

BY HAND/SPEEDPOST



**No.1/6/10-Coord.
Government of India
National Commission for Scheduled Tribes**

**6th Floor, 'B' Wing,
Loknayak Bhawan,
Khan Market,
New Delhi-110003**

Dated: 01-10-2010

To


- 1) Shri Maurice Kujur, Vice-Chairperson
- 2) Shri Oris Syiem Myriaw, Member
- 3) Smt. K. Kamala Kumari, Member
- 4) Shri Raghuvendra Singh Sirohi, Secretary

Subject: Summary record of the 21st Meeting of the Commission to be held at 11.00 AM on 21-09-2010.

Sir/Madam,

I am to refer to the above subject and to say that the 21st meeting of the National Commission for Scheduled Tribes was held at 11.00AM on 21-09-2010 in the in the Conference Room of the Commission. The meeting was presided over by Shri Maurice Kujur, Acting Chairperson. 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 15th October, 2010 positively:

- (i) Director (RU-I & RU-II)
- (ii) Director (Admn.)
- (iii) Dy. Director (RU-III & RU-IV)
- (iv) AD/RO in-charge – RU-I/RU-II/RU-III/RU-IV/Coord./US(Admn.)/SO(Admn.)/AD(OL).

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

1. PS to Vice-Chairperson/PPS to Secretary/PS to Joint Secretary.
2. Director/Assistant Director/Research Officer in Regional Offices of NCST at Bhopal, Bhubaneswar, Jaipur, Raipur, Ranchi and Shillong.
3. Senior System Analyst (NIC Cell, NCST) for uploading on the website.

National Commission for Scheduled Tribes

Subject: Summary record of the 21st meeting of the NCST held on 21-09-2010.

The 21st meeting of the NCST was held at 11.00hrs. on 21/09/2010 in the Conference Room of the Commission in Loknayak Bhawan New Delhi and was presided over by Shri Maurice Kujur, Hon'ble Vice-Chairperson, NCST. List of participants is enclosed at Annexure. There were four Agenda Items for discussion in the meeting. All the Agenda Items were discussed in detail.

2. The decisions taken and action points that emerged out of the discussions held in the meeting are given below:

Agenda Item I	Guidelines for dealing with cases relating to matters/complaints received in the Commission
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The Secretary, NCST emphasized the need to formulate guidelines for dealing with cases relating to matters / complaints received in the Commission. He also mentioned that the draft guidelines circulated earlier on 11/11/2009 were required to be updated/edited before issue. The Commission agreed, in principle, to adopt standard guidelines in order to have transparency and streamlining the procedures. The Commission further authorized the Secretary, NCST to finalise the guidelines after necessary modifications.

Agenda Item II	Views on the Mines and Minerals (Development and Regulation) Bill, 2010.
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The Secretary, NCST, informed that it was understood from media reports that the Ministry of Mines was preparing a new Mines and Minerals (Development and Regulation) Bill, 2010 (MMDRB) to replace its earlier version of 1957. He emphasized that as mining affects tribals in large measure, particularly their livelihood, settlements, environment and culture, certain important provisions concerning these areas, as under, need to be adequately addressed in the proposed new Bill:

Maurice Kujur

मोरीस कुजुर/MAURICE KUJUR
उपाध्यक्ष/Vice-Chairperson
राष्ट्रीय अनुसूचित जात आयोग
National Commission for Scheduled Tribes

