



No.1/1/14-Coord.
GOVERNMENT OF INDIA
NATIONAL COMMISSION FOR SCHEDULED TRIBES

6th Floor, 'B' Wing, Lok Nayak Bhawan,
Khan Market, New Delhi 110003

Dated: 06/03/2014

To,

1. Dr. Rameshwar Oraon, Chairperson,
2. Shri Ravi Thakur, Vice Chairperson,
3. Smt. K. Kamala Kumari, Member,
4. Shri Bheru Lal Meena, Member,

Sub:- Summary record of the 52nd Meeting of the Commission held at 11:00 hours on 23/01/2014.

Sir,

I am directed to refer to the above subject and to say that 52nd Meeting of the National Commission for Scheduled Tribes was held at 11:00 Hrs. on 23/01/2014 in the Conference Room at Lok Nayak Bhawan, New Delhi. The meeting was presided over by Dr. Rameshwar Oraon, Chairperson, National Commission for Scheduled Tribes. A copy of the Summary Record of the meeting is enclosed for information and record.

Yours faithfully,


(K.D. Bhansor) Mrs.
Director

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 21/03/2014 positively.

- (i) Director (Admn. RU-I & RU-II)
- (ii) Director (RU-III & RU-IV)
- (iii) Under Secretary (Admn. & RU-I)
- (iv) AD/RO In-charge – RU-I/RU-II/RU-III/RU-IV/Coord./ AD/OL

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

1. PS to Chairperson,
2. PS to Vice Chairperson,
3. Office of the Secretary,
4. PPS to Joint Secretary,
5. Director/ Assistant Director/ Research Officer in Regional offices of National Commission for Scheduled Tribes at Bhopal/ Bhubaneswar/ Jaipur/ Raipur/ Ranchi and Shillong.
6. Sr. System Analyst (NIC Cell, NCST) for uploading on the website.


(K.D. Bhansor) Mrs.
Director



भारत सरकार

राष्ट्रीय अनुसूचित जनजाति आयोग

(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.-1/1/14-समन्वय

दिनांक/Date:06/03/2014

प्रति,

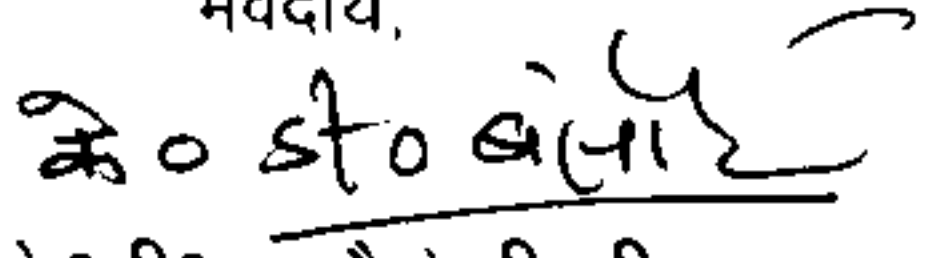
- 1) डा० रामेश्वर उराँव, अध्यक्ष
- 2) श्री रवि ठाकुर, उपाध्यक्ष
- 3) श्रीमती के. कमला कुमारी, सदस्य
- 4) श्री भैरू लाल मीणा, सदस्य

विषय: राष्ट्रीय अनुसूचित जनजाति आयोग की दिनांक 23-01-2014 को पूर्वाह्न 11.00 बजे सम्पन्न 52वीं बैठक का संक्षिप्त अभिलेख।

महोदय,

मुझे उपर्युक्त विषय का उल्लेख करते हुए यह कहना है कि आयोग की 52वीं बैठक आयोग के सम्मेलन कक्ष, लोकनायक भवन, नई दिल्ली में दिनांक 23-01-2014 को पूर्वाह्न 11.00 बजे हुई थी। बैठक की अध्यक्षता डा० रामेश्वर उराँव, अध्यक्ष, अनुसूचित जनजाति आयोग द्वारा की गई। बैठक के संक्षिप्त अभिलेख की एक प्रति सूचना एवं अभिलेख हेतु संलग्न है।

भवदीय,

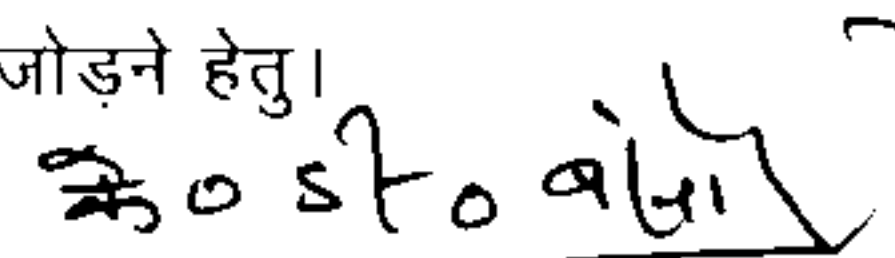

(के०डी० बन्सौर) श्रीमती
निदेशक

प्रतिलिपि : बैठक के संक्षिप्त अभिलेख की एक प्रति सहित, निम्नलिखित अधिकारियों को इस अनुरोध के साथ अग्रेषित है कि बैठक में लिए गए निर्णयों पर की गई कार्रवाई के संबंध में जानकारी प्रत्येक संबंधित एकक/ कार्यालय द्वारा 21-03-2014 तक अवश्य ही समन्वय एकक को भेज दी जाए।

