



No.1/2/12-Coord.
Government of India
National Commission for Scheduled Tribes

6th Floor, 'B' Wing,
Lok Nayak
Bhawan,
Khan Market,
New Delhi 110003
Dated: 11/04/2012

To

- 1) Dr. Rameshwar Oraon, Chairperson
- 2) Smt. K. Kamala Kumari, Member
- 3) Shri Bheru Lal Meena, Member

Sub:- Summary record of the 32nd Meeting of the Commission was held at 11:30 hours on 28th March, 2012.

Sir,

I am directed to refer to the above subject and to say that 32nd Meeting of the National Commission for Scheduled Tribes was held at 11:30 Hrs. on 28th March, 2012 in the Conference Room of the Commission at Lok Nayak Bhawan, New Delhi. The meeting was presided over by Dr. Rameshwar Oraon, Chairperson of the 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.
Dy. 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 20th April, 2012 positively.

- (i) Dy. Director
- (ii) Under Secretary, (Admn.)
- (iii) 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:

- (i) Sr. PPS to Secretary/ PPS to Joint Secretary,
- (ii) Assistant Director/ Research Officer in Regional offices of National
- (iii) Commission for Scheduled Tribes at Bhopal/ Bhubaneswar/ Jaipur/Raipur/ Ranchi and Shillong.
- (iv) Sr. System Analyst (NIC Cell, NCST) for uploading on the website.

NATIONAL COMMISSION FOR SCHEDULED TRIBES

Subject: Summary record of the 32th meeting of the Commission held at 11:30 AM on 28-03-2012.

The 32th meeting of the Commission was held at 11:30 AM on 28-03-2012 in the Conference Room of the Commission in Loknayak Bhawan, New Delhi. The meeting was presided over by Dr. Rameshwar Oraon, Chairperson, NCST. List of participants is enclosed at Annexure. Four Agenda Items were circulated for discussion in the meeting. All items were discussed.

2. The Commission was informed that there were three proposals for inclusion/ re-inclusion of certain communities in the list of STs. The Commission noted that in the context of continuing demand for inclusion of new areas /communities, such proposal are required to be examined objectively with strict application of the criteria as adopted so far, for identifying a community as Scheduled Tribes so that only deserving communities are able to reap the benefits. In this connection, the Commission observed that keeping in view the modalities regarding inclusion/ exclusion of SCs and STs adopted by the Government, the Commission framed internal guidelines for examining the proposals for inclusion/exclusion from the list of STs vide circular dated 3/07/2008. These guidelines, which are also available on the Website of the Commission, inter-alia, require consideration of the test with reference to any particular community relating to their way of living, social customs and religious practices, dialect, educational and economic status. The guidelines lay emphasis on related backwardness of the community as compared to the society at large and other communities in the area and analysis of data on economic development, educational development and social development for this purpose. The procedure outlined for applying the above test includes, inter-alia, ascertaining opinion /comments from public, consideration of report on the ethnographical survey, and case studies, if available, opinion of experts in the field of Anthropology/Sociology etc., which have not been made available by the MTA/RGI/State Govt.

3. It was also noted that the Madras High Court, with reference to Writ Petition No. 44932 of 2006 filed by the President, Tamil Nadu Scheduled Tribes (Malyali) Peravi, Chennai has highlighted the importance of fulfillment of the criterion of

geographical isolation by any community for specification as an ST community (para23). Hon'ble High Court has also emphasized the existence of tribal elements in social life of any community for considering inclusion in the list of STs, while highlighting the need to protect the interest of real STs.

