



NATIONAL COMMISSION FOR SCHEDULED TRIBES

**FIFTH REPORT
FOR THE YEAR
2009-10**

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National Commission for Scheduled Tribes

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3	7	3	Proceedings of the sittings/ hearings held in the NCST	"Hearings/ Proceedings"
4	9	4	Proceedings of the meetings of the Commission, containing views of the NCST	" Meetings of Commission "
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7	15	7	Schedule and proceedings of the discussions of these sittings	"Hearings/ Proceedings"
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9	20	9	List of the RTI applications received and dealt during 2009-10	'RTI Applications' under link 'RTI Disclosures'
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16	76	3	Outcome of the scheme (NREGS)	"Reports"/ "Other Reports"/"Reports"/ "Other Reports"/ "MGNREGA, Report to the People 02.02.2006 – 02.02.2010, Ministry of Rural Development"
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24	97	3	Proposal of Ministry of Home Affairs for inclusion of all SC & ST communities in the list of Scheduled Castes and Scheduled Tribes, respectively, in relation to the NCT of Delhi and all other Union Territories	Agenda "Item III" against meeting dated "22/02/2010" under the main link <u>Meetings of Commission</u>
25	98	4	Acceptance of caste certificate produced by candidates	'RTI Disclosure' - 'Important Circulars' - 'DOPT Circulars'
26	98	5	Reservation for SCs and STs beyond 15.11.1997 in financial institutions/ Banks consequent to judgement of Madras High Court dated 09.12.2009	'RTI Disclosure' - 'Important Circulars' - 'DOPT Circulars'
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28	111	7	Instructions that the vacancies reserved for Scheduled Tribes are required to be filled from the candidates belonging to Scheduled Tribes only, both in respect of direct Recruitment and promotion	'RTI Disclosure' - 'Important Circulars' - 'DOPT Circulars'

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34	158	4	Views/ comments of the Commission communicated to the Secretary, Inter-State Council Secretariat, MHA vide NCST letter No. MHA-1/Devl../08/RU-III dated 25/08/2009	" Review of implementation of Safeguards"/ "Recommendations on Proposals forwarded by the Government"
35	158	5	NEBCC, Ministry of Social Justice and Empowerment Letter No. 36/ CEBC/ 2007 dated 15/01/2009 seeking views/ comments of the NCST on providing reservation to Economically Backward Classes of General Category (Unreserved Category)	" <u>Review of implementation of Safeguards</u> "/ "Recommendations on Proposals forwarded by the Government"
36	159	6	NCST Letter No. MBS/Service/ SJ&E/EBC Reservation/2009/RU-II dt. 16/7/2009 forwarding Views/ comments of the NCST on providing reservation to Economically Backward Classes of General Category (Unreserved Category) NCST	" <u>Review of implementation of Safeguards</u> "/ "Recommendations on Proposals forwarded by the Government"

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38	162	8	NCST Letter No. Policy-06/Service/2008/RU-I dated 16/7/2009 furnishing views of the NCST on the DoPT proposal dated 22/11/2007	" <u>Review of implementation of Safeguards</u> "/ "Recommendations on Proposals forwarded by the Government"
39	162	9	MTA Letter No. 8/1/92-SS (Karnataka) dated 27/12/2006 seeking views on inclusion of 'MEDARA' community as a synonym of MEDA' community in the ST list of Karnataka	" <u>Review of implementation of Safeguards</u> "/ "Recommendations on Proposals forwarded by the Government"
40	163	10	NCST Letter No. RU-IV/Service/Karnataka-2/2007 dated 11/09/2009 furnishing views of the NCST on inclusion of MEDARA community	" <u>Review of implementation of Safeguards</u> "/ "Recommendations on Proposals forwarded by the Government"
41	164	11	NCST Letter No. RU-IV/Service/Karnataka-2/2007 dated 19/07/2010 furnishing final views of the NCST on inclusion of MEDARA community	" <u>Review of implementation of Safeguards</u> "/ "Recommendations on Proposals forwarded by the Government"
42	164	12	MTA letter No. 17014/5/08-C & LM-I dated 12/08/2009 seeking views/ comments of NCST on draft policy for Shompens, a Particularly Vulnerable Tribal Group (PTG) of A&N Islands	" <u>Review of implementation of Safeguards</u> "/ "Recommendations on Proposals forwarded by the Government"
43	169	13	NCST Letter No. 15/1/2009/STGAN/ DEOTH/RU-III dated 18.09.2009 furnishing views of the NCST on draft policy for Shompens	" <u>Review of implementation of Safeguards</u> "/ "Recommendations on Proposals forwarded by the Government"