- (i) निदेशक (आर०यू०-I एवं आर०यू०-II)
- (ii) निदेशक (आर०यू०-III एवं आर०यू०-IV)
- (iii) अवर सचिव (प्रशासन एवं आर०यू०-I)
- (iv) सहायक निदेशक/ अनुसंधान अधिकारी प्रभारी-आर०यू०-I/ आर०यू०-II/ आर०यू०-III/ आर०यू०-IV/ समन्वय/ सहायक निदेशक (राजभाषा)।

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

1. अध्यक्ष के निजी सचिव।
2. उपाध्यक्ष के निजी सचिव।
3. सचिव का कार्यालय।
4. संयुक्त सचिव के प्रधान निजी सचिव।
5. निदेशक/ सहायक निदेशक/ अनुसंधान अधिकारी, राष्ट्रीय अनुसूचित जनजाति आयोग के भोपाल/ भुवनेश्वर/ जयपुर/ रायपुर/ रांची/ शिलांग स्थित क्षेत्रीय कार्यालय।
6. वरिष्ठ सिस्टम विश्लेषक (NIC Cell, NCST) - आयोग की वेबसाइट पर जोड़ने हेतु।


(के०डी० बन्सौर) श्रीमती
निदेशक

52ND MEETING
OF THE
NATIONAL COMMISSION FOR SCHEDULED TRIBES
SUMMARY RECORD OF DISCUSSIONS

Date: 23rd January, 2014

Time: 11:00 hours

Venue: Conference Room, NCST, 6th Floor, Lok Nayak Bhawan, New Delhi.

In the Chair: Dr. Rameshwar Oraon, Hon'ble Chairperson, NCST

List of Participants: Annexed.

1. All the eight listed Agenda Items and one tabled Agenda were discussed and decided as below:

Agenda Item I	Draft Panchayats (Extension to the Scheduled Areas) (Amendment) Bill, 2013
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2. Ministry of Tribal Affairs in their letter No.18014/7/2013-C&LM-II dated 16/12/2013 have sought the comments of the National Commission for Scheduled Tribes on the Draft Panchayats (Extension to the Scheduled Areas) (Amendment) Bill, 2013-comments received from the Ministry of Panchayati Raj in their O.M. No. N-11012/11/2011-PESA dated 02/12/2013.

3. The Commission noted that Special provisions relating to functioning of Panchayats in the Scheduled Areas of the country were incorporated in the Constitution by the Panchayats (Extension to the Scheduled Areas) Act, 1996. The Ministry of Panchayati Raj, in its proposal has stated that: "In spite of the critical importance of implementation of PESA and the efforts made by Ministry of Panchayati Raj, certain deficiencies remain. These include:

- a. Six out of nine States have not framed appropriate rules under PESA. Response to adoption of the draft model PESA Rules has been inadequate. As a result modalities for implementing the Act have not been defined clearly.

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Rameshwar Oraon

Dr. RAMESHWAR ORAON
Chairperson
National Commission for Scheduled Tribes
Govt. of India
New Delhi

- b. State subject laws relating to mines and minerals, forests, land acquisition etc. are not PESA complaint. In spite of repeated urging by MoPR, appropriate action in this regard has not been taken
- c. Some sections of the PESA Act have been interpreted contrary to the aim & object of the ACT.

For ensuring proper implementation of PESA Act, the above deficiencies need to be addressed. Ministry of Panchayati Raj has also received certain recommendations to amend the provisions of the Act from the National Advisory Council (NAC). After detailed consultations, it has been thought appropriate to amend the PESA Act. Accordingly, a draft Panchayats (Extension to Scheduled Areas) (Amendment) Bill, 2013 has been prepared.”