4. The Commission also noted that the Supreme Court, in its recent Judgment dated 18/01/2012 in the Civil Appeal No.654 of 2002, has also observed that'

"In Murlidhar Dayandeo Keskera v. Vishwanath Pandu Barde 1995 Supp. (2) SCC 549 and R. Chandevaramappa v. State of Karnataka (1995) 6 SCC 309: JT (1995) 7 SC 93, this Court had held that economic empowerment is a fundamental right to the poor and the State is enjoined under Articles 15(3) 46 and 39 to provide them opportunities. Thus, education, employment and economic empowerment are some of the programmes the State has evolved and also provided reservation in admission into educational institutions, or in case of the other economic benefits under Articles 15(4) and 46, or in appointment to an office or a post under the State under Article 16(4). **Therefore, when a member is transplanted into the Dalits, Tribes and OBCs, he/she must of necessity also have had undergone the same handicaps, and must have been subjected to the same disabilities, disadvantages, indignities or sufferings**

5. The Commission was of the considered view that each proposal must pass the test described and discussed above before it was agreed by the Commission. The decisions taken and the action points that emerged out of the discussions on each Agenda Item including three items relating to inclusion/ re-inclusion, held in the meeting are given below.

Agenda Item I	Special Report on Good Governance in Scheduled Areas and Scheduled Tribes.
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6. The Secretary, NCST mentioned that after discussions on the Draft Report in the last meeting of the Commission, Commission had received some more inputs from the State Governments and the Central Ministries on the subject matter of three Chapters of the Report, and accordingly the updated revised draft was submitted for consideration of the Commission. The Secretary, NCST highlighted the significant issues and the recommendations being included in the Report. After detailed discussion, the Commission, while approving the Report desired that the Secretary, NCST, who was due to retire on superannuation on 31/03/2012 may extend help to edit the Revised Draft Report, wherever necessary to which the Secretary NCST agreed. The Commission further directed that the

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भारत सरकार / Govt. of India
New Delhi

Rameshwar Oraon

final Report along with forwarding letter from Chairperson to the President may be submitted to the Chairperson and thereafter the President Secretariat may also be requested to indicate date and time, convenient to the President for presentation of the Report to the President.

Agenda Item2	Re inclusion of "Marati" community in the list of STs of Kerala
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7 The proposal is for re-inclusion of "Marati" community in the list of STs as this community lost its ST status in Kerala in 2002 as per the Scheduled Castes & Scheduled Tribes Order (Amendment) Act, 2002. However, the reasons for the exclusion were not available in the documents forwarded by the Ministry of Tribal Affairs vide their letter dated 10th February, 2012. The MTA was requested, vide DO letter dated 26th March 2012, to communicate the same by 27th March, 2012. In response, the MTA, vide letter No. 12016/13/2001-T.A.(R.L.)/C&LM-1 dated 27th March, 2012 has furnished the reasons for exclusion of Marati community in the list notified through the Scheduled Castes & Scheduled Tribes Order (Amendment) Act, 2002. The MTA has also forwarded earlier comments of the Govt. of Kerala, RGI and MTA in the matter. The Commission observed that the exclusion of the Marati community was proposed earlier by the State Govt. as well as by the RGI, as mentioned below:

Govt. of Kerala Letter No. 65436/E2/78/HWD dated 20th July, 1982:

"The Marati community does not possess tribal characteristics. They are caste Hindus

RGI letter No. 8/1/82-SS(Kerala) dated 22nd October, 1982 :

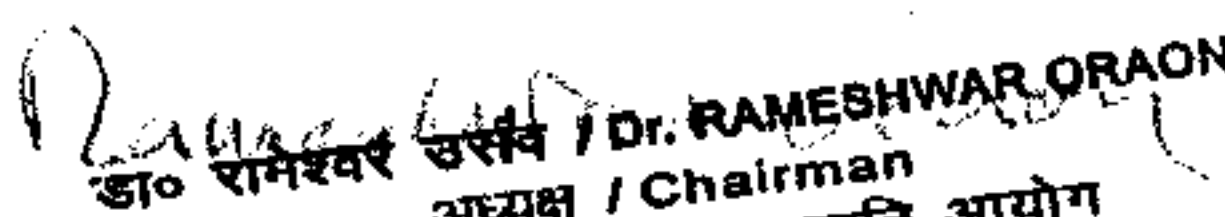
"Presently, this community is notified as a Scheduled Tribe in Hosdrug and Kasaragod taluks of Cannanore district but its name has not been shown in the Draft Scheduled Tribe List. Earlier MHA (SCBCD Division) vide d.o. dated 24th August, 1982 had suggested for its exclusion from the list of Scheduled Tribes and this office vide d.o. letter No.8/1/82-SS (Kerala) had agreed with the proposal. This office holds the same view".

