



No.1/09/2019-Coord.
Government of India
National Commission for Scheduled Tribes

6th Floor, 'B' Wing, Lok Nayak Bhawan,
Khan Market, New Delhi -110003
Dated: 18th September, 2019

To,

1. Shri Nand Kumar Sai, Hon'ble Chairperson
2. Shri Hari Krishna Damor, Hon'ble Member
3. Shri Harshadbhai Chunilal Vasava, Hon'ble Member
4. Smt. Maya Chintamn Ivnate, Hon'ble Member

Subject: Summary Record of discussions of 118th Meeting of National Commission for Scheduled Tribes (NCST) held on 27.08.2019 at 12:00 P.M.

Sir/Madam,

I am directed to refer to the above subject and to say that 118th meeting of the National Commission for Scheduled Tribes was held on 27.08.2019 at 12:00 P.M. in the Conference Room of NCST at Lok Nayak Bhawan, New Delhi. The Meeting was presided over by Shri Nand Kumar Sai, Hon'ble Chairperson, National Commission for Scheduled Tribes. A copy of the Summary Record of discussions of meeting is enclosed for information and record.

Yours faithfully,

(S.P. Meena)

Assistant Director

Copy for necessary action, a copy of the Summary Record of discussions of 118th meeting of NCST is enclosed. The action taken report in the matter may be intimated to Coord. Section by 30-09-2019.

- (i) Director
- (ii) Assistant Director (RU-I, Estt.&OL)
- (iii) Assistant Director (RU-II & Coord)
- (iii) Assistant Director (RU-III & Admn)
- (iv) Research Officer (RU-IV)

Copy for information of the Summary Record of discussion of 119th Meeting of NCST:

1. PS to Hon'ble Chairman, NCST
2. PA to Hon'ble Member(HKD), NCST
3. PS to Hon'ble Member(HCV), NCST
4. PS to Hon'ble Member(MCI), NCST
5. Sr.PPS to Secretary, NCST
6. PA to Joint Secretary, NCST
7. Secretary, MoTA, Shastri Bhawan, New Delhi.
8. Director/Assistant Director/Research Officer in Regional Office of NCST at Bhopal/Bhubaneshwar/Jaipur/ Raipur/ Ranchi/Shillong
9. NIC, NCST for uploading on the website.



National Commission for Scheduled Tribes
Minutes of the 118th Meeting held on 27-8-2019

राष्ट्रीय अनुसूचित जनजाति आयोग (एन.सी.एस.टी) की 118 वीं बैठक में हुई चर्चा का कार्यवृत्त

(फाईल सं. 1/9/2019-समन्वय)

दिनांक 27.08..2019

समय : 12.00 बजे

स्थान : सम्मलेन कक्ष, राष्ट्रीय अनुसूचित जनजाति आयोग, छठा तल, लोकनायक भवन,
नई दिल्ली-110003.

अध्यक्षता : श्री नन्द कुमार साय, माननीय अध्यक्ष।

प्रतिभागियों की सूची :

1. डॉ नंदकुमार साय, माननीय अध्यक्ष
2. श्री हर्षदभाई चुन्नीलाल वसावा, माननीय सदस्य
3. श्री हरिकृष्ण डामोर, माननीय सदस्य
4. श्रीमति माया चितामण ईवनाते
5. श्री ए.के.सिंह, सचिव
6. श्री एस.के.रथ, संयुक्त सचिव
7. डॉ. ललित लट्टा, निदेशक
8. श्री एस.पी.मीना, सहायक निदेशक
9. श्री राकेश कुमार दुबे, सहायक निदेशक (प्रशासन)
10. श्री राजेश्वर कुमार, सहायक निदेशक (राजभाषा)
11. श्री वाई.के.बंसल, अनुसंधान अधिकारी
12. श्री आर एस मिश्रा, वरिष्ठ अन्वेषक
13. श्री हरिराम मीणा, वरिष्ठ अन्वेषक
14. के.पी.सिंह, सलाहकार

बैठक के लिए निर्धारित कार्यसूची मंदों पर चर्चा की गई और निम्नलिखित निर्णय लिया गए:



National Commission for Scheduled Tribes
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Item No.118.01	Draft of 13 th Annual Report of the National Commission for Scheduled Tribes for the year 2017-18 for consideration and approval.
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The draft of the 13th Annual Report of the Commission for the year 2017-18 is enclosed (both Hindi and English). The report comprises of six Chapters as detailed below:

- Chapter.1 NCST: Structure and Functioning
Chapter.2 Sittings of the Commission.
Chapter.3 Hearings by the Chairperson/Vice Chairpersons/
Members
Chapter.4 Field Visits
Chapter.5 Review of Ministries, Organisations, States,
Districts
Chapter.6 Executive Summary of the Report.

The draft of the report is submitted for consideration and approval of the Commission.

[The Commission after perusal of the report has approved the 13th annual report of National Commission for Scheduled Tribes for the year 2017-18]

✓
[Signature]
15.09.2019

डॉ. नन्द कुमार साय/DR. Nand Kumar Sai
अध्यक्ष/Chairperson
राष्ट्रीय अनुसूचित जनजाति आयोग
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National Commission for Scheduled Tribes
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Item No.118.02	Declaring Ladakh as Tribal Area for protection of Scheduled Tribes.
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A news item has appeared in the Statesman, Delhi dated 19th August, 2019, under the caption "Ladakh leaders seek tribal-area status to protect ethnic identity". According to this news item, a memorandum has been submitted to the Minister of Tribal Affairs by Ladakh MP, Jamyang Tsering Namgyal stating that Ladakh region is a predominantly tribal area with more than 90 per cent of tribal population. It has been urged that Tribal Area status be accorded to Ladakh UT under Sixth Schedule of the Constitution with a view to protect their ethnic identity.

The erstwhile State of Jammu and Kashmir has been bifurcated into two Union Territories viz. UT of Jammu and Kashmir and UT of Ladakh. While the UT of Jammu and Kashmir will have a Legislative Assembly like Delhi, UT of Ladakh will have no Legislative Assembly.

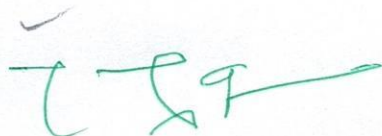
The Ladakh region comprises of two districts namely Leh and Kargil. Kargil is mostly dominated by Muslims, whereas Leh has majority of Buddhists. The total population of the Ladakh region is 2,74,289 as per 2011 Census.

The following communities have been notified as Scheduled Tribes w.r.t the erstwhile State of Jammu and Kashmir.

1. Balti
2. Beda
3. Bot, Boto
4. Brokpa, Drokpa, Dard, Shin.
5. Changpa
6. Garra,
7. Mon,
8. Purigpa,
9. Gujjar
10. Bakarwal,
11. Gaddi,
12. Sippi.

The Commission has taken suo-moto notice of the news item and has decided to refer the matter to the Ministry of Home Affairs, Government of India for consideration.

[This issue was discussed in detail. It was decided that decision will be taken by the Commission after discussing the matter with Ministry of Home Affairs, Tribal Affairs and Ministry of Law and Justice in a Meeting to be held on 04-09-2019]

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डॉ. नन्द कुमार साय/Dr. Nand Kumar Sai
अध्यक्ष/Chairperson
राष्ट्रीय अनुसूचित जनजाति आयोग
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AGENDA ITEM 118.03	Seeking comments of NCST and RGI in connection with filling SLP in the Hon'ble Supreme Court of India against the Order of Hon'ble High Court of Bombay (Nagpur Bench) in the matter of Writ Petition No. 1680 of 2012 filed by Adivasi Gond Gowari Seva Mandal Versus Union of India.
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File No. MTA/1/2019/DEINEX/RU-IV

The Ministry of Tribal Affairs vide its letter dated 8.8.2019 has referred the matter relating to filling of SLP in the Hon'ble Supreme Court of India against the Order of Hon'ble High Court of Bombay (Nagpur Bench) in the matter of Writ Petition No. 1680 of 2012 filed by Adivasi Gond Gowari Seva Mandal Versus Union of India and has also sought comment of the NCST on the matter.