4. In view of above the Ministry of Panchayati Raj has proposed to amend Sections 2 and 4(i), repeal existing Section 5 and insert new Sections 5,6 and 7 in the original Act. Commission noted that amendment of Section 2 relates to addition of definition of certain terms while amendment of Section 4(i) relates to the procedure for taking consent of the Gram Panchayat (without any cap regarding extent of majority decision) in the matter of land acquisition. It is noted that the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 provides for seeking consent of 70% to 80% of the persons before acquiring land for different purposes and also has special provisions in relation to Scheduled Areas. The latter provision being more favourable for the tribals and the Scheduled Areas, the amendment to the PESA, 1996 being taken up after implementation of the above Act must consider the provision which is more favourable.
5. Commission further noted that contents of the proposed new Section 7 also require refinement and the same may be replaced as follows:

Proposed:

7. Any Union or State subject Acts along with rules and procedures thereunder dealing with subjects covered under this amendment Act, shall be null and void to the extent that they contravene this Act, unless brought conformity within one year of the date of effectiveness of this amendment taking effect.

Suggested by NCST

7. Any Union or State subject Acts along with rules and procedures there under dealing with subjects covered under this Act, shall be null and void to the extent that they contravene this Act, unless brought into conformity

within one year of the date of effect of the first amendment of this Act as may be notified by the Government.

6. After detailed discussion, the Commission agreed to the Amendment of the PESA Act, 1996 subject to the observations made above.

Agenda Item II	EFC Memorandum for Building, Equipment and Establishment of Additional RVTIs for Women.
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7. Ministry of Tribal Affairs in their letter No.17014/14/2013-SG-II dated 29/11/2013 have sought the comments of the National Commission for Scheduled Tribes on the EFC Memorandum for Building, Equipment and Establishment of Additional RVTIs for Women received from the Ministry of Labour & Employment in their No. DGET-P-11016/4/2013-WT dated 26/11/2013.

8. The scheme of Building, Equipment and Establishment of Additional RVTIs for Women was approved in 11th Five Year Plan Period and further continued in the 12th Plan Period. The Ministry of Labour and Employment, DGE & T has proposed to add nine more RVTIs in States where there is no RVTI for women. Regarding justification of the proposal, it is stated that the women's access to employment is to a significant extent related to their access to education and vocational training. The Regional Vocational Training Institutes provide skill training facilities exclusively to women in various trades to help them get wage/self-employment. These are the only Central Government Institutes that extend vocational training facilities exclusively to women. The training programme at RVTIs assist in empowering women, improving their conditions accompanied by advancement in their position and helping them in contributing towards the country's economy. The National Skill Development Policy also focuses on creating opportunities to acquire skills especially for women, youth and disadvantageous groups and has recommended for expansion of outreach, equity and access of Vocational training for women.

9. The Commission noted that 7 RVTIs were currently existing at Panipat (Haryana), Jaipur (Raj.), Allahabad (UP), Kolkata (WB), Tura (Meghalaya), Vadodara (Guj.), and Indore (MP). Out of Nine additional RVTIs one each is proposed to be

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established in the States of Tamil Nadu, Uttarakhand, Delhi, Bihar, Punjab (Ludhiana), Himachal Pradesh, Tripura, Goa, Jammu & Kashmir. However, actual location of the proposed RVTIs is not mentioned. There is also no mention about the number of ST women benefitted so far and those likely to be benefitted through the proposed additional RVTIs.

10. In view of the extreme backwardness of the Scheduled Areas, the tribal people are much behind the general population in terms of education as well as economic empowerment. Thus the requirement of poor and weak tribals and the backward Scheduled Areas has to be kept in view while framing any programme or policy for empowerment of the people. DGE & T should ensure incorporating in the EFC memo the information about (i) location of RVTIs in Scheduled Areas/ Tribal Areas (ii) the quantum of benefits reached so far to the Scheduled Tribe Women under the scheme and (iii) the targeted ST women beneficiaries by the proposed 9 additional RVTIs. The DGE & T should also ensure that Scheduled Tribe women get their due representation in admissions to various vocational courses run by the RVTIs and also in appointments and promotions to various posts and services sanctioned for these RVTIs as per Reservation Policy of the Government. Keeping in view the objective of the scheme, Commission agreed to the proposal subject to the observations made above.

Agenda Item III	Identification of Scheduled Tribes in UT of Puducherry.
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11. Ministry of Tribal Affairs in their letter No.12016/7/2013-TA(RL)/C&LM-I (Part-II) dated 07/11/2013 have sought the comments of the National Commission for Scheduled Tribes on the Identification of community of Scheduled Tribes in UT of Puducherry, received from the Ministry of Home Affairs vide their D.O. No.8/1/2004-SS(Puducherry) dated 21/06/2013.

12. The commission noted that the Ministry of Tribal Affairs had forwarded a copy of the Social Welfare, Adi-Dravidar Welfare, Women & Child Development Department, UT of Puducherry letter No. B-23039/34/1991/Wel.SCW.II dated 19.01.2012 containing proposal for inclusion/ identification of five communities namely (i) Irular (including Villi and Vettaikaran), (ii) Kattunayakan, (iii) Malaikuravan, (iv) Yerukkula and (v) Kuruman in SR NCST 52nd meeting on 23/01/2014


the UT of Puducherry. As per the approved modalities, the recommendation along with justification furnished by the UT Administration of Puducherry was referred by the Ministry of Tribal Affairs to the Registrar General of India for comments/views.

