copy of Part- IX Maharashtra (List of Scheduled Tribes.)	22/11/76	49-50
21	18	Copy of Letter from the Hon'ble National Commission for Scheduled Tribes. New Delhi	20/03/09	51
22	19	Copy of Letter from the Secretariat of the Hon'ble Election Commission of India, New Delhi to the Research Officer, National Commission for Scheduled Tribes New Delhi	09/03/09	52 -54
23	20	Copy of List of Scheduled Tribes Population Maharashtra. "Assembly Constituency wise population Scheduled Tribes."	09/03/09	55-60

Napur

Dated :- 14/08/2009



Counsel/ Petitioner

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IN THE HON'BLE HIGH COURT OF JUDICATURE

AT BOMBAY, NAGPUR BENCH : NAGPUR

WRIT PETITION NO. st 12752 OF 2009

PETITIONER : Purshottam S/o Umajirao Sonkusre

Vs

RESPONDENTS : Delimitation Commission, New Delhi and
Others.

SYNOPSIS

Government of India by virtue of provisions of the
Delimitation Act. Sought to delimit the constituencies for
election of MPs ,MLA's

Date :

28/03/2006

Notification inviting objections in
that regard till 13/04/2006 was
issued

08/05/2006

Date of hearing in that regard was
fixed petitioner made representation
for obtaining information under Right
to Information Act.

30/10/2007

Respondent No. 7 furnished vital
information of genuine Scheduled
Tribes of Maharashtra (Act No.108 of
1976)

09/03/2009

Respondent No. 2 furnished the

information of Delimitation of Assembly Constituencies for Scheduled Tribes (25 Seats) and for Tribal population of Maharashtra Assembly Constituencies wise. The said list of Delimitation of Assembly Constituencies (25) reserved for Scheduled Tribes is against the provisions contained in the Delimitation Act.

II Points to be raised

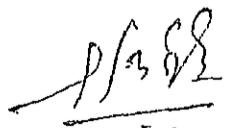
Whether the impugned list of Scheduled Tribes population are actual/genuine Scheduled Tribes and whether the Scheduled Tribes e.g. Koli, Koli Mahadev, Gond Rajgond, Halba, Halbi, Mana, Dhor Koli have been fully considered what are the actual population of above Scheduled Tribes (Constituency wise / Tribal wise) ! The impugned list issued by the Respondent No. 2 could survive on the same does not serve the purpose of actual Reservation of Constituencies and is against the provisions of Delimitation Act ?

III Acts to be referred

The Delimitation Act, 1972

Nagpur

Dated:- 17/08/2009


Counsel / Petitioner

IN THE HON'BLE HIGH COURT OF JUDICATURE

AT BOMBAY , NAGPUR BENCH : NAGPUR

WRIT PETITION NO. ~~1275~~ OF 2009

(In the Matter of Delimitation Act, 2002)

PETITIONER : Purshottam S/o Umajirao Sonkusre
Aged 63 years, Occ. Advocate
(Authorised Research Student on
Tribals) R/o Plot No. 7, Shri Satya Sai
baba Society, Dattawadi, Nagpur -
440023.

RESPONDENTS :- 1) Delimitation Commission
Through its Secretary, Election
House Ashok Road, New Delhi - 1

2) The Chief Election Commissioner,
Govt. of India Election House Ashok
Road, New Delhi

3) The Election Commissioner,
State of Maharashtra
Administrative Building, Mumbai

4) The Respected Mahamahim

President of India

Govt. of India

Rashtrapati Bhawan

New Delhi

5) The Hon'ble Speaker

of the Lok Sabha, Sansad Bhawan

New Delhi

6) The Registrar General

Govt. of India, Ministry of

Home Affairs New Delhi -11

7) The Chairman

National Commission for

Scheduled Tribes

Lok Nayak Bhawan

New Delhi - 3

8) The Secretary

Govt. of India

Min. of law and justice

New Delhi

9) The Secretary

Govt. of India , Tribal Affairs

New Delhi- 1

10) The Directorate of Census
Operations Maharashtra Govt. of
India Min. of Home Affairs Mumbai

11) The Secretary to the
Govt. of Maharashtra
General Administration Department
(Census) Mantralaya,
Mumbai- 400032

WRIT PETITION UNDER ARTICLES, 226,227

OF THE CONSTITUTION OF INDIA

1. The petitioner is a citizen of India and permanent resident of Nagpur. The petitioner is an Advocate and social worker and recognised Research student on Tribals and registered voter.

2. That, the Government of India vide provisions of the Delimitation Act, 2002, Amended Act, 2003 has sought to Delimit the constituencies for election M.P.'s and MLA's . the notification to that effect was issued by the committee constituted under the Delimitation Act, known as "Delimitation commission" under section 3 vide Notification dated 28/3/2006 calling upon the objections on the said proposed constituencies and reservations made for that. It

was further directed by the said notification that anybody is having any objection that may be submitted till 13th April 2006. The Govt. of Maharashtra, Mumbai corrected wrong Scheduled Tribe list and population of " GOND RAJGOND" instead of GOND RAJGOND". As per Census 2001 which needs to be published and the exact population of GOND RAJGOND" required to be submitted before this Hon'ble Court. A copy of the said letter dated 18/5/2001 is annexed hereto and marked as ANNEXURE

- 1

3. It is humbly submitted that the petitioner has approached the Hon'ble Register General, India for required information. The said authority has properly guided to approach the Joint Director, Directorate of Census operations, Maharashtra, Mumbai. A copy of letter dated 16/12/2005 issued by the Hon'ble Registrar General of India is annexed and marked as ANNEXURE -

2

4. That the Delimitation Commission in response to the petitioner's letter dated 6/12/2005 clarified the position of census 2001 vide its letter dated 19/12/2005. A copy of the said letter dated 19/12/2005 is annexed hereto and marked as ANNEXURE - 3

5. That the petitioner approached the state information commission, Mumbai. The reply of the said authority dated

13/1/2006 is annexed hereto and marked as
ANNEXURE- 4

6. That the petitioner vide his letter dated 10/2/2006 approached the Hon'ble state election Commissioner, Mumbai requesting to supply information of Scheduled Tribes population of Maharashtra. A copy of petitioner letter dated 10/2/2006 is annexed hereto and marked as
ANNEXURE- 5

7. That the Hon'ble State Election Commission, Maharashtra Mumbai has replied the petitioner's letter vide its letter dated 21/2/2006. A Copy of the letter dated 21/2/2006 is annexed hereto and marked as ANNEXURE - 6

8. That the petitioner has approached to the Hon'ble joint Director , Directorate of Census operations Mah. Vide letter dated 21/2/2006 for required information. A copy of the same is annexed hereto and marked as ANNEXURE - 7

9. That , the petitioner has written a letter dated 02/3/2006 to the Hon'ble the Chief election Officer, M.S. Mumbai. A copy of the same is annexed hereto and marked as
ANNEXURE - 8

10. That, the Joint Director , Census office, Maharashtra Mumbai has replied vide his letter dated 08/3/2006. A copy of the same is annexed hereto and marked as
ANNEXURE-9

11. That , the Hon'ble state Election Commissioner M.S. Mumbai has replied vide his letter dated 10/3/2006 A copy of the same is annexed hereto and marked as ANNEXURE - 10

12. That, the petitioner has raised the objection vide his letter dated 08/5/2006 before the Hon'ble Delimitation Commission of India, New Delhi, Camp at Nagpur. A copy of letter dated 08/5/2006 is annexed hereto and marked as ANNEXURE - 11

13. That , in the meantimes the petitioner approached the Govt. of India, Min of Law and Justice, New Delhi. The said Ministry has properly guided the petitioner. A copy of letter dated 25/9/2007 is annexed hereto and marked as ANNEXURE - 12

14. That, the Hon'ble Joint Director Govt. of India Min. of Tribal Affairs, New Delhi vide his letter dated 30/10/2007 has supplied the vital information vide their letter cited above. A copy of said letter dated 30/10/2007 alongwith gazette of India dated 20/9/1976 and a list of Scheduled Tribes part IX Maharashtra which are annexed hereto and marked as ANNEXURE - 13, 14 and 15 collectively

15. That , the Govt. of Mah. Law and Judiciary Department Mumbai had issued Notification on the Scheduled Castes and Scheduled Tribes orders (Amendment) Act 1976 (18/09/1976) on 22/11/1976. A copy of the said Notification dated 22/11/1976 alongwith part - IX

Maharashtra Scheduled Tribes list are annexed hereto and marked as ANNEXURE-16 and 17 respectively.

16. That , the Hon'ble Govt. of India, National Commissioner for Scheduled Tribes, New Delhi forwarded vide its letter dated 20/3/2009 the Assembly wise scheduled Tribes population and 25 Assembly seats reserved for Scheduled Tribes along with a letter dated 9th March 2009 received from the Hon'ble Election Commission of India. The above documents are annexed hereto and marked as ANNEXURE - 18, 19 and 20 collectively

GROUNDS

17. It is most humbly and respectfully submitted that in view of the documents submitted above, particularly documents at Sr. no. 15 & 17 i.e. Part - IX Maharashtra (Scheduled Tribes List) and documents at Sr. No. 20 list of constituency wise Scheduled Tribes population and 25 seats reserved for Scheduled Tribe. The Delimitation Commission ought to have obtained actual Scheduled Tribes population instead of non- Scheduled Tribes population. Thus, the constituency wise population figures are not actual Scheduled Tribes population fingers. This is the second incidence in the political history of India. In 1932 when Dr. B.R. Ambedkar brought Communal Award 1932 for Scheduled Castes , Separate Electorates. the figures of Scheduled C astes were denied and Separate

electorates were converted into Joint Electorates for which Scheduled castes are still suffering. In the words of Dr. B.R. Ambedkar (Vol - 9.P. 76, 77)

Following upon these instructions, it became the task of the Committee to come to some conclusion as to the total population of the Untouchables in British India.

"To the question, what is the population of the Untouchables the replies received were enough to stagger anybody. Witness after witness came forward to say that the Untouchables in his province were infinitesimally small. There were not wanting witnesses who said that there were no Untouchables at all !! It was a most extraordinary sight to see Hindu witnesses perjuring themselves regardless of truth by denying the existence of the Untouchables or by reducing their number to a negligible figure. The members of the Provincial Franchise Committee were also a party to this plan. Strange to say that some of the Hindu members of the Lothian Committee were in the game. This move of denying the very existence of the Untouchables or reducing their number almost to nil was particularly rampant in certain Provinces. How the Hindus were prepared to economise truth, even to a vanishing point will be evident from the following figures. In the United Provinces, the Census commissioner in 1931 had estimated the total population of the Untouchables at 12.6 millions, the Provincial Government at 6.8 millions but the Provincial Franchise Committee at .6 millions only !!

In Bengal, the Census gave the figures of 10.3 millions, Provincial Government fixed it as 11.2 millions but the Provincial Franchise Committee at .07 millions only !

Before the Round Table conference no Hindu bothered about the exact population of the Untouchables and were quite satisfied with the accuracy of the Census figures which gave the total of the Untouchables at about 70 to 80 millions. Why did then the Hindus start suddenly to challenge this figure when the question was taken up by the Lathian Committee? The answer is very clear. Before the time of the Lathian Committee the population of the Untouchables had no value. But after the Round Table Conference the Hindus had come to know that the Untouchables were demanding Separate allotment of their share of representation, that such share must come out of the lump which the Hindus had been enjoying in the past and that the measure of the share must depend upon the population of the Untouchables. The Hindus had realized that to admit the existence of the Untouchables was detrimental to their interest. They did not mind sacrificing truth and decency and decided to adopt the safest course, namely, to deny that there are any Untouchables in India at all, and thereby knock out the bottom of the political demands of the Untouchables and leave no room for argument. This shows how the Hindus can conspire in a cold, calculated manner against the Untouchables out of pure selfishness and do indirectly what they cannot do directly.

Same is the case with the Scheduled Tribes of Maharashtra. As soon as it came to the notice of the governing class in Maharashtra that certain seats would be reserved for genuine Scheduled Tribes as per Delimitation Act, 1972 genuine Scheduled tribes have been systematically deprived of their political rights and falsely implicated in court cases. This time they used Hon'ble judiciary as a tool to deny the existence of some genuine Scheduled Tribes. This process started from 1978 and completed by 2000. and therefore census 2001, has been taken as a base year. (Mana, Koli, Halba, Halbi Koli Mahadev Scheduled Tribes) and allowed reservation for "Gond" Hindu Rajputs and other upper class people.

18. It is humbly and most respectfully submitted that, for the purpose of appreciating the submission, it is specifically submitted that the provisions of Delimitation Act, 2002 in Section 9(1)(c) of the said Act reads as under :-

" Constituencies in which the states are reserved for the Scheduled Castes and Scheduled Tribes shall be distributed in different part of the states and located, as far as, practicably in those areas where the preparation of their population to the total is comparatively large"

Thus, in short the aim of preparation of delimitation of Constitution reserve for the Scheduled Castes and Scheduled Tribes is the area in which maximum actual population of the

said category resides shall be identified first and thereafter accordingly to the largest area the first reservation should be allocated and subsequently it should be in accordance to the descending order of the Scheduled Castes and Scheduled Tribes in the constituency. Thus in short the said provisions clearly demonstrate that the population of Scheduled Castes and Scheduled Tribes determined the allocation of the constituency reserved for Scheduled Castes and Scheduled Tribes. It does not contemplate any other criteria except the population of the constituency. In view of this fact, the information submitted by the respondent No. 2 for Delimitation of the Constituency more particularly Chapter-7 of the same clearly in contravention of the expressed provisions of the Act. The constituencies are reserved by the Delimitation Commission. Section 9(1) (c) and (d) of the Delimitation Act, 2002 is incorporated in the said guidelines but further at the discretion of the Delimitation Commission it is mentioned in order to achieve the aims of the Delimitation of Constituency for reserved tribes working out the allocation of total number of seats for each constituency on the basis of genuine Scheduled Tribes as per Act No. 108 of 1976. As mentioned above the numbers of seats for reservation of Scheduled Tribes in those constituency will also have to be worked out separately and subsequently Scheduled Tribes seats will be reserved in those constituency in which so far as of practical, the percentage of their actual population to the

total population is the largest, in descending order equal to the numbers of the seats in the district concerned. Thus in short the provision of Section 9(1) (d) is sought to be interpreted by virtue of considering the actual population of the Scheduled Tribes Tribe wise (As per Act No. 108 of 1976) and not constituency wise. Therefore, the parameters considered by the Delimitation Commission is contrary to the provisions of the Act. The Act clearly contemplates that the constituencies are to be identified and according to the actual/genuine population Scheduled Castes and Scheduled Tribes in descending order for highest to lowest the reservation in the constituency should be carved out since firstly the Commission has prepared the districts and then allocated the seats to the district according to the population of district and thereafter the same is reserved in the district according to the maximum population of the Scheduled Castes and Scheduled Tribes as per the seats allocated in the district the whole criteria of the Delimitation Act is changes. In view of this fact, the guidelines which are issued by the respondent No.1 for causing Delimitation Constituencies is per say contrary to the provisions of the Act and same is done with malafide intentions to give advantage to the political bigwigs disrespecting the aim and object of the Act. In any case, the procedure followed is not inconsonance with the provisions of the act and therefore, that cannot be sustained in law.

28	Chimur	329908	76792	135	Kalyan East	322814	12067
29	Rajura	369985	84946	149	Kalyan East	346641	9850
35	Warora	317368	60311	142	Thane	335749	6523
	Bramhpuri	319995	58470	163	Kalyan Rural	337785	6365
	Chandrapur	369401	31428				

The 25 seats reserved for Scheduled Tribes (earlier these were 22) , their Scheduled Tribes wise population needs to submitted before this Hon'ble Court to enable this Hon'ble court to arrive at appropriate decision in the interest of justice It has been revealed that some of the existing MLAs grabbed the reserved seats meant for Scheduled Tribes e.g. 1) Shri Madhukar Pichad S/o Patil buwa Deshmukh (Ex- Minister of Tribal Development Deptt. Govt. of Mah) the main architecture of SC/ ST Caste certificate Act, 2000 (23 of 2001) produced " Mahadeo Koli" Caste certificate (Caste - Koli) Another person 2) Shri Dharmarao S/o Bhagwanrao Atram ex-State Minister, earlier produced his brother's caste certificate of belonging to " Raj Gond" Scheduled Tribe (Land lords) (ex- 24 Election petition No. -1 of 1980 decided on 14/15-11-1980) thus, the Election Commission. Mah. State must be strict and vigil while accepting the nomination forms and caste certificate must be as per Act No. 108 of 1976 only.