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44	169	14	Govt. of NCT of Delhi letter no DHE.6(79)/2007-08/Part File-I/4346 dated 16.10.2009 seeking comments of the NCST on the revised draft of 'The Delhi Educational Institutions (Reservation in Admission) Bill 2009	" <u>Review of implementation of Safeguards</u> "/ "Recommendations on Proposals forwarded by the Government"
45	171	15	NCST Letter No. 17/5/2009/ STGDH/ DEEDUC/ RU-I dt. 13/11/2009 furnishing comments/ views of NCST on revised draft Bill	" <u>Review of implementation of Safeguards</u> "/ "Recommendations on Proposals forwarded by the Government"
46	171	16	MTA letter No. 12014/1/08-C&LM-I dated 19/02/2009 seeking comments/ views of NCST on draft Bill to regulate the issue of Community Certificate to persons belonging to SCs / STs / OBCs	" <u>Review of implementation of Safeguards</u> "/ "Recommendations on Proposals forwarded by the Government"
47	173	17	NCST Letter No. NKG/2/2009/ MTAF1/ SEOTH/RU-II dt. 01/12/2009 furnishing comments/ views of NCST on draft Bill to regulate the issue of Community Certificate to persons belonging to SCs / STs / OBCs	" <u>Review of implementation of Safeguards</u> "/ "Recommendations on Proposals forwarded by the Government"
48	173	18	MTA letter No. 12025/03/2007- C&LM II dated 12/09/2007 seeking comments/ views of NCST on draft Policy on Criminal Justice w.r.t. Chapter 8.4 "Criminal Justice involving Dalits and Tribals" of the Summary Report of the Committee	" <u>Review of implementation of Safeguards</u> "/ "Recommendations on Proposals forwarded by the Government"
49	175	19	NCST Letter no Policy-1/MTA/ Atrocity/2007/RU-II dated 01/12/2009 furnishing comments/ views of NCST on draft Policy on Criminal Justice	" <u>Review of implementation of Safeguards</u> "/ "Recommendations on Proposals forwarded by the Government"
50	175	20	MTA Letter No. 4/3/2009- CP&R/C&LM II dated 27.10.2009 seeking comments/ views of NCST on the 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	" <u>Review of implementation of Safeguards</u> "/ "Recommendations on Proposals forwarded by the Government"

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51	177	21	NCST Letter No. 14/6/09/Devl./ Orissa/Policy/RU-III dated 01.12.2009 furnishing comments/ views of NCST on the proposal of the Govt. of Orissa regarding the Orissa Scheduled Areas Transfer of Immovable Property (By Scheduled Tribes) Amendment Regulation, 2009	" <u>Review of implementation of Safeguards</u> "/ "Recommendations on Proposals forwarded by the Government"
52	178	22	MHA Letter No. U-13028/31/2006-Delhi-I dated 27.11.09 seeking comments/ views of NCST on Grant of reservation to migrant SCs/ STs in civil posts under the Government of NCT of Delhi and all other Union Territories	" <u>Review of implementation of Safeguards</u> "/ "Recommendations on Proposals forwarded by the Government"
53	181	23	NCST Letter No. 12/01/10-Coord dated 20.07.2010 furnishing comments/ views of NCST on Grant of reservation to migrant SCs/ STs in civil posts under the Govt. of NCT of Delhi and all other Union Territories NCST Letter No. 15/1/2009/ STGAN/DEOTH/RU-III dt. 18.09.2009	" <u>Review of implementation of Safeguards</u> "/ "Recommendations on Proposals forwarded by the Government"
54	181	24	MTA letter no. 16/12/2009-CP&R dated 04.12.2009 seeking comments/ views of NCST on proposal of MSJE on amendment of PoA Rules, 1995	" <u>Review of implementation of Safeguards</u> "/ "Recommendations on Proposals forwarded by the Government"
55	183	25	NCST letter no Policy-1/ATROCITY/ MTA/2010/RU-II dated 26.03.2010 furnishing comments/ views of NCST on proposal of MSJE on amendment of PoA Rules, 1995	" <u>Review of implementation of Safeguards</u> "/ "Recommendations on Proposals forwarded by the Government"
56	184	26	NCST Letter no 13/1/NCST/2004-Admn/RU-I dated 26/03/2010 furnishing comments/ views of NCST on The Scheduled Castes and the Scheduled Tribes (Reservation in Posts and Services) Bill 2008	"Review of implementation of Safeguards"/ Significant Issues taken up by the Commission"/ "Matters Taken up Suo-Motto by the Commission"

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57	187	27	NCST Letter No Sikkim-2/Inclusion/Service/2006/RU-II dated 01/12/2009 to MHA furnishing comments/ views of NCST on Representation of all Scheduled Tribes in the Sikkim Legislative Assembly in the context of the proposal of the State Govt for increase of Assembly seats in the Sikkim from 32 to 40	"Review of implementation of Safeguards"/ "Significant Issues taken up by the Commission"/ "Matters Taken up Suo-Motto by the Commission"
58	188	28	NCST Letter No. 6/3/2006/Atrocity/ RU-II dated 16.07.2009 addressed to MSJE recommending amendment of SCs and STs (Prevention of Atrocities) Act, 1989 for providing time bound disposal of cases by the Special Courts	"Review of implementation of Safeguards"/ "Significant Issues taken up by the Commission"/ "Matters Taken up Suo-Motto by the Commission"
59	190	29	NCST Letter No. 18/2/CG/2008/RU-III dated 02/01/2009 to the ASG, High Court of Chhattisgarh at Bilaspur forwarding material for preparing the affidavit to be filed on behalf of the National Commission for Scheduled Tribes in the High Court of Chhattisgarh at Bilaspur in the WP(S) No.6337 of 2008 in Chhattisgarh High Court at Bilaspur, filed by Shri M.K. Chaudhary & Others vs. State of Chhattisgarh & 12 Others regarding denial of promotion to SCs and STs Officers of Chhattisgarh State Electricity Board after bifurcation of Madhya Pradesh State Electricity Board, consequent to re-organisation of MP State in the year 2001	"Review of Implementation of Safeguards"/ "Significant Issues taken up by the Commission"/ "Representation in Legal Matters"
60	192	30	NCST Letter No. CC/1/2009/STGMH/ DEOTH/RU-IV dated 18/03/2010 addressed to Ministry of Law & Justice and the Ministry of Tribal Affairs forwarding views of NCST in WP No. 3528 of 2009, filed by Shri Purushottam Sonkusre vs Delimitation Commission, New Delhi & Ors. in the High Court of Bombay, Nagpur Bench challenging the list of Assembly constituencies reserved for STs in the Maharashtra Legislative Assembly	"Review of Implementation of Safeguards"/ "Significant Issues taken up by the Commission"/ "Representation in Legal Matters"

D.O. No. 4/2/11-Coord.