13. The Registrar General of India, vide their D.O. letter No. 8/1/2004-SS(Puducherry) dated 21.06.2013 has furnished the comments. The Office of the RGI has supported the proposal for identification and notification of Irular (including Villi and Vettaikaran) only as Scheduled Tribe in Puducherry and not supported the identification of other communities namely, "Kattunayakan, Malakkuravan, Yerukkula and Kuruman" as Scheduled Tribes for the UT of Puducherry. The Commission noted that the RGI has examined the proposal taking into account the details contained in the Ethnographic Report furnished by the Puducherry Government on the proposed five communities as well as the information contained in the published literatures. The RGI has stated that persons belonging to Irular Community of the UT have been found still having their tribal characteristics in their economy, material traits, religious activities, traditional community Council etc. as conveyed in the dependable published report received from the UT Government and other sources. Regarding other communities proposed for inclusion in the list of Scheduled Tribes, the RGI in their note has specifically remarked as mentioned below :-

- Malai Kuravan - Recent migrants from other States
- Yerukkula - Migrant population from Andhra Pradesh State
- Kuruman - Already specified as Scheduled Castes in the UT of Puducherry
- Malai Kuravan - ST migrants from other Southern States.

14. The Commission noted that the proposal of the UT of Puducherry relied upon the report of the University of Pondicherry. The report does not indicate the period when the study was conducted and the purpose for which it was conducted. As the study was not conducted at the instance of the UT Government for formulating the proposal for inclusion and also because it does not examine their presence in reference to the census figures on migration, nativity etc., the Commission could not extend credibility to the study report. Since the report discloses shortcomings in terms of data examined, population migration, anthropological studies and legal aspects, the Commission

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decided that a team from the Commission may visit the UT of Puducherry; particularly the specific areas inhabited by the communities included in the proposal and submit a report to the Commission for consideration. The Ministry of Tribal Affairs may be informed accordingly.

Agenda Item IV	The Andhra Pradesh State Commission for Scheduled Tribes Bill, 2013- received for the consideration of the President of India.
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15. Ministry of Tribal Affairs in their letter No.17019/5/2013-C&LM-I dated 16/12/2013 has sought the comments of the National Commission for Scheduled Tribes on the Andhra Pradesh State Commission for Scheduled Tribes Bill, 2013 received from the Ministry of Home Affairs along with their O.M. No.17/19/2013-Judl & PP dated 29/11/2013. The Bill is stated to have been received in the Ministry of Home Affairs for the consideration of the President of India.

16. The Commission noted that the proposal of the State Government was to replace the existing Andhra Pradesh State Commission for Scheduled Castes and Scheduled Tribes by two separate State Commissions for Scheduled Castes and Scheduled Tribes respectively on the lines of replacement in 2004 of the then National Commission for Scheduled Castes and Scheduled Tribes by two separate Commissions namely, National Commission for Scheduled Castes and National Commission for Scheduled Tribes respectively vide the Constitution (89th) Amendment Act, 2003. The Commission was informed that the State Government had earlier sought advice/ suggestions from the National Commission for Scheduled Tribes before drafting the proposed Bill regarding composition of the proposed State Commission for Scheduled Tribes and the NCST had made suggestions to the State Government vide Commission's letters No. 17/01/13-Coord dated 10/07/2013 and 06/08/2013 and now the State Government had forwarded the draft Bill for comments/ advice formally. Section-wise position is discussed in the following para.

Section 5 and 6

17. The Commission noted that the suggestion made by the Commission has been incorporated in Section 5 of the draft Bill. It was however, noted from the provision

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relating to composition of the State Commission that appointment of Chairman and members is proposed to be made by the Government and not by the Governor of the State. To assure continuity of functioning of the Commission irrespective of the change in Government, the Chairman and members of the State Commission may be appointed by the Governor of the State. While Section 8 mentions that the salaries and allowances payable to the Chairman and Members should be commensurate to the Status and dignity of the office there is no mention in the Bill about the status and rank of the Chairman and Members of the State Commission. The Commission, in line with the service conditions of National Commission for Scheduled Tribes, suggested that the status and rank of the Chairman may be that of a Cabinet Minister in the State Government and Members may be given the status of Secretary to the State Government. The provision relating to women Members also needs to be clarified so that a woman Member may belong to any of the three areas prescribed for the Members. Therefore, provision relation to appointment of Chairman and Members belonging to the Scheduled Tribes and appointment of two women members out of five members may be re-written for clarity purpose in Section 5 (1)(a) and(b) of the draft Bill as mentioned below:

Proposed sub-Sections 5 (1)(a) and (b) in the Bill

(a) a Chairperson shall be an eminent person belonging to Scheduled Tribe preferably from Scheduled Areas to be appointed by the Government; and

(b) not more than five members to be appointed by the Government from amongst persons of ability, integrity and having outstanding record of selfless service to the cause of justice for the Scheduled Tribes belonging to Scheduled Tribes with atleast one member form the Primitive Tribe Group, one member from the tribes from the plain area and three members from the Scheduled Areas, and out of which two women members shall be appointed by the Government.