This Act of 2001 is nothing but fraud played on Indian Constitution. Not only the Hon'ble High courts of Maharashtra the Hon'ble Supreme Court of India were misguided in Ku. Madhuri Patil's Case AIR 1995 SC 94 but also the Respected Mahamahim President of India was also cheated by receiving/obtaining of fraudulently the assent of the President of India on Act 23 of 2001.

This is caused by the Delimitation Commission because instead of actual Tribal population wise constituencies directly considering for the purpose of reservation firstly they considered the constituency in the district wise reservation first allocated and thereafter the constituencies are reserved which is not the import of the provisions of Delimitation Act, 2002. In such fashion the reservations of the constituencies are made by the Delimitation Commission arbitrarily against the provisions of Delimitation Act.

That, in fact, therefore, in view of this particular situation, the objection is preferred by the petitioner before the Delimitation Commission and hearing was given to the petitioner. However, without considering the objections raised by the petitioner and without deciding the same the final list of Scheduled Tribe constituency wise issued by the respondent No. 2 on 09/03/2009. It is pertinent to note that despite of the several representations and sanction sought

under the Right of Information Act, the petitioner even today the whole data of formation of the constituencies and percentage of the actual population of the reserved/Tribe wise community wise is not yet supplied to the petitioner. It is suffice to mention here that the fact as demonstrated above that first all the seats reserved for the Scheduled Caste or Scheduled Tribes category are determined according to the population of the State by the Commission and thereafter instead of direction of the Act that highest populated constituencies should be reserved first for the reserved category and thereafter in descending order such reservation should be made. The Commission of its own after determination of the Constituencies allocated 25 reservation seats according to the population to the State of Maharashtra for reservation of Scheduled Tribe. Therefore, in order to curtail the maximum number of population constituencies reservations for Scheduled Tribes they device the new method i.e. district wise, reservation firstly carved out by the Commission i.e. all the district Scheduled Tribes population was taken into consideration and accordingly the number of population was taken into consideration and accordingly the number of populating of reserved category persons 1,2 or 3 reserved seats were declared for the district and amongst the district the larges population constituency was reserved for the Scheduled Tribes by the Commission and not actual genuine Scheduled Tribes population. On the contrary, it

should have in accordance with the actual population of the constituency and the constituency, which is having highest number of actual population of Schedule Tribes voters that ought to have been reserved first for the purpose of reserving the constituency as per the Presidential Orders (Amendment) Act, 1976. In view of this fact though the Constituency is having the maximum number of genuine Scheduled Tribes population, still it is not reserved for the actual Scheduled Tribes because of the district wise distribution made by the Delimitation Commission. The Delimitation Act never contemplates that there should be district wise distribution of the reservation seats and therefore, the said criteria has set aside the claim of the highest populated constituency of genuine Scheduled Tribes to get reserved for the actual Scheduled Tribes candidate and thus aim of the delimitation Act is failed by the new device used by the Commission. It is pertinent to note that the Commissioner is not empowered to device their own work for the delimitation Constituency. Express provisions of law used to them guidelines for delimitation of the Constituency and therefore, in terms of the provisions of law the reservation of the constituency ought to have been done by the Delimitation Commission and does not do so. Therefore, the whole exercise as undertaken by the said Commission frustrated being contrary to law.

21. It is pertinent to note that after thorough observation, it has come to the notice that most of the reserved

constituencies allocated for Scheduled Tribes were grabbed by the non- Scheduled Tribes politicians since 1978e.g. Gond (Hindu.Rajputs) Raj Gond (Land Lords), Pardhan – Sub- dn. of Mahar –SC) Pardhan (Musicians-SC), Pradhan (sub- dn. of Gond , Mahadeo Koli, Burud SC. Etc. genuine Scheduled Tribes like koli, Koli Mahadev, Mana, Halba, Halbi (Marathia from Maratha country) who have been systematically deprived of their constitutional rights of Scheduled Tribes by the Govt. of Maharashtra, Tribal Development Department. It is therefore, prayed before this Hon'ble Court to direct the concerned authorities to produce the actual population of " Gond Rajgond" Mana, Koli, Koli Mahadev, Halba, Halbi , Dhor Koli (Dhor Kolis also called Tokre Koli- synonyms) and NOT " Dhor" (Scheduled Castes as per Part – X Maharashtra at Sr. No. 18 Dhor Kakkayya, Kankayya, Dohor) as per Census 2001 to enable this Hon'ble Court to arrive at appropriate decision in the interest of justice.

22. It is pertinent to note that there are no rules for implementation of the delimitation Act while it is clear that actual highest populated constituency be reserved for the Scheduled Castes and Scheduled Tribes according to the available reserved seats and in descending order. Reservation of the constituency should be completed it does not mean district wise reservation should be carved out by the Commission. Had it been the intention of the legislation then it would have been mentioned that district wise reservation

should be carved out first and thereafter the seats of reservation of the constituency be allocated. It is not so under the provisions of Delimitation Act, 2002. Therefore, the list dated 9/3/2009 issued for Delimitation of the Constituency more particularly for the purpose of reservation is not in terms of the Act and it is liable to be quashed and set aside.

23. That, the impugned list of Scheduled Tribes constituency wise list of scheduled Tribe as is published completely against the provisions of Delimitation Act and hence the said list does not serve the purpose of the reservation of the constituencies at it has no tribe wise population. Therefore, the said list dated 9/3/2009 deserves to be quashed and set aside.

24. That, the Act never contemplates district wise allocation of the reservation of the constituencies. It is clear speak out that the actual highest number of population of the reserved category, tribe wise would get the reservation of descending order of the actual number of Scheduled Tribe population. Therefore, devising the reservation on the basis of constituency is contrary to the purpose of the Act and hence impugned list dated 9/3/2009 deserves to be quashed and set aside. That, when provisions of law is very clear, thereafter there is not purpose left to the delimitation Commission to device their own criteria for the purpose of reserving the constituencies and not on the basis of actual genuine whole tribe population. Therefore, the reservation as carved out

under the list dated 9/3/2009 impugned in patently arbitrary and bad in law, hence it deserves to be quashed and set aside.

25. It is not out of place to mention here that even after the rules of their for the purpose of implementation of Delimitation Act and rules over reaching the provisions of Act, then rule being excessive than that of the Act deserves to be quashed and set aside. Here in this case there are no rules under the Delimitation Act and the method utilized for the purpose of Delimitation of the wards is not in accordance with the provision of the Act. The said method is also not accepted or ratified by the Parliament for the purpose of Delimitation Act. Therefore, the whole approach made by the Delimitation Commission in this regard is patently bad at law and since it defeats express provisions of section 9 (1) (d) of the Delimitation Act. It deserves to be quashed and set aside.

26. That, the Act of 2002 was amended only for the purpose of carving out the reservation and reconstitution of the existing constituencies just to enlarge them in number. This is abundantly clear by the ordinance amendment issued by the Parliament in 2004. This is caused in order to include the census of 2001 on which basis the Delimitation of Constituencies ought to be done and also the Election Commission in the case State of Meghalaya, Mizoram and Nagaland was not empowered for holding the election.

Therefore, nominee of Governor instead of State Election Commissioner may also be provided in the said Act by amending the Delimitation Act. Therefore, the amendment in the said Act was made only to that extent while otherwise provisions of the said Act remains as it is, in view of these facts the procedure is adopted for carving out the reservation constituencies being not inconsonance with the Delimitation Act and it deserves to be quashed and set aside. The purpose of the said Act is mentioned in the object and reason which clearly demonstrate that the constituencies should be created on the basis of the Census figure and thereafter the reservation of the constituencies should be caused on the basis of the actual tribe population ascertained at the Census. This also clearly spail out that there cannot be any constituency wise instead of actual tribe population wise reservation carving out the Delimitation Commission and therefore, also the impugned list dated 9/3/2009 deserved to be quashed and set aside. The main object and reason the which the amendment of 2004 was effected in the Delimitation Act 2002 is frustrated reservation carved out by the Delimitation Commission and hence the said list dated 9/3/2009 deserves to be quashed and set aside.

27. That, at any rate the procedure as adopted by the Delimitation Commission cannot be sustained in law as it does not have any support from the Delimitation Act or any

provisions of law. The whole object of the carving out the reservation of the constituencies is only on the basis of the actual genuine tribal population of the reserved category person in the constituencies and not in accordance with the district and from the procedure adopted is totally fatal to the aims and objects of the Act and hence impugned list dated 09/03/2009 deserves to be quashed and set aside.

28. That, the Delimitation Commission is not empowered to go beyond the mandate given under the Delimitation Act 2002 which has been done by the Delimitation Commission without considering the population of the constituencies individually for the purpose of carving out the reservation as is contemplated under the Act. Therefore, the impugned list dated 9/3/2009 is patently bad at law and deserves to be quashed and set aside.

29. That, the list issued on 9/3/2009 shall be placed before the Parliament (along with tribal wise population in descending order) and once it is passed through the Parliament no court of law can take cognizance of the same. Therefore, the present matter is required to be urgently decided by this Hon'ble Court since at the earliest. The said list may be implemented as an Act of the Parliament and therefore, the petitioner presenting this petition in order to ratify constitutional mistake caused by the respondent No. 2 by issuing the list dated 9/3/2009 in contravention to the provisions of Delimitation Act, 2002 and hence it is ultra virus

to the provisions of law. Therefore, the said list dated 9/3/2009 deserves to be quashed and set aside.

30. That, the petitioner has not approached this Hon'ble Court or Supreme Court of India in this matter any time before against the impugned list of constituency wise population of Scheduled Tribes dated 9/3/2009 issued by the respondent.

31. There is no efficacious or effective remedy except to file present petition in this matter.

PRAYER :- It is, therefore, most humbly prayed that this Hon'ble Court may be pleased to :-

- i) quash and set aside the impugned list of Scheduled Tribes dated 9/3/2009 issued by the Respondent No. 1 being against the provisions of Delimitation Act and over reaching the provisions of Delimitation Act while carving the reserved constituencies, amounts to arbitrary exercise of power on the part of respondent No. 1 i.e. Delimitation Commission through its Secretary.
- ii) Call for the actual constituency wise Scheduled Tribes population of 1) Gond Rajgond 2) Koli 3) Koli Mahadev 4) Mana 5) Halba, Halbi (Marathia) 6) Dhor Koli and 25 reserved seats from the Respondent No. 1,2 in the interest of justice.

- iii) It be declared that the Constitution comparatively having more Scheduled Tribes wise voters than the constituency be declared reserved for Scheduled Tribes instead of present by seats reserved for scheduled Tribes and in accordance with the Delimitation Act 2002 and respondent be declared to cause such reservation according to law.
- iv) That during pendency and till the decision the respondents be directed not to implement the said list dated 9/3/2009 for the purpose of delimitation of Constituencies , in the interest of justice.
- v) Cost be saddled upon the respondents.
- vi) Any other relief which this Hon'ble Court deems fit and proper in the facts and circumstance of the case may be granted to the petitioner, in the interest of justice.

Nagpur

Date : 14/8/2009

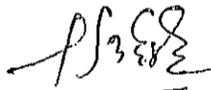


COUNSEL / PETITIONER

SOLEMN AFFIRMATION

I, Purushottam S/o Umajirao Sonkusre aged about 63 years Occupation - Advocate and Authorised Research Student on Tribals R/o Plot No. 7, Shri Satya Sai baba Society, Dattawadi, Nagpur- 440023 do hereby take oath and state on solemn affirmation that the contents of above paragraphs 1 to 31 of the present writ petition are drafted by me and they are believed to be true and correct as per my personal knowledge and belief.

Hence, verified and signed at Nagpur on this 14th day of August 2009


DEPONENT

IN THE HON'BLE HIGH COURT OF JUDICATURE

AT BOMBAY NAGPUR BENCH : NAGPUR

WRIT PETITION NO. ----- OF 2009

(In the matter of Delimitation Act, 2002)

PETITIONER : Purshottam S/o Umajirao Sonkusre

Vs

RESPONDENTS : Delimitation Commission, New Delhi and
Others.

LIST OF ANNEXURES

Sr. No.	Ann xNo	Particulars of documents	Date	Pages
1.	1.	Copy of letter from Govt. of Mah General Administration Department Mumbai with true translation	18/05/01	28 -28A
2	2	Copy of letter from the Hon'ble Registrar General of India , New Delhi	16/12/05	29
3	3	Copy of letter from the Delimitation	19/12/05	30
4	4	Copy of letter from the state information commission, Mumbai	13/01/06	31
5	5	Copy of letter from the petitioner to state Election Commission, Mumbai	10/02/06	32-34
6	6	Copy of letter from the petitioner to state Election Commission, Mumbai	21/02/06	35

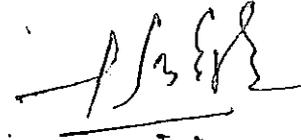
7	7	Copy of letter from the petitioner the Directorate of Census operations, Maharashtra, Mumbai	21/02/06	36
8	8	Copy of letter from the petitioner to the Chief Election Officer M.S. Mumbai	02/03/06	37
9	9	Copy of letter from the Directorate of Census operations, Mah Mumbai	08/03/06	38
10	10	Copy of letter from the State election commission M.S. Mumbai	10/03/06	39
11	11	Copy to letter from the petitioner to the Delimitation Commission, New Delhi camp at Nagpur	08/05/06	40-43
12	12	Copy of letter from the Govt. of India Min: of Law and Justice , New Delhi	25/09/07	44
13	13	Copy of letter from the Govt. of India Min: of Tribal Affairs, New Delhi.	30/10/07	45
14	14	Copy of Gazett of India SCs/STs order (Amendment) Act, 176	20/09/76	46
15	15	Copy of Part-IX Maharashtra (List of Scheduled Tribes)	20/09/76	47
16	16	Copy of Notification issued by the Govt. of Mah. Law and Judiciary Department.SCs/STs orders(Amendment) Act. 1976	22/11/76	48
17	17	Copy of Part- IX Maharashtras (List of Scheduled Tribes.)	22/11/76	49-50

- 102

18	18	Copy of Letter from the Hon'ble National Commission for Scheduled Tribes. New Delhi	20/03/09	51
19	19	Copy of Letter from the Secretariat of the Hon'ble Election Commission of India, New Delhi to the Research Officer, National Commission for Scheduled Tribes New delhi	09/03/09	52 -54
20	20	Copy of List of Scheduled Tribes Population Maharashtra. "Assembly Constituency wise population Scheduled Tribes."	09/03/09	55-60

Nagpur

Dated :- 14/08/2009



Counsel/ Petitioner

No. Janganana 2001/108/P.K. 41 (Part 1)/2001/5
General Administration Department,
Mantralaya, Mumbai - 400 032.

28A

Dated 18th May, 2001.

To,

The Convener,
Adiwasi Sangharsh Samiti,
Kailas Society Lay-out,
New Nandanwan, Nagpur.

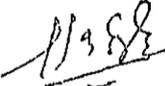
**Subject : Wrong Scheduled Tribes list published by the Census
Commissioner of Govt. of Maharashtra**

Sir,

Please refer to your letter dated 10/2/2001 addressed to the Hon'ble Dy. Chief minister. As per central Government, the Director Census office, Mumbai vide his letter dated 20/10/2000, has informed to all the Principal Census Officers to make corrections in the Information books as "GOND RAJGOND" instead of "GOND", "RAJGOND"

Your faithfully,
Sd/-
(K.S. Bodade)
Secretary, Govt of Mah.

"True Translation"


(P.U. SONKUSRE)
Advocate.

ANNEXURE-2

(29)



भारत सरकार
Government of India
गृह मंत्रालय
Ministry of Home Affairs
भारत के महारजिस्ट्रार का कार्यालय
OFFICE OF THE REGISTRAR GENERAL, INDIA
2ए, मानसिंह रोड, नई दिल्ली-110011
2A, Mansingh Road, New Delhi-110011
दूरभाष/Telephone 338-3761 फैक्स/Fax 338-3145 ई-मेल/E-Mail regindia@mh.nic.in

No 9/17/2001-CD (CEN) Pt. 2

Dated 16-12-2005

To

Shri P. U. Sonusre^K
Advocate (High Court)
Bar Room No. 2, Chamber No. 23, Ground Floor
Nagpur

Subject: Request for supply of 2001 Census Scheduled Tribes population of Maharashtra as per the constituency wise/ District wise/ Tahsil wise/ percentage, regarding.