Govt. of Kerala, Deptt. of SCs & STs Development (E) Deptt. letter No. 2764/E2/87/SCSTDO dt. 2nd Nov., 1987:

"The anthropological study conducted among the Maratis of Kasaragode has revealed that they are caste Hindus. It is observed that Marati is wrongly classified as a Scheduled Tribe. Therefore, Marati may be excluded from the list of Scheduled Tribes".

8. The MTA has further informed that then NCSCST had also supported the proposal of the State Govt. for exclusion of the Marati community from the list of STs of Kerala and the Commission had communicated its views vide letter dated 21st June, 2000. Accordingly, the MTA had proposed for exclusion of "Marati" community from the list through the Scheduled Castes & Scheduled Tribes Order (Amendment) Bill, 2002. Soon after the Bill was introduced in the Parliament, the Ministry had been receiving various representations requesting not to exclude the Marati community from the list of STs. In view of such proposals, the MTA sought the comments of the State Govt. on the issue of exclusion of the community from the ST list vide letter dated 9th August, 2002. This was also followed by the MTA vide d.o. letter dated 18th September, 2002 from the then Minister, MTA to the then Chief Minister, Govt. of Kerala. Subsequently, the Govt. of Kerala vide letter dated 21st November, 2002 informed that after detailed examination the Government have decided to reconsider the issue and to recommend the Government of India to retain the 'Marati' community in the list of Scheduled Tribes of Kerala. The Commission noted with concern that in the meantime, the Standing Committee of Parliament, to which the above Bill had been referred, submitted its report and accordingly the Bill had been passed by the Parliament and the "Marati" community got excluded from the list of STs in respect of the Kerala State. The Bill having been passed by the Parliament was notified as the Scheduled Castes & Scheduled Tribes Order (Amendment) Act, 2002 vide the Gazette Notification Extraordinary No. DL-33004/2003 dated 8th January, 2003.

9. Since the exclusion of "Marati" community from the list of STs had been notified, the Ministry continued to get representations for re-inclusion and as per the modalities laid down by the Government; comments of the State Government and the RGI were again invited by the Ministry. From the information and documents made available by the MTA, it is noted that the RGI in their comments dated 05/08/2004 had stated that the State Government may give proper justification for the shift from their earlier decision, recommending the exclusion of Marati community from the list of STs. The State Government of Kerala furnished the supporting papers to MTA vide their letter dated 31/08/2010. The same was referred to the RGI vide MTA letter dated 07/10/2010. In response the RGI, vide letter dated 2nd February, 2012, furnished their revised comments recommending re-inclusion of Marati community in the list of STs


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10. The Commission also noted that in support of the present proposal for re-inclusion, the MTA vide letter 12016/13/2001-T.A. (R.L)/ C&LM-1 dated 10.02.2012 had also forwarded a tour note of Shri Tapir Gao, (then Member of the NCSCST) on his visit to the Kasargod District in Kerala from 7th to 8th February, 2003 in the matter. The observation of the Member, which is stated to have been approved by the then NCSCST in its meeting held on 30/05/2003 and forwarded to the MTA, has been quoted as under:

“The Member felt that there is no justification for exclusion of the Maratis in the ST list”.

11. The Commission also noted with concern that neither the State Govt. nor the RGI and MTA had brought any additional facts, which would justify the proposal in its present form. The Commission, therefore, observed that in view of the position mentioned above, there is a need to examine such proposals judiciously and with great circumspection ensuring that the rights of the existing STs are not adversely affected as a result of inclusion of new communities in the ST list which are not meeting the stipulated criteria for tribals. The Commission, therefore, decided that the MTA, RGI and the Govt. of Kerala should be requested to furnish their clarifications/ comments on the observations of the Commission within a fortnight and also desired that the Secretary, MTA, the Chief Secretary, Govt. of Kerala, may be called for a Sitting in the last week of April, 2012 for discussion in the matter.