Suggested sub-Sections 5 (1) (a) and (b)

(a) a Chairperson shall be an eminent person belonging to a Scheduled Tribe preferably from Scheduled Areas in the State who shall be appointed by the Governor and shall have the status and rank of State Cabinet Minister; and

(b) not more than five members belonging to Scheduled Tribes, out of which two women members, shall be appointed by the Governor from amongst persons of ability, integrity and having outstanding record of selfless service to the cause of justice for the Scheduled Tribes with at least one member from a Particularly Vulnerable Tribal Group, one member from the tribes from the plain area and three members from the Scheduled Areas and all Members shall have the status and the rank of a Secretary to the State Government.

18. In view of above, the Commission advised that the word "Government" where ever appearing in Section 6 be replaced by the word "Governor" so that power to appoint and to remove the Chairman or the Member of the State Commission is vested with the Governor only, who shall be the appointing authority.

Section 13

19. The Commission further noted from the statement of objects and reasons attached to the draft Bill that the main objective of establishing the State Commission for Scheduled Tribes is as mentioned below:

"to evaluate the working of various safeguards and to protect the rights and interests of the Scheduled Castes and Scheduled Tribes and to undertake a review of the implementation of the policies pursued by the Union and the State Government with respect to the and Scheduled Tribes and to make recommendations with a view to ensure effective implementation and enforcement of all safeguards under Protection of Civil Rights Act, 1955 and the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 and other laws and the rules

20. The Commission noted that duties assigned to the State Commission in Section 12 are also on the above line but Section 13 of the draft Bill prescribe for preparation of Annual Report giving full account of its (Commission's) activities and not the working of the safeguards for Scheduled Tribes, as mentioned in the above statement. Therefore, provision in Section 13 relating to the contents of the Annual Report of the State Commission needs to be appropriately amended. Besides, as the appointment of Chairman and Members is suggested to be made by the Governor of the State, the Report may be submitted to the Governor of the State and not the Government as mentioned in Section 13. Further, in the context of provision in Section 13 of the Bill

relating to laying of the Report of the State Commission in the State Legislature, the Commission recalled that the recommendations contained in the Annual Reports of the National Commission for Scheduled Tribes have been diluted due to undue delay in laying of the Reports in Parliament and the State Legislature because of the provision that the Report is to be laid along with a Memorandum explaining the action taken or proposed to be taken on its recommendations and the reasons for non-acceptance. The Commission noted that the similar provision relating to laying of the Annual Report of the State Commission in the State Legislature has been kept in Section 13 of the draft Bill. The Commission, therefore, recommended replacing the proposed Section 13 of the Bill by the following:

13. The Commission shall prepare once in every year, in such form at such time as may be prescribed, an Annual Report giving a true and full account of working of the safeguards for the Scheduled Tribes as mentioned in Section 12 of the Act, during the previous years and copies thereof shall be forwarded to the Governor and the Governor shall cause the same to be laid before the Legislature of the State within three months of submission to the Governor, and separately laying the memorandum of action taken/ proposed to be taken on its recommendations and the reasons for the non-acceptance, if any, of such recommendations by the State Government for discussion in the State Legislature within six months of laying of the report.

Section 15

21. The Commission further noted that provision relating to grants to the Commission made in sub-section 15(1) was in contradiction of the provision in sub-section 15(2). Section 15(2) stipulates “the Commission may spend such sums as it thinks fit for performing the function under this Act and such sums shall be treated as expenditure payable out of the grants referred to in sub-section(1)” while sub-section (1) provides that “ the Government shall pay to the Commission by way of grants such sums of money as the Government may think fit for being utilized for the purposes of this Act. The Commission after deliberation advised that the words “Government may think fit” in sub-section 15(1) may be replaced by the words “Commission may think fit” to make both the sub- sections complementary to each other and the State Commission, which is empowered to regulate its own procedure, is fully capable and financially sound in fulfilling the mandate assigned to it under Section 12 of the Act.

22. The Commission directed that above views of the Commission may be brought to the notice of the concerned Ministry with a copy to the State Government for advance information.