The Ministry of Tribal Affairs in its letter dated 8.8.2019 mentioned that the Hon'ble High Court of Bombay (Nagpur Bench) in the matter of Writ Petition No. 1680 of 2012 and in similar Writ Petition No. 656 of 2019 filed by Adivasi Gond Gowari Seva Mandal versus Union of India has passed the Orders dated 14.8.2019 and 25.1.2019, respectively, which declare a community namely 'Gowari' as ST, even though it is not in the notified list of STs of Maharashtra.

The Matter has been examined in the Ministry and the abovementioned Orders passed by the Hon'ble Courts are observed to be against the Constitutional provisions under Article 342 of the Constitution of India and also against the orders of the Apex Court. As per the Article 342 (2) of the Constitution, Parliament may by law include in or exclude from the list of ST specified in a notification tribe or tribal community, but save as aforesaid a notification issued under the said clause shall not be varied by any subsequent notification.

Further, the Hon'ble Supreme Court in its decision dated 28.11.2000 in case No. 652 of 2000 (Civil Appeal No. 2294 of 1986) State of Maharashtra V/s Milind regarding order issued under Article 341 and 342 of Constitution had held (refer para 29 of the decision) which inter-alia states as under: -

- It is not at all permissible to hold nay enquiry or let in any evidence to decide or declare that any tribe of tribal community or part of or group within any tribe or tribal community is included in the general name even though it is not specifically mentioned in the concerned Entry in the Constitution (ST) orders, 1950.
- The ST Order must be read as it is. It is not even permissible to say that a tribe, sub-tribe, part of or group of any tribe or tribal community is synonymous to the one mentioned in the ST Order if they are not so specifically mentioned in it.
- A notification issued under Clause (1) of Article 342, specifying ST, can be amended only by law to be made by the Parliament. In other words, any tribe or tribal community or part of or group within any tribe can be included or excluded from the list of ST issued under Clause (1) of Article 342 only by the Parliament by law and by no other authority.



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- It is not open to State Government or courts or tribunals or any other authority to modify, amend or alter the list of ST specified in the notification issued under Clause (1) of Article 342.

In view of the gravity of the issue, the Ministry of Tribal Affairs has felt to file SLP against the said Orders dated 14.8.2019 and 25.1.2019 of the Hon'ble High Court of Bombay (Nagpur Bench) before the Hon'ble Supreme Court of India. Accordingly, the Ministry request the NCST to furnish the comments in the matter.

On examination of the matter referred, it is submitted that the matter of modification in the ST list of the States/UTs under Clause (1) of Article 342 of the Constitution falls under the Jurisdiction of the Parliament by Law. Hence, the stand of the Ministry appears to be justified. It is proposed that the NCST may support the proposal of the Ministry of Tribal Affairs.

[The Matter was discussed in detail. Thereafter it was decided that the Commission Should support the proposal of SLP in the Supreme Court]

डॉ. नन्द कुमार साय/DR. Nand Kumar Sai
अध्यक्ष/Chairperson
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AGENDA ITEM 118.04	INCLUSION OF 'BETTA-KURUBA' COMMUNITY AS SYNONYMOUS OF 'KADU KURUBA' AT SL. NO. 16 IN THE LIST OF SCHEDULED TRIBES OF KARNATAKA-REG.
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File No. MTA/2/2019/Karnataka/RU-IV

The Ministry of Tribal Affairs vide its letter dated 8.8.2019 has forwarded the proposal of inclusion of "Betta – Kuruba" Community as synonymous of "Kadu Kuruba" at Sl. No. 16 in the list of Scheduled Tribes of Karnataka and has sought comments of the NCST in the matter.