Dated: 13th July, 2011

Respected Rashtrapati jee,

The National Commission for Scheduled Tribes was set up w.e.f. 19 February, 2004 by amending Article 338 of the Constitution and inserting a new Article 338A vide the Constitution (89th Amendment) Act, 2003. Article 338A, inter-alia, provides that it shall be the duty of the Commission to present to the President, annually and at such other times as the Commission may deem fit, reports upon the working of the safeguards available to the members of Scheduled Tribes and to make in such reports recommendations as to the measures that should be taken by the Union or any State for effective implementation of those safeguards and other measures for protection, welfare and socio-economic development of the Scheduled Tribes.

2. I have the honour to submit to you the **Fifth Report** of the National Commission for Scheduled Tribes for the year 2009-10. During the period under review, the Members of the Commission interacted with senior officers and people's representatives at State, district and local levels. The Commission also held sittings with the senior officers of the State Govts., Central Ministries/ Departments, Central Public Sector Enterprises and financial institutions. The Commission has also deliberated upon various policy measures contemplated by the Government. The experiences of the Commission have been encapsulated in this Report, which has seven Chapters covering **(i) Organisational Set-Up & Functioning of the Commission (ii) Planning and Development for Scheduled Tribes (iii) Effectiveness Of MGNREGA for Scheduled Tribes (v) Service Safeguards (v) Atrocities on Scheduled Tribes (vi) Case Studies (vii) Consultation on Policy Related Issues**. A summary of the recommendations made in each Chapter of the Report has been given in the Eighth Chapter titled **SUMMARY OF RECOMMENDATIONS**.

3. The first Chapter on '**ORGANIZATIONAL SET-UP AND FUNCTIONING OF THE COMMISSION**' inter-alia, broadly dwells upon (i) various aspects of the functioning of the Commission and the initiatives taken for improved performance, (ii) needs and constraints faced by the Commission and (iii) laying of the Commission's reports in Parliament. Regrettably, due to the continually worsening shortage of staff, the Commission has not been able to take up matters relating to all duties and functions assigned to it, the outcome of which reflects adversely on the efforts made by the Commission. The Commission has, however, noted that

while it submitted its 1st report to the Hon'ble President on 8 August 2006, 2nd Report on 03.09.2008, 3rd Report on 29.03.2010 and 4th Report on 27.08.2010, none of the reports has been laid in Parliament so far. The directive given by the Prime Minister's Office to the Ministry of Tribal Affairs vide UO dated 24/05/10, inter-alia prescribing a schedule for laying of 1st, 2nd and 3rd Report of the NCST in Parliament and strengthening the manpower of the Commission, has not yielded any result in more than one year since then, as no step has been taken by the Government for strengthening the manpower of the Commission and laying of the Report in the Parliament. The Commission has also no information whether any of its Reports has been laid in any State Legislature under Clause (7) of Article 338A. The Commission, in this Report has, therefore, re-iterated its recommendation made in all its earlier reports that Clause (6) and Clause (7) of Article 338A should be amended to provide that the President/ Governor shall cause all reports submitted by the Commission to him/ her to be laid before each House of Parliament/ State Legislature within three months of such submissions and a memorandum of action taken shall be placed before each House of Parliament/ State Legislature within six months of such submission.

4. In this context I would like to inform you that the Parliamentary Committee on the Welfare of Scheduled Castes and Scheduled Tribes in its 33rd Report (14th Lok Sabha) had taken cognizance of the fact that NCST has not been provided with adequate manpower and none of its Reports submitted by the National Commission for Scheduled Tribes to the President had been placed in the Parliament. The Committee (15th Lok Sabha) in its 11th Report regarding action taken on the 33rd Report (14th Lok Sabha) has mentioned that the **Committee are disturbed to note that the Ministry of Tribal Affairs have been taking a very long time in consolidating the inputs received from various Ministries/Departments. In laying of reports NCSC was also not regular. As such the Committee have no reservation in recommending amendment of clauses 6 & 7 of Article 338 and 338A of the Constitution for timely laying of reports of both NCST and NCSC. The Committee, therefore, reiterates their earlier recommendation as also stress for laying of all NCST reports which are long overdue for laying in the Parliament.** Regarding strengthening of the Commission the Committee has observed in the 11th Report that **more than a year has passed since the proposal was submitted by the NCST but Government has not made any progress.**

5. The Tribal Sub-Plan approach for development of the STs and the Scheduled Areas and other areas of tribal concentration is being implemented since the Fifth Five Year Plan. As per the guidelines for the Tribal Sub-Plan, each State Government has to set apart funds out of State Plan, in proportion to the population percentage of the Scheduled Tribes in the State, under the TSP; and submit a Tribal Sub-Plan document showing utilization of those and other funds received or to be received from various sources including those as Special Central Assistance and Central Assistance under Central Sector and Centrally Sponsored Schemes and Institutional Finance. Similarly, each Ministry and Department of the Central Government is required to set apart funds equivalent to 8.2% (population of the Scheduled Tribes in the Country) and prepare Tribal Sub-Plan document along with the plan proposals for the Annual Plan and the Five Year Plan of the Ministry/ Department. The Commission has observed that these guidelines are not being followed by almost all the States and the Central Ministries/ Departments.