Agenda Item V	Inclusion of 'Bhogta', 'Deshwari', 'Ganjhu', 'Dautalbandi', ('Dwalbandi'), 'Patbandi', 'Raut', 'Maajhia', and 'Khairi' ('Keri') synonyms of 'Kharwar' community as Scheduled Tribes in the State of Jharkhand.
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23. Ministry of Tribal Affairs in their letter No.12026/23/2012-C&LM-I dated 03/01/2014 have sought the comments of the National Commission for Scheduled Tribes on the Inclusion of 'Bhogta' {भोगता}, 'Deshwari' {देशवारी}, 'Ganjhu' {गंझू}, 'Dautalbandi' ('Dwalbandi') {दौतलबंदी (द्वालबंदी)}, 'Patbandi' {पटबंदी}, 'Raut' {राउत}, 'Maajhia' {माझिया}, and 'Khairi' ('Keri') {खैरी (खेरी)} as synonyms of 'Kharwar' {खरवार} community which is already included as Scheduled Tribe in relation to the State of Jharkhand.

24. As complete details, along with requisite supporting documents/ evidences about the proposal of the Government of Jharkhand was not available, the Commission decided that a team of the Commission may visit the State and the areas inhabited by the persons belonging to the Communities proposed to be specified as Scheduled Tribes and submit a report for consideration of the Commission before furnishing its views to the sponsoring Ministry.

Agenda Item VI	Inclusion of "Puran" community in the list of STs in the State of Jharkhand.
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25. Ministry of Tribal Affairs in their letter F. No.12026/23/2012-C&LM-I dated 16/01/2014 have sought the comments of the National Commission for Scheduled Tribes on the Inclusion of "Puran" {पुरान} community in the list of STs in the State of Jharkhand. The Ministry of Tribal Affairs has forwarded a copy of the proposal received from the Government of Jharkhand and also a copy of the RGI letter dated 8/01/2004 forwarding the views of the RGI on the proposal of the State Government.

26. The Commission noted from the comments of the RGI that the proposal for inclusion of Puran Community in the list of Scheduled Tribes of Jharkhand State, received and examine in the year 2005, was not supported by the RGI mainly on the ground that the proposed community was synonymous to "BHUIYA" community which is specified as Scheduled Caste in relation to the State of Jharkhand. The RGI has now agreed to include Puran Community in the list of Scheduled Tribes of Jharkhand State on the basis of the following observations:

6. It is true that Purans live in multi ethnic villages along with members of other castes and tribes. They also reportedly maintain Jajmani (Patron-client) relationship with different occupational castes of the village. Different rites and rituals associated with birth, marriage and death in Purans are performed with the help of Brahman as well as with their caste priest known as Pahan. And they also avail the assistance of different occupational castes such as Nai, Kumhar etc. during marriage and in post death rites. Purans speak their own dialect known as Puran Boli which is an admixture of Oriya, Hindi and Panch Pargania (one of the regional languages of Jharkhand). They also speak Mundari, Hindi and Panchparganiya.

7. A closer analysis suggests that many plain dwelling tribes like Kisan, Munda, Santhal, Mahali, Bhumij etc. of eastern States have interspersed with Hindu Castes and have close socio-cultural interaction with the later. Still they are enjoying the status of Scheduled Tribes with considerable change in their cultural traits.

8. The above information and analysis suggest that Purans have distinct culture having traces of some primitive traits noticeable in their rites and rituals, custom of bride price, existence of community priest, folk deities, traditional Political Council, totemistic exogamous clans etc. They fulfill the criteria laid down by the Lokur Committee for identification of a Community as a tribe.

9. Keeping in view the facts stated above we may support the inclusion of Puran Community in the Scheduled Tribes list of Jharkhand.

27. The Commission observed that the change in views of the RGI does not relate to the basic characteristic of backwardness of a tribal Community due to geographical isolation. The Commission, therefore, decided that a team of the Commission may visit the State and the areas inhabited by the persons belonging to the "Puran" Community proposed to be specified as Scheduled Tribe and submit a report for consideration of the Commission before furnishing its views to the sponsoring Ministry.



Agenda Item VII	EFC proposal for revision of National Service Scheme (NSS)
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28. Secretary, Department of Youth Affairs, Ministry of Youth Affairs and Sports vide his DO letter F. No. J-15011/1/2013-NSS dated 8/01/2014 sought the comments of the National Commission for Scheduled Tribes on the draft EFC proposal for revision of National Service Scheme. The Commission was informed that the draft EFS proposal had not been received along with the DO letter and the Department of Youth Affairs had been requested vide Commission's letter No. Policy-1/Youth Affairs/2014/RESEARCH UNIT-I dated 17/01/2014 to provide a copy of the draft EFC proposal to enable the Commission to furnish its views. Since draft proposals had not been received till the date of meeting, it was decided that the draft proposal when received may be circulated and placed for consideration in the next meeting of the Commission.