The Ministry has reported that the Government of Karnataka vide its letter dated 30.1.2019 has sent a proposal for inclusion of "Betta Kuruba" community in Karnataka as synonymous of "Kadu Kuruba" based on Ethnographic Studies conducted by State Government. The studies recommended that the 'Kadu or 'Betta' Kuruba refer to one and these community deserves to be included in the ST list of Karnataka State. In this connection, the said proposal was forwarded to RGI for its comments vide letter dated 22.2.2019. Then, the RGI vide its letter dated 23.7.2019 has supported the proposal of the Govt. of Karnataka for inclusion of "Betta Kuruba" community in Karnataka as synonymous of "Kadu Kuruba" at Sl. No. 16 in the ST list of Karnataka.

On examination of the Ministry's proposal, it is observed that the State Govt. proposal has been supported by the RGI. Hence, the Commission may propose to visit Karnataka State for on the spot enquiry of the proposal.

[The Matter was discussed in the meeting. Before the Commission gives its final view, a team from the Commission will make an on the spot visit and thereafter frame its recommendation in the matter.]

डॉ. नन्द कुमार साय/DR. Nand Kumar Sai
अध्यक्ष/Chairperson
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Agenda Item No. 118.05	Draft Note for the Cabinet received from Ministry of Home Affairs regarding Amendment in the Laccadive, Minicoy and Amindivi Islands Land Revenue and Tenancy (Amendment) Regulation, 1965
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File No. Policy/Lakshadweep/2019/RU-IV

The Ministry of Home Affairs vide its OM dated 19.8.2019 has sent Draft Cabinet Note along with Draft Regulation for promulgation of the Laccadive, Minicoy and Amindivi Islands Land Revenue and Tenancy (Amendment) Regulation, 2019 duly approved by the Hon'ble Home Minister for seeking comment of the NCST.

The proposal seeks the approval of the Cabinet for amendment in the Laccadive, Minicoy and Amindivi Islands Land Revenue and Tenancy Regulation, 1965 ["Regulations"] by way of promulgating the Laccadive, Minicoy and Amindivi Islands Land Revenue and tenancy (Amendment) Regulation, 2019. Under article 240 of the Constitution, the President has powers to make Regulations for the peace, progress and good governance for the Union Territories (UTs), including UT of Lakshadweep.

The UT of Lakshadweep consists of thirty six (36) islands/islets out of which only ten (10) are inhabited. The land area is only 32 km and the lagoon area is 4,200km. The Regulation categorizes the entire land in the Jenmom land and (ii) lands under Govt. ownership or Pandaram lands. As per Section 2(s) of the Regulation, Pandaram land means land in which Govt. has a proprietary right immediately before the commencement of this regulation and includes any land in which it may acquire such rights under this regulation or under any other law.

About hundred years, after the Cannore Rajas came into the possession of the Islands (147th Century), they began to assume the unoccupied lands on the inhabited islands and the entire area of the uninhabited islands. These lands, the private property of the Cannore Pandaram or Government, have come to be known as Pandaram Lands as distinct from the people's private property. Later, under the British rule, these Government lands were surveyed and demarcated separately under the same nomenclature i.e. "Pandaram Land". Native islanders were allowed to occupy the Pandaram lands as cultivating tenant on condition of paying rent thereof to Government.

This system was followed after Independence also, for which provisions were made in the Regulation, section 83 of which empowers the Administrator of UT of Lakshadweep to confer occupancy rights to the occupants of the Pandaram land in Lakshadweep. As per the provisions of Section 83 of the Regulations, the Administrator may, subject to such conditions as may be prescribed, confer the rights of occupancy under this Chapter on:

- (a) A person who immediately before the commencement of this Regulations was occupying pandaram land as cowledar;
- (b) Any other person who is in occupation of pandaram land at commencement of this Regulation; or
- (c) Any person who may be allotted pandaram land under section 14.



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Cowledar means a person who has been or is granted a lease of pandaram land on rent for a specific period, one of the conditions of such lease being that he make improvements thereto.

A good number of transfers of Pandaram land were made through sale/purchase by the Cowledars and subsequent land holders due to reasons attributed to poverty, backwardness and increasing pressure of growing population in a small area, which were broadly outside the purview of Section 83 for conferring the occupancy. Such applications submitted to the UT Administration for conferring occupancy rights were kept pending for many years due to non-existence of provisions of regularization of the Pandaram lands, as explained above. Therefore, conferring of occupancy rights remained inconclusive over the years, as a result, the ST occupants of Pandaram land are deprived from getting their statutory rights of occupancy.

