

MINUTES OF THE 5TH MEETING OF THE NATIONAL COMMISSION FOR SCHEDULED TRIBES HELD ON 15-06-2005 AT 11 A.M. IN THE OFFICE CHAMBER OF CHAIRMAN

The Fifth meeting of the National Commission for Scheduled Tribes (NCST) was held on 15-06-2005 under the Chairmanship of Shri Kunwar Singh, Chairperson, NCST in his office chamber. The Meeting was attended by Chairman and all the three Members of the Commission. From the Secretariat's side, it was attended by Secretary, JS, Director (ESDW), US(Admn.), Deputy Director (ESDW), AD(SSW), AD(APCR) & RO(SSW). The details of the discussions and the decisions taken [agenda item-wise] are give in paragraphs which follows.

Agenda item No. 1

Confirmation of the Minutes of the fourth meeting of National Commission for Scheduled Tribes held on 1st December, 2004.

2. The Commission approved the minutes of the fourth meeting of the NCST held on 1st December, 2004.

Agenda item No. 2

Action on the decisions taken in the fourth meeting of the National Commission for Scheduled Tribes held on 1st December, 2004

3. The Commission was apprised of the following action taken position on the decisions of the fourth meeting of the Commission held on 1st December, 2004.:-

(i) The Commission was informed that in reply to the letter of this Commission, the Planning Commission had furnished the information regarding allocation of funds by the various States / UTs under TSP during the last 10 years from 1992-1993 to 2001 - 2002 and that they (Planning Commission) had advised to collect the requisite information in regard to utilization and diversion of TSP funds, from the Ministry of Tribal Affairs which was the nodal Ministry for implementation and monitoring the TSP strategy. The Commission also noted that the Ministry of Tribal Affairs had been requested to furnish the required information with respect to utilization and diversion of funds under TSP for the last 10 years and that information was awaited from them.

[Action : ESDW]

(ii) (a) The Commission was informed that the Maharashtra model regarding implementation of TSP had been obtained through the State Office of NCSC at Pune. It was noted that under this model, the Planning

Department communicated a plan ceiling to the Tribal Development Department for the formulation of the TSP and the responsibility for finalizing the TSP, within that ceiling, rested with the Tribal Development Department and not with the Administrative Department as was the practice in vogue upto 1992-1993 and that the outlays for different schemes were now to be finally decided by the Tribal Development Department, keeping in view the actual benefits accruing to the tribal people.

[Action: ESDW]

- (b) As regards UP model for implementation of TSP, it was noted that the model in question was not relevant, as the number of STs in UP was very small (less than 1%) and therefore efforts were to be made to obtain the details of the model of TSP under implementation in Uttaranchal. The Commission was further informed that Secretary, Uttaranchal had already been requested to send the requisite information.
- [Action: ESDW]
- (iii) It was noted that the information from the State Governments regarding allocation and utilization of funds under Article 275 (1) to TSP had been received from the Ministry of Tribal Affairs. A copy of the reply was also placed with the agenda for perusal of the Commission. The Commission desired that the reply received might be examined and put up on the file.
- [Action: ESDW]
- (iv) JS, NCST informed the Commission that a copy of the reply from Air India Ltd. dated 10 / 13 June, 2005 had been received. It was noted that the Air India had clarified that the advertisements issued during the year 2004 for certain posts did stipulate the reservation applicable for SCs/STs/OBCs which were presently 15% 7.5% and 27% respectively. It was further stated that Air India Ltd., had been implementing the reservation policy in toto in compliance with the Government's instructions. The Commission desired that the percentage of STs in various posts and services be examined and submitted for perusal of the Commission.
- [Action: SSW]
- (v) The Commission was informed that as there were no Scheduled Tribes in the State of Haryana, it was not necessary to pursue with them for sending a report regarding reservation in promotion in State services and it was accordingly decided to drop this item.
- [Action: SSW]
- (vi) On the question of implementation of reservation instructions for STs in Central Universities, the Commission noted that Secretary, UGC and Registrars of all the 17 Central Universities as well as the deemed Universities had been requested on 24-05-2005 to expedite the requisite information on implementation of reservation instructions and that the Secretary, UGC and Registrars of 17 Central Universities had been reminded

on 9th June, 2005. The Commission also noted that the Secretary, UGC had also been requested to come along with the requisite information to discuss the matter with the Secretary, NCST on 13-05-2005. However, Secretary, UGC did not turn up on that date. The Commission desired that urgent follow up action be taken to ascertain that GOI policy was implemented by various Universities including for current academic session [Action : SSW]