Agenda Item VIII	Atrocity on a Scheduled Tribe Girl of Jharkhand employed as domestic servant at Vasant Kunj in Delhi- follow up action.
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29. It was recalled that suo motu action was taken by the Commission on the News Report published in the New Delhi Edition of Times of India dated 01/10/2013 regarding atrocity on a tribal girl employed as a domestic servant in the house of one Mrs. Vandana Dhir at Vasant Kunj, New Delhi. It was recalled that sittings with the Officers of Government of NCT of Delhi and the Commissioner of Police Delhi were also held on 4/10/2013 and 10/10/2013 and their attention was invited towards the judgment of the Delhi High Court in WP(Crl.)No.82/2009, WP(Crl.)No.619/2002, and WP(Crl.)No.879/2007 delivered on 24/12/2010 wherein the High Court had issued various directions to the Government of NCT of Delhi and the Delhi police. The judgment inter-alia had asked the police to issue a circular to:

- a Regulate the functioning of placement agencies.
- b Ensure proper screening of Domestic worker being recruited by placement agencies by maintaining the register of all such agencies.
- c Ensure that the agencies enroll applicants on the basis of formal application containing full details including the photographs contact address etc.
- d Verify domestic workers by the police.

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 New Delhi

30. The Principal Secretary (Home Department) had informed the Commission that the Government of Delhi would shortly introduce a Bill on the regulation of placement agencies for domestic maids. Chairperson, NCST advised that the final Bill should be sent to the Commission for consultation as mandated under Article 338A(9) of the Constitution and as per the instructions dated 16/02/2012 issued by the Cabinet Secretariat for consultation with the National Commission for Scheduled Tribes in all policy matters and legal issues and incorporated in the Handbook of instructions of the Cabinet Secretariat. Government of NCT of Delhi and Delhi Police were advised to communicate the action taken within a fortnight. The Commission was informed that the Labour Department Government of NCT of Delhi vide their letter dated 3/01/2014, have forwarded a copy of the Delhi Private Placement Agencies Regulation Bill, 2013. It is stated that the said bill shall monitor the working of the placement Agencies including placement of domestic workers in the residential households. The Bill would be placed before the Cabinet as soon as the session of Delhi assembly commences. It is also mentioned that the Hon'ble High Court of Delhi is also monitoring the status of the Bill in WP(Crl)82/2009.


31. The Commission noted that the Bill was drafted by the previous Government and since a new Government is in place, the final view as reviewed by the new Government of NCT of Delhi may be sent to this Commission, before the Bill is placed before the Cabinet for introduction of the Bill in the Delhi Legislative Assembly. The Commission directed that the Government of NCT of Delhi may be informed accordingly.

Additional Agenda

Agenda Item IX Suggestions on the issues for consideration in the National Consultation on 1/02/2014 by the Law Commission of India for introducing reforms in electoral laws

32. The Chairperson mentioned that the Law Commission of India was planning to hold a one day National Consultation in Delhi to discuss two aspects relating to reforms in electoral laws in the country and the Chairman Law Commission had invited him to participate in the National Consultation on the scheduled date. The Chairperson

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informed the house that he will not be able to attend the Consultation as he would be away on tour as per already planned programme, it was necessary to communicate the views of the Commission on the two referred aspects keeping in view the Court observations in the Case relating to social status verification of Shri Ajit Jogi, ex-Chief Minister of Chhattisgarh and the recent reference received from the Supreme Court in the case relating to social status of Shri Mukul Sangma, Chief Minister of Meghalaya.

- (i) 'Curbing criminalization of politics and needed law reforms'
- (ii) 'Impact and consequences of candidates filing false affidavits and needed law reforms to check such practice'.

33. The following views were expressed by the Commission on the above points:

(i) 'Curbing criminalization of politics and needed law reforms'

(a) The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (PoA Act) provides for higher punishment than provided under the IPC for offences defined in Section 3 of the Act. As PoA Act is a special legislation aimed at protection of the Scheduled Tribes and Scheduled Castes in fulfillment of the special Constitutional provisions, an accused who is awarded a punishment under this Act may be disqualified from holding any post of representative of the people at any level and in any forum, Board, Committee, Commission, Local Body, State legislature and Parliament and also from contesting the election to such post(s) for a period of six years, irrespective of the quantum of punishment awarded, notwithstanding the ceiling of two years punishment for disqualification prescribed by the Supreme Court of India in a recent judgment.