The proposal has been moved as there is need for the protection of the interests of geographically isolated ST community of Lakshadweep, as also for the holistic developments. There have been instances of alienation of Pandaram land, due to some unavoidable circumstances, which were not foreseen in the existing statutes and rules concerned with Pandaram land. Such alienations have to be treated with some leniency from the side of the Government. Considering the geographical location, increasing population density in these tiny islands, and socio-economic backwardness of the area, the instances of alienation of Pandaram land require statutory regularization/ratification. In overall public interest, which is paramount, due importance is required to be given to the matter.

As on date, many poor ST islanders have already constructed their dwelling houses on large tracts of Pandaram lands, which were allotted for agricultural purpose due to scarcity of land in these tiny islands. In addition, large numbers of people are possessing Pandaram lands as cowledars/occupants, due to which there is also a threat to the law and order situation if any adverse step against the interests of cowledars/occupants is taken.

Besides, many developmental projects are also stalled due to non-regularization of existing occupants of Pandaram land, for which a committee was constituted by NITI Aayog under the Chairmanship of Dr. T. Haque (then Advisor) to study and make recommendations in order to facilitate and resolve the matter. The committee visited Lakshadweep and conducted a detailed study and recommended that a long term solution would lie in conferring ownership/occupancy right to all regular holders of Pandaram land, which will, in turn, facilitate land acquisition for development projects in a lawful and non-controversial manner and also help in the growth of an active land sale/land lease market. This will help to accelerate holistic social and economic development of the Islands, through growth of air transport, ports, communication infrastructure, agro-industries, hotels/tourist resorts etc.

From the combined reading of the statutory provisions in the Regulations and the Rules made there under, it clearly appears that the legislative intention behind all these statutes is to protect the interests of the ST holders/possessors of Pandaram land. The existing amendments seek to serve the same purpose.

✓
NKS

डॉ. नन्द कुमार साय/DR. Nand Kumar Sai
अध्यक्ष/Chairperson
राष्ट्रीय अनुसूचित जनजाति आयोग
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The proposed amendments will facilitate in protecting the interests of ST islanders of Lakshadweep by conferring occupancy rights to them. Further, it will facilitate in the holistic, social and economic development of the islands in a lawful and non-controversial manner. It will also help in maintenance of law and order in strategically important islands.

[This Matter was discussed in detail. Since the Proposal seeks to protect the interest of Scheduled Tribes holders/Possessors of Pandaram land the Commission support the Proposal]

✓
TSF
15.09.019

डॉ. नन्द कुमार साय/DR. Nand Kumar Sai
अध्यक्ष/Chairperson
राष्ट्रीय अनुसूचित जनजाति आयोग
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Item No. 118.05.01	Commemorating 150 th Birth Anniversary of Mahatma
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The National is observing 150th birth anniversary of Mahatma Gandhi from 2nd October, 2018 across the country. In this regard, the Commission has received a communication from Ministry of Tribal Affairs whereby the Ministry has desired to enlist the commemorative activities during the period and then undertake impact analysis of these commemorative activities involving public participation. A copy of Ministry of Tribal Affairs' communication dated 22nd August, 2019 is enclosed

The Commission may like to discuss this matter in the meeting and may suggest such activity which may be undertaken to commemorate the 150th Birth Anniversary of Mahatma Gandhi.

[The Proposal was discussed in the meeting. The National Commission for Scheduled Tribes agreed with the proposed Celebration of 150th Birth anniversary of Mahatma Gandhi. It was also agreed that the Commission will prepare a report regarding involvement of tribals in the freedom struggle and the same will be uploaded on the portal as per the Programme of Ministry of Culture.]

✓
TSP
15.09.2019
डॉ. नन्द कुमार साय/DR. Nand Kumar Sai
अध्यक्ष/Chairperson
राष्ट्रीय अनुसूचित जनजाति आयोग
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