

## NATIONAL COMMISSION FOR SCHEDULED TRIBES

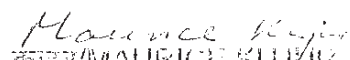
**Sub : Summary record of the 19th meeting of the National Commission for Scheduled Tribes held on 06/05/2010 and 07/05/2010.**

The 19th meeting of the National Commission for Scheduled Tribes was held at 11:30 hrs. on 06/05/2010 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. The Agenda of the meeting was to consider the first draft of the 4th Report of the Commission for the year 2008-09. Draft Chapters had been circulated separately. As the discussions on all the Chapters of the draft Report could not be completed on 06/05/2010, the Commission met again on 07/05/2010 to complete the discussion. List of participants is enclosed at **ANNEXURE**.

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 the draft Chapters of 4th Report of the NCST for the period 2008-09.

Chapter No.	Name of the Chapter
1	<p><b>Organisational Set up and Functioning of the Commission</b></p> <p>Details of the cases/ Files mentioned in Annexure I and II may be rechecked and information about composition of the Commission during the year 2008-09 may be added in para 1.3 of the Chapter.</p>
2	<p><b>Planning and Development for Scheduled Tribes</b></p> <p>This Chapter was discussed on 06/05/2010. The Secretary, NCST informed the Commission that the information about implementation of Tribal Sub-Plan during first 3 years of the 11th Five Year Plan was called from the State Governments, Central Ministries, Planning Commission and the Ministry of Tribal Affairs for incorporating in this Chapter. Planning Commission as well as Ministry of Tribal Affairs has not furnished the requisite information. Response is also not encouraging in respect of the States and Central Ministries/ Departments. It was, therefore decided that</p> <p>(i) for the present this Chapter may be kept in abeyance and after updating the material, this Chapter may be included in the next Annual Report of the Commission.</p> <p>(ii) the material of the draft Chapter may be converted into Discussion Paper and the same may be discussed in a meeting with the Member</p>

  
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(PC), Advisor (PC), and Secretary, Ministry of Tribal Affairs.

(iii) a meeting may also be held with the Secretaries of the TW Department of the States which have not responded.

### 3 Service Safeguards

The Chapter includes the measures taken by various authorities with regard to implementation of the policy regarding reservation for STs in services and posts under various Departments/ Organisations. The Secretary, NCST mentioned that the representation of the STs, both in the teaching as well as in the non-teaching staff, in Jamia Milia Islamia University had been consistently poor. Further, in respect of Aligarh Muslim University the representation of STs in teaching as well as in the non-teaching staff is nil. A meeting was, therefore, planned to be held shortly with these Universities as well as with the UGC and the Ministry of HRD to ascertain the reasons of lack of representation of STs in these Universities. In this connection, the Secretary mentioned that it was necessary to seek reasons and clarification from the Ministry of HRD and UGC regarding exemption from reservation for STs in respect of the Institutions having minority status. The contents of the Chapter would be updated as per the outcome of the meeting.

The Chapter also includes information about the proposals received in the Commission during the period of the Report from various Ministries/ Departments regarding de-reservation of various categories of posts reserved for STs. It was decided that the latest status of each proposal should also be reported. Members were of the view that the dereservation in promotion may also be banned and a workable solution for solving the problem of shortfall of STs in various categories of posts may be suggested in the Chapter.

### 4 Relief and Rehabilitation of displaced tribals

Secretary, NCST mentioned that in the recent times, due to liberalization, globalization, industrialization and economic growth, a number of industries, in addition to various multipurpose hydro power projects were coming up in the country. These industrial units and hydro power projects require land in large quantity. Tribals are traditional occupants of land resource in the country. Such projects are resulting in large scale displacement of people, mostly tribals. In this connection, Secretary also mentioned that two important Bills viz; Land Acquisition (Amendment) Bill, 2007 and the Rehabilitation and Resettlement Bill, 2007 were presented in the Lok Sabha regarding which the NCST has not been consulted. While the Bills may have lapsed, however, considering the importance of the issue in relation to the tribals, it is proposed to include comments on various provisions of the Bills in the Chapter.

The Commission made following observations for appropriately reflecting in the Chapter:

- (i) There should be a consistency in provisions of Resettlement and Rehabilitation Acts of various Ministries/ States/ UTs. At present, the focus of existing resettlement and rehabilitation Acts of various

State Govts and the Ministries is on providing compensation, whereas in case of displacement of tribals, they are deprived of their livelihood, social binding, traditional customs and society, emotional and social attachment with the land, forest rights, etc. Therefore, the resettlement and rehabilitation Act should invariably account for these aspects with their related impacts.

- (ii) In case land is acquired for a project and the project is abandoned or the intended land use is changed, the land should be returned to its original owner without insisting repayment of compensation.
- (iii) It should be ensured that RR Plan should encompass facilities / infrastructure resulting in a better rehabilitation than earlier one.
- (iv) All out efforts should be made to avoid acquisition resulting in displacement or at least to minimize displacement in case it is unavoidable.
- (v) Tribals should be provided land in lieu of the acquired land.
- (vi) In case of displacement from forest villages, tribals should be resettled in forests only.
- (vii) Each State should have its own RR policy on the lines of the NRRP and the NTP with special attention to the local problems.
- (viii) In case land is acquired for a development project, its benefit i.e. the public purpose it serves, and the loss it causes to the displaced persons, should be accounted for. As a matter of principle, no development project should be commissioned at the cost of poor tribals.
- (ix) NCST may proffer detailed comments on the LA/ R&R Bills to the concerned Ministry/ MTA so that these concerns are also incorporated into the proposed legislation at an appropriate juncture.