Agenda Item 3	Inclusion of Bodo Kacharis in Karbi Anglong & NC Hills Autonomous Council Area of Assam
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12. The Commission noted that the Sixth Schedule has special provision for an autonomous district for a particular tribe. If there are different Scheduled Tribes in an autonomous district, the Governor may, by public notification, divide the area or areas inhabited by them into autonomous regions. The Commission further noted that para 12(b) of VIth Schedule to the Constitution prescribes that:

(b) the Governor may, by public notification, direct that any Act of Parliament or of the Legislature of the State of Assam to which the provisions of clause (a) of this sub-paragraph do not apply shall not apply to an autonomous district or an autonomous region in that State, or shall apply to such district or region or any part thereof subject to such exceptions or modifications as he may specify in the notification.

13. Further, paragraph 14(1) of the Sixth Schedule provide that:

The Governor may at any time appoint a Commission to examine and report on any matter specified by him relating to the administration of the autonomous districts and autonomous regions in the State, including matters specified in Clauses (c), (d), (e) and (f) of sub-paragraph (3) of paragraph 1 of this Schedule, or may appoint a Commission to inquire into and report from time to time on the administration of autonomous districts and autonomous regions in the State generally and in particular on-

- (a) The provision of educational and medical facilities and communications in such districts and regions;
- (b) The need for any new or special legislation in respect of such districts and regions; and
- (c) The administration of the laws, rules and regulations made by the District and Regional Councils;

and define the procedure to be followed by such Commission.

14. Sub-paragraph (3) of paragraph 1 referred to above provide that the Governor, by public notification may, inter-alia,

- (a) include any area,
- (b) exclude any area,
- (c) create a new autonomous district,
- (d) increase the area of any autonomous district
- (e) diminish the area of any autonomous district
- (f) unite two or more autonomous districts or parts thereof so as to form one autonomous district.

15. In view of the above, it is to be seen whether the above procedure was followed and the State Govt. had obtained concurrence of the Governor of the State before sending the proposal to the Govt. of India. It is noted from the list of STs in respect of the State of Assam that Boro and Borokachari communities have been included in the ST list of the State excluding the autonomous Distt. of Boro and Borokachari. The proposal has implication of recognizing Borokachari as ST in the whole State of Assam with the removal of the area restriction as existing in the ST List in respect of Karbi Anglong & NC Hills Autonomous Council Area of Assam.

16. The Commission also noted that the proposal is deficient in many respects as mentioned below:

- (i) RGI have re-iterated their comments of 1981 in 2006 in the matter. The updated position with regard to social customs, dialect, way of living,

6

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level of education, economic development, religious and inter-marriages practices of Borokachari have not been made available by the MTA/RGI/State Govt.

(ii) In the DO letter dated 18/10/2011, forwarded by the MTA, it has been mentioned that the Joint Secretary (North East) in the Ministry of Home Affairs took a meeting on 12/10/2011 with the representatives of Ministry of Tribal Affairs and RGI on this issue. It has been reported that in the aforesaid meeting, it was decided that Ministry of Tribal Affairs would refer the matter to the National Commission for Scheduled Tribes for their concurrence. The Commission, however, noted that the MTA while forwarding the proposal have not sent the minutes of the meeting taken by the Ministry of Home Affairs on 12/10/2011. Further, while MTA has forwarded the proposal for inclusion of Bodo Kacharis in Karbi Anglong & NC Hills Autonomous Council Area, the quoted comments of RGI in support to the proposal pertain to the Boro Kacharis.

17. In view of the position explained at (i) to (ii) above, the Commission decided not to support the proposal and desired that MTA should be advised to examine the proposal in the light of the Commission's observations.