Sir,

With reference to your letter No. nil dated 6th December, 2005 on the above subject it is to inform that this office does not tabulate population figures constituency wise. As regard supply of District/ Tahsil wise 2001 Census Scheduled Tribes population of Maharashtra, you may collect this data from our Census Directorate, Maharashtra, Mumbai at the following address: This data is available on cost basis.

Shri R. S. Meena
Joint Director
Directorate of Census Operations, Maharashtra
Exchange Building, 2nd Floor
Sir Shivsagar Ramgulam Marg
Ballard Estate, Mumbai - 400001

Yours faithfully,
Anand Kumar
(Anand Kumar)
Joint Director

Copy to DCO, Maharashtra

True copy
A/S for

(P. U. SONUSRE)
Advocate

DELIMITATION COMMISSION

Nirvachan Sadan, Ashoka Road, New Delhi.

ANNEXURE-3

NO.282/DC/2005(RTI) | 4081

Dated: 19th December, 2005.

30

To

Shri Purushottam U. Sonkusre,
Advocate (High Court),
Plot No. 7, Shri Satty Saibaba Society,
Dattawadi, Nagpur - 440 023.

Subject: Delimitation of Parliamentary and Assembly Constituencies in the State of Maharashtra - regarding.

Sir,

I am directed to refer your letter, dated 06.12.2005 addressed to Chief Election Commissioner, among others, seeking population data of Scheduled Tribes in all the 288 Assembly Constituencies in the State of Maharashtra.

In this connection it is stated that the Delimitation Commission, in terms of Constitutional provisions and the statutory provisions under the Delimitation Act, 2002 prepares a Working Paper on the basis of census figures of Census 2001, giving tentative delimitation proposals. The working Paper is considered by the Commission and thereafter discussed with the Associate Members at different stages. It is only after the interaction with the Associate Members is completed, draft proposal for delimitation of Parliamentary and Assembly Constituencies for a State are prepared. Thereafter, the said draft proposals are published in the Official Gazette of Government of India and the State Government concerned and also in the leading newspapers in the State with a notice to the public that a public sitting with a view to have public comments/suggestions would be held at different places in the State.

You can, if you so desire, raise your points at that point of time. However, even now any suggestions in this regard from you are welcome. Further you may also raise your grievances through Associate Members of the Delimitation Commission who are nominated from your State. So far your request for supply of Scheduled Tribes population figures in all the 288 seats is concerned, It is stated that till the time the draft proposals are finalized it is not possible to give exact population details, as till then the constituency boundaries are not even tentatively drawn.

Yours faithfully,

(BERNARD JOHN)
UNDER SECRETARY

True copy

P/S/S

(P. U. SONKUSRE)
Advocate

~~Advocate~~
C.R.L. SOMKUSRE
The City

आपला,
अभिमान
(वि. प्र. सौजन्य)
कर्म अधिकारी
राज्य महिती आयोग.

उपरोक्त विषयाच्या अनुषंगाने आपण आयोजित केलेल्या दि.०३.१२.२००५ च्या विनंती
अर्जाच्या संदर्भात आपणास कळवण्यात येते की, आपल्याला अधिष्ठित असलेल्या महितीसाठी कर्तव्य
महितीचा अधिकार अधिनियम, २००५ अन्वये मजाल्यातील आदिवासी विकास विभागतील जन महिती
अधिकार्याकडे विहित नमुन्यात महितीसाठीचा अर्ज सादर करावा, ही विनंती.

महोदय,

विषय : कर्तव्य महितीचा अधिकार अधिनियम, २००५
अंतर्गत महिती मिळोवावात.

प्रति,
श्री. पी. यू. सोनकरे,
पॉस्ट नं. ७, श्री सत्य साईबाबा सीसायडी,
पुणेबाई, तामपूर-४४००२३.

क्र. यमा३३१-२००६/३८/०२
दिनांक : १३ जानेवारी, २००६.

दूरध्वनी क्र. २२८५६०७८

१३ वा मजला, नवीन प्रशासन भवन, मजालयासमीर, मुंबई - ४०० ०३२.

31

राज्य महिती आयोग
ANNEXURE-4



HIGH COURT : Bar Room No. 2, Chamber No. 23, Ground Floor, Nagpur.

RESIDENCE OFFICE : Plot No. 7, Shri Satty Salbaba Society, Dattawadi, Nagpur-440 023.

32

F. No. :

Date : 10/02/2006

To,

The Hon'ble State Election Commissioner,
Maharashtra State,
New Administrative Building,
Infront of Mantralaya,
Mumbai - 400 032.

Subject : Kindly supply the information of Scheduled Tribes Population of Maharashtra as per Census of 2001. Reconstitution of Assembly segments / Parliamentary seats for Scheduled Tribes as per Delimitation Act - Information requested under "The Right to Information Act, 2005 (Act No. 22 of 2005)

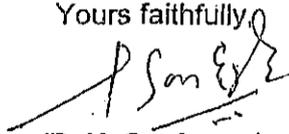
Respected Sir,

In connection with above, kindly refer my letter dated 6/12/2005 and dated 16/12/2005 (copies enclosed). Further a copy of letter No. Est/2005/P.K. 242 / K 15 dated 02/01/2006 received from Shri D. R. Chandrikapure Saheb, the Hon'ble Public Information Officer / Addl. Secretary, Tribal Dev. Deptt. Govt. of Maharashtra, Mumbai - 32 and a copy of Letter No. SIC - 2006/02 dated 13th January, 2006 from Shri V. B. Sonwane, the Hon'ble Desk Officer / State Information Officer, State Information Commission, Mumbai are enclosed for favour of information and necessary action please.

Kindly do the needful in the matter at the earliest please.

Thanking you sir,

Yours faithfully,


(P. U. Sonkusre)

Encls. : As above.

Copy submitted with respect to :-

33

- 1) The Respected Mahamahim
Rashtrapatiji Saheb,
Government of India,
Rashtrapati Bhawan,
New Delhi - 110 004.

It is humbly and respectfully submits a copy of Govt. of Mah. Gen. Admn. Deptt. Mantralaya, Mumbai Letter No. Janganana 2001/108/PK 41 (Part 1) 2001/5 dated 18th May 2001 and a copy of Letter No. 282/DC/2005 (RTI) 4021 dated 19th Dec. 2005 are enclosed for information and perusal please.

Encl. : As above.

- 2) Dr. Suresh Joshi Saheb IAS.
The Hon'ble Chief Information
Commissioner (Mah. State)
New Adm. Building, 13th Floor,
Madam Cama Road.
In front of Mantralaya,
Mumbai - 400 032.

W.r. to their letter No. SIC 2006/38/02 dated 13th Jan. 2006 for information please. A copy of letter No. Estt. 2005/PK 242/1K 15 dated 2nd Jan. 2006 and letter dated 18/5/2001 from GAD Mumbai are enclosed for favour of information and necessary action please.

Encl. : 1) Letter dated 2/1/2006
2) Letter dated 18/5/2001

- 3) Shri B. B. Tandon Saheb
The Hon'ble Chief Election
Commissioner
Government of India,
Nirwahan Sadan,
Ashoka Road,
New Delhi - 110 001.

W.r. to letter No. 282/DC/2005 (RTI) 4021 dated 19/12/2005. A copy of letter No. Janganana 2001/108/PK-41 (Part 1)/2001/5 dated 18th May 2001 from Govt. of Mah. Gen. Adm. Deptt. Mumbai is enclosed for favour of information and necessary action.

Encl. : 1 Letter dated 18/5/01.

- 4) The Hon'ble Register
General and Census
Commissioner of India
Government of India
2-A, Mansingh Road,
New Delhi.

W. r. to letter dated 6/12/05 A copy of letter no. Jangana 2001/108/PK-41 (Part 1)/2001/5 dated 18/5/2001 is enclosed for favour of information and necessary action please.

Encl. : 1 letter dt. 18/5/2001

5) Dr. Kunwar Singh Saheb,
The Hon'ble Chairman,
The National Commission for
Scheduled Tribes,
Loknayak Bhawan, 5th Floor,
Khan Market,
New Delhi - 110 003.

W. r. to letter dated 6/12/05 A copy of
letter no. Jangana 2001/108/PK-41
(Part 1)/2001/5 dated 18/5/2001 is
enclosed for favour of information and
necessary action please.

Encl.: 1 letter dated 18/5/2001

6) Shri M. L. Sharma Saheb,
The Hon'ble Additional Director,
Central Bureau of Investigation,
Government of India, New Delhi.

W. r. to letter dated 3rd Feb. 2006, A
Copy of letter no. ^{77K} Janaganana
2001/108/PK 41 (Bhag 1) /2001/5
dated 18/5/2001 from Gen. Admn.
Deptt. Of Govt. of Mah. Mumbai is
enclosed herewith for favour of
information and necessary action
please.

Copy to :-

1) The Commissioner and Director
Tribal Research and Training
Institute,
28 Queen's Garden,
Pune - 411 001.

W. r. to letter dated 16th Dec. 2005 for
of information and necessary action
please. A copy of letter No. Estt.
2005/PK-242/K-15 dated 2/1/2006
from Shri D. R. Chandrikapure Under
Secretary/Public Information Officer,
Govt. of Maharashtra, Tribal
Development Department, Mumbai is
enclosed for favour of information and
necessary action please.

Encl. : 1 letter dated 2/1/2006.

2) Shri D. R. Chandrikapure
Public Information Officer /
Under Secretary to the
Govt. of Mah.
Tribal Dev. Deptt.
Mumbai - 400 032.

W. r. to his letter dated 2/1/2006 for
favaour of information. A copy of
letter no. SIC 2006/38/02 dated
13/01/2006 from State Election
Commission Mumbai, is enclosed for
favour of information and necessary
action please.

Encl. : Letter dated 13/01/2006



P. U. SONKUSRE

True Copy
P/S/S
(P. U. SONKUSRE)
Advocate



36

HIGH COURT : Bar Room No. 2, Chamber No. 23. Ground Floor, Nagpur.

RESIDENCE OFFICE : Plot No. 7, Shri Sally Saibaba Society, Dattawadi, Nagpur-440 023.

Ref. No. :

Date 21/02/2006

To,

Shri R.S. Meena Saheb,
The Hon'ble Joint Director
Directorate of Census Operations, Maharashtra
Exchange Building, 2nd Floor
Sir Shivsagar Ramgulam Marg
Ballard Estate, Mumbai - 400001

Subject :- Kindly supply the information of Scheduled Tribes population of Maharashtra as per the Census of 2001. Reconstitution of Assembly segments/Parliamentary seats as per Delimitation Act - Information requested under "The Right to Information Act, 2005 (Act No 22 of 2005)

Sir,

A copy of letter No. 9/17/2001-CD (CEN) Pt. Dated 16/12/2005 received from Shri Anand Kumar, the Hon'ble Joint Director O/o The Registrar General, India Govt of India Ministry of Home Affairs, New Delhi is enclosed herewith for supplying to the undersigned the Scheduled Tribes population figures in all the 288 seats i.e. as per the constituency wise/Districtwise / Tahsilwise/ percentage etc.

You are kindly requested to please look into the matter and do the needful in this matter. I am ready to pay the requisite fee for supplying the said data. Kindly intimate the exact amount at the earliest please.

Thanking you,

Encl:- 1) Annexure "A" with Rs. 10/- stamp fee
2) letter dated 16/12/2005

Copy submitted with respect to :-

1) Shri Anand Kumar Saheb
The Hon'ble Joint Director
O/o The Registrar General, India
Govt. of India, Ministry of Home Affairs,
2, A Mansingh Road New Delhi - 110011

Yours faithfully

(P.U. SONKUSRE)
Research student on tribals

With reference to their letter No. 9/17/2001-CD (CEN) dated 16/12/2005 for favour of information please.

(P.U. SONKUSRE)

me copy

(P.U. SONKUSRE)
Advocate

ANNEXURE-8

PURUSHOTTAM U. SONKUSRE
ADVOCATE (HIGH COURT)



(07104) 20537 (R)

37

HIGH COURT : Bar Room No. 2, Chamber No. 23, Ground Floor, Nagpur.

RESIDENCE OFFICE : Plot No. 7, Shri Saffy Saibaba Society, Dattawadi, Nagpur-440 023.

Ref. No. :

Date : 02/03/2006

To,

The Chief Election Officer,
Maharashtra State
5th floor, Mantralaya,
Mumbai - 400 032.

Subject : Regarding Scheduled Tribes population figure of Maharashtra -
48 - Lok Sabhawise and 288 - Legislative Assemblywise.

Sir,

A copy of Letter No. के मा अ/२००६/१/प्र.क्र.८/का १० dated 21/02/2006 received from Shri V. N. Deshmane Saheb, the Hon'ble Public Information Officer O/o. State Election Commission, Maharashtra, Mumbai is enclosed for supplying the undersigned the Scheduled Tribe population figure of Maharashtra - 48 Lok Sabhawise and 288 Assemblywise (segmentwise) please.

You are requested, to please look into the matter and do the needful. I am to enclose herewith an Annexure "A" (see rule 3) i.e. application for obtaining information under "The Right To Information Act, 2005 duly stamped with Rs. 10/- (Rupees Ten only). Further I am ready to pay the requisite fee/charges for the said data. Kindly intimate me the exact amount at the earliest please

Thanking you,

Encls. - 1) Annexure 'A' with Rs.10/- stamp fee
2) Letter dated 21/02/2006.

Yours faithfully,

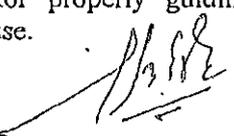

(P.U. SONKUSRE)

Research Student on Tribals

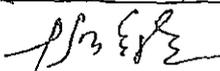
Copy submitted with respect to: -

1) Shri V.N. Deshmane Saheb,
The Hon'ble Public Information Officer,
State Election Commission, Maharashtra
New Administrative Building
Madam Cama Road,
In front of Mantralaya,
Mumbai - 400 032.

w. r. to his letter dated. 21/02/2006 for
favour of information please. The
undersigned is very much thankful to his
kind authority for properly guiding the
undersigned please.


(P.U. SONKUSRE)

The copy



(P.U. SONKUSRE)
Advocate



लोकामिमुख
PEOPLE ORIENTED

भारत सरकार, गृह विभाग
निदेशक, जनगणना कार्यालय, महाराष्ट्र,
एक्सचेंज बिल्डिंग, 2री मंजिल, सर शिवसागर रामगुलाय मार्ग,
बॅलार्ड एस्टेट, मुंबई - 400 001.

ANNEXURE (38)

Government of India, Ministry of Home Affairs,
Directorate of Census Operations, Maharashtra
Exchange Building, 2nd Floor, Sir Shivsagar Ramgulam Marg,
Ballard Estate, Mumbai - 400 001.

Tele/Fax : 2261 7950, Tele : 2261 5494
E-Mail : dcomah@mtnl.net.in

दि. 08.03.2006

प्रति.

श्री:

श्री. पुढुशोन्तम यू. सोनकुसरे,
हायकोर्ट, व्हार रुम नं. 2, चेंबर नं. 23,
सब मजला, भागपूर.

विषय: जनगणना 2001 बुरसार अनुसूचित
जनजातींची (ST) जिल्हा/तालुका वार
माहिती.

महोदय,

आपल्या दि. 20.2.06 च्या पत्राबुसार कळविण्यात
येले की जनगणना कार्यालयाद्वारे मतदार संघ निहाय अनुसूचित
जनजातींची माहिती जोडा केली जात नाही. परंतु जिल्हा/तालुका
शहर/गाव पातळीवर सीडीच्या स्वरूपात आपणास पाहिजे
असलेली माहिती उपलब्ध असून या सीडीची किंमत रु.350/-
आहे. ती पाठविण्याचा पोस्टेज खर्च रु.30/- असे एकूण रु.380/-
चा डिमांड ड्राफ्ट संचालक, जनगणना कार्यालय, महाराष्ट्र, मुंबई
यांच्या जागे पाठवावा. तसेच केंद्रीय माहिती अधिकार अधिनियम
2005 अंतर्गत कोर्टी फी स्टॅम्प मान्य असून त्यासाठी स्वतंत्र
रु. 10/- चा डिमांड ड्राफ्ट स्विकारण्यात येईल. तरी वरील
दोन्ही स्वतंत्र डिमांड ड्राफ्ट प्राप्त झाल्या नंतर आपल्याला
पाहिजे असलेली माहिती पाठविण्यात येईल.