#### 5. **Scheduled Tribes and Forest Rights**

This Chapter was discussed on 07/05/2010. After the discussion it was decided that the following points may be highlighted in the Chapter:

- (i) Reasons for large-scale rejection of the claims for Forest Rights may be ascertained from the State Governments and mentioned.
- (ii) The Scheduled Tribes and Other Forest Dwellers (Recognition of Forest Rights) Act, 2006 provides for certain conditions for diversion of the forest land under certain conditions, but the Act does not mention about rehabilitation of the tribals displaced due to diversion of the land for other uses.

#### 6 **Scheduled Tribes and Caste Certificates – Issues**

This Chapter was discussed at length on 06/05/2010. The following points need to be attended/ revised/ highlighted

- (i) A copy of the instructions issued by the Government in the year 1999 for adopting the criteria for identifying the communities as

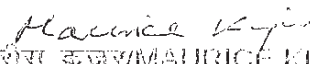
Scheduled Tribe may also be enclosed and the contents of the para 6.14 may be revised accordingly.

- (ii) Para 6.16 under the sub-title **Synonyms and Sub-Tribes** mentions about Supreme Court's ruling in the case of Bhaiya Ram Munda Vs. Anirudh Patar. The decision held by the Court may also be mentioned in the Report.
- (iii) Para 6.24 under the sub-title **Competent Authorities to amend the lists of Scheduled Tribes and issue clarifications** mentions about certain directions issued by Government of Bihar and Madhya Pradesh. Copies of these directions, if available, may be annexed and the contents of the para may be revised accordingly.
- (iv) [Member (OSM) informed that] Various authorities/ NGOs other than the Revenue authorities are stated to have been authorized to issue the caste certificates. This may be got confirmed and if it is found true, a suitable comment may be added in para 6.25 of the Chapter.
- (v) The suggestions about content of the format of the caste certificate may be revised so that the format is easy to understand and fill correct and capable of computerized record keeping in future. Therefore, relevant paras relating to the format may be revised accordingly.
- (vi) Emphasis may also be laid on the procedure for issuing the caste certificate on the basis of certificate already issued to any of the family member.
- (vii) All children studying in the Schools should be given benefit on the basis of certificate of the father. Steps may also be initiated to issue certificate in the name of the child at the School stage itself so that he/ she doesn't find difficulty in availing the benefits admissible to the Scheduled Tribes after leaving the School for higher education, employment or such other activity.

## 7 Atrocities on Scheduled Tribes

The Secretary, NCST mentioned that the draft Chapter included special features of the SCs and STs (PoA) Act, 1989, procedure adopted by the Commission in dealing with atrocity related cases, analysis of data compiled by NCST on atrocities and also comments on the amendment to the existing Act and Rules proposed by the MSJE.

Secretary mentioned that analysis of the cases received in the Commission has also been included in the Report. He emphasized that the timeliness and the quality of investigation was a matter of concern in most of the cases. There was an imperative need to sensitize Police Personnel in every State/ UT about the importance of effective implementation of the SCs and STs (PoA) Act, 1989. He also proposed that the details of frequency of holding of the State Level Vigilance and Monitoring Committees, in various schemes wherever available, may also be indicated in the Chapter, to reflect a proper assessment of their effective

  
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working in implementation of the SCs and STs (PoA) Act, 1989.

Secretary, NCST further mentioned that the feedback received from examination of the atrocity related cases in the Commission was being shared with the concerned State Govts. to identify corrective mechanisms for effective implementation of the SCs and STs (PoA) Act, 1989. In this connection, meetings have been held with the concerned DGPs and Secretaries of the concerned Deptts. of the Andhra Pradesh, Tamil Nadu, Rajasthan and Chhattisgarh. Further meetings with the State Govts. of Madhya Pradesh, Jharkhand, Orissa and Government of NCT of Delhi are proposed to be held shortly. Based on the position/ feedback emerged from the discussion held in these meetings, the draft Chapter will be modified with appropriate recommendations on various issues.

## 8 Case studies

The Secretary, National Commission for Scheduled Tribes mentioned that a few successful cases for the year 2008-09 have been included in the Report. These include the cases handled by the Hqrs. as well as by the Regional Offices. The information relating to each case may be updated and presented correctly.

## 9 Consultation on Policy Related Issues

The Secretary, NCST mentioned that the Commission has been communicating its views on various policy related issues which fall in following categories:

- (i) Proposals received from the Central and the State Governments/UT Administrations pursuant to Clause 9 of Article 338A of the Constitution
- (ii) Suo-moto recommendations by the Commission on various tribal issues mostly contained in the reports which are submitted to the President in terms of Clause 5(d) of Article 338A.
- (iii) Submissions, made in Court cases in which the Commission is one of the Respondent

During the year 2008-09, the Commission communicated its views on several policy related issues with reference to the above, which have been included in the draft Report with the action taken by the concerned Ministry/ Deptt. wherever available. In this connection, Secretary, NCST also mentioned that a reference was made at the level of the Chairperson to seek the position regarding action taken by the concerned Ministries/ Deptts on various policy related issues. However, details of the action taken were not communicated by majority of the Ministries/ Deptts. The position in this regard has been accordingly reflected in the draft Report.

## 10 Summary of Recommendations

The Recommendations contained in various Chapters of the Report are summarized in this Chapter. Therefore, this Chapter will be prepared after approval of the main 9 Chapters of the Report.

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

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