The position in respect of each State and some of the Ministries, information in respect of which has been received has been discussed in **Chapter 2 on PLANNING AND DEVELOPMENT FOR SCHEDULED TRIBES**. The Commission also feels that the unspent amount of the funds so earmarked under Tribal Sub-Plan of the State as well as Central Ministry/ Department may be treated as non-lapsable pool and placed under the control of the Tribal Welfare Department of the concerned State and the Ministry of Tribal Affairs respectively to be utilized for infrastructural development schemes incidental to the Scheduled Tribes and the Tribal Sub-Plan areas.

6. The Mahatma Gandhi National Rural Employment Guarantee Act, 2005, (MGNREGA) was enacted on 7th September 2005. The main objectives of MGNREGA are to enhance livelihood security in rural areas, empowerment of rural poor and reducing rural-urban migration and fostering social equity by providing at least 100 days of guaranteed wage employment in a financial year to every household whose adult members volunteer to do unskilled manual work. The scheme is expected to act as strong social safety net for the vulnerable groups by providing a fall-back employment source, when other employment alternatives are scarce or inadequate. The Act came into force on February 2, 2006 and was implemented in a phased manner. Since 2008-09 was the first year of its implementation in all the Rural districts of the country, the National Commission for Scheduled Tribes decided to review the implementation of the Scheme and role of various Agencies involved in the implementation and include its observation in the Report for the year 2009-10. These details have been discussed in **Chapter 3 on EFFECTIVENESS OF MGNREGA FOR SCHEDULED TRIBES** in this Report.

7. The Constitution of India has made specific provisions for upliftment of the weaker sections of the society. These include provisions for reservation for Scheduled Castes and Scheduled Tribes in civil posts and services of the Government. There are several instructions and guidelines relating to implementation of policy of reservation by Govt. Departments and Public Sector Enterprises under them, including Banks, Insurance Companies and Central Universities, etc. **Chapter 4 on 'SERVICE SAFEGUARDS'** discusses some important aspects having vital bearing on the service safeguards available to the members of the Scheduled Tribes.

8. The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act 1989 & PoA Rules, 1995 have been framed to protect the members of these communities from social denigration. There is, however, no substantial reduction in the number of incidents of atrocities on Scheduled Tribes. The Commission has also observed that the investigation process is not completed within a reasonable period of time. All the States have set up either Exclusive Special Court(s) or designated Court(s) of Session as Special Court(s) for trial of cases registered under the SCs and STs (POA) Act, 1989. Despite this, the cases are taking years for disposal in most of the States and consequently the acquittal rate is higher in these cases than the other cases. Consequently, the purpose of enacting a Special Law for prevention of atrocities on STs (and SCs) and making a provision for ensuring speedy justice to them through establishment of the Special Courts under the Act appears to have been defeated. This is a matter of grave concern; and, there is imperative need to take more effective measures for curbing the

incidence of atrocities upon Scheduled Tribes and ensuring prompt justice to the ST victims of atrocities and timely punishment to the perpetrators. The observations of the National Commission for Scheduled Tribes regarding implementation the SCs and STs (POA) Act, 1989 and the SCs and STs (POA) Rules, 1995 and suggestions to amend the Act and the Rules to achieve the above objective have been discussed in **Chapter 5 on ATROCITIES AGAINST SCHEDULED TRIBES.**

9. The Commission receives representations pertaining to grievances and violation of safeguards of Scheduled Tribes. These representations are referred to the concerned organizations of the Central Government or the State Governments by the Commission, requesting them to furnish full facts within a given timeframe. The facts furnished by the concerned organization are examined by the Commission and in case, on enquiry, the Commission feels that there has been violation of the safeguards provided to the members of Scheduled Tribes, either in the Constitution or under any other law or order of the Government, it advises the concerned organization to take corrective measures within a given timeframe and apprise the Commission of the action taken. The Commission's intervention brought relief in many cases during the Report period 2009-10 also. A few representative cases have been discussed in **Chapter 6** titled **CASE STUDIES.**

10. Clause 9 of Article 338A of the Constitution provides that the Union and every State Government shall consult the Commission on all major policy matters affecting Scheduled Tribes. During the year 2009-10, the Commission communicated its views on several policy-related issues, the details of which have been presented in **Chapter 7 on CONSULTATION ON POLICY RELATED ISSUES.** It is quite significant to note that not many Ministries of the Government have accepted the recommendations made by the Commission in the policy related issues referred to it.

11. In spite of increased handicaps, the Commission has persevered to highlight the basic problems of Scheduled Tribes and has made recommendations to improve the efficacy of existing measures to safeguard their rights. The Commission sincerely hopes that these recommendations and suggestions will be given serious consideration in the overall interest of Scheduled Tribes. However, the worsening shortage/ attrition of manpower available to the Commission urgently necessitates sympathetic resuscitation.

With kind regards

Yours sincerely,

(Rameshwar Oraon)

Smt. Pratibha Devi Singh Patil,
Hon'ble President of India,
Rashtrapati Bhavan,
New Delhi.