- (i) Indian land laws, in general, do not confer ownership rights on the tenure holders, though tenures are held in perpetuity (subject to conditions) besides being heritable and transferable. Ownership is generally vested in the State (except in NE) which also retains the right to sub-soil resources. Exploitation of mineral resources by the Govt. is generally through grant of mining leases awarded with the consent of the land rights holders, but with no provision for grant of substitute land, profit-sharing & alternative vocations for loss of livelihood. These features are perceived as counter-intuitive and grossly inequitable by tribal communities, who nurture memories of ancestral ownership for generations preceding the imposition of current land laws.
- (ii) Land is the primary means of production and represents the greater asset in the tribal society. The expropriation of tribal lands, whether by collision or by ill-informed consent, is the cause of widespread impoverishment and latent resentment in tribal areas. As per the Judgement of the Supreme Court in SLP(C) No. 17080-81/95, in Scheduled areas, minerals are to be exploited by tribals themselves with financial assistance of the State, or the State itself. If mineral extraction is authorized in such areas by private entities for techno-economic reasons, the Govt. should be willing to shoulder vicarious responsibility for ensuring habitat and livelihood security for affected tribals.
- (iii) In order to identify the gamut of repercussions on tribal habitat, population and livelihood, a comprehensive SIA should be conducted by a competent agency before awarding the lease for mining of any mineral in Scheduled Areas, in consultation with Gram Sabha and District Councils and forest rights holders in case of mining leases in forest areas. Comprehensive impact assessment, appropriate compensation, suitable R&R practices and efficacious restoration of habitat should form an important aspect of the proposed National Sustainable Development Framework, along with explicit guidelines for rehabilitation and resettlement of displaced / project-affected persons.
- (iv) As, mineral extraction is generally destructive of soil surface, it may be more helpful if damage compensation, or a part thereof, is paid at the outset to supplement livelihood security / change efforts. To ensure livelihood security to tribals, the Govt. must ensure alternative land in case they will be substantially deprived of the use of their holdings since it is one of the principal beneficiaries of mineral extraction through royalty payment. Besides,

free skill training, etc. the mining enterprise must ensure that at least one person of each tribal household is given a suitable regular job in the mining project. The compensation and source of livelihood should be adequate to assure living standards comparable with the surrounding community, or even better.

- (v) Besides annual compensation in lieu of land surface rights, future (and sometimes windfall) earnings from mining activity should also be shared with land rights holders in reasonable measure. The draft Bill provides 26 % (sweat) equity to the land rights holders, which has created apprehensions amongst the industry. Moreover, it may not assure minimum regular income to the land losers. Redesigned sweat equity including arrangements to pay a sum equal to royalty to the land rights holders for the duration of mineral extraction and redemption of equity holdings by the lessee to purchase lifelong annuity payments after mining operations have ceased in a particular location may be more useful for affected land rights holders.
- (vi) Obligations/responsibilities of the lessee towards the project-affected/displaced persons should be specifically delineated under the lease. R & R plan and Mine closure plans should be linked to the Mining Plan, so that R&R activities are satisfactorily complete before the lessee ceases operations in a specified area. A standard rehabilitation procedure should be drawn and incorporated in the MMDRB, 2010 for the displaced tribals and the same should be made applicable to diversion of forest land. All forest rights must be settled as per The Scheduled Tribes and other Traditional Forest dwellers (Recognition of Forest Rights) Act, 2006 before grant of lease; and, these must not be resumed/diverted except in the case of emergencies or strategic necessity, in which case equivalent forest land should be allotted with similar rights besides other compensation admissible.
- (vii) MMDR legislation should also create a meaningful CSR model incorporating a significant part of retained profits, comparable with the returns provided to shareholders, and a participative mechanism to monitor its implementation. Socio-economic initiatives should be taken by the mining enterprise as per the requirements of the local displaced/ affected people.

Maurice Kujur

2. The Secretary, NCST, apprised the Commission that it was understood that the Draft MMDRB, 2010 had been referred to the Group of Ministers (GOM) for consideration. The Commission agreed with the concerns expressed regarding the draft bill, and decided to forward the views, as mentioned above, to the Hon'ble Prime Minister for the consideration of the GOM. A copy of the proposed communication may also be forwarded to the Minister of Mines.

Agenda	Transfer Policy for the officers/staff of NCST.
Item III	

The Secretary, NCST apprised that the employees of the Commission can be broadly divided into two categories, e.g. Secretarial staff/officers and the Officers/staff belonging to the joint cadre of Ministry of Social Justice & Empowerment, National Commission for Scheduled Castes and National Commission for Scheduled Tribes. The Secretarial employees at the Hqrs. of the Commission belong to the Central Secretariat Service (CSS), Central Secretariat Stenographers Service (CSSS) and Central Secretariat Clerical Service (CSCS) cadres which are controlled by the Ministry of Social Justice & Empowerment. The Secretarial staff in the Regional offices of NCST belongs to the common cadre of NCST and NCSC, presently being managed by NCSC.