18. The Chairperson mentioned that he has received a Memorandum on the subject from Shri Biswajit Daimary, M.P. Rajya Sabha vide his d.o. letter dated 26th March, 2012 and desired that in accordance with the prescribed modalities for deciding claims for inclusion in, exclusion from and other modifications in the Orders specifying the lists of Scheduled Castes and Scheduled Tribes, the letter dated 26th March, 20112 from the Hon'ble M.P. may be forwarded to the MTA and the RGI for necessary action.

Agenda Item 4	Proposal for inclusion of Abujh Maria and Hill Korwa in the list of STs of Chhattisgarh.
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19. Attention of the Commission was invited to the fact that all PTGs were from amongst STs and therefore, they should be able to get ST certificate, as is evident from the following extracts from the Chapter on Development of PTGs in the Annual Report of the Ministry of Tribal Affairs, for the year 2010-11 (as also for previous years), which clearly mention that the 75 identified PTGs are among the Scheduled Tribes.

Among scheduled tribes, there are certain tribal communities who have declining or stagnant population, low level of literacy, pre-agricultural level of technology and are economically backward. 75 such groups in 17 States and 1 Union Territory of A & N islands have been identified and categorized as Particularly Vulnerable Tribal Groups (earlier known as

Primitive Tribal Groups (PTGs). Most of these groups are small in number, have not attained any significant level of social and economic progress and generally inhabit remote localities having poor infrastructure and administrative support. Therefore, they become the most vulnerable sections among the scheduled tribes. Priorities are, therefore, required to be accorded for their protection and development, and checking the declining trend of their population.

Objective: Since PTGs constitute the most vulnerable section among Scheduled Tribes, it becomes necessary to allocate adequate funds from Central Sector/Centrally Sponsored and State Plan schemes for the socio-economic development of PTGs.

Scope: The scheme covers only the 75 identified Particularly Vulnerable Tribal Groups (earlier known as Primitive Tribal Groups (PTGs) among scheduled tribes.

20. The Commission noted that PTGs were identified during Fifth F.Y.P. Ministry of Tribal Affairs accepts that PTGs were among Scheduled Tribes. Accordingly, there should have been no need for a fresh proposal to include any PTG as a ST in respect of any State and in particular regarding Abujh Maria and Hill Korwa in the list of Scheduled Tribes in respect of Chhattisgarh State. It was noted that persons belonging to these two PTGs were getting benefits of various schemes taken up for PTGs but they were not considered for benefit of reservation and other facilities admissible as Scheduled Tribes because these names are not specifically found in the list of Scheduled Tribes in respect of Chhattisgarh State and they were not able to obtain ST Certificates in their names. The Commission felt that this problem has arisen due to various Amendment Acts enacted since 1976. It was recalled that the Scheduled Castes and Scheduled Tribes Orders (Amendment) Act, 1976 was enacted to provide for inclusion in and the exclusion from the list of Scheduled Castes and Scheduled Tribes, of certain castes and tribes, to remove the area restrictions in respect of the tribes and communities, which had already been specified as Scheduled Tribes. At that stage, the Government, perhaps, did not consider it necessary to ensure that the PTG communities, which were earlier recognized as synonym or Sub-Tribe of a Main-Tribe, may also be listed separately and clearly in the Amendment Act. Consequently, persons belonging to Abujh Maria, Hill Korwa and other PTG Communities which were not listed in the ST List have been facing problem in obtaining ST Certificates and hence, the above proposal and this may follow with similar other proposals.