- (vii) On the issue of monitoring of the implementation status of the various service safeguards for members of the Scheduled Tribes and Schemes / Programmes for their socio-economic development, the Commission noted that :
- (a) A Questionnaire for monitoring the implementation status of reservation instructions for STs, as also of schemes for their economic development, had been prepared and was being sent to the Central Ministries / Departments to fill it up and send the same to the Commission.
 - (b) The Commission approved the proposal to call the concerned officers from the respective Ministries / Departments in the Commission, have atleast two sittings with them in a month and to complete the review of two or three Ministries in each sitting.
 - (c) The Questionnaire for the States too had been prepared and was being sent to the State Governments advising them to fill it up and send the same back to the Commission to enable it to decide about the visit of Chairman / Member, NCST to that State and discuss the implementation position of development schemes and the instructions relating to the reservation in services. The Commission desired that a copy of Questionnaire for the States might be sent to Chairman and Members requesting them to suggest changes, if any, in its structure.
 - (d) A copy of the States' Questionnaire was also being sent to the Regional Offices of the Commission requesting them to arrange a discussion between the concerned State Government and the Chairman / Members of the Commission, whenever the latter visited the State Headquarters. [Action: SSW]
- (viii) The Ministry of Tribal Affairs had been requested to take appropriate action on the demands from various quarters for introducing reservation in private sector. [Action : SSW]
- (ix) DoPT had expressed their inability to take any action on the issue of recognition of employees' Associations on the ground that Unions were usually formed according to the labour class of the country. In view of the

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5 DoPT's comments, it was decided to drop this item from the agenda of the
6 Commission. [Action: SSW]

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8 (x) A D.O. letter had been sent on 09-06-2005 to the Director General,
9 Employment and Training, Ministry of Labour requesting him to furnish the
10 state-wise data on unemployed youth in relation to Scheduled Tribes as on
31-03-2005 or as on 31-03-2004 in case the desired information as on 31-03-
2005 was not available with him. [Action: SSW]

(xi)(a) In the last meeting, the Commission had noted that the adequate number of
ST candidates were not available for B-Pharma, D-Pharma and other
courses from the Delhi category and as a result ST seats meant for Delhi
category candidates remained vacant as the same was not offered to ST
candidates from non-Delhi category. As desired by the Commission,
University of Delhi were requested to make arrangement to allow the inter-
change of ST candidates between Delhi and non-Delhi category, where
sufficient number of candidates in Delhi category were not available.

(b) The Commission was informed that the University of Delhi (Faculty of
Science) vide its letter dated 10 / 11 - 06-2005 had stated that the
admission in B.Pharma and D.Pharma courses should be made as per the
policy of admission of University of Delhi and Delhi Government. It was
noted that the University of Delhi had not provided the details of their
policy of admission and the instructions of Delhi Government. It was further
stated by the University of Delhi that it was having only one College of
Pharmacy which imparted education in Pharmacy courses and that the College
of Pharmacy was a college of Government of NCT of Delhi and further that
as per the Delhi Government policy, 80% seats were reserved for the
students of Delhi and 15% for outside Delhi region students. It was further
clarified by the Delhi University that there was a separate reservation for
Delhi / non-Delhi students including Scheduled Tribes of Delhi and non-Delhi
Scheduled Tribes and that in case no ST students was available, the vacant
seat was filled from SC student.

(c) The Commission desired that the Govt. of NCT, Delhi may be requested to
enlighten the Commission urgently whether the policy of Government of NCT
of Delhi was different from that of the Government of India and to
apprise the Commission of the policy guidelines made by it for admission to
the educational institutions. [Action: SSW]

(xii) In the last meeting, the Commission had desired that the representations
received from individuals / associations for inclusion in and exclusion from
the list of Scheduled Tribes should be sent to the concerned State
Governments under intimation to the petitioners / associations for taking
necessary action and send their recommendations to the Commission. The
Commission was informed that as per the procedure laid down by the Ministry

of Social Justice and Empowerment, the representations received from the individuals / associations were being sent to the Ministry of Tribal Affairs for taking necessary action to call for the comments / recommendations of the concerned State Government and the Registrar General of India. It was further stated that as per these guidelines, the Ministry of Tribal Affairs was required to refer the matter to the Commission for its views / comments on receipt of the comments from the State Governments and RGI, in case there was no difference between the State Government and RGI on the proposed inclusion or exclusion. A copy of the guidelines was also placed before the Commission for its perusal.

