



BY HAND

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

संख्या/ No.- 1/8/09-Coord

दिनांक/ Date: 12/11/2009

To

- 1) Smt. Urmila Singh, Chairperson
- 2) Shri Maurice Kujur, Vice-Chairperson
- 3) Shri Tsering Samphel, Member
- 4) Shri Oris Syiem Myriaw, Member

**Sub: Summary record of the 15th meeting of the National Commission for Scheduled Tribes held on 06/11/2009.**

Sir,

I am to refer to the above subject and to say that 15th meeting of the National Commission for Scheduled Tribes was held at 1200 hrs. on 06.11.2009 in the Conference room of the Commission in Lok Nayak Bhawan New Delhi. The meeting was presided over by Smt. Urmila Singh, Chairperson, National Commission for Scheduled Tribes. A copy of the Summary Record of the meeting is enclosed for information and record.

Yours faithfully,

  
(R.C. Durga)  
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 30.11.2009 positively:

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

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

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

  
(Director)

## NATIONAL COMMISSION FOR SCHEDULED TRIBES

**Sub : Summary record of the 15th meeting of the National Commission for Scheduled Tribes held at 12:00 hrs. on 06.11.2009.**

The 15th meeting of the National Commission for Scheduled Tribes was held at 1200 hrs. on 06/11/2009 in the Conference room of the Commission in Lok Nayak Bhawan New Delhi and was presided over by Smt. Urmila Singh, Chairperson National Commission for Scheduled Tribes. List of participants is enclosed at ANNEX.

2. There was only one Agenda Item listed for discussion. With the permission of Chair, two additional items of urgent nature were also discussed. Summary record of the discussions held in the meeting, **item-wise**, is given below:

**Agenda Item I**      **Comments of National Commission for Scheduled Tribes requested by Directorate Higher Education, Govt. of NCT of Delhi on the Delhi Education Institutions (Reservation in Admission Bill, 2009)**

2.1.1              The Secretary, NCST mentioned that besides elegance of drafting there were two issues involved in the revised draft Bill, which needed consideration and comments of the Commission: -

- (i) The first issue related to the definition of the Scheduled Tribes in Section 2 of the Bill in the context of reservation for them for the purpose of their admission in the educational institutions controlled by Delhi Govt. Section 2(i) of the draft Bill provides that the "Scheduled Tribes" means the Scheduled Tribes notified under Article 342 of the Constitution in relation to any State or Union Territory migrated in the NCT of Delhi due to transfer or movement of their father or guardian on account of business or service.
- (ii) The second issue related to the percentage of reservation for STs. Section 3(1) (ii) of the Bill states that out of the annual permitted strength in each branch of study or faculty, the percentage of seats reserved for ST shall be prescribed by the Govt. from time to time but shall not exceed 7.5% of the annual permitted strength.

2.1.2              The Commission noted that the criteria for deciding the percentage of reservation for Scheduled Tribes for admission in the educational institutions under the control of Govt. of NCT of Delhi had not been specified; and to that extent it embedded the potential for arbitrariness by Delhi Govt. besides legal infirmities. It was also noted that the methodology for implementing the flexible percentage of reservation for Scheduled Tribes mentioned under 5(1) of the draft Bill had also not been specified.

2.1.3 Secretary mentioned that Section 3(ii) of the Central Educational Institutions (Reservation in Admission) Act, 2006 provided 7.5% reservation for STs. The Supreme Court had also ruled that the Union Territory Administration of Pondicherry had not erred in considering Scheduled Castes from all over the India for the posts of Sr. Teachers reserved for Scheduled Castes in the Pondicherry Administration, as they were administered under Central regulations. Members observed that Delhi being the National Capital of the country and the fact that the educational facilities of high order have been created through use of Central revenues, it was quite desirable to extend the benefit of reservation to the Scheduled Tribes from all over the country, irrespective of their nativity. It was also pointed out that Section 2(i) of the Bill contravened the provisions of Article 342 of the Constitution of India as this Article does not talk about such STs, as have migrated to the NCT of Delhi due to transfer in movement of their father or guardian on account of business or service. Therefore, the Commission strongly felt that the restriction of benefit of reservation only to the migrants to the NCT of Delhi as provided in Section 2(i) of the draft Bill was not in order.

2.1.4 The Commission noted that the percentage of reservation for Scheduled Tribes in Government of India for all purposes is 7.5%, and the Govt. of NCT of Delhi, being a UT was providing similar reservation to Scheduled Tribes irrespective of their nativity in posts/ services under their control as per the letter of the Govt. of NCT of Delhi dated 30/06/2005. The Commission accordingly observed that Delhi being a Union Territory and capital of the country and also considering the fact that percentage of reservation for Scheduled Tribes in service and posts in Govt. of NCT of Delhi was 7.5%, the percentage of reservation for Scheduled Tribes in admission to educational institutions under the control of Govt. of NCT of Delhi should also be fixed at 7.5%.

2.1.5 The Commission also observed that Section 5(1) of the Bill provided that the number of seats in any academic session excluding those reserved for Scheduled Castes, Scheduled Tribes and OBCs should not be less than that available for the immediately preceding session. The Commission felt that the flexible percentage of reservation for Scheduled Tribes in admission to educational institutions under the control of Govt. of NCT of Delhi may lead to problems in case of increase in percentage of reservation of STs.