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21. In the present case, the State of Chhattisgarh was carved out of MP State in November 2000 and fresh lists of Scheduled Tribes in respect of the States of MP and Chhattisgarh respectively were notified, as part of the Madhya Pradesh Re-organization Act, 2000. Subsequently, the Scheduled Castes and Scheduled Tribes Orders (Amendment) Act, 2002 was enacted to provide for (i) inclusion in the lists of Scheduled Tribes, of certain tribes or tribal communities or parts of or groups within tribes or tribal communities, (ii) equivalent names or synonyms of such tribes or communities, (iii) removal of area restrictions and bifurcation and clubbing of entries, (iv) imposition of area restriction in respect of certain castes in the lists of Scheduled Castes, and (v) exclusion of certain castes and tribes from the lists of Scheduled Castes and Scheduled Tribes in respect of various States. However, at no stage the Ministry of Tribal Affairs (previously Tribal Development Division in Ministry of Home Affairs, Ministry of Welfare and Ministry of Social Justice & Empowerment respectively) recognized/ conceived the above problem and took steps to ensure that all the PTGs (identified as most primitive and vulnerable among Scheduled Tribes) were able to get the ST Certificates by including those names in the list of Scheduled Tribes specified in relation to the States of Madhya Pradesh and Chhattisgarh respectively. It is evident from the statements of the Ministry in the Annual Reports that "75 PTGs were from among the Scheduled Tribes" and this made the Ministry to take it "for-granted" and "considered view of the Government" that the PTGs were synonym/ Sub-Tribes of specified Scheduled Tribes and therefore, there was no need to include names of the identified PTGs as separate ST or as synonym/ Sub-Tribe of main ST community in the list of Scheduled Tribes.

22. It is also noted from the views of the Registrar General of India also that Abujh Maria, known as Hill Maria is a section of Gond and Hill Korwa or Pahari Korwa is a section of Korwa Tribe. The Commission was, therefore, surprised as to why and how the Government ignored the ground realities that the persons belonging to the PTGs, which were considered from among Scheduled Tribes, would not be considered eligible for availing benefits as Scheduled Tribes because names of these communities were not specifically mentioned in the Constitution Orders. Commission further noted that the present proposal should have been mooted suo-moto by the Ministry instead of a proposal from the State Government since Ministry has been releasing funds for development of these PTGs. The Commission also observed that Sub-identities need not be a reason

for independent inclusion in the ST List if the major (mother) community is already included in the list as in the present case.

23. In view of the position brought out above, the Commission decided that the MTA, RGI and the Govt. of Chhattisgarh may be requested to furnish their clarifications/ comments on the observations of the Commission within a fortnight and also desired that the Secretary, MTA, the Chief Secretary, Govt. of Chhattisgarh and RGI, may be called for a Sitting in the third week of April, 2012 for discussion in the matter.

24. Before winding up the meeting, the Chairperson availed the opportunity of the meeting to appreciate the significant contributions made by Shri Raghuvendra Singh Sirohi, Secretary, National Commission for Scheduled Tribes during his long tenure of over 4 years in the Commission. The Chairperson recalled that Shri Sirohi was instrumental in development and establishment of File Tracking System and PGRMS to facilitate effective activities of the Commission besides enriching the Website of the Commission. The Commission also recognized and appreciated the work ethics of Shri Sirohi and the outstanding efforts to ensure submission of four Annual Reports of the Commission to the President as per the Constitution requirement and also finalization of the draft of a Special Report on critical issues concerning STs (to be submitted to the President shortly), despite the fact that the Commission is having continued acute shortage of staff. The Commission also put on record the tremendous contribution by Shri Sirohi in streamlining the working of the Commission with his rich experience in diversified areas and wished him a very happy, healthy and peaceful retired life.

25. The Meeting ended with a vote of thanks to the Chair.

Rameshwar Oraon

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अध्यक्ष / Chairman
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ANNEXURE

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

National Commission for Scheduled Tribes

List of participants in the 32nd Meeting of the Commission held on 28-03-2012 at 11.30AM in the Conference Room of the Commission.

S. No.	Name and Designation
1.	Dr. Rameshwar Oraon, Chairperson (in Chair)
2.	Smt. K. Kamala Kumari, Member
3.	Shri Bheru Lal Meena, Member
4.	Shri Raghuvendra Singh Sirohi, Secretary
5.	Shri Aditya Mishra, Joint Secretary
6.	Smt. K.D. Bhansor, Dy. Director
7.	Shri S.P. Meena, Assistant Director
8.	Shri R.C. Durga, Consultant

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