आपला विश्वासू

उपलब्ध मंडळ

(आर.एस.भीणा)

सह संचालक

जनगणना कार्यालय, महाराष्ट्र, मुंबई.



प्रत्येक जन्म एवं मृत्यु का रजिस्ट्रीकरण सुनिश्चित करे।
Ensure Registration of Every Birth and Death.

True Copy

AS/RS

(P.U. SONKUIRE)
Advocate

URUSHOTTAM U. SONKUSRE

ADVOCATE (HIGH COURT)



ANNEXURE - II

HIGH COURT : Bar Room No. 2, Chamber No. 23, Ground Floor, Nagpur.

RESIDENCE OFFICE : Plot No. 7, Shri Satty Saibaba Society, Dattawadi, Nagpur-440 023.

60

Sl. No

Date : 08/05/2006

To,
The Hon'ble President/Chairman
Delimitation Commission of India
Nirwahan Sadan, Ashoka Road,
New Delhi.
Camp at Nagpur.

Subject : Reconstitution of Assembly segments/ Parliamentary seats for
Scheduled Tribes of Maharashtra as per the Census of 2001
and as per Delimitation Act.

Reference : My letter dated 6/12/2005 and your office No. 282/DC/
2005 (RTI) 4021 dated 19th Dec. 2005 (copies enclosed)

Respected Sir,

In connection with the subject matter cited above, the undersigned has tried his best level to collect the figures of scheduled tribes population of all the 288 Assembly seats i.e. scheduled tribes figures as per the constituencywise/ Districtwise/Tahsilwise, but no authority has supplied/ provided me the said information. Though the CD has been provided to me by the Joint Director Govt. of India Min. of Home Affairs, Directorate of Census Operations, Maharashtra, Mumbai in the month of March 2006 vide their letter No. 137 dated 08/03/2006 (copy enclosed) Since this CD contains of at least 1000 pages calculations and from that figure/chart it is very difficult to get the Constituency wise/Districtwise/ Tahsilwise Scheduled Tribe figures. The time will take at least one year for me. Hence Constituency wise/Districtwise/ Tahsilwise figures are required immediately from your office without the said figures it is quite impossible for us to determine the reserved constituency for scheduled tribes.

It is to mention that looking to the population of scheduled tribes in Vidarbha, Assembly segments/ Parliamentary seats are not reserved for Scheduled Tribes, as per population of Scheduled Tribes in Vidarbha.

Further, it is to mention that the Assembly/ Parliamentary seats proposed to be reserved for Scheduled Tribes as per the Census of 2001 should be based on Census of 2001 i.e. " GOND RAJGOND" is Scheduled Tribes in

Maharashtra as per SC / ST (Amendment) Act No. 108/1976, (copy enclosed) but for the last 30 years Election Commission Central/state have had accepted the caste certificates as Gond and Rajgond unconstitutionally. separately . Therefore it is humbly and respectfully prayed that the figures of " Gond Rajgond" Scheduled Tribes must be taken into account while reserving seats for Scheduled Tribes in the state of Maharashtra, and not the figures as Gond and Rajgond

The following documents are enclosed herewith for reserving the seats for Scheduled Tribes in Vidarbha as well as in Maharashtra. The Assembly seats for Scheduled Tribes in Vidarbha to be reserved for.

1. Nagpur Central
2. North Nagpur
3. Umrer

Parliamentary Seats

1. Nagpur

Documents enclosed

1. Letter dated 6/12/2005 from the undersigned .
2. Letter No. 9/17/2001-CD (CEN) Pt. Dated 16/12/2005 from the Registrar General of India New Delhi
3. Letter dated 16th Dec. 2005 from the undersigned to Shri D.R. Chandrikapure, Public Information Officer, Tribal Dev. Deptt. Govt. of Mah. Mumbai.
4. Letter No. 4121 dated 19th Dec. 2005 from Delimitation Commission New Delhi.
5. Letter No. K- 15 dated 02/1/2006 from Shri D.R. Chandrikapure, PIO, TDD, Govt of Mah. Mumbai.
6. Letter No. 38/02 dated 13/01/2006 from Shri. V.B. Sonwane, State Election Commission, Mumbai
7. Letter No. Nil dated 10/2/2006 from the undersigned to State Election Commission, Mumbai
8. Letter dated 21/2/2006 to Shri. R.S. Meena Saheb Jt. Director, Directorate of Census Operations Mah. Mumbai
9. Letter dated 02/3/2006 from the undersigned to the Chief Election Officer, Mumbai
10. Letter No. 137 dated 08/03/2006 from Shri. R.S. Meena Saheb, Jt Director Directorate of Census Operations Mah. Mumbai

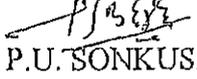
42

11. The Scheduled Castes and Scheduled Tribes Orders (Amendment) Act, 1976. Act No. 108 of 1976 (18th September 1976)
12. Letter No. CBC - 1078/ 48416 / D-V dated 26th March 1979 from, Social Welfare, Cultural Affairs Sports and Tourism Deptt. Mantralaya, Mumbai
13. Letter No. Janganana 2001/108/P.K. 41 (part 1) 2001/5 dated 18th May 2001 from the General Admn. Deptt. Mumbai. (Marathi as well as English Translation)
14. Form of Scheduled Tribe Certificate as per the Constitution Scheduled Castes and Scheduled Tribes order (amendment) Act, 2002 (No. 10 of 2003)
15. जनगणना अहवालाच्या अनुषंगाने हलबांचा विचार (P. 1 to 23)
16. स्वातंत्र्यापूर्वीचे हलबांच्या संदर्भातील पुरावे (P. 24 to 39)

Kindly acknowledge the receipt of this letter alongwith enclosures

Thanking you,

Yours faithfully


(P.U. SONKUSRE)

Research students on Tribals

Encls : As above

Copy submitted with respect to

1. Respected Dr. APJ Abdul Kalam
Saheb, The Respected Mahamahim
Rashtrapataji Saheb Govt. of India,
Rashrapati, Bhavan, New Delhi - 110004

Encls : As above

2. Shri Somnathji Chatterjee Saheb

The Hon'ble speaker of
The Lok Sabha, Govt. of India
Sansad Bhawan, New Delhi

Encls As above

3. Dr. Manmohan Singh Saheb

The Hon'ble Prime Minister
Govt. of India New Delhi

Encls As above

4. Namdar Shri. Shivraji Patil, Saheb

The Hon'ble Minister of
Home Affairs, Govt. of India
New Delhi.

Encls As above

For favour of Information &
Necessary action please. It has
been observed that no caste
certificate has been issued as per the
Scheduled Castes & Scheduled
Tribes Order (Amendment)
Act, 2002 (No. 10 of 2003)
by the Govt. of Maharashtra
till to date.

As above

(43)

5. Namdar Shri Hansrajji Bhardwaj saheb,
The Hon'ble Law Minister
Govt. of India New Delhi.
Encls As above
6. Namdar Shri P.R. Kyndiah, Saheb
The Hon'ble Minister of Tribal affairs,
Development of North East
Govt. of India, Nirwahan Bhawan
Ashoka Road, New Delhi.
Encls As above
7. Shri. B.B. Tandon , Saheb
The Hon'ble Chief Election Commissioner
Govt. of India, Nirwahan Bhawan
Ashoka Road, New Delhi
8. Respected Shri S.M. Krishna Saheb
The respected Manamahim
Rajyapal Saheb, Govt. of Mah.
Rajbhawan, Mumbai
Encls As above
- 9) The Hon'ble Registrar General and
Census Commissioner of India
Govt. of India, 2-A Mansingh road,
New Delhi.
Encls As above
10. Dr. Kunwar Singh Saheb
The Hon'ble Chairman
The National Commission for
Scheduled Tribes, Khan Market
Loknayak Bhawan, 5th floor
New Delhi - 110003
Encls As above
- 11) The Honb'e State Election Commissioner
Maharashtra State, New Adm. Bldg.
In front of Mantralays, Mumbai 32
(Camp at Nagpur)
Encls As above

true copy

P/S/RE

C.P.U. SONKUSRE
A. L. M. S.

MOST IMMEDIATE/RTI MATTER

F.No.12(8)/2007-RTI
Government of India
Ministry of Law and Justice
Legislative Department
RTI Cell

ANNEXURE -12

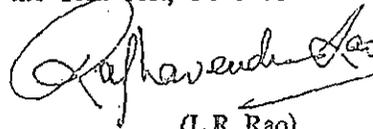
44

New Delhi, the 25th September, 2007.

OFFICE MEMORANDUM

Subject: Request for information under the Right to Information Act, 2005 by Shri P.U. Sonkusre.

The undersigned is directed to forward herewith an application dated 17/09/2007 received from Shri P.U. Sonkusre on the above mentioned subject (received in this Department on 21/09/07) and to state that this Department is not concerned with the subject matter of the information requested for therein and appears to be the concerned with the Ministry of Tribal Affairs. Hence, the same is being transferred to them under Section 6(3) of the RTI Act, 2005 for appropriate action.



(L.R. Rao)
CAPIO and Deputy Secretary
Tel.No:23389014

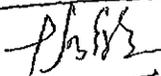
To

Ms. Juthika Patankar,
Director & CPIO,
M/o Tribal Affairs
Shastri Bhawan,
New Delhi -110001

Copy to:

Shri Shri P.U. Sonkusre, Plot No. 7m Shri Satya Saibaba Society, Dattawadi, Nagpur- 440023 with the request that further queries on the application may be had directly from the above Office.

True copy



(P.U. SONKUSRE)
Advocate.

45

No.11030/3/2007-C&LM-I
Government of India
Ministry of Tribal Affairs
(C&LM-I Section)

Shastri Bhavan, New Delhi-110001
30th October, 2007

To:

✓ Shri P.U. Sonkusre
Plot No. 7m Shri Satya Salbaba Society,
Dattawadi, Nagpur-440023

Sub.: Information under Right to Information Act, 2005 - Regarding list of
Scheduled Tribes in Maharashtra.

Sir,

Please refer your request dated 17/09/07 (received in this Ministry on
27/09/07) on the subject cited above and to enclose herewith a copy of the
Scheduled Castes and Scheduled Tribes Orders (Amendment) Act, 1976 (No. 108 of
1976) dated 20/09/1976 and the Scheduled Castes and Scheduled Tribes Orders
(Amendment) Act, 2002 (No. 10 of 2003) dated 08/01/2003 (part relevant to the
State of Maharashtra).

Dr.N.K.Ghatak
Joint Director
Tel.011-2338 3965

N.B. In terms of Section 19(1) of the Right to Information Act, 2005, Smt.Ruchira
Pant, Joint Secretary (Room No.722, "A" Wing, Shastri Bhavan, New Delhi; Tel..No.
011-2338 3622 (Office) 2307 3607 (Fax)) in the Ministry of Tribal Affairs has been
designated as Appellate Authority for the Ministry of Tribal Affairs for the purpose of
the implementation of the Right to Information Act, 2005.

Copy for information to:-

- i).The Ministry of Law & Justice, Legislative Department, Shastri Bhavan, New
Delhi(kind attention Shri R.C.Gaba, CPIO and Deputy Secretary) with reference to
their OM No.12(8)/2007-RTI dated 25/09/2007.
- ii).The Under Secretary (PC&V), Ministry of Tribal Affairs.

(Dr.N.K.Ghatak)
Joint Director

true copy

(C.P. LI SONKUSRE)
Advocate



सं० डी-(डी)-72

ANNEXURE-24

46

REGISTERED No. D-(D)-72

भारत का अखबार
The Gazette of India

EXTRAORDINARY

भाग II—खण्ड 1

PART II—Section 1

प्रधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं० 151] नई दिल्ली, सोमवार, सितम्बर 20, 1976/भाद्र 29, 1998
No. 151] NEW DELHI, MONDAY, SEPTEMBER 20, 1976/BHADRA 29, 1998

इस भाग में निम्न पृष्ठ संख्या दी जाती हैं जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS
(Legislative Department)

New Delhi, the 20th September, 1976/Bhadra 29, 1998 (Saka)

The following Act of Parliament received the assent of the President on the 18th September, 1976, and is hereby published for general information:—

THE SCHEDULED CASTES AND SCHEDULED TRIBES
ORDERS (AMENDMENT) ACT, 1976

No. 108 of 1976

[18th September, 1976]

An Act to provide for the inclusion in, and the exclusion from, the lists of Scheduled Castes and Scheduled Tribes, of certain castes and tribes, for the re-adjustment of representation of parliamentary and assembly constituencies in so far as such re-adjustment is necessitated by such inclusion or exclusion and for matters connected therewith.

BE it enacted by Parliament in the Twenty-seventh Year of the Republic of India as follows:—

1. (1) This Act may be called the Scheduled Castes and Scheduled Tribes Orders (Amendment) Act, 1976.

Short
title and
Com-
mencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In this Act, unless the context otherwise requires,—

Defini-
tions.

(a) "census authority" means the Registrar General and ex officio Census Commissioner for India;

(b) "Commission" means the Election Commission appointed by the President under article 324 of the Constitution;

(c) "Delimitation Act" means the Delimitation Act, 1972;

(d) "last census" means the census held in India in 1971.

(137)

PART IX.—Maharashtra

1. Andh
2. Baiga
3. Barda
4. Bavacha, Bamcha
5. Bhaiana
6. Bharis, Bhumia, Bhuinhar Bhumia, Pando
7. Bhattra
8. Bhil, Bhil Garasia, Dholi Bhil, Dungri Bhil, Dungri Garasia, Mewasi Bhil, Rawal Bhil, Tadvi Bhil, Bhagalia, Bhilala, Pawra, Vasava, Vasave
9. Bhunjia
10. Binjhar
11. Birhul, Bichor
12. Chodhara (excluding Akola, Amravati, Bhandara, Buldana, Chandrapur, Nagpur, Wardha, Yavatmal, Aurangabad, Bhir, Nanded, Osmanabad and Jalgaon districts)
13. Dhanka, Tadvi, Tetaria, Valvi
14. Dhanwar
15. Dhodia
16. Dubla, Talavia, Halpati
17. Gamil, Gamta, Gavit, Maychi, Padvi
18. Gond Rajgond, Arakh, Arakh, Agaria, Asur, Badi Maria, Bada Maria, Bhatola, Bhimma, Bhuta, Koilabhuta, Koilabhuti, Bhar, Bisonhorn Maria, Chota Maria, Dandami Maria, Dhuru, Dhurwa, Dhoba, Dhulia, Dorla, Gaiki, Gatta, Gatti, Gaita, Gond Gowari, Hill Maria, Kandra, Kalanga, Khatola, Koitar, Koya, Khirwar, Khirwara, Kucha Maria, Kuchaki Maria, Madia, Maria, Mana, Mannewar, Mughya, Mogia, Monghya, Mudia, Muria, Nagarchi, Nailpod, Nagwanshi, Ojha, Raj, Sonjhari Jhareka, Thatia, Thotya, Wade Maria Wade Maria
19. Baiba, Baiba
20. Kamar
21. Kathodi, Katkari, Dhor Kathodi, Dhor Katkari, Son Kathodi, Son Katkari
22. Kavar, Karwar, Kaur, Cherwa, Ratia, Tanwar, Chattri
23. Khairwar
24. Kharia
25. Kokna, Kokni, Kukna
26. Kol
27. Kolam, Mannevarlu
28. Koli, Dhor, Tare Koli, Koli, cha, Kolgha
29. Koli Mahadev, Dongar Koli
30. Koli Malhar
31. Kondh, Khond, Kandh
32. Korku, Bopchi, Mounsi, Nihal, Nehul, Hondhi, Sondeya
33. Koya, Bhine Koya, Rajkoya
34. Nagesia, Nagaria
35. Naikda, Nayaka, Cholivala, Nayaka, Nagadia, Nayaka, Mota Nayaka, Kana Nayaka
36. Orsen, Dhanga
37. Pardhan, Pathari, Saroti
38. Pardhi, Advichancher, Phans, Pardhi, Phanse, Pardhi, Lurgoli, Pardhi, B. helia, Bahellia, Chita, Pardhi, Shikari, Takankar, Takia
39. Parja
40. Patelia
41. Pomla
42. Rathawa
43. Sawar, Sawara
44. Thakur, Thakar, Ka Thakur, Ka Thakar, Ma Thakur, Ma Thakar
45. Thoti (in Aurangabad, Bhir, Nanded, Osmanabad and Parbhani districts and Rajura tahsil of Chandrapur district)
46. Vaifi
47. Vitolia, Kotwaja, Barodia.