(xiii)(A) It was decided in the last meeting of the Commission that suitable training programmes should be organized for police personnel for creating awareness among the law enforcement agencies regarding the application of the various provisions of SCs and STs (POA) Act, 1989. The Commission was informed that :

- (i) Chief Secretaries of all the States/UTs had been requested on 10-05-2005 to organize the appropriate training programmes for creating awareness about the implementation of SCs and STs (POA) Act, 1989. A copy of this letter was also endorsed to Director Generals / Inspector Generals of Police of the States / UTs for taking similar action at their end.
- (ii) A d.o. letter to Director Generals of Police and Inspector Generals of Police had been sent on 08-06-2005 for taking early action to arrange the training programmes.
- (iii) An interim reply had been received from Delhi Police stating that necessary instructions had been issued to the Delhi Police Training College and all the DCPs of Delhi.
- (iv) A copy each of the pamphlets captioned "Know your Rights and Duties" and "Some Frequently Asked Questions on the SCs and STs (POA) Act, 1989" had been sent to the Regional Offices requesting them to take necessary action to translate the pamphlets in the regional languages of the States under their jurisdiction, and that action had also been initiated to get these pamphlets translated in Hindi and print sufficient number of copies for distribution among the members of the SCs and STs.

(B) It was decided by the Commission that

- (i) Director Generals (Prosecution) of all the States and UTs might also be addressed to organize training programmes / seminars for the Special

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Public Prosecutors appointed and designated under the SCs and STs (POA) Act, 1989.

(ii) It would not be appropriate to undertake a special study on rape of ST girls and women in Madhya Pradesh having regard to the large number of such crimes in that State. Instead, the Commission might explore the possibilities of undertaking a socio-economic study of Scheduled Tribes including atrocities in respect of the entire country through a professional agency. It was decided that a proposal alongwith financial estimates might be obtained from Indian Institute of Public Administration, New Delhi, University of Shillong, Tribal Research Institutes, Delhi School of Social Work , Tata Institute of Social Sciences and 4-5 Universities in Tribal States. The Commission desired that the proposal received from these agencies might be examined and a decision taken to assign this study to one of them depending upon the viability of the proposal and also the financial estimates furnished by them. It was indicated that once a decision in this regard was taken to go ahead with the proposed study, the Ministry of Tribal Affairs would be the requested to make available the requisite funds for the purpose direct to the selected agency.

[Action: Atrocity Wing]

(xiv) On the issue of expanding the terms of reference of the Commission by the Ministry of Tribal Affairs vide its letter dated 29-11-2004 by assigning 8 additional duties. (which was discussed in the last meeting of the Commission), the Commission was apprised of the following action taken position in this regard:

- (a) Chief Secretaries of all the States and UTs had been requested to apprise this Commission of specific measures taken by them with respect to all the 8 areas / points to enable this Commission to decide as to what further measures were needed to be taken and that the requisite information from most of the States are still awaited. It was decided that a d.o. reminder might be sent to the Chief Secretaries of all the States/UTs.
- (b) The Ministry of Tribal Affairs had been requested in January, 2005 to indicate whether they had taken into account the provisions of Clause (5) of Article 338 A of the Constitution while allotting the additional work to the Commission which mentions the duties of the Commission which includes "to discharge such other functions in relation to the protection, welfare and development and enhancement of the Scheduled Tribes as the President may, subject to the provision of any law made by the Parliament, by rule, specify".
- (c) The Ministry of Tribal Affairs vide their letter dated 17-02-2005 had advised the Commission to discharge the additional items of work

with the help of the existing staff and also to amend their Rules of Procedure to include the additional items of work

(d) The Ministry of Tribal Affairs were again requested on 15-04-2005 to clarify whether the allotment of additional duties was in terms of the above mentioned provisions of Article 338 A. The Ministry was also requested to issue appropriate notification in respect of the additional duties in case there were of the view that action taken by them was in accordance with the above cited constitutional provisions. The Commission noted that no reply had been received from the Ministry of Tribal Affairs.

(e) The Ministry of Law & Justice (Department of Legal Affairs) were requested by this Commission to enlighten with their advice on whether the action of the Ministry of Tribal Affairs in allotting the additional duties was in conformity with the provisions of the sub- clause (f) of Clause 5 of Article 338 A.