The Chairman, National Commission for Schedule Tribes, Dr. Rameshwar Oran along with other members presented the Fifth Report of the Commission to the President, Smt. Pratibha Devisingh Patil, at Rashtrapati Bhavan, New Delhi on July 13, 2011.

CHAPTER 1

ORGANIZATIONAL SET-UP AND FUNCTIONING OF THE COMMISSION

1.1 Creation and composition of the National Commission for Scheduled Tribes

1.1.1 The National Commission for Scheduled Tribes (NCST) was established by amending Article 338 and inserting a new Article 338A in the Constitution through the Constitution (89th Amendment) Act, 2003¹. By this amendment the erstwhile National Commission for Scheduled Castes and Scheduled Tribes was replaced by two separate Commissions namely- (i) the National Commission for Scheduled Castes (NCSC), and (ii) the National Commission for Scheduled Tribes (NCST) w.e.f. **19 February, 2004**. Detailed background information about the historical evolution of the National Commission has been given in Chapter-1 of the first Report of the Commission for the year 2004-05 and 2005-06.

1.1.2 The National Commission for Scheduled Tribes has a Chairperson, Vice-Chairperson and three other Members. Smt. Urmila Singh who was Chairperson of the Commission since 18/06/2007 demitted office on 24/01/2010 after her appointment as Governor of the State of Himachal Pradesh. Shri Maurice Kujur, who continued as Vice Chairperson since 25.04.2008, performed duty as Acting Chairperson also from 25/01/2010. Shri Tsering Samphel and Shri Oris Syiem Myriaw, Members appointed since 14.06.2007 and 17.04.2008 respectively, continued during the Report period. Office of the third Member, vacant since March 2007, remained vacant throughout the year under report also.

1.2. National Commission for Scheduled Tribes Chairperson, Vice-Chairperson and Members (Conditions of Service and Tenure) Rules, 2004

1.2.1 The conditions of service and tenure of office of the Chairperson, Vice-Chairperson and other Members of the National Commission for Scheduled Tribes are governed by the National Commission for Scheduled Tribes Chairperson, Vice-Chairperson and Members (Conditions of Service and Tenure) Rules notified by the Ministry of Tribal Affairs on 20 February 2004. These Rules, *inter-alia*, provide that:

- (i) The Chairperson shall be appointed from amongst eminent socio-political workers belonging to the Scheduled Tribes, who inspire confidence amongst the Scheduled Tribes by their very personality and record of selfless service;
- (ii) The Vice-Chairperson and other Members out of whom at least two shall be appointed from amongst persons belonging to the Scheduled Tribes;

¹ Available under the link "Acts and Amendments" on NCST website <http://ncst.nic.in>

- (iii) At least one other Member shall be appointed from amongst women.
- (iv) The Chairperson, the Vice-Chairperson and the other Members shall hold office for a term of three years from the date on which he/ she assumes such office.
- (v) The Chairperson, the Vice-Chairperson and the other Members shall not be eligible for appointment for more than two terms.
- (vi) The Chairperson shall have the rank of a Cabinet Minister and the Vice-Chairperson that of Minister of State and other Members shall have the rank of a Secretary to the Government of India unless otherwise specified.

1.2.2 The Chairperson, Vice Chairperson and other Members have also been entitled to receive salaries and allowances as admissible to a Secretary to the Govt. of India

1.2.3 There were some ambiguities in the above Rules regarding the facilities available to the Members of the Commission. Sub-Rule (2) of Rule 5 of the Rules was, therefore amended vide Ministry of Tribal Affairs Notification dated 11th September, 2008 to provide facilities as admissible to the Secretary to the Government of India. A copy of the Notification is enclosed at **ANNEXURE 1.I.**

1.3 Functions and Duties of the National Commission for Scheduled Tribes

1.3.1 The functions, duties and power of the National Commission for Scheduled Tribes have been laid down in Clauses (5), (8) and (9) of the Article 338A of the Constitution, inserted by Constitution [Eighty-ninth Amendment] Act, 2003. Clause (5) states that it shall be the duty of the Commission:

- (a) to investigate and monitor all matters relating to the safeguards provided for the Scheduled Tribes under the Constitution or under any other law for the time being in force or under any order of the Government and to evaluate the working of such safeguards;
- (b) to inquire into specific complaints with respect to the deprivation of rights and safeguards of the Scheduled Tribes;
- (c) to participate and advise on the planning process of socio-economic development of the Scheduled Tribes and to evaluate the progress of their development under the Union and any State;
- (d) to present to the President, annually and at such other times as the Commission may deem fit, reports upon the working of those safeguards;
- (e) to make in such reports recommendations as to the measures that should be taken by the Union or any State for the effective implementation of those safeguards and other measures for the protection, welfare and socio-economic development of the Scheduled Tribes; and

- (f) to discharge such other functions in relation to the protection, welfare and development and advancement of the Scheduled Tribes as the President may, subject to the provisions of any law made by Parliament, by rule, specify.