PART X.—Manipur

1. Aimol
2. Anal
3. Angami
4. Chiru
5. Chothe
6. Gaingte
7. Hmar
8. Kabui
9. Kacha Naga
10. Koirao
11. Koirang
12. Kom

The Copy

A. J. S. S.

(A. U. SONKUSRE)

A. U. S.

LAW AND JUDICIARY DEPARTMENT

Sachivalaya Bombay 400032, 22nd November 1976

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No. 22764/B – The Following Act of Parliament is
republished for general information

MINISTRY OF LAW JUSTICE AND COMPANY
AFFAIRS

(LEGISLATIVE DEPARTMENT)

New Delhi, the 20th September, 1976 Bhadra 29, 1898 (Saka)

The following Act of Parliament received the assent of the on the 18th September, 1976 and is hereby published for general information :-

THE SCHEDULED CASTES AND SCHEDULED
TRIBES ORDERS (AMENDMENT) ACT, 1976
Act No. 108 of 1976

(18th September 1976)

An Act to provide for the inclusion in ,and the exclusion from the lists of scheduled castes and scheduled tribes of certain castes and tribes for the re-adjustment of representation of parliamentary and assembly constituencies in so for as such re-adjustment is necessitated by such inclusion of exclusion and for matters connected therewith .

Be it enacted by Parliament in the Twenty – seventh Year of the Republic of India as follows :-

True Copy

P/3/82

(P. L. SONKIVARE)
Advocate

THE SECOND SCHEDULE

(See section 3)

CHAPTER I

49

In the Constitution (Scheduled Tribes) Order, 1950.—

(a) for paragraph 3, substitute—

"3. Any reference in this Order to a State or to a district or other territorial division thereof shall be construed as a reference to the State, district or other territorial division as constituted on the 1st day of May, 1976."

(b) for the Schedule, substitute—

"THE SCHEDULE

PART IX—Maharashtra

- | | |
|--|--|
| 1. Andh | 18. Gond Rajgond, Arakh, Arrakh, Agaria, Asur, Badi Maria, Bada Maria, Bhatola, Bhimra, Bhuta, Koilabhuta, Koilabhuti, Bhar, Bisonhorn Maria, Chota Maria, Dandami Maria, Dhuru, Dhurwa, Dhoba, Dhulia, Dorla, Gaiki, Gatta, Gatti, Gaita, Gond Gowari, Hill Maria, Kandra, Kalanga, Khatola, Koitar, Koya, Khirwar, Khirwara, Kucha Maria, Kuchaki Maria, Madia, Maria, Mana, Mannewar, Moghya, Mogia, Monghya, Mudia, Muria, Nagarchi, Naikpod, Nagwanshi, Ojha, Raj, Sonjhari Jhareka, Thatia, Thotya, Wade Maria, Vade Maria |
| 2. Baiga | 19. Halba, Halbi |
| 3. Barda | 20. Kamar |
| 4. Bavacha, Bamcha | 21. Kathodi, Katkari Dhor Kathodi, Dhor Kathkari, Son Kathodi, Son Katkari |
| 5. Bhaina | 22. Kavar, Kauwar, Kaur, Cherwa, Rathia, Tanwar, Chattri |
| 6. Bharia Bhumia, Bhuinhar Bhumia, Pando | 23. Khairwar |
| 7. Bhattra | 24. Kharia |
| 8. Bhil, Bhil Garasia, Dholi Bhil, Dungri Bhil, Dungri Garasia, Mewasi Bhil, Rawal Bhil, Tadvi Bhil, Bhagalia Bhilala, Pavra, Vasava, Vasave | 25. Kokna, Kokni Kukna |
| 9. Bhuqia | 26. Kol |
| 10. Binjwar | |
| 11. Bixbul, Bihor | |
| 12. Chodhara (excluding Akola, Aniravati, Bhandara, Buldana, Chandrapur, Nagpur, Wardha, Yavatmal, Aurangabad, Bhir, Nanded, Osmanabad and Parbhani districts) | |
| 13. Dhanka, Tadvi, Tetaria, Valvi | |
| 14. Dhanwar | |
| 15. Dhodia | |
| 16. Dubla, Talavia, Halpati | |
| 17. Gamta, Gamta, Gavit, Mavchi, Padvi | |

- 7
- (SE)
- | | |
|--|--|
| 27. Kolam, Mannervaru | 38. Pardhi; Advichinagar, Phans Pardhi, Phanse Pardhi, Langoli Pardhi, Bahelia, Bahellia, Chita Pardhi, Shikari. Takan- kar, Takia |
| 28. Koli, Dhor, Tokre Koli, Kol- cha, Kolgha | 39. Parja |
| 29. Koli Mahadev, Dongar Koli | 40. Parolia |
| 30. Koli Malhar | 41. Pomla |
| 31. Kondh, Khond, Kandh | 42. Rathawa |
| 32. Korku. Bopchi, Mouasi, Nihal, Nahul, Bondhi, Bondeya | 43. Sawar, Sawara |
| 33. Koya, Bhine Koya, Rajkoya | 44. Thakur, Thakar, Ka Thakur, Ka Thakar, Ma Thakur, Ma Thakar. |
| 34. Nagesia, Nagasia | 45. Thoti (in Aurangabad, Bhir, Nanded, Osmanabad and Par- bhani districts and Rajura tahsil of Chandrapur district). |
| 35. Naikda, Nayaka, Chohivala Nayaka, Kapadia Nayaka, Mota Nayaka, Nana Nayaka | 46. Yarli |
| 36. Oraon, Dhangad | 47. Vitolim, Kotwalia, Barodia |
| 37. Pardhan, Pathari, Saroti | |

(Signed) S. K. MAITRA,
Joint Secretary to the Government of India.

By order and in the name of the Governor of Maharashtra,

M. A. DHOTRE,
Additional Secretary to Government.

T.C.
[Signature]
(P. U. SORAKUSRE)
Advocate

ANNEXURE-18



सत्यमेव जयते

भारत सरकार

राष्ट्रीय अनुसूचित जनजाति आयोग

GOVERNMENT OF INDIA

NATIONAL COMMISSION FOR SCHEDULED TRIBES

No. RU-4/Development/Mah-22/07

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

Dated20.03.2009.....

To,

Shri Purushottam U. Sonkusre,
Advocate,
Plot No. 7, Shri Satty Saibaba Society,
Dattawadi,
Nagpur - 440 023. (Maha)

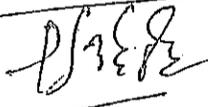
Sub: Representation regarding reconstitution of Assembly/Parliamentary seats for STs of Maharashtra as per the census, 2001.

Sir,

I am directed to refer to your representation dated 08.05.2006 on the subject mentioned above and to say that the matter was taken up with the Secretary, Delimitation Commission of India, New Delhi. A copy of the reply dated 09.03.2009 received from them is enclosed for your information.

Yours faithfully,


(N. Balasubramanian)
Research Officer

True copy


C. P. U. SONKUSRE
Advocate

ANNEXURE-19

By SFI-NR [Signature]
52

तार : निर्वाचन
नई दिल्ली

भारत निर्वाचन आयोग सचिवालय

तेलफोन : 23713412
FAX 23713412

GRAM: ELECCOM
NEW DELHI

SECRETARIAT OF THE
ELECTION COMMISSION OF INDIA

No. 282/SC/ST/2009(Misc) / 949

Dated: 9th March, 2009

निर्वाचन सदन
NIRVACHAN SADAN
अशोक रोड, नई दिल्ली-110001
ASHOKA ROAD, NEW DELHI-
110001

To

The Research Officer,
National Commission for Scheduled Tribes,
6th Floor, 'B' Wing, Lok Nayak Bhawan,
Khan Market,
New Delhi-110003.

Sub: Delimitation of Constituencies in the States- Reference SC/ST seats -reg.

33/Gadm-109
SFI
13/3/09

o RU IV
bawel

I am directed to refer to your letter No. RU-IV/Dev./Maha-21/2007 dated 10.3.2007 and its subsequent reminder dated 21.2.2009 on the subject cited and to say that as per section 9(1) of the Delimitation Act, 2002, as amended vide Delimitation (Amendment) Act, 2003, the Delimitation Commission was required to delimit the Parliamentary Constituencies for elections to each State and the Assembly Constituencies of the Legislative Assembly of each State on the basis of census figures as ascertained at the census held in the year, 2001, having regard to the provisions of the Constitution and the Delimitation Act.

As per section 8 of the said Act, the number of seats to be reserved for SCs and STs in the Lok Sabha and Legislative Assembly was to be determined on the basis of the census figures ascertained at the census held in 2001. Further, the constituencies in which the seats were to be reserved for Scheduled Castes were required to be distributed in different parts of the State and located, as far as practicable, in those areas where the proportion of their population to the total was comparatively large. The constituencies, which were reserved for Scheduled Tribes, were required to be located

9/13/09

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in those areas, as far as practicable, where the proportion of their population to the total was the largest.

The principle for determining the total seats to be reserved for SCs in the State Legislative Assembly and Lok Sabha is as follows :-

- i) $(\text{Total SC population} / \text{Total population}) \times \text{Total Assembly seats or total Lok Sabha seats allocated to the State}$ i.e. entitlement of seats (fraction of .50 and above is rounded off to next integer.
- ii) The law provides that the seats to be reserved for SCs shall be distributed in different parts of the State. Since the districts have been taken as the basic unit for distribution of assembly seats and the division of constituencies, the Commission adopted the districts for distribution of SC seats on the basis of the proportion of SC population in each district to the total SC population of the State. Following is the formula to calculate the entitlement of the district for a particular number of seats to be reserved to SCs.
- iii) $\text{SC population of the district} / \text{SC population of the State} \times \text{Total SC seats}$ i.e. entitlement of SC seats in district (fraction of .50 and above is rounded off to next integer)
- iv) Like that of the SC seats, the entitlement of seats for STs shall be determined on the basis of proportion of ST population to the total population in the State. But unlike seats for SCs, the seats to be reserved for STs shall be located on the basis of highest percentage of ST population of the constituencies.

As per the above norms & formula, the number of seats required to be reserved for SCs and STs in the State of Maharashtra, on the basis of 2001 census figures (as published by the Registrar General of India) is as follows: -

	Total	Reserved for	
		SCs	STs
Lok Sabha	48	5	4
Legislative Assembly	288	29	25

Now as per the above calculation, Wardha District had an entitlement of 4 ACs and out of which no ACs having the maximum percentage of SCs/STs were required to be

reserved. The granting of reservation status to the newly delimited constituencies had nothing to do with the earlier status of the ACs/PCs as per the Delimitation Order, 1972.

Further, the criteria for determining SC/ST seats in Assembly & Parliamentary Constituencies is contained in the guidelines evolved by the Delimitation Commission in consultation with all the State Election Commissioners and is available in the Delimitation Commission's website www.delimitation-india.com under the sub title "guidelines" which can be observed by visiting Election Commission's website www.eci.gov.in.

A copy of working paper IV showing Assembly wise population alongwith ST population is enclosed herewith for your reference.

Yours faithfully,



(SUMIT MUKHERJEE)
UNDER SECRETARY

True copy
—/—/—

CRU. SONKUSRE)
Advocate

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MAHARASHTRA

PAPER - 4

ASSEMBLY CONSTITUENCIES AND PERCENTAGE ST POPULATION

S.No.	No & Name of Assembly Constituency	2001 CENSUS POPULATION			
		TOTAL	STs	% of STs	STSeats
1	1. Akkalkuwa (ST)	314241	280275	89.19	1
2	129. Vikramgad (ST)	331531	285180	86.02	2
3	4. Nawapur (ST)	314637	267498	85.02	3
4	117. Kalwan (ST)	310744	246557	79.34	4
5	128. Dahanu (ST)	348482	256150	73.50	5
6	122. Dindori (ST)	361501	228959	63.34	6
7	2. Shahada (ST)	349869	211105	60.34	7
8	41. Melghat (ST)	334972	199882	59.67	8
9	127. Igatpuri (ST)	319095	165964	52.01	9
10	5. Sakri (ST)	327028	168437	51.51	10
11	69. Aheri (ST)	315449	160504	50.88	11
12	216. Akole (ST)	315745	134559	42.62	12
13	131. Boisar (ST)	337089	141172	41.88	13
14	9. Shirpur (ST)	337553	136886	40.55	14
15	67. Armori (ST)	308241	119313	38.71	15
16	135. Shahapur (ST)	312775	116620	37.29	16
17	116. Baglan (ST)	311395	107288	34.45	17
18	130. Palghar (ST)	349546	108214	30.96	18
19	3. Nandurbar (ST)	332962	100696	30.24	19
20	77. Ralegaon (ST)	336202	98546	29.31	20
21	10. Chopda (ST)	351739	96653	27.48	21
22	134. Bhiwandi Rural (ST)	346291	93492	27.00	22
23	66. Amgaon (ST)	305391	82184	26.91	23
24	80. Arni (ST)	359595	96430	26.82	24
25	68. Gadchiroli (ST)	346604	91879	26.51	25
26	83. Kinwat	297412	71982	24.20	
27	76. Wani	340831	81727	23.98	
28	74. Chimur	329908	76792	23.28	
29	70. Rajura	369985	84946	22.96	
30	59. Ramtek	335895	70403	20.96	
31	63. Arjuni Morgaon (SC)	288346	59761	20.73	
32	126. Deolali (SC)	330884	64477	19.49	
33	121. Niphad	324013	62292	19.23	
34	195. Junnar	369806	70966	19.19	
35	75. Warora	317368	60311	19.00	
36	55. Nagpur Central	343957	64660	18.80	
37	120. Sinnar	337605	62177	18.42	
38	191. Pen	320189	58535	18.28	
39	73. Brahmapuri	319995	58470	18.27	
40	189. Karjat	302486	55130	18.23	
41	78. Yavatmal	378994	68876	18.17	
42	6. Dhule Rural	378030	67479	17.85	
43	8. Sindkheda	323581	57090	17.64	
44	118. Chandvad	335177	58299	17.39	
45	72. Ballarpur	364444	63309	17.37	
46	139. Murbad	358303	61506	17.17	
47	192. Alibag	320707	53895	16.81	

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48	14. Jalgaon Rural	340379	56320	16.55
49	11. Raver	352179	57823	16.42
50	93. Kalamnuri	322871	52981	16.41
51	48. Katol	315258	48172	15.28
52	44. Arvi	305812	45310	14.82
53	81. Pusad	327352	46776	14.29
54	196. Ambegaon	318838	45018	14.12
55	115. Malegaon Outer	351420	49119	13.98
56	43. Morshi	327833	45715	13.94
57	82. Umarkhed (SC)	389154	45739	13.49
58	46. Hinganghat	319916	40339	12.61
59	45. Deoli	301255	37461	12.43
60	84. Hadgaon	313278	38805	12.39
61	113. Nandgaon	341903	42295	12.37
62	51. Umred (SC)	356323	44072	12.37
63	50. Hingna	319663	38915	12.17
64	15. Amalner	314454	37720	12.00
65	190. Uran	320216	37001	11.56
66	20 Muktainagar	318656	35885	11.26
67	49. Savner	336318	37769	11.23
68	27. Jalgaon (Jamod)	338680	37772	11.15
69	197. Khed Alandi	343214	38272	11.15
70	119. Yevla	351350	38837	11.05
71	16. Erandol	302944	32428	10.70
72	64. Tirora	277169	29437	10.62
73	90. Deglur (S.C.)	355945	37217	10.46
74	89. Naigaon	333702	34706	10.40
75	60. Tumsar	358464	36755	10.25
76	47. Wardha	309753	31305	10.11
77	85. Bhokar	315270	29785	9.45
78	219. Kopargaon	318315	30010	9.43
79	79. Digras	376143	35276	9.38
80	193. Shrivardhan	304337	28536	9.38
81	123. Nashik East	339249	31291	9.22
82	19. Jamner	325710	29406	9.03
83	133. Vasai	335234	30065	8.97
84	33. Risod	334045	29186	8.74
85	104. Sillod	344928	30136	8.74
86	18. Pachora	325676	27959	8.58
87	31. Akola East	333531	28586	8.57
88	35. Karanja	323672	27633	8.54
89	71. Chandrapur (SC)	369401	31428	8.51
90	62. Sakoll	364550	30583	8.39
91	57. Nagpur North (SC)	347921	28944	8.32
92	54. Nagpur East	332646	27645	8.31
93	17. Chalisgaon	356808	29274	8.20
94	65. Gondiya	329801	25073	7.60
95	28. Akot	331671	24484	7.38
96	56. Nagpur West	339982	25086	7.38
97	61. Bhandara (SC)	413132	30380	7.35
98	223. Rahuri	339750	23996	7.06
99	217. Sangamner	318342	22319	7.01
100	91. Mukhed	318405	22135	6.95
101	42. Achalpur	319424	22163	6.94