(f) The Department of Legal Affairs vide their note dated 11-05-2005 desired that the file might be referred to them through the concerned administrative Ministry and accordingly the file of the Commission had been sent to the Ministry of Tribal Affairs for referring to Department of Legal affairs. **[Action: ESDW]**

(xv) A d.o. letter had been sent to the Chief Secretaries of all the States requesting them to extend full cooperation and courtesy to the Members of the Commission whenever they visited the States in connection with the monitoring of the implementation of the schemes for the development of the Scheduled Tribes. This action was in the context of a report given by the Member(BS) that the Chief Secretary, Karnataka had expressed its inability to meet him on the ground of pre-occupations. The Commission noted that action taken report from some of the States had been received. It was desired that the remaining states might be reminded. A view was expressed by all the Members that the Chief Secretaries of the States should make it convenient to attend the State level meeting with them (i.e. Members of the Commission). **[Action: ESDW]**

(xvi)(A) On the issue of reservation for members of Scheduled Tribes in the post and services of the Government of NCT of Delhi, the Commission noted the following action taken position :

(i) A copy of the judgment of the High Court of Delhi had been obtained from the Registrar, as desired by the Commission in its last meeting.

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(ii) The Ministry of Home Affairs had sent a copy of the LPA filed by the Union of India in the High Court of Delhi against its order dated 5 July, 2004, in reply to Commission's letter dated 06-01-2005.

(iii) A copy of the judgment dated 11-02-2005 of a three judge bench of the Supreme Court of India in Civil Appeal No. 6-7 of 1998 in Pushpa & Others Vs Sivachanmugavalu & Others was sent to the Ministry of Home Affairs requesting them to file a supplementary affidavit / application with reference to the LPA in the light of the ruling given by the Supreme Court in this judgment. The Supreme Court in this judgment had inter-alia held that the UT of Pondicherry having adopted the policy of the Central Government, no legal infirmity could be ascribed in the policy regarding reservation in posts for the SCs/STs candidates irrespective of their State of origin.

(iv) On reference from MHA, the Department of Legal Affairs had advised them (i.e. MHA) that the law declared by the Supreme Court in its judgment dated 11-02-2005 applied to the Union Territory of Delhi also. The advice of the Ministry of Law and Justice was communicated by the MHA to the Secretary (Services), Government of NCT of Delhi.

(B) The Commission desired that the following action might be taken on an urgent basis:-

(i) MHA might be requested to inform this Commission whether they had filed a supplementary affidavit in the High Court of Delhi with reference to LPA already filed by them in that Court against its single bench judgment dated 05-07-2004. [Action:SSW]

(ii) Govt. of NCT, Delhi might be requested to take urgent action in the light of Supreme Court judgment and clarification given by MHA by its letter dated 1.6.05. [Action: SSW]

(xvii) As desired by the Commission in the last meeting, a small Questionnaire for monitoring of the schemes /programmes being implemented at the block/district levels was prepared and placed before the Commission. The Commission approved the Questionnaire. As desired, a copy of the Questionnaire has been sent to the Members for their information and necessary action. [Action:ESDW]

(xviii) MD, TRIFED and MD, National Scheduled Tribes Finance Development Corporation (NSTFDC) made presentations before the full Commission on 4.2.2005 about the schemes being implemented by them for the welfare of Scheduled Tribes. During the discussions it was suggested that the Corporation should consider providing concessions to ST victims of atrocity in the sanction of loans by providing relaxed eligibility criteria. The Corporation have taken follow

up action on the suggestion and suitably informed their State Channelising Agencies (SCAs) to accord priority to the ST victims while extending financial assistance under NSTFDC-assisted schemes. The Commission desired that a copy of the communication sent by the Corporation to SCAs may be obtained and placed before the Commission for its perusal. [Action: Atrocity Wing]

- (xix) The District Magistrate and Collector, Thanzavur district, Tamil Nadu had been requested on 6.5.2005 to furnish a detailed report about the number of bonded labourers identified, released and rehabilitated during the last three years alongwith the steps taken to ensure payment of minimum wages to the workers engaged in Rice Mills located in Thanzavur district. The Commission was also informed that an interim reply had been received from DM, Thanjavur that the requisite information was being collected. DM and Collector Thanzavur had been reminded on 8.6.2005 to send the information at the earliest. It was decided that Chairman and/or Members of the Commission would visit the district Thanzavur to assess the magnitude of the problems of the bonded labourers with respect to Scheduled Tribes and to suggest wage and means to eliminate them. [Action: Atrocity Wing]

Agenda Item No.3

General points raised by Member (BS) regarding shortage of manpower, setting up of new offices of the Commission in the various States, work progress report of all the wings of the Commission etc.