Expanded Terms of Reference of the Commission

1.3.2 The Ministry of Tribal Affairs *vide* their letter No. 17014/3/2004-C&LM-II dated 29 November, 2004 informed this Commission that the President is pleased to direct that the terms of reference in respect of the National Commission for Scheduled Tribes shall be expanded to incorporate the following:-

- (i) Measures that need to be taken over conferring ownership rights in respect of minor forest produce to Scheduled Tribes living in forest areas;
- (ii) Measures to be taken to safeguard rights of the tribal communities over mineral resources, water resources etc. as per law;
- (iii) Measures to be taken for the development of tribals and to work for more viable livelihood strategies;
- (iv) Measures to be taken to improve the efficacy of relief and rehabilitation measures for tribal groups displaced by development projects;
- (v) Measures to be taken to prevent alienation of tribal people from land and to effectively rehabilitate such people in whose case alienation has already taken place;
- (vi) Measures to be taken to elicit maximum cooperation and involvement of tribal communities for protecting forests and undertaking social afforestation;
- (vii) Measures to be taken to ensure full implementation of the provisions of Panchayat (Extension to Scheduled Areas) Act, 1996 (40 of 1996);
- (viii) Measures to be taken to reduce and ultimately eliminate the practice of shifting cultivation by tribals that lead to their continuous disempowerment and degradation of land and the environment.

1.3.3 The expanded terms of reference of the Commission were discussed in the fourth meeting of the Commission held on 1 December, 2004. The Commission observed that while it was ever willing to accept any additional functions for promoting the welfare of the STs, but at the same time the additional responsibilities would not be effectively discharged unless adequate staff and funds were made available for the purpose of conducting studies. In this backdrop, the Commission desired that a separate proposal might be sent to the Ministry of Tribal Affairs for creation of additional posts and also for placing requisite funds at the disposal of the Commission for operationalising the required studies. The Commission also observed that any additional functions could be assigned to it either by adding additional duties in Clause (5) of Article 338A or

by issuing a suitable notification under sub-clause (f) of Clause (5) of this Article. The Commission, accordingly, requested the Ministry of Tribal Affairs for sanctioning additional staff and to advise whether this Commission might notify the additional duties in the Rules of Procedure of the Commission. The Ministry of Tribal Affairs vide their letter dated 17 February 2005 advised this Commission to discharge the additional items of work in addition to the duties mentioned under the Clause (5) of Article 338A of the Constitution with the existing staff. The Ministry also advised the Commission to amend its Rules of Procedure to incorporate above-mentioned additional items of work. This Commission vide its d.o. letter number 11/E/2004-ESDW(ST) dated 15 April, 2005 again wrote back to the Ministry of Tribal Affairs requesting them to clarify whether the Ministry was clear in their mind that the action taken by them was in accordance with the Constitutional provisions and if it was so, they might issue appropriate notification in respect of additional duties. On the advice of Ministry of Law and Justice (Department of Legal Affairs) the Ministry of Tribal Affairs issued a Notification dated 23 August, 2005, by which the Commission has been vested with the duty to discharge the above mentioned additional functions in relation to the protection, welfare and development and advancement of the Scheduled Tribes. A copy of this notification is placed at **ANNEXURE-1.II**

1.3.4 It would be appropriate to mention that the Commission is not having requisite manpower to deal with the duties assigned to it. Besides, there is no budgetary head/ funds available in the National Commission for Scheduled Tribes under any Plan scheme. Consequently, this Commission has not been able to take up the matters/ issues mentioned in the Expanded Terms of Reference notified by the Govt. on 23/08/2005. The functions and duties of the Commission remained unchanged during the report period.

1.4. Powers of the Commission

(A) Procedural Autonomy

1.4.1 Clause (4) of Article 338A of the Constitution provides that the Commission shall have the power to regulate its own procedure. The Commission accordingly notified the Rules of Procedure for the first time on 17 September 2004. These Rules define the responsibilities of the Chairperson, Vice-Chairperson and Members, and Secretary to the Commission, and further lay down that the Chairperson shall allocate subjects and responsibilities among the Members of the Commission. These Rules, inter-alia, also provide about

- (i) the procedure of investigation and enquiry by the Commission,
- (ii) frequency of meetings of the Commission,
- (iii) the duties of its Regional Offices,
- (iv) the advisory role of the Commission, and
- (v) its monitoring functions.

1.4.2 A copy of the Rules of Procedure is available² on the website of the Commission (<http://ncst.nic.in>). No changes were made to these Rules during the Report year 2009-10. It is, however, noteworthy that despite the constitutional provision empowering the Commission to regulate its own procedure in fulfilling the mandate assigned to it, the Commission has not been able to function smoothly and effectively due to various and constantly persisting constraints as discussed in the succeeding paragraph.

1.4.3 In the process of discharge of the constitutional role, the Commission is sometimes arraigned as one of the respondents by the petitioners, who file cases about violation of safeguards and rights of the Scheduled Tribes in various courts in order to make known the stand taken or proposed to be taken by this Commission on the vital issues relating to the Scheduled Tribes raised in those petitions. Obviously the observations and views of the NCST on various issues concerning the STs may sometimes be at variance with the views of the Government. This does not require the Government to suppress the views of the Commission from being made known to all concerned. Therefore, in all such cases the views of the Commission should be placed before the concerned court, irrespective of the views of the other Govt. respondents. In such cases, the same Counsel cannot also represent the National Commission for Scheduled Tribes as well as the Ministries/ Departments of the Central Government.

1.4.4 The views of the Commission as mentioned above were communicated to the Ministry of Tribal Affairs vide D.O. letter dated 19/12/2009 from the Chairperson, NCST with the request to issue necessary instructions in the matter to all concerned on priority. This was followed by a D.O. letter dated 28/05/2010 from the then VC (and Acting Chairperson) to the Union Minister for Tribal Affairs.