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102	39. Teosa	312569	20913	6.69
103	29. Balapur	321818	21319	6.62
104	22. Buldhana	295427	19466	6.59
105	58. Kamthi	352114	23135	6.57
106	105. Kannad	327537	21301	6.50
107	204. Maval	363719	23468	6.45
108	188. Panvel	308195	19544	6.34
109	40. Daryapur (SC)	342936	21168	6.17
110	36. Dhamangaon Railway	342317	20659	6.04
111	220. Shrirampur (SC)	344854	20664	5.99
112	32. Murtijapur (SC)	323779	19072	5.89
113	124. Nashik Central	317828	18697	5.88
114	218. Shirdi	321124	18857	5.87
115	21. Malkapur	314234	17000	5.41
116	94. Hingoli	325334	17203	5.29
117	53. Nagpur South	337378	17792	5.27
118	52. Nagpur South West	350182	17848	5.10
119	125. Nashik West	329406	16667	5.06
120	37. Badnera	308285	15380	4.99
121	194. Mahad	331799	16483	4.97
122	92. Basmath	338955	16714	4.93
123	12. Bhusawal (SC)	325527	16035	4.93
124	221. Nevasa	326698	15720	4.81
125	25. Mehkar (SC)	326025	15362	4.71
126	13. Jalgaon City	368618	16448	4.46
127	224. Parner	352213	15523	4.41
128	112. Vaijapur	317393	13211	4.16
129	263. Dapoli	366056	15090	4.12
130	7. Dhule City	341755	13672	4.00
131	34. Washim (SC)	363105	14168	3.90
132	111. Gangapur	322905	12585	3.90
133	146. Ovala- Majiwada	346696	13155	3.79
134	26. Khamgaon	329337	12481	3.79
135	142. Kalyan East	322814	12067	3.74
136	95. Jintur	373757	13635	3.65
137	103. Bhokardan	321221	11613	3.62
138	23. Chikhli	305866	10846	3.55
139	251. Solapur South	331513	11703	3.53
140	250. Akkalkot	375818	12836	3.42
141	238. Nilanga	350439	11701	3.34
142	38. Amravati	318203	10211	3.21
143	203. Bhore	367160	10714	2.92
144	138. Kalyan West	346641	9850	2.84
145	242. Osmanabad	396756	11069	2.79
146	140. Ambernath (SC)	331252	8974	2.71
147	132. Nalasopara	333193	8944	2.68
148	226. Shrigonda	356809	9514	2.67
149	97. Gangakhed	419190	11104	2.65
150	236. Ahmadpur	356188	8737	2.45
151	88. Loha	306195	7494	2.45
152	198. Shirur	374429	8847	2.36

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153	237. Udgir (SC)	330719	7804	2.36
154	280. Shirol	359179	8333	2.32
155	249. Solapur City Central	366995	8414	2.29
156	252. Pandharpur	347619	7964	2.29
157	205. Chinchwad	336485	7658	2.28
158	30. Akola West	319455	7069	2.21
159	239. AUSA	332400	6997	2.10
160	149. Mumbra- Kalwa	335054	6950	2.07
161	155. Mulund	330195	6817	2.06
162	199. Daund	341388	6773	1.98
163	148. Thane	335749	6523	1.94
164	144. Kalyan Rural	327782	6365	1.94
165	86. Nanded North	318715	6173	1.94
166	256. Wai	379890	7290	1.92
167	147. Kopri-Pachpakhadi	369080	7033	1.91
168	110. Paithan	334581	6372	1.90
169	288. Jat	283950	5244	1.85
170	235. Latur City	363050	6640	1.83
171	99. Partur	309798	5551	1.79
172	202. Purandar	310652	5553	1.79
173	240. Umarga (SC)	351502	6262	1.78
174	100. Ghansawangi	316918	5593	1.76
175	206. Pimpri (S.C.)	345054	6006	1.74
176	207. Bhosari	330933	5737	1.73
177	247. Mohol (SC)	361364	6203	1.72
178	106. Phulambri	325947	5588	1.71
179	234. Latur Rural	347489	5957	1.71
180	87. Nanded South	317337	5299	1.67
181	248. Solapur City North	327079	5361	1.64
182	150. Airoli	345746	5598	1.62
183	101. Jalna	341944	5249	1.54
184	98. Pathri	377081	5597	1.48
185	108. Aurangabad West (SC)	315935	4614	1.46
186	241. Tuljapur	400864	5778	1.44
187	243. Paranda	337464	4748	1.41
188	211. Khadakwasala	325792	4579	1.41
189	229. Majalgaon	343469	4796	1.40
190	141. Ulhasnagar	319455	4418	1.38
191	209. Shivajinagar	352606	4869	1.38
192	96. Parbhani	357687	4874	1.36
193	231. Ashti	364939	4954	1.36
194	222. Shevgaon	359353	4747	1.32
195	151. Belapur	345526	4506	1.30
196	182. Worli	343862	4454	1.30
197	102. Badnapur (SC)	323099	4097	1.27
198	227. Karjat Jamkhed	339890	4189	1.23
199	137. Bhiwandi East	331266	4008	1.21
200	107. Aurangabad Central	303368	3655	1.20
201	158. Jogeshwari East	343938	4142	1.20
202	166. Andheri East	350379	4198	1.20
203	208. Vadgaon Sheri	362372	4289	1.18
204	210. Kothrud	331653	3879	1.17
205	171. Mankhurd Shivaji Nagar	345934	4038	1.17

(55)

206	246. Barshi	340831	3921	1.15
207	154. Magathane	324129	3686	1.14
208	244. Karmala	330488	3711	1.12
209	232. Kaij (SC)	394635	4351	1.10
210	245. Madha	381367	4087	1.07
211	228. Georai	362288	3857	1.06
212	136. Bhiwandi West	332388	3420	1.03
213	153. Dahisar	323194	3269	1.01
214	200. Indapur	348413	3500	1.00
215	162. Malad West	334033	3280	0.98
216	169. Ghatkopar West	353132	3446	0.98
217	109. Aurangabad East	304419	2954	0.97
218	233. Parli	335360	3173	0.95
219	282. Sangli	353353	3235	0.92
220	156. Vikhroli	329512	3015	0.91
221	225. Ahmednagar City	347549	3157	0.91
222	180. Wadala	325338	2940	0.90
223	145. Mira Bhayandar	367477	3304	0.90
224	271. Chandgad	365766	3273	0.89
225	283. Islampur	310069	2771	0.89
226	187. Colaba	355982	3168	0.89
227	179. Sion Koliwada	331999	2949	0.89
228	152. Borivali	327175	2867	0.88
229	262. Satara	375082	3191	0.85
230	230. Beed	360559	3062	0.85
231	157. Bhandup West	314588	2576	0.82
232	161. Charkop	317041	2522	0.80
233	213. Hadapsar	327001	2588	0.79
234	255. Phaltan (SC)	357284	2826	0.79
235	212. Parvati	336326	2660	0.79
236	164. Versova	312417	2374	0.76
237	163. Goregaon	351340	2592	0.74
238	167. Vile Parle	324013	2388	0.74
239	253. Sangole	318278	2342	0.74
240	257. Koregaon	342681	2481	0.72
241	177. Vandre West	337391	2440	0.72
242	160. Kandivali East	324421	2323	0.72
243	170. Ghatkopar East	312472	2168	0.69
244	24. Sindkhed Raja	322911	2229	0.69
245	259. Karad North	335264	2290	0.68
246	254. Malshiras (SC)	368191	2447	0.66
247	201. Baramali	372852	2475	0.66
248	214. Pune Cantonment (S.C)	343207	2240	0.65
249	159. Dindoshi	323979	2099	0.65
250	285. Palus-Kadegaon	290690	1862	0.64
251	173. Chembur	321488	2003	0.62
252	278. Hatkanangle (SC)	379727	2362	0.62
253	168. Chandivali	344794	2091	0.61
254	269. Kudal	269621	1617	0.60
255	265. Chiplun	345103	2014	0.58
256	274. Kolhapur South	347489	2006	0.58
257	268. Kankavli	311805	1800	0.58
258	281. Miraj (SC)	349619	1950	0.56
259	279. Ichalkaranji	329901	1835	0.56
260	143. Dombivali	322479	1776	0.55
261	270. Sawantwadi	287399	1535	0.53
262	261. Patan	329546	1723	0.52

60

263	215. Kasba Peth	330655	1631	0.49
264	165. Andheri West	321097	1529	0.48
265	183. Shivadi	333091	1521	0.46
266	181. Mahim	304905	1284	0.42
267	114. Malegaon Central	332226	1352	0.41
268	175. Kalina	348916	1410	0.40
269	264. Guhagar	326517	1315	0.40
270	186. Mumbadevi	341203	1363	0.40
271	287. Tasgaon - Kavathe Mahankal	329976	1311	0.40
272	176. Vandre East	350475	1231	0.35
273	260. Karad South	338752	1185	0.35
274	266. Ratnagiri	330509	1127	0.34
275	178. Dharavi (SC)	321258	1065	0.33
276	184. Byculla	353686	1140	0.32
277	276. Kolhapur North	320181	979	0.31
278	174. Kurla (SC)	345450	1016	0.29
279	172. Anushakti Nagar	328916	934	0.28
280	272. Radhanagari	376418	1057	0.28
281	258. Man	350495	910	0.26
282	286. Khanapur	337185	830	0.25
283	185. Malabar Hill	326707	782	0.24
284	284. Shirala	328682	652	0.20
285	267. Rajapur	328592	556	0.17
286	273. Kagal	357538	586	0.16
287	277. Shahuwadi	335357	543	0.16
288	275. Karvir	351606	413	0.12

True copy
PSR
C.P.U. SORVK USRE
Advocate

DELIMITATION COMMISSION OF INDIA

Constitutional Provision

81. Composition of the House of the People-

(1) [Subject to the provisions of article 331] the House of the People shall consist of-

- (a) not more than [five hundred and thirty members] chosen by direct election from territorial constituencies in the States, and
- (b) not more than [twenty members] to represent the Union territories, chosen in such manner as Parliament may by law provide.

(2) For the purposes of sub-clause(a) of clause (1).-

- (a) there shall be allotted to each State a number of seats in the House of the People in such manner that the ratio between that number and the population of the State is, so far as practicable, the same for all States; and
- (b) each State shall be divided into territorial constituencies in such manner that the ratio between the population of each constituency and the number of seats allotted to it is, so far as practicable, the same throughout the State:

[Provided that the provisions of sub-clause(a) of this clause shall not be applicable for the purpose of allotment of seats in the House of the People to any State so long as the population of that State does not exceed six millions.]

(3) In this article, the expression "population" means the population as ascertained at the last preceding census of which the relevant figures have been published:

[Provided that the reference in this clause to the last preceding census of which the relevant figures have been published shall, until the relevant figures for the first census taken after the year 2026 have been published, be construed, -

- (i) for the purposes of sub-clause (a) of clause (2) and the provision to that clause, as a reference to the 1971 census; and
- (ii) for the purposes of sub-clause (b) of clause (2) as a reference to the 1991 census.”]

(5) The Commission as well as any group of associate members shall have power to act notwithstanding the temporary absence of a member or associate member or the existence of a vacancy in the Commission or in that or any other group of associate members; and no act or proceeding of the Commission or of any group of associate members shall be invalid or called in question on the ground merely of such temporary absence or of the existence of such vacancy.

(6) The Commission shall be deemed to be a civil court for the purposes of sections 345 and 346 of the Code of Criminal Procedure, 1973.

2 of 1974.

Explanation.-For the purposes of enforcing the attendance of witnesses, the local limits of the jurisdiction of the Commission shall be the limits of the territory of India.

Readjustment
of number of
seats.

8. The Commission shall, having regard to the provisions of articles 81, 170, 330 and 332, and also, in relation to the Union territories, except National Capital Territory of Delhi sections 3 and 39 of the Government of Union Territories Act, 1963 and in relation to the National Capital Territory of Delhi sub-clause (b) of clause (2) of article 239AA, by order, determine.-

20 of 1963.

(a) on the basis of the census figures as ascertained at the census held in the year 1971 and subject to the provisions of section 4, the number of seats in the House of the People to be allocated to each State and determine on the basis of the census figures as ascertained at the census held in the year 1991 the number of seats, if any, to be reserved for the Scheduled Castes and for the Scheduled Tribes of the State; and

(b) on the basis of the census figures as ascertained at the census held in the year 1971 and subject to the provisions of section 4, the total number of seats to be assigned to the Legislative Assembly of each State and determine on the basis of the census figures as ascertained at the census held in the year 1991 the number of seats, if any, to be reserved for the Scheduled Castes and for the Scheduled Tribes of the State;

Provided that the total number of seats assigned to the Legislative Assembly of any State under clause (b) shall be an integral multiple of the number of seats in the House of the People allocated to that State under clause(a).

9.(1) The Commission shall, in the manner herein provided, then, distribute the seats in the House of the People allocated to each State and the seats assigned to the Legislative Assembly of each State as readjusted on the basis of 1971 census to single-member territorial constituencies and delimit them on the basis of the census figures as ascertained, at the census held in the year 1991, having regard to the provisions of the Constitution, the provisions of the Act specified in section 8 and the following provisions, namely:-

as amended.

(a) all constituencies shall, as far as practicable, be geographically compact areas, and in delimiting them regard shall be had to physical features, existing boundaries of administrative units, facilities of communication and public convenience;

(b) every assembly constituency shall be so delimited as to fall wholly within one parliamentary constituency;

(c) constituencies in which seats are reserved for the Scheduled Castes shall be distributed in different parts of the State and located, as far as practicable,

Delimitation of
constituencies.

in those areas where the proportion of their population to the total is comparatively large; and

(d) constituencies in which seats are reserved for the Scheduled Tribes shall, as far as practicable, be located in areas where the proportion of their population to the total is the largest.

(2) The Commission shall-

(a) publish its proposals for the delimitation of constituencies, together with the dissenting proposals, if any, of any associate member who desires publication thereof, in the Gazette of India and in the Official Gazettes of all the States concerned and also in such other manner as it thinks fit;

(b) specify a date on or after which the proposals shall be further considered by it;

(c) consider all objections and suggestions which may have been received by it before the date so specified, and for the purpose of such consideration, hold one or more public sittings at such place or places in each State as it thinks fit; and

(d) thereafter by one or more orders determine-

(i) the delimitation of parliamentary constituencies; and

(ii) the delimitation of assembly constituencies,
of each state.

10. (1) the Commission shall cause each of its orders made under section 8 or section 9 to be published in the Gazette of India and in the Official Gazettes of the States concerned and simultaneously cause such orders to be published at least in two vernacular newspapers and publicize on radio, television and other possible media available to the public and after such publication in the official Gazettes of the States concerned, every District Election Officer shall cause to be affixed, the Gazette version of such orders relating to the area under his jurisdiction, on a conspicuous part of his office for public notice.

(2) Upon publication in the Gazette of India, every such order shall have the force of law and shall not be called in question in any court.

(3) As soon as may be after such publication, every such order shall be laid before the House of the People and the Legislative Assemblies of the State concerned.

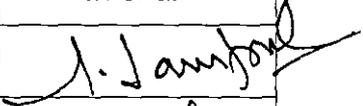
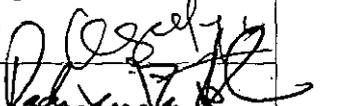
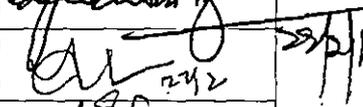
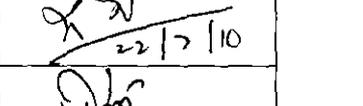
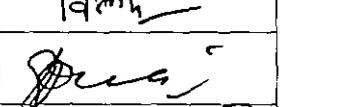
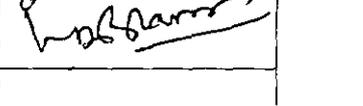
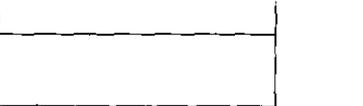
(4) Subject to the provisions of sub-section (5), the readjustment of representation of the several territorial constituencies in the House of the People or in the Legislative Assembly of a State and the delimitation of those constituencies provided for in any such order shall apply in relation to every election to the House or to the Assembly, as the case may be, held after the publication in the Gazette of India of that order and shall so apply in supersession of the provisions relating to such representation and delimitation contained in any other law for the time being in force or any order or notification issued under such law in so far as such representation and delimitation are inconsistent with the provisions of this Act.