2.1.6 In view of the above, Commission expressed the view that reservation for Scheduled Tribes for admission to educational institutions under the control of Govt. of NCT of Delhi should be 7.5% (and not upto 7.5% as stated in the Bill) and that all the STs irrespective of their nativity (on the line of reservation in services/

posts under control of Delhi Govt.) should be eligible to avail of the benefit of reservation. The Commission accordingly felt that the Govt. of NCT of Delhi should take immediate action:

- (i) To amend Section 2(l) of the Bill to delete the words "migrated in the NCT of Delhi due to transfer or movements of their father or guardian on account of business or service" with a view to make the contents of this Section to conform to the provisions of Article 342 of the Constitution and extend the benefit of reservation to all the Scheduled Tribes irrespective of their nativity instead of restricting it only to the ST migrants to the NCT of Delhi.
- (ii) To amend Section 3(1) (ii) of the Bill to provide that out of the annual permitted strength in each branch of study or faculty, 7.5% seats shall be reserved for the Scheduled Tribes.
- (iii) To amend Section 5(1) of the Bill to make it applicable only for implementation of the reservation for OBCs.

**Additional Agenda Items.**

**Agenda Item II Proposal of the Govt. of Orissa for seeking assent of the President of India to the Orissa Scheduled Areas Transfer of Immovable Property (By Scheduled Tribes) Amendment Regulation, 2009 – Reference from Ministry of Tribal Affairs.**

2.2.1 It was explained by the Secretary that land is an important asset for Scheduled Tribes and they are emotionally attached to it. At the same time, it is also a fact that Scheduled Tribes have been facing a lot of problems in getting loans from various financial institutions due to the specific provisions under the Land Transfer Regulations/ Acts of the States regarding non-transfer of ST land to non-ST persons. The 33rd Report by the Parliamentary Committee (14th Lok Sabha) for the Welfare of Scheduled Castes and Scheduled Tribes has recommended that the Ministry of Finance may issue necessary guidelines to Banks/ financial institutions. Secretary suggested that some arrangements like creation of a Credit Guarantee Fund for the Scheduled Tribes could be considered to provide security to the financial institutions for the purpose of granting loans to the Scheduled Tribes instead of amending the existing land transfer regulations (as proposed by Govt. of Orissa) which will ultimately deprive the tribals of land which was the only source of their livelihood. The Commission also desired that in the meanwhile detailed agenda may be prepared on this subject for discussion.

2.2.2 The Commission, accordingly, felt that this item needed indepth consideration and may be listed for discussion in another meeting of the

Commission in which Hon'ble Vice-Chairman may also be present.

**Agenda Item III Annual Report for the year 2007-08 and 2008-09.**

**3.1.1**

Secretary referred to a note dated 03/11/2009 received from the Chairperson, NCST stating that she in consultation with Hon'ble Vice-Chairman and other Members had decided that the report for the period 2007-08 and 2008-09 may be combined for the purpose of drafting the 3rd Report of the Commission. The note further stated that the proposed action was in line with similar action taken by the 1st National Commission for Scheduled Tribes (which submitted a single report for the year 2004-05 and 2005-06) and the erstwhile National Commission for Scheduled Castes and Scheduled Tribes which had submitted may such reports.

**3.1.2**

Secretary stated that under Clause 5(d) of Article 338A of the Constitution of India, the Commission was required to present to the President, annually, or at such other times as the Commission may deem fit, reports upon the working of the safeguards provided for Scheduled Tribes. He stated that in view of these provisions it would not be correct to combine the reports for the years 2007-08 and 2008-09. He also referred to the observations of the Parliamentary Committee on Welfare of SCs and STs that the NCST should submit its Reports annually which should be presented timely in Parliament. He further requested the Hon'ble Chairperson to convene the next meeting of the Commission at an early date to discuss the draft Chapters of the Annual Report 2007-08. He also assured that with the co-operation of the Members he would try to submit the Annual Report for the year 2008-09 to the Commission by March, 2010, an outline of which would be prepared in a week's time. He further stated that the year 2009-10 had not yet come to an end and, therefore, it will not be possible to submit to the Commission the draft Report for this period. The Chairperson and Members agreed that this action would meet their desire that the Reports pertaining to their tenure should be submitted to the President of India before they demitted office.

3. The meeting ended with vote of thanks to the Chairperson.



**उर्मिला सिंह**  
अध्यक्ष  
राष्ट्रीय अनुसूचित जनजाति आयोग  
भारत सरकार, नई दिल्ली

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

**National Commission for Scheduled Tribes**

Meeting of the Commission held on 06/11/2009 at 1200 hrs. in the Conference Room of the Commission- List of participants.

**S.No.    Name and Designation**

1. Smt. Urmila Singh, Chairperson (In chair)
2. Shri Tsering Samphel, Member
3. Shri Oris Syiem Myriaw, Member
4. Shri R.S. Sirohi, Secretary
5. Shri Aditya Mishra, Joint Secretary
6. Shri Vinod Aggarwal, Director
7. Smt. K.D. Bhansor, Deputy Director
8. Shri S.P. Meena, Assistant Director
9. Shri K.N. Singh, PS to Chairperson