



दस्ती/ डाक द्वारा

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

(अनुसूचित जनजातियों को दिए गए अधिकारों और सुरक्षाओं के उल्लंघन से संबंधित सभी मामलों का अन्वेषण और अनुवीक्षण करने के लिए संविधान के अनुच्छेद 338क के अधीन स्थापित एक संवैधानिक आयोग)

संख्या/ No.- 1/5/10-समन्वय

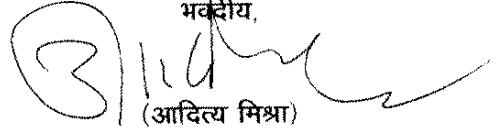
दिनांक/ Date: 29/06/2010

प्रति,

- 1) श्री मोरीस कुजूर, उपाध्यक्ष
- 2) श्री वरीस सीयम मारीयाव, सदस्य
- 3) श्री रघुवेन्द्र सिंह सिराही

विषय: राष्ट्रीय अनुसूचित जनजाति आयोग की दिनांक 11 जून, 2010 को हुई 19वीं बैठक का संक्षिप्त अभिलेख।
महोदय,

मुझे उपर्युक्त विषय का उल्लेख करते हुए यह कहना है कि आयोग की 20वीं बैठक आयोग के सम्मेलन कक्ष में दिनांक 11 जून, 2010 को प्रातः 11:00 बजे हुई थी। बैठक की अध्यक्षता श्री मोरीस कुजूर, उपाध्यक्ष, राष्ट्रीय अनुसूचित जनजाति द्वारा की गई। बैठक के संक्षिप्त अभिलेख की एक प्रति सूचना एवं अभिलेख हेतु संलग्न है।

भवदीय,

(आदित्य मिश्रा)
संयुक्त सचिव

प्रतिलिपि, बैठक के संक्षिप्त अभिलेख की एक प्रति सहित, निम्नलिखित अधिकारियों को इस अनुरोध के साथ अग्रेषित कि बैठक में लिए गए निर्णयों पर की गई कार्रवाई के संबंध में जानकारी प्रत्येक संबंधित एकक/ कार्यालय द्वारा दिनांक 15 जुलाई, 2010 तक अवश्य ही समन्वय एकक को भेज दी जाए।

- (i) निदेशक (आर0यू0-I एवं आर0यू0-II)
- (ii) निदेशक (आर0यू0-III एवं समन्वय एकक)
- (iii) उप सचिव (प्रशासन)
- (iv) उप निदेशक (आर0यू0-IV)
- (v) सहायक निदेशक/अनुसंधान अधिकारी प्रभारी - आर0यू0-I/ आर0यू0-II/ आर0यू0-III/ आर0यू0-IV/ समन्वय/ अनुभाग अधिकारी (प्रशासन)/ सहायक निदेशक (राजभाषा)।

प्रतिलिपि, बैठक के संक्षिप्त अभिलेख की एक प्रति सहित, सूचनार्थ अग्रेषित:

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 भोपाल/ भुवनेश्वर/ जयपुर/ रायपुर/ रांची/ शिलांग स्थित क्षेत्रीय कार्यालय।
3. वरिष्ठ सिस्टम विश्लेषक (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

(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.- 1/5/10-Coord

दिनांक/ Date: 29/06/2010

To

- 1) Shri Maurice Kujur, Vice-Chairman
- 2) Shri Oris Syiem Myriaw, Member
- 3) Shri Raghuvendra Singh Sirohi, Secretary

Sub: Summary record of the 20th meeting of the National Commission for Scheduled Tribes held on 11th June, 2010.

Sir,

I am to refer to the above subject and to say that 20th meeting of the National Commission for Scheduled Tribes was held at 1100 Hrs. on 11th June, 2010 in the Conference room of the Commission at 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 15th July, 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 20th meeting of the National Commission for Scheduled Tribes held on 11/06/2010.