(5) Nothing in this section shall affect the representation in the House of the People or in the Legislative Assembly of a State until the dissolution of the House or of the Assembly, as the case may be, existing on the date of publication in the Gazette of India of the final order or orders of the Commission relating to the delimitation of parliamentary constituencies or, as the case may be, of the assembly constituencies of

Publication of
orders and
their date of
operation.

National Commission for Scheduled Tribes

Sub: 18th Meeting of the National Commission for Scheduled Tribes held on
22/02/2010 at 11:00 AM – Attendance

S. No.	Name & Designation	Signature
1.	Shri Maurice Kujur, Hon'ble Vice-Chairman	In chair
2.	Shri Tsering Samphel, Member	
3.	Shri Oris Syiem Myriaw, Member	
4.	Shri R.S. Sirohi, Secretary,	
5.	Shri Aditya Mishra Joint Secretary	
6.	Shri R.C. Durga, Director	 22/2/10
7.	Shri Vinod Aggarwal Director	
8.	Shri R.P. Vasishtah, Dy. Secretary	
9.	Shri K.D. Bhansor, Dy. Director	
10.		
11.		

Note

We have already communicated Commission's recommendation dated 06.11.2009 in the 15th meeting for providing 7.5% reservation to STs in Delhi's educational institutions. See page "2" sir.

Similarly our recommendation should be on the same line consequent to the judgement 04.08.2009 of Hon'ble Supreme Court of India. Hence at page "4" the word "residents of Delhi" should be deleted.

Hence submitted sir, for your Hon'ble approval.

J. Lambhal

25/3/10

Hon'ble Vice-Chairman

Approval

May kindly
All

08/3/10

JL

Alh
8/2

Secretary

The recommendations have to be seen in the context of the proposal received from NHA (migrated SC/STs: inclusion in SC/ST lists) and the proposal placed for consideration in the agenda etc. If necessary, the record can be amended after further discussion in the next meeting of the Commission.

Vice-Chairperson

Agenda etc.
8/3/10

Minutes circulated?

Pl discuss after file.

B
8/3/10

Pl. circ up immediately

Alh
JB

DIRIES

from over lead

Reference observation of Secretary, He directed by Hon'ble VC, already approved minutes may be issued.

With reference to agenda item No. III the decision of that Commission may not be commensurate to some industry for the time being.

Suggestion of Hon'ble member and the observation of the Secretary may be discussed in the next meeting of the Commission.

Noted
09/03/2010
PS to VC

ETIS Meeting No. 63/M/2010
09/03/2010
Manual Review
adv/ncst/2010
09/03/2010

~~9/10 Secretary~~

9/13
9/13

Please keep a copy in file relating to 18th meeting of NCST.
Please keep the original in file relating to MHA prepared for further action. 9/13/10

AD (Comm)



BY
HAND/POST

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

संख्या/ No.- 1/2/10-Coord

दिनांक/ Date: 09/03/2010

To

- 1) Shri Maurice Kujur, Vice-Chairman
- 2) Shri Tsering Samphel, Member
- 3) Shri Oris Syiem Myriaw, Member

Sub: Summary record of the 18th meeting of the National Commission for Scheduled Tribes held on 22/02/2010.

Sir,

I am to refer to the above subject and to say that 18th meeting of the National Commission for Scheduled Tribes was held at 1100 Hrs. on 22/02/2010 in the Conference room of the Commission in Lok Nayak Bhawan New Delhi. The meeting was presided over by Shri Maurice Kujur, Vice-Chairman, National Commission for Scheduled Tribes. A copy of the Summary Record of the meeting is enclosed for information and record.

Yours faithfully,


(Aditya Mishra)
Joint 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 22.03.2010 positively:

- (i) Director (RU-I & RU-II)
- (ii) Director (RU-III & Coord.)
- (iii) Dy. Secretary (Admn.)
- (iv) Dy. Director (RU-IV)
- (v) AD/ RO In-charge-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 Vice-Chairman/ 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.
3. Sr. System Analyst (NIC Cell, NCST) for uploading on the website.


(Director)

NATIONAL COMMISSION FOR SCHEDULED TRIBES

Sub : Summary record of the 18th meeting of the National Commission for Scheduled Tribes held at 11:00 AM on 22/02/2010.

The 18th meeting of the National Commission for Scheduled Tribes was held at 11:00 AM on 22/02/2010 in the Conference room of the Commission in Lok Nayak Bhawan New Delhi. The meeting was presided over by Shri Maurice Kujur, Vice-Chairperson as the post of Chairperson remains vacant. List of participants is enclosed at **ANNEXURE**.

2. There were 5 Agenda Items on the list for discussion and all the Agenda Items were discussed. Summary record of the discussions held in the meeting, item-wise, is given below:

Agenda Item I Guidelines for dealing with cases relating to matters/ complaints received in the Commission.

Secretary, NCST informed the Commission that the guidelines for dealing with various cases/matters received in the Commission were proposed with a view to equipping officials of the Commission to examine and process the matters/ issues and complaints in the right perspective, in a standard fashion and in a time bound manner. Hon'ble Member (OSM) expressed that it was useful to have guidelines but at the same time it may be difficult to follow the guidelines in the absence of requisite staff in the Commission. Hon'ble Vice-Chairperson mentioned that the issue relating to shortage of staff in the Commission had also come up in the earlier meeting of the Commission and it was decided that the matter would be taken up at the level of the Minister through a letter from the Hon'ble Vice-Chairperson. This letter may be sent expeditiously. Hon'ble Member (TS) pointed out that the tribal characteristics mentioned in the guidelines relating to inclusion/ exclusion of ST communities in the list of Scheduled Tribes may also include distinctive forms of apparel worn by them. Secretary, NCST assured that the draft guidelines would be edited/ refined in the light of the accumulated experience since the time they were prepared before dissemination. The Commission desired that edited/ refined guidelines be submitted to the Commission for consideration.

Agenda Item II The Scheduled Castes and Scheduled Tribes (Reservation in posts and services) Bill 2008 as passed by Rajya Sabha.

The Commission was informed that the Scheduled Castes and Scheduled Tribes (Reservation in posts and services) Bill 2008, which was passed by the

Rajya Sabha on 23/12 /2008, is now to be tabled in the Lok Sabha for consideration. The Commission noted that the Bill in its present form, varies in its contents from the earlier draft Reservation Bill, 2004 received from the Department of Personnel and Training for comments of the Commission (furnished in December, 2004). The Commission also noted that views of the Commission have not been sought on the draft Bill, 2008. The, Commission, therefore, desired that the concern of the Commission in this regard may be communicated to the concerned Ministry/ Department; and it be suggested to them that the updated version of the Bill should be referred to this Commission also for comments before it is introduced in the Lok Sabha.

Agenda Item III Grant of reservation to migrant SCs/ STs in civil posts under the Government of NCT of Delhi – Proposal of MHA received vide their letter dated 27.11.2009 for inclusion of all Scheduled Caste & Scheduled Tribe communities in the list of Scheduled Castes and Scheduled Tribes respectively in relation to the NCT of Delhi and all other Union Territories - consequent to the judgment dated 04.08.2009 of Hon'ble Supreme Court of India in Civil Wirt Petition No. 507/2006 titled Sarv Rural & Urban Welfare Society Vs. Union of India.

(i) Secretary, NCST informed the Members that the Government of NCT of Delhi had been following the All India pattern in providing reservation in appointments to Civil Posts under them, irrespective of nativity. Separately, the Government of NCT of Delhi had issued instructions for giving reservation of 1% only to the Scheduled Tribes in the matter of admission to Professional Educational Institutions which are under the control of Government of NCT of Delhi. The National Commission for Scheduled Tribes had taken objection to this step by taking up the matter with the Ministry of Home Affairs. Thereafter, the Government of NCT of Delhi had prepared a draft Bill to provide for reservation for migrated Scheduled Castes, Scheduled Tribes, and OBCs in the matters of admission to Professional Educational Institutions in Delhi, which was discussed in the 15th meeting of the Commission held on 06/11/2009. The Commission had recommended that the reservation for Scheduled Tribes for admission to educational institutions under the control of Govt. of NCT of Delhi should be 7.5% irrespective of the nativity of the Scheduled Tribes in order to provide them due access to the educational facilities of a high order which have been created in the national capital with Central Revenues..

(ii) The Secretary further mentioned that in the meanwhile, the Hon'ble Supreme Court of India in its judgment dated 04/08/2009 in the WP(C) No. 507 of 2006 has differed with the judgment of the three-Judges Bench in the case of S. Pushpa & Ors. and opined in para 40 of its judgment that the Central/ State

Governments "may lay down a policy decision in regard to reservation having regard to provisions under Article 15 & 16 of the Constitution, but such policy cannot violate other Constitutional provisions (Article 341 & 342)." The Hon'ble Court in para 41 of the judgment has observed that "if the members of the SC and ST in other States are to be treated as backward classes for Delhi, intensive studies were required to be made in regard to question whether they would come within the purview of the definition of "Backward Classes" so as to answer the description of socially and educationally backward; and held in para 46 that:

.....we are bound by a Constitution Bench decision. We have referred to Constitution Bench decisions, namely Marri Chandra Shekhar Rao and E.V. Chinniah. Marri Chandra Shekhar Rao, had been followed by this Court in a large number of decisions including three Judges Bench decisions. Pushpa, therefore, could not have ignored either Marri Chandra Shekhar Rao

Following Dayanand (supra), therefore, we are of the opinion that the dicta in Pushpa is an obiter and does not lay down any binding ratio.

(iii) Keeping in view this judgment, the Ministry of Home Affairs has proposed inclusion of the names of the communities of migratory Scheduled Castes and Scheduled Tribes in the lists of Scheduled Castes and Scheduled Tribes of Delhi and other Union Territories notified under Article 341 and Article 342 of the Constitution. The Ministry is also looking at the possibility of a common reservation policy for all UTs in respect of migratory SCs/ Scheduled Tribes.

(iv) The Commission expressed the view that Delhi is a National Capital Territory and a large number of people had migrated to Delhi after independence in 1947. The huge increase in population from 1951 (17.44 Lakhs) to 2001 (137.83 Lakhs) can not be attributed to normal growth only, but also combines the effect of continuous migration of people from other regions in search of opportunity or employment. While no STs have been specified in relation to Delhi, the number of ST migrants from other States who have settled in Delhi, is also not available to indicate possible reservation requirements. The ST migrants may unwittingly face discrimination in the matter of reservation vis-à-vis SC migrants whose communities were also included in the list of SCs specified in relation to Delhi and may have been returned as SC of Delhi in various Census enumerations; and also secured Caste certificates mentioning that they were ordinary residents of Delhi, entitling them to the benefits meant only for the original SC communities of Delhi. The position of Delhi is quite unique as being the National Capital Territory, it has facilities and services created/ supported with Central Funds and Revenues. Therefore, it is quite appropriate that the migrant ST population settled in Delhi

Maurice Kujur

मोरीस कुजुर/MAURICE KUJUR
उपाध्यक्ष/Vice-Chairperson
राष्ट्रीय अनुसूचित जजाति आयोग
National Commission for Scheduled Tribes
भारत सरकार/Govt. of India
नई दिल्ली/New Delhi

should not be discriminated against whether it is a matter of service or admission to educational institutions under the Government of NCT of Delhi

(v) The Commission also expressed the view that, since there are significant differences in the relative backwardness of different tribal communities living in different geographical regions of the country, it will be difficult to prevent marginalization of local tribal communities and monopolization of benefits by more advanced (migrant) communities if a common reservation policy/ order is contemplated for all (disparate) UTs (which are also home to Vulnerable Tribes of Jarawas, Shompens, and Nicobarese etc. in A & N Islands, and all the native tribal inhabitants of Lakshadweep Islands).

(vi) In view of above the Commission recommended as follows:-

- (a) While refraining to comment on the merit of the Hon'ble Supreme Court judgment since Commission does not have any legal expertise, the Commission recommend that a common list of ST communities may not be notified under Article 342 in respect of all UTs including Delhi as this may lead to marginalization of the original tribal inhabitants of the concerned UT beside compromising the sanctity of Article 342.
- (b) Keeping in view the unique status of NCT of Delhi, being the National Capital of the Country and existence of various offices of the Union Government in Delhi and the fact that the employment opportunities and educational facilities of high order have been created in the NCT of Delhi through the use of central revenues, it is desirable to extend the benefit of reservation, to the STs resident in Delhi irrespective of their nativity and period of residence while retaining the reservation level of 7.5% for Scheduled Tribes as admissible at National level.
- (c) A constitutionally valid scheme of reservation may, however, be evolved to extend benefits of reservation to migratory STs living outside their original place of nativity as indicated in para 41 of the judgment of the Hon'ble Supreme Court of India in SLP (C) 24327 of 2005 (WP (C) No. 507 of 2006).

Agenda Item IV Amendment to Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Rules, 1995

- (i) Secretary NCST informed the Commission that the amendment No. (i) to insert Rule 7-A has been proposed for obtaining timely information in respect of the cases of atrocities, especially pertaining to heinous offences. At present, there is no definition of heinous offences in the Indian Penal Code. It is also not mandatory under the Criminal Procedure Code to register an FIR immediately when a complaint is made.
- (ii) The Commission noted that a large number of atrocities against Scheduled Tribes primarily pertain to grabbing of tribal land and crimes against (their) women folk. Therefore, it is advisable to report cases registered under sub-

clause (iii), (v), (xi) or (xii) of sub-section (1) of Section 3 too for monitoring purposes. The Commission also felt that there should be prompt reporting of all such complaints made to the police, without awaiting the registration of an FIR. The report should preferably be sent through the Superintendent of Police, keeping in view the varying responsibility for criminal administration in different regions.

(iii) After detailed deliberations, the Commission recommended that the phrase "whenever FIR was registered under sub-clause (i), (iv) or (v) of sub-section 2 of Section 3, the concerned District Magistrate" of the proposed Rule 7-A should be substituted as "whenever a complaint is made to a police officer regarding an offence punishable under sub-clause (iii), (v), (xi) or (xii) of sub-section (1) of Section 3 or sub-clause (i), (iv) or (v), of sub-section (2) of Section 3, the concerned Superintendent of Police " in amendment at no. (i) relating to insertion of Rule 7A.

(iv) The Commission endorsed the proposed amendments at S.No. (ii), (iii) and (iv) of the proposal with the observation that the added reference in Item 17 pertaining to mischief by fire etc. is probably unnecessary since it is already subsumed (as life imprisonment exceeds 10 years).

Agenda Item V **Writ Petition No. 3528 of 2009 filed by Shri Purushottam Sonkusre Vs Delimitation Commission, New Delhi & Ors. in the High Court of Bombay, Nagpur Bench challenging the list of Assembly constituencies reserved for STs in the Maharashtra Legislative Assembly.**

(i) Secretary, NCST informed that the Commission had received a representation, dated 08-05-2006 from the petitioner regarding reconstitution of Assembly segments of Maharashtra Legislative Assembly under the Delimitation Act, which had been forwarded to the Delimitation (Election) Commission of India for necessary action. In response, the Election Commission sent a list of constituencies of Maharashtra Legislative Assembly to this Commission vide their letter dated 09-03-2009, which was forwarded to the petitioner on 20-03-2009. The petitioner has made a mention of this correspondence in para 16 of Writ Petition; and has opposed to the procedure adopted by the Delimitation Commission in identifying the Assembly Constituencies reserved for the Scheduled Tribes in Maharashtra State Assembly.

(ii) The Secretary further mentioned that the contention of the petitioner in challenging the list of assembly constituencies reserved for STs is not clear. The procedure adopted by the Delimitation Commission seems to be in order because

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the highest proportion of tribal population as well as its absolute number would tantamount to the same in the case of single-member constituencies when they are of uniform size. Besides, the subject matter of the Writ Petition is primarily the concern of the Delimitation Commission and the Ministry of Law and Justice. (The Ministry of Tribal Affairs and the Registrar General of India are also concerned with the issue). The Commission may, therefore, not intervene in the case and leave the matter for decision by the Hon'ble High Court. The Commission agreed with the suggestion made by the Secretary and decided that the Ministry of Tribal Affairs and Ministry of Law and Justice be informed accordingly.