1.4.5 This Commission, therefore re-iterates its recommendation made earlier in para 8.4.3.2.4 of its Fourth Report that, in court cases relating to the subject matters allotted to the Commission, where NCST is also a respondent and other authorities of the Central Government may be a petitioner party or a respondent, the Commission should file its reply independently through a separate Central Govt. Counsel, so that views of the Commission reach the Court without modifications or curtailments. To avoid delay, it may also be examined whether there is any real need for routing such requests for legal representation through the Administrative Ministry (MTA), as the Ministry has no oversight role to play regarding recommendations / views of the Commission on matters in relation to other Ministries/ Departments/ Organizations.

1.4.6 The erstwhile Commissioner for Scheduled Castes and Scheduled Tribes, the predecessor organization for monitoring constitutional safeguards for Scheduled Castes & Scheduled Tribes, was declared as Head of Department of the Central Government under the provisions of DFP Rules,

² Copy of the Rules of Procedure is available under the link "Commission and Related Activity" on the website of the Commission (<http://ncst.nic.in>).

1978. Certain powers were also delegated to the erstwhile National Commission for Scheduled Castes and Scheduled Tribes, set up in 1992 in place of the Commissioner for SCs and STs consequent to amendment of Article 338 of the Constitution vide the Constitution (65th Amendment) Act, 1990. A copy of the Order dated 5th Feb. 1996 issued in favour of the National Commission for Scheduled Castes and Scheduled Tribes by the then (administrative) Ministry of Welfare is placed at **ANNEXURE 1.III**. But even these powers were never specifically extended, in spite of repeated requests, to the National Commission for Scheduled Tribes set up in succession to the NCSCST vide the Constitution (89th Amendment) Act, 2003. In the absence of specific delegation of administrative and financial powers the Constitutional National Commission for Scheduled Tribes, which is empowered to regulate its own procedure, is bogged down by unnecessary but avoidable delay occurring in reprocessing of the proposals in the Ministry of Tribal Affairs before consideration by the Internal Finance Division of the Ministry. A proposal for grant of financial autonomy to the Commission for its smooth and effective functioning was submitted to the Ministry of Tribal Affairs vide U.O. Note dated 21/01/2009. It was highlighted in the aforesaid U.O. that the Parliamentary Committee on the Welfare of SCs and STs had also strongly recommended for granting full administrative and financial powers to the Commission so that it was not dependent on the administrative Ministry for every proposal having financial implications. In response, MTA raised some queries vide their letter dated 18/2/2009, which were duly clarified by the Commission vide letter dated 23/3/2009 requesting MTA that NCST may be notified as a Department of the Central Govt. so that it is empowered to exercise the powers of the Ministry/ Department under the Delegation of Financial Powers Rules, 1978; General Financial Rules, 2005; the Fundamental and Supplementary Rules; Central Civil Services (Leave) Rules 1972 the Central Civil Services (joining Time) Rules 1979; the General Provident Fund (Central Services) Rules 1960; Contributory Provident Fund Rules and similar other rules. The Ministry of Tribal Affairs vide letter date 20/05/2010 sought certain other clarifications/ details especially with regard to the areas of the proposed financial autonomy. A detailed letter, furnishing clarifications on all the issues, has since been sent to the Ministry of Tribal Affairs on 15/06/2010. This has been followed by a DO reminder dated 26/8/2010 from the Joint Secretary, NCST addressed to the Joint Secretary, Ministry of Tribal Affairs. However, there is no information about the progress made in the matter.

1.4.7 The Commission regrets that despite being a constitutional entity, the Commission is still struggling to get appropriate administrative and financial powers exercisable as Department of the Central Government, proposals for which are still pending with the Ministry of Tribal Affairs. The Commission, therefore, recommends that the NCST, which is a Constitutional successor to the NCSCST, and has been vested with more duties and powers, should immediately be granted with all the powers of the Department of the Central Government so that the Commission can function and perform as per its mandate.

(B) Powers to act as a Civil Court

1.4.8 Clause (8) of Article 338A provides that the Commission shall, while investigating any matter referred to in sub-clause (a) or inquiring into any complaint referred to in sub-clause (b) of Clause (5) have all the powers of a civil court trying a suit and in particular in respect of the following:

- (a) summoning and enforcing the attendance of any person from any part of India and examining him on oath,
- (b) requiring the discovery and production of any documents,
- (c) receiving evidence on affidavits,
- (d) requisitioning any public record or copy thereof from any court or office,
- (e) issuing commissions for the examination of witnesses and documents,
- (f) any other matter which the President may, by rule, determine.

1.4.9 The powers of the civil court are exercisable by all Members including Vice-Chairperson and Chairperson of the Commission. In matters where concerned authorities do not respond or furnish unsatisfactory reply, the Members invoke this power and hold a sitting/ hearing in the case, where issues are discussed in detail keeping in view the Rule position in the aggrieved matter. Detailed proceedings of the sitting/ hearing, also containing the advice/ recommendation of the Commission in the matter, are also issued and displayed³ on the Commission's website.