The 20th meeting of the National Commission for Scheduled Tribes was held at 11:00 hrs. on 11/06/2010 in the Conference room of the Commission in Lok Nayak Bhawan New Delhi and was presided over by Shri Maurice Kujur, Hon'ble Vice-Chairperson, National Commission for Scheduled Tribes. 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. Agenda Items relating to **Land Acquisition (Amendment) Bill, 2007** and **Rehabilitation and Resettlement Bill, 2007** were taken up first since suggestions made in the Agenda Note on these Items were also part of the Chapter 3 on Rehabilitation and Resettlement of Displaced Tribals and therefore outcome of the discussion on these items would help finalise Chapter 3 of the 4th Report.

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

Agenda Item I To consider and approve the revised draft of the 4th Report of the National Commission for Scheduled Tribes for the period 2008-09.

3. There are 9 Chapters in the Report as mentioned below:

- 1) Organisational Set up and Functioning of the Commission
- 2) Service Safeguards
- 3) Rehabilitation and Resettlement of displaced tribals
- 4) Scheduled Tribes and Forest Rights
- 5) Scheduled Tribe Certificates-Issues
- 6) Atrocities on Scheduled Tribes
- 7) Case Studies
- 8) Consultation on Policy Related Issues
- 9) Summary of Recommendations

4. The Commission discussed all the Chapters and expressed satisfaction that the suggestions made in respect of each Chapter in the last meeting of the Commission have been suitably incorporated in the revised draft. The Commission, however, observed that the Report needed editorial corrections and resetting of the formats of each Chapter in the Report. The Commission authorized the Secretary, National Commission for Scheduled Tribes to incorporate consequential refinements/ modifications to Chapter 3 as

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

approved by the Commission w.r.t. Agenda Item III & IV and make necessary editorial corrections in all the Chapters of the Report and submit the final Report to the Hon'ble Vice-Chairperson, alongwith the forwarding letter for submission of the Report to the President of India.

Agenda Proposal for inclusion of 'MEDARA' community as a synonyms of 'MEDA'
Item II ST of Karnataka – reconsideration

5. The Commission was informed that the Ministry of Tribal Affairs has sought clear view of the Commission about inclusion of 'MEDARA' community as a synonym of 'MEDA' community of Karnataka State. The Commission re-iterated its earlier decision to recommend inclusion of 'MEDARA' community as a synonym of 'MEDA' ST of Karnataka

Agenda Land Acquisition (Amendment) Bill, 2007
Item III

and

Agenda Rehabilitation and Resettlement Bill, 2007
Item IV

6. Secretary, NCST stated that normative definition/ implementation of rehabilitation and resettlement measures through law was a crying need in the country. The Secretary explained in detail the provisions/ processes embedded in the two draft Bills i.e. Land Acquisition (Amendment) Bill, 2007 and Rehabilitation and Resettlement Bill, 2007; and indicated that though both the Bills have since lapsed, the same have been placed before the Commission for formulating the Commission's views to be communicated to the concerned Ministry for consideration while re-introducing the Bill in Parliament. The Secretary, National Commission for Scheduled Tribes highlighted that though both the processes were inter-dependent, critical event-relationships appeared to have been overlooked in the Bills, especially with regard to commencement of the rehabilitation programme and its completion, e.g. linkage of (a) SIA (Social Impact Assessment) with the Enquiry into objections/ purpose of acquisition, clearance of (R&R) expert committee and the agreement with the Companies as per Sec 41 of the Act, (b) Full payment of compensation and adequate rehabilitation with actual displacement/ possession of land etc. Secretary, National Commission for Scheduled Tribes emphasized that it was necessary to harmonize key stages of the processes involved to ensure successful implementation of both Bills in letter as well as spirit, as proposed in the flow diagram circulated (as ANNEXURE 3.VII of the draft Chapter 3 of the Annual Report for 2008-09).

7. Secretary, NCST stated that the Land Acquisition Act was overwhelmingly weighted in favour of the Government, even at the expense of the genuine concerns of

land owners, as is evident from the provisions relating to urgency, computation of market value and inordinately long time limits for the determination/ payment of compensation etc. Since it vests land free of all encumbrances in a country where title documents did not exist, convenience of capital financing seems to have made compulsory acquisition as the preferred mode of mobilizing land for corporate industrial ventures in recent years, instigating frequent resort to this expropriatory law and inciting widespread resentment among tribals. Secretary, National Commission for Scheduled Tribes emphasized that considering the involuntary nature of the transaction, only limited rights of usage for the intended purpose should be acquired through land acquisition (as in a lease), especially in the case of ancestral tribal lands. In this connection, Secretary, National Commission for Scheduled Tribes mentioned that this fundamental change of approach was necessary to facilitate continued profit-sharing from alternative usage of land in future e.g. in case of mining projects, besides land rent a sum equal to royalty be paid on behalf of the land owners into the fund proposed to be constituted under Cl.22 for the duration of mineral extraction; and land returned to the owners thereafter or future earnings from the land shared if non-agricultural use is considered in another form.