3. The meeting ended with a vote of thanks to the Chair.

Maurice Kujur
मोरीस कुजुर/MAURICE KUJUR
उपाध्यक्ष/Vice-Chairperson
राष्ट्रीय अनुसूचित जनजाति आयोग
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भारत सरकार/Govt. of India
नई दिल्ली/New Delhi

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

National Commission for Scheduled Tribes

Meeting of the Commission held on 22/02/2010 at 11:00 AM in the Conference Room of the Commission- List of participants.

S.No. **Name and Designation**

1. Shri Maurice Kujur, Vice-Chairperson. (In chair)
2. Shri Tsering Samphel, Member
3. Shri Oris Syiem Myriaw, Member
4. Shri R.S. Sirohi, Secretary
5. Shri Aditya Mishra, Joint Secretary
6. Shri R.C. Durga, Director
7. Shri Vinod Aggarwal, Director
8. Shri R.P. Vasishtha, Dy. Secretary
9. Mrs. K.D. Bhansor, Dy. Director

दरती/ डाक द्वारा



NATIONAL COMMISSION FOR SCHEDULED TRIBES

GOVERNMENT OF INDIA

राष्ट्रीय अनुसूचित जनजाति आयोग

भारत सरकार

दिनांक/ Date: 09/03/2010

संख्या/ No.- 1/2/10-समन्वय

प्रति,

1) श्री मीरा कुंवर, उपाध्यक्ष

2) श्री छरिग साकल, सदस्य

3) श्री वरीष शीष मरीयाद, सदस्य

विषय: राष्ट्रीय अनुसूचित जनजाति आयोग की दिनांक 22/02/2010 को हुई 18वीं बैठक का संक्षिप्त

अभिलेख।

महोदय,

मुझे उपर्युक्त विषय का उल्लेख करते हुए यह कहना है कि आयोग की 18वीं बैठक आयोग के सम्मेलन

का 22.02.2010 को प्रातः 11:00 बजे हुई थी। बैठक की अध्यक्षता श्री मीरा कुंवर, उपाध्यक्ष, राष्ट्रीय

अनुसूचित जनजाति द्वारा की गई। बैठक के संक्षिप्त अभिलेख की एक प्रति सूचना एवं अभिलेख हेतु संलग्न है।

भवदीय,

(आदेश निम्न)

संयुक्त सचिव

प्रतिनिधि, 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 22.03.2010 तक अवश्य ही समन्वय एकक को भेज दी जाए।

(i)

निदेशक (आर०यू०-I एवं आर०यू०-II)

(ii)

निदेशक (आर०यू०-III एवं समन्वय एकक)

(iii)

उप सचिव (प्रशासन)

(iv)

उप निदेशक (आर०यू०-IV)

(v)

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

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

1. उपाध्यक्ष के निजी सचिव/सचिव महोदय के प्रधान निजी सचिव/संयुक्त सचिव के निजी सचिव।

2. निदेशक/ सहायक निदेशक/ अनुसंधान अधिकारी, राष्ट्रीय अनुसूचित जनजाति आयोग के भाषा/
 अनुसंधान/ जयपुर/ रायपुर/ रांची/ शिलांग स्थित क्षेत्रीय कार्यालय।

3. वरिष्ठ विरह्य विदेशक (NIC Cell, NCST) आयोग की वेबसाइट पर जोड़ने हेतु।

(निदेशक)



BY
HAND/POST

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

संख्या/ No.- 1/2/10-Coord

दिनांक/ Date: 09/03/2010

To

- 1) Shri Maurice Kujur, Vice-Chairman
- 2) Shri Tsering Samphel, Member
- 3) Shri Oris Syiem Myriaw, Member.

Sub: Summary record of the 18th meeting of the National Commission for Scheduled Tribes held on 22/02/2010.

Sir,

I am to refer to the above subject and to say that 18th meeting of the National Commission for Scheduled Tribes was held at 1100 Hrs. on 22/02/2010 in the Conference room of the Commission in Lok Nayak Bhawan New Delhi. The meeting was presided over by Shri Maurice Kujur, Vice-Chairman, National Commission for Scheduled Tribes. A copy of the Summary Record of the meeting is enclosed for information and record.

Yours faithfully,


(Aditya Mishra)
Joint 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 22.03.2010 positively:

- (i) Director (RU-I & RU-II)
- (ii) Director (RU-III & Coord.)
- (iii) Dy. Secretary (Admn.)
- (iv) Dy. Director (RU-IV)
- (v) AD/ RO In-charge-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 Vice-Chairman/ 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.
3. Sr. System Analyst (NIC Cell, NCST) for uploading on the website.

(Director)

NATIONAL COMMISSION FOR SCHEDULED TRIBES

Sub : Summary record of the 18th meeting of the National Commission for Scheduled Tribes held at 11:00 AM on 22/02/2010.

The 18th meeting of the National Commission for Scheduled Tribes was held at 11:00 AM on 22/02/2010 in the Conference room of the Commission in Lok Nayak Bhawan New Delhi. The meeting was presided over by Shri Maurice Kujur, Vice-Chairperson as the post of Chairperson remains vacant. List of participants is enclosed at **ANNEXURE**.

2. There were 5 Agenda Items on the list for discussion and all the Agenda Items were discussed. Summary record of the discussions held in the meeting, item-wise, is given below:

Agenda Item I Guidelines for dealing with cases relating to matters/ complaints received in the Commission.

Secretary, NCST informed the Commission that the guidelines for dealing with various cases/matters received in the Commission were proposed with a view to equipping officials of the Commission to examine and process the matters/ issues and complaints in the right perspective, in a standard fashion and in a time bound manner. Hon'ble Member (OSM) expressed that it was useful to have guidelines but at the same time it may be difficult to follow the guidelines in the absence of requisite staff in the Commission. Hon'ble Vice-Chairperson mentioned that the issue relating to shortage of staff in the Commission had also come up in the earlier meeting of the Commission and it was decided that the matter would be taken up at the level of the Minister through a letter from the Hon'ble Vice-Chairperson. This letter may be sent expeditiously. Hon'ble Member (TS) pointed out that the tribal characteristics mentioned in the guidelines relating to inclusion/ exclusion of ST communities in the list of Scheduled Tribes may also include distinctive forms of apparel worn by them. Secretary, NCST assured that the draft guidelines would be edited/ refined in the light of the accumulated experience since the time they were prepared before dissemination. The Commission desired that edited/ refined guidelines be submitted to the Commission for consideration.

Agenda Item II The Scheduled Castes and Scheduled Tribes (Reservation in posts and services) Bill 2008 as passed by Rajya Sabha.

The Commission was informed that the Scheduled Castes and Scheduled Tribes (Reservation in posts and services) Bill 2008, which was passed by the

Rajya Sabha on 23/12 /2008, is now to be tabled in the Lok Sabha for consideration. The Commission noted that the Bill in its present form, varies in its contents from the earlier draft Reservation Bill, 2004 received from the Department of Personnel and Training for comments of the Commission (furnished in December, 2004). The Commission also noted that views of the Commission have not been sought on the draft Bill, 2008. The, Commission, therefore, desired that the concern of the Commission in this regard may be communicated to the concerned Ministry/ Department; and it be suggested to them that the updated version of the Bill should be referred to this Commission also for comments before it is introduced in the Lok Sabha.

Agenda Item III Grant of reservation to migrant SCs/ STs in civil posts under the Government of NCT of Delhi – Proposal of MHA received vide their letter dated 27.11.2009 for inclusion of all Scheduled Caste & Scheduled Tribe communities in the list of Scheduled Castes and Scheduled Tribes respectively in relation to the NCT of Delhi and all other Union Territories - consequent to the judgment dated 04.08.2009 of Hon'ble Supreme Court of India in Civil Writ Petition No. 507/2006 titled Sarv Rural & Urban Welfare Society Vs. Union of India.

(i) Secretary, NCST informed the Members that the Government of NCT of Delhi had been following the All India pattern in providing reservation in appointments to Civil Posts under them, irrespective of nativity. Separately, the Government of NCT of Delhi had issued instructions for giving reservation of 1% only to the Scheduled Tribes in the matter of admission to Professional Educational Institutions which are under the control of Government of NCT of Delhi. The National Commission for Scheduled Tribes had taken objection to this step by taking up the matter with the Ministry of Home Affairs. Thereafter, the Government of NCT of Delhi had prepared a draft Bill to provide for reservation for migrated Scheduled Castes, Scheduled Tribes, and OBCs in the matters of admission to Professional Educational Institutions in Delhi, which was discussed in the 15th meeting of the Commission held on 06/11/2009. The Commission had recommended that the reservation for Scheduled Tribes for admission to educational institutions under the control of Govt. of NCT of Delhi should be 7.5% irrespective of the nativity of the Scheduled Tribes in order to provide them due access to the educational facilities of a high order which have been created in the national capital with Central Revenues..

(ii) The Secretary further mentioned that in the meanwhile, the Hon'ble Supreme Court of India in its judgment dated 04/08/2009 in the WP(C) No. 507 of 2006 has differed with the judgment of the three-Judges Bench in the case of S. Pushpa & Ors. and opined in para 40 of its judgment that the Central/ State

Governments "may lay down a policy decision in regard to reservation having regard to provisions under Article 15 & 16 of the Constitution, but such policy cannot violate other Constitutional provisions (Article 341 & 342)." The Hon'ble Court in para 41 of the judgment has observed that "if the members of the SC and ST in other States are to be treated as backward classes for Delhi, intensive studies were required to be made in regard to question whether they would come within the purview of the definition of "Backward Classes" so as to answer the description of socially and educationally backward; and held in para 46 that:

.....we are bound by a Constitution Bench decision. We have referred to Constitution Bench decisions, namely Marri Chandra Shekhar Rao and E.V. Chinniah. Marri Chandra Shekhar Rao, had been followed by this Court in a large number of decisions including three Judges Bench decisions. Pushpa, therefore, could not have ignored either Marri Chandra Shekhar Rao.....

Following Dayanand (supra), therefore, we are of the opinion that the dicta in Pushpa is an obiter and does not lay down any binding ratio.

(iii) Keeping in view this judgment, the Ministry of Home Affairs has proposed inclusion of the names of the communities of migratory Scheduled Castes and Scheduled Tribes in the lists of Scheduled Castes and Scheduled Tribes of Delhi and other Union Territories notified under Article 341 and Article 342 of the Constitution. The Ministry is also looking at the possibility of a common reservation policy for all UTs in respect of migratory SCs/ Scheduled Tribes.

(iv) The Commission expressed the view that Delhi is a National Capital Territory and a large number of people had migrated to Delhi after independence in 1947. The huge increase in population from 1951 (17.44 Lakhs) to 2001 (137.83 Lakhs) can not be attributed to normal growth only, but also combines the effect of continuous migration of people from other regions in search of opportunity or employment. While no STs have been specified in relation to Delhi, the number of ST migrants from other States who have settled in Delhi, is also not available to indicate possible reservation requirements. The ST migrants may unwittingly face discrimination in the matter of reservation vis-à-vis SC migrants whose communities were also included in the list of SCs specified in relation to Delhi and may have been returned as SC of Delhi in various Census enumerations; and also secured Caste certificates mentioning that they were ordinary residents of Delhi, entitling them to the benefits meant only for the original SC communities of Delhi. The position of Delhi is quite unique as being the National Capital Territory, it has facilities and services created/ supported with Central Funds and Revenues. Therefore, it is quite appropriate that the migrant ST population settled in Delhi

should not be discriminated against whether it is a matter of service or admission to educational institutions under the Government of NCT of Delhi

(v) The Commission also expressed the view that, since there are significant differences in the relative backwardness of different tribal communities living in different geographical regions of the country, it will be difficult to prevent marginalization of local tribal communities and monopolization of benefits by more advanced (migrant) communities if a common reservation policy/ order is contemplated for all (disparate) UTs (which are also home to Vulnerable Tribes of Jarawas, Shompens, and Nicobarese etc. in A & N Islands, and all the native tribal inhabitants of Lakshadweep Islands).

(vi) In view of above the Commission recommended as follows:-

- (a) While refraining to comment on the merit of the Hon'ble Supreme Court judgment since Commission does not have any legal expertise, the Commission recommend that a common list of ST communities may not be notified under Article 342 in respect of all UTs including Delhi as this may lead to marginalization of the original tribal inhabitants of the concerned UT beside compromising the sanctity of Article 342.
- (b) Keeping in view the unique status of NCT. of Delhi, being the National Capital of the Country and existence of various offices of the Union Government in Delhi and the fact that the employment opportunities and educational facilities of high order have been created in the NCT of Delhi through the use of central revenues, it is desirable to extend the benefit of reservation, to the STs resident in Delhi irrespective of their nativity and period of residence while retaining the reservation level of 7.5% for Scheduled Tribes as admissible at National level.
- (c) A constitutionally valid scheme of reservation may, however, be evolved to extend benefits of reservation to migratory STs living outside their original place of nativity as indicated in para 41 of the judgment of the Hon'ble Supreme Court of India in SLP (C) 24327 of 2005 (WP (C) No. 507 of 2006).

Agenda Item IV Amendment to Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Rules, 1995.

(i) Secretary NCST informed the Commission that the amendment No. (i) to insert Rule 7-A has been proposed for obtaining timely information in respect of the cases of atrocities, especially pertaining to heinous offences. At present, there is no definition of heinous offences in the Indian Penal Code. It is also not mandatory under the Criminal Procedure Code to register an FIR immediately when a complaint is made.

(ii) The Commission noted that a large number of atrocities against Scheduled Tribes primarily pertain to grabbing of tribal land and crimes against (their) women folk. Therefore, it is advisable to report cases registered under sub-

clause (iii), (v), (xi) or (xii) of sub-section (1) of Section 3 too for monitoring purposes. The Commission also felt that there should be prompt reporting of all such complaints made to the police, without awaiting the registration of an FIR. The report should preferably be sent through the Superintendent of Police, keeping in view the varying responsibility for criminal administration in different regions.

(iii) After detailed deliberations, the Commission recommended that the phrase "whenever FIR was registered under sub-clause (i), (iv) or (v) of sub-section 2 of Section 3, the concerned District Magistrate" of the proposed Rule 7-A should be substituted as "whenever a complaint is made to a police officer regarding an offence punishable under sub-clause (iii), (v), (xi) or (xii) of sub-section (1) of Section 3 or sub-clause (i), (iv) or (v), of sub-section (2) of Section 3, the concerned Superintendent of Police " in amendment at no. (i) relating to insertion of Rule 7A.

(iv) The Commission endorsed the proposed amendments at S.No. (ii), (iii) and (iv) of the proposal with the observation that the added reference in Item 17 pertaining to mischief by fire etc. is probably unnecessary since it is already subsumed (as life imprisonment exceeds 10 years).

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(i) Secretary, NCST informed that the Commission had received a representation, dated 08-05-2006 from the petitioner regarding reconstitution of Assembly segments of Maharashtra Legislative Assembly under the Delimitation Act, which had been forwarded to the Delimitation (Election) Commission of India for necessary action. In response, the Election Commission sent a list of constituencies of Maharashtra Legislative Assembly to this Commission vide their letter dated 09-03-2009, which was forwarded to the petitioner on 20-03-2009. The petitioner has made a mention of this correspondence in para 16 of Writ Petition; and has opposed to the procedure adopted by the Delimitation Commission in identifying the Assembly Constituencies reserved for the Scheduled Tribes in Maharashtra State Assembly.

(ii) The Secretary further mentioned that the contention of the petitioner in challenging the list of assembly constituencies reserved for STs is not clear. The procedure adopted by the Delimitation Commission seems to be in order because

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the highest proportion of tribal population as well as its absolute number would tantamount to the same in the case of single-member constituencies when they are of uniform size. Besides, the subject matter of the Writ Petition is primarily the concern of the Delimitation Commission and the Ministry of Law and Justice. (The Ministry of Tribal Affairs and the Registrar General of India are also concerned with the issue). The Commission may, therefore, not intervene in the case and leave the matter for decision by the Hon'ble High Court. The Commission agreed with the suggestion made by the Secretary and decided that the Ministry of Tribal Affairs and Ministry of Law and Justice be informed accordingly.

3. The meeting ended with a vote of thanks to the Chair.

Maurice Kujur
मोरीस कुजुर/MAURICE KUJUR
उपाध्यक्ष/Vice-Chairperson
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ANNEXURE
(w.r.t. Para 1 of the Summary Record)

National Commission for Scheduled Tribes

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