(b) There have been spurts of incidents relating to trafficking of tribal girls and women from various tribal areas to the cities and metropolitan areas in the name of providing employment as domestic servant. These tribal girls and women are exploited, including sexual exploitation, because of their utter poverty and unfamiliarity in tackling a different environment. This situation, however, does

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not mean that the trafficker, acting as placement agents or service provider can play with the life of the innocent tribals. It has been noted that most of these agents especially from the tribal districts belong to the tribal communities themselves and are therefore able to easily exploit the poor tribal girls, women and their families. To protect the tribals from such exploitation, socio-political action has to be taken against such traffickers, irrespective of the community to which they belong. Therefore, in case any person is found guilty of trafficking, that person (and also his/her employees who were assisting to that person in any form and for any consideration whatsoever) should be disqualified from holding a post or contesting election to such post(s) as mentioned in para 3 above

(ii) 'Impact and consequences of candidates filing false affidavits and needed law reforms to check such practice'.

(a) Article 330 and 332 of the Constitution provides for reservation of seats for Scheduled Castes and Scheduled Tribes in the Lok Sabha and the State Legislatures respectively. Similarly, reservation of seats for Scheduled Castes and Scheduled Tribes in local bodies, Panchayats and Municipalities, has been provided under article 243D and 243T respectively of the Constitution. Accordingly, a genuine Scheduled Tribe person can alone contest the election to the post(s) reserved for the Scheduled Tribes. It has been noticed on several occasions that non-ST persons have contested elections to the ST reserved post(s) on the basis of false ST certificate or false affidavits, obtained/provided fraudulently. Although the election of the winning candidate who has made false ST claims may be set aside subsequently, by an appropriate court, nevertheless the interests of the genuine Scheduled Tribes remain at stake and the progress of development in the area of the reserved constituency may also come to a halt due to court proceedings. There is, therefore, an urgent need for legal and electoral reforms to check such a practice.

(b) In this context, attention was invited to the Guidelines laid down by Supreme Court of India for Verification of Community Certificates. The Constitutional Bench of the Supreme Court, while considering a case relating to a

false certificate in Civil Appeal No.5854 of 1994 in Kumari Madhuri Patil & Ors vs. Additional Commissioner, Tribal Development, Govt. of Maharashtra and Ors observed that the admission wrongly gained or appointment wrongly obtained on the basis of false social status certificate necessarily has the effect of depriving the genuine SC or ST or OBC candidates of the benefits conferred on them by the Constitution. The Supreme Court further observed that it was necessary that certificates issued were scrutinized at the earliest and with utmost expedition and promptitude and therefore, it was necessary to streamline the procedure for issuance of social status certificates, their scrutiny and their approval. The Supreme Court of India set out the guidelines for Scrutiny and Validation of the Social Status Certificate obtained by the Candidate before he/she files a claim for any benefit admissible to him/her as SC, ST or OBC candidate, as the case may be and by these directives set the law on the subject.

(c) In implementation of the above guidelines, various State Governments have constituted Scrutiny Committees for verification and validation of Caste certificates. The Government of Maharashtra has also enacted a legislation namely; the Maharashtra Scheduled Castes, Scheduled Tribes, De-notified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes and Special Backward Category (Regulation of Issuance and Verification of) Caste Certificate Act,2000 (Mah. Act No.XXIII of 2001). Section 4(2) of the Act reads as follows:

A Caste Certificate issued by any person, officer or authority other than the Competent Authority shall be invalid. The Caste Certificate issued by the Competent Authority shall be valid only subject to the verification and grant of validation certificate by the Scrutiny Committee.

(d) To check the practice relating to contesting election to the reserved seats on the basis of false affidavits and false Caste Certificates, the Competent Authority may issue instructions to all electoral authorities to ensure that each candidate filing application/ nomination for election to a reserved seat




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mandatorily submits the attested copy of Validation Certificate issued by the concerned State/ District level Scrutiny Committee established with the authority of the State Government concerned in fulfillment of the directions of the Supreme Court in the Madhuri Patil case supra, along with an attested copy of his Caste Certificate issued by the Competent Authority.

34. The Secretary, National Commission for Scheduled Tribes was authorized to prepare a detailed Note on the above lines and forward the same immediately to the Law Commission with the consent of the Chairperson.

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


Chairperson
National Commission for Scheduled Tribes
New Delhi.

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ANNEXURE-I

National Commission for Scheduled Tribes

52nd meeting of NCST, held on 23/01/2014 at New Delhi

LIST OF PARTICIPANTS

1. Dr. Rameshwar Oraon, Chairperson (In Chair)
2. Shri Ravi Thakur, Vice-Chairperson
3. Smt. K. Kamala Kumari, Member
4. Shri Bheru Lal Meena, Member
5. Sh. R. Vijaykumar, PhD, Secretary
6. Shri M. S. Chopra, Director
7. Smt. K. D. Bhansor, Deputy Director
8. Shri Rajesh Kumar, Under Secretary
9. Shri T.D. Kukreja (PS to Chairperson)
10. Shri R.C.Durga, Consultant
11. Shri S. P. Meena, Assistant Director