8 Secretary, National Commission for Scheduled Tribes emphasized that as mentioned in para 7 of the Agenda Note, the definition of public purpose was very wide covering all sorts of infrastructure projects, which may not necessarily serve public interest. Under the Public Private Partnership (PPP), surrogate acquisition by the Government on behalf of industries/ developers, etc. has assumed threatening dimension in recent times, because larger extents of land, than required, are being commandeered as a substitute for capital mobilization by the State. In these circumstances, Secretary, National Commission for Scheduled Tribes suggested that the definition of public purpose should preferably be restricted for acquisitions of land for re-development, as in the British law and State owned/ managed institutions only.

9 To minimize resort to involuntary acquisition and limit deprivation of tribal land, Secretary, National Commission for Scheduled Tribes suggested that a rigorous process to be followed by any requiring body seeking involuntary acquisition of land should be inserted into the Bill. The provision should, inter-alia, require that the body should justify the minimum total area required for the project to establish the need for acquisition, before any purchase of land is contracted. This land requirement should be made known through public hearings before tribal land transfers are permitted by concerned

Maurice Kujur

मोरीस कुजुर/MAURICE K. J.
उपाध्यक्ष/Vice-Chairperson
राष्ट्रीय अनुसूचित जनजाति आयोग
National Commission for Scheduled Tribes
भारत सरकार/Govt. of India
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authorities, respecting the same considerations which would govern determination of public purpose.

10 Referring to the inordinate delays in payment witnessed in the case of Mapithel Dam (Manipur), Secretary, National Commission for Scheduled Tribes suggested that besides limiting the time taken by the land acquisition process, there should be other safeguards to reduce the monetary/ hardship costs to land owners. The entire process should invariably be completed within 5 years (or started afresh if possession has been taken in advance). Advance possession should invariably be accompanied by advance payment also. In the event of delay in payment of compensation upto three years after taking possession, besides interest payable @15%, a penal interest of similar order should also be paid; and a new award as per prevailing market rate should be made in case payment is delayed beyond 5 years.

11. Referring to the Rehabilitation and Resettlement Bill 2007, Secretary, NCST suggested that in order to avoid impoverishment of tribals through land alienation, it was necessary to extend the scope of this legislation to voluntary land transfers or changes in land use of agricultural/ forest lands resulting in displacement. Also, to avoid dereliction/ fragmentation of responsibility, the onus of resettlement should squarely be placed on the displacers, who should be required to do all which is deemed necessary as per the laws in force, under the supervision of the agencies appointed by the State. Further these initial efforts should be supplemented by corporate bodies in future through Corporate Social Responsibility endeavor, by allocating a significant part of retained profit comparable with the returns provided to the shareholders.

12. After detailed deliberations on the Amendment Bills, the Commission agreed to the above suggestions and approved the comments on the Bill as proposed in the Annexure to the Agenda Note, with appropriate modifications as suggested above. In view of above, the Commission also approved corresponding refinements in Chapter 3 on Resettlement and Rehabilitation of Displaced Tribals. The views of the Commission may also be appropriately communicated to the Ministry of Rural Development, Ministry of Tribal Affairs, Ministry of Mining and Ministry of Environment and Forests for taking suitable action.

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

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

National Commission for Scheduled Tribes

Meeting of the Commission held on 11/06/2010 in the Conference Room of the Commission- List of participants.

S.No. **Name and Designation**

1. Shri Maurice Kujur, Vice-Chairperson
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 R.P. Vasishtha, Dy. Secretary
8. Smt. K.D. Bhansor, Deputy Director
9. Shri N.K. Kaushik, Assistant Director

(In chair)