4. The gist of the discussions with respect to the 8 points mentioned by Member (BS) are as follows:-
- (i) **Shortage of manpower:-** A statement of vacant posts at the Hqrs. at New Delhi, Joint Cadre posts (at the Hqrs. and the State Offices) and in respect of posts belonging to General Central Service, Group 'C'- Ministerial for State Offices of the Commission was placed before the Commission for its perusal. It was explained that:
- (a) In respect of the posts of Director, Dy. Director and Asstt. Director, the Cadre Controlling Authority was the Ministry of Social Justice & Empowerment and they have to initiate action to fill up the vacancies in these posts in accordance with the Recruitment Rules of the respective posts.
- (b) Secretary suggested that all posts earmarked to NCST and which were used to be filled up by the erstwhile NCSCST, before its bifurcation into NCSC and NCST be recruited/filled by NCST and separate seniority lists be maintained by NCST. The Commission agreed with the suggestion and desired that necessary action might be taken in this regard. [Action: Admn. Wing]

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(c) A list of important issues on administrative matters alongwith the file numbers which had been referred to the Ministry of Tribal Affairs and were pending with them might be prepared and given to Chairman for discussion with the Minister of Tribal Affairs .
[Action: Admn. Wing]

- (ii) **Publicity about setting up of NCST:-** The Commission desired that necessary action may be taken to publicize about the creation of a separate Commission for Scheduled Tribes. It was also decided that the Commission may write to all the Chief Secretaries to undertake publicity of the various schemes and programmes for the welfare of Scheduled Tribes as also be protective measures taken by them to prevent atrocities on STs through Gram Panchayats .
- (iii) **Work progress in all the wings of the Commission:-** A statement of pending files/cases and of receipts as on 31 May, 2005 was placed before the Commission for its perusal. The Commission desired that vigorous steps needed to be taken to reduce the pendency of files/cases and receipts. The Commission also observed that it was equally necessary to ensure that all the receipts/petitions were placed on the file and referred to the concerned agency for parawise comments to enable the Commission to take a view at an early date.
[Action: Admn. Wing]
- (iv) **Delimitation of Parliamentary Constituencies and State Assembly Constituencies:-** Member (BS) stated that delimitation process was going on for various States as well as Parliamentary constituencies. He observed that the delimitation Commission should consider the population of the Scheduled Tribes included in the list of STs included in the Constitution (Scheduled Tribes) Order, 1950 as amended in the year 2002. The Commission desired that we might take up the matter with the Delimitation Commission and request them to take into account the population of STs in the various States on the basis of the Constitution (Scheduled Tribes) Order, 1950 as amended in 2002 for the purpose of delimitation of the Parliamentary and State Assembly constituencies. [Action: ESDW]
- (v) **Special recruitment drive:-** It was noted that the Deptt. of Personnel and Training had issued necessary instructions on 5 August, 2004 to all the Ministries/Deptts. of Govt. of India to launch special recruitment drive to fill up backlog vacancies reserved for Scheduled Tribes, as also for Scheduled Castes. As the relevant file at the time of the meeting of the Commission could not be made available, it could not be possible for JS, NCST to apprise the Commission of the action taken by it to monitor the status of progress to fill up the reserved backlog vacancies particularly meant for STs. The Commission expressed unhappiness, and desired that all the Ministries/Deptts. might be requested immediately to apprise the Commission of the action taken by them in this regard in pursuance of the O.M. of DoPT dated 5 August, 2004 (referred to above).
[Action: SSW]

(vi) **Additional work assign to the Commission:-** The action taken in this regard has been given in para 3(xiv). [Action: ESDW]

(vii) **New website for NCST:-** The Commission desired that this matter may be discussed with NIC and necessary action initiated at the earliest for launching the website. [Action: Admn. Wing]

(viii) **Addressing a letter to the Registrar of Supreme Court:-** Member (BS) suggested that we might write to Registrar of the Supreme Court to get information regarding the land related disputes which were long pending and also about the pending cases relating to issue of false community certificates. This matter was discussed at length and a view was expressed by Secretary, NCST that it would not be appropriate to write to the Registrar of the Supreme Court as it could invite the adverse notice of the Supreme Court. It was decided that the Commission might write to all State Govts. and UT Administrations requesting them to indicate whether they would help the Commission in getting the requisite information.

[Action: ESDW & SSW]

(ix) **Mechanism for interaction with print and electronic media :-** It was decided that the Commission might publicize through press releases and TV reports about such cases which had been successfully settled by the concerned agency on account of the intervention of the Commission either through hearings in the Commission by calling the senior officers/executive before the Commission or through intensive correspondence with them. [Action: SSW, ESDW & Atrocity Wing]

Agenda Item No.4

Any other item with the permission of the Chair

5. It was suggested that the Commission may procure a movie/digital camera to cover important issues concerning the economic, social and educational development of Scheduled Tribes

The meeting ended with a vote of thanks to the Chair