2. The Secretary, NCST explained the need of having a Transfer Policy for the officers/staff of the Commission for the sake of transparency and to avoid any sort of discrimination in the matter of transfer and postings. The posting and transfer of the Secretarial staff belonging to CSS, CSSS and CSCS cadres is governed by the Ministry of Social Justice & Empowerment as per the instructions issued by DoPT from time to time. It was therefore proposed to lay down a Transfer Policy for the officers/staff of the Commission belonging to the Joint cadre at the Hqrs. and Regional Offices and the Secretarial staff of Regional Offices. The main feature of the proposed Transfer Policy will be that the Group A Officers (Directors, Deputy Directors and Assistant Directors) and Group B Officers (Research Officers, Senior Investigators and Investigators) of the joint cadre and the Office Superintendents (Group B post in the Regional Offices of NCST) would be liable for transfer to the Hqrs./other Regional Offices on promotion or on completion of 8 years of continuous service in the same capacity or in different capacities at a particular station.

मोरीस कुजुर/MAURICE KUJUR

उपाध्यक्ष/Vice-Chairperson
राष्ट्रीय अनुसूचित जगजाति आयोग
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भारत सरकार/Govt. of India
नई दिल्ली/New Delhi

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3. Member (OSM) emphasized that the Commission was facing acute shortage of manpower and the present strength of officers as well as staff was much below than the sanctioned strength. While agreeing to the need to have a transfer policy, he emphasized that it was necessary to consider administrative exigencies also, while effecting transfers. After detailed discussion, the Commission agreed to the need to formulating a well laid down transfer policy making an officer liable for transfer after a continuous period of 10 years instead of 8 years.

4. The Commission approved the following Transfer Policy for its officers/staff:-

- (a) As far as possible, groups C and D employees should not be transferred, except on promotion and non-availability of higher post at the station of working and for administrative reasons. This should, however, be subject to maintenance of efficiency, discipline in the interest of the organisation.
- (b) The Group A Officers (Directors, Deputy Directors and Assistant Directors) and Group B Officers (Research Officers, Senior Investigators and Investigators) of the joint cadre and the Office Superintendents (Group B post in the Regional Offices of NCST) would be liable for transfer to the Hqrs./other Regional Offices on promotion or on completion of 10 years of continuous service, in the same capacity or in different capacities, at a particular station.
- (c) In the entire service career, each Group A and Group B officer/staff of the joint cadre will serve at the Commission's Hqrs. for a period of at least 3 years.
- (d) Each Group A and Group B officer/staff (including the Office Superintendent in Regional Offices) will be liable to be posted in the North-Eastern Region for a period of two years in the entire service career.
- (e) Officers and staff retiring within three years may be considered for posting to the stations of their choice.

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मोरीस कुजुर/MAURICE KUJUR

उपाध्यक्ष/Vice-Chairperson

राष्ट्रीय अनुसूचित जनजाति आयोग

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- (f) Deputationists selected for posting at a particular station should not normally be transferred to other station during their normal deputation tenure.
- (g) As far as possible, and within the constraints of administrative feasibility, the husband and wife should be posted at the same station taking into account the guidelines in this respect issued by DoPT from time to time.
- (h) The rotational transfers under this policy should, as far as possible, be made towards the end of academic session so that the education of the children of the Officers/staff, is not adversely affected.

Agenda	Outline of Annual Report 2009-10. Action Plan
Item IV	

The Secretary, NCST explained the outline of the Annual Report for the year 2009-10. He also proposed inclusion of a Chapter on Drinking Water facilities in Scheduled Tribe Areas, as an alternative to the Chapter on NREGA Scheme and proposed inclusion of any one of these chapters in the Annual Report for which material/data of significance concerning Scheduled Tribes could be obtained from the concerned Ministries/Departments. The suggested framework of the report was endorsed by the Commission.

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

National Commission for Scheduled Tribes

Meeting of the Commission held on 21-09-2010 in the Conference Room of the Commission.

Sl. No.	Name and Designation
1.	Shri Maurice Kujur, Vice-Chairperson
2.	Shri Oris Sylem Myriaw, Member
3.	Smt. K. Kamala Kumari, Member
4.	Shri R.S. Sirohi, Secretary
5.	Shri Aditya Mishra, Joint Secretary
6.	Shri Vinod Aggarwal, Director
7.	Shri R.P. Vasishtha, Dy. Secretary
8.	Shri Suresh Chandra Tamta, US
9.	Shri S.P. Meena, AD (Coord.)

(In the Chair)