Supreme Court's interpretation regarding powers of the Commission

1.4.10 The Hon'ble Supreme Court vide their judgment dated 31 October, 1996 in Civil Appeal No.13700 of 1996, has up-held the order of the Hon'ble High Court of Delhi allowing the petition filed by the Indian Overseas Bank Officers Associations and Ors. in CW (P) No. 1362 of 1993 and C.M No. 2193/ 93, against the order (in the form of a letter) dated 4 March 1993 issued by a Member of the erstwhile NCSCST directing the Indian Overseas Bank 'to stop the promotion process pending further investigation and final verdict in the matter'. The Hon'ble Supreme Court held that all the procedural powers of a civil court given to the National Commission for Scheduled Castes and Scheduled Tribes by Article 338 (8) of the Constitution of India are for the limited purpose of investigating any matter under Article 338 (5) (a) or enquiring into any complaint under Article 338 (5) (b). Further, the powers of a civil court of granting injunctions, temporary or permanent, do not inhere in the Commission nor can such a power be inferred or derived from a reading of Clause (8) of Article 338 of the Constitution. The Commission, having not been specifically granted any power to issue interim injunctions, lacks the authority to issue an order of the type found in the letter dated 4 March, 1993 directing the Indian Overseas Bank to stop the promotion process pending further investigation and final verdict in the matter. The Hon'ble Supreme Court declared that the Commission has the power to summon and enforce the attendance of any person from any part of India and examine him on oath; it can require the discovery and production of documents and so on and so forth.

³ Copies of the proceedings are displayed under the link "**Hearings/ Proceedings**" on the website of the Commission (<http://ncst.nic.in>).

All these powers are essential to facilitate an investigation or an enquiry, but such powers do not convert the Commission into a civil court. These observations of the Hon'ble Supreme Court were brought to the notice of all the Ministries and Departments of Govt. of India by the Department of Personnel & Training vide their O.M.No.36036/2/97- Estt. (Res.) dated 1 January, 1998, a copy of which is placed at **ANNEXURE-1.IV**. The Commission has been cognizant of the orders of the Supreme Court, in letter and spirit.

1.4.11 The above issue was discussed in the 7th meeting of the Commission held on 20 December, 2006 to finalize the comments on the recommendations contained in Para 1.22 of the 14th Report of the Parliamentary Committee on the Welfare of SCs & STs on the Ministry of Home Affairs, Ministry of Social Justice & Empowerment and Ministry of Tribal Affairs. **The Commission observed that there was a justified need to empower the Commission through the following measures:-**

- (i) **Clause 5 (b) of Article 338A should be suitably amended to provide that where the enquiry discloses clear violation in complying with the safeguards provided to the Scheduled Tribes in the Constitution or under any other order or law by a public servant, the Commission may advise/ recommend to the concerned organization for taking corrective remedial measures and that it should be mandatory for the concerned organization of the Central Govt. or the State Govt. to accept such advice/ recommendations.**
- (ii) **On the lines of the powers given to the Central Information Commission in the context of the implementation of the various provisions of the Right to Information Act, 2005, the National Commission for Scheduled Tribes should also be given power to impose fine on a public servant for wilful delay or negligence in the discharge of his duties in implementing the instructions of the Government relating to safeguards available to the members of Scheduled Tribes.**

1.4.12 The above observations of the Commission were sent to the Ministry of Tribal Affairs *vide* Commission's letter dated 2.1.2007. A detailed mention was also made in Para 1.6.7.1 of the 2nd Report of the Commission. As there is no progress since then, **Commission re-iterates that the Commission may be expeditiously empowered through the above-mentioned measures.**

(C) Advisory Role of the Commission

1.4.13 Clause (9) of Article 338A provides that the Union and every State Govt. shall consult the Commission on all major policy matters affecting Scheduled Tribes. The policy matters referred to the Commission are discussed in detail in the meetings of the Commission on the basis of the views expressed by the Members and the notes on the subject matter, indicating historical background, current status and relevant Rules etc., prepared by the

Commission's Secretariat; and the views of the Commission⁴ are communicated in substantive fashion, also seeking feedback regarding the outcome of such consideration. This activity is separately detailed in Chapter – 7 of this Report.

1.4.14 All Ministries/ Departments and the State Governments do not refer the concerned matters for advice of the Commission. Generally, matters for advice of the Commission are received through the Ministry of Tribal Affairs. The advice is sought before finalising the draft proposal/ Note for placing the same before the Parliamentary Committee, the Cabinet Committee or similar body as per process for finalisation of policy, or legal/ legislative matters. From the feedback received in the Commission, it is noted that the views of the Commission/ advice rendered by it was not placed by the Ministry of Tribal Affairs or the concerned Ministry before the Apex Committees considering the matter; and consequently the views of this Constitutional Commission vested with the duty to safeguard the rights of the Scheduled Tribes could not be reflected while finalising the views by the Apex Committees. Even in the matters, in which comments were sought from the NCST regarding problems being faced in relation to efficient functioning and performance of the Commission, the views of the Commission were not placed before the Apex Committee *inextenso*. Consequently, the factual position on the subject got suppressed and the concerned Apex Committee left to arrive at the decision on the basis of the perception of the Ministry of Tribal Affairs. **The Commission recommends that whenever matters are referred to this Commission for advice or comments, the views expressed by this Commission should invariably be placed, without any oversight or modification, before the concerned authorities for their consideration, as the final decision on the issue rests with the concerned authority.**

1.4.15 Similar is the position with regard to process for drafting of legislative Bills by the Government. It is observed that all Bills affecting Scheduled Tribes are not received for advice in the Commission. The legislative Bills are generally being referred to the Commission at the drafting stage. It is opportune for the Commission to comment on the draft legislations received at pre-draft stage from any intermediate level/ organisation of the Government because the autonomy conferred by the Constitution does not require the Commission to work as a subordinate line functionary of the Government. Besides, in the interest of the Scheduled Tribes it is necessary to ensure that the views of this Constitutional Commission on the Bill receive proper attention at the highest decision-making levels of the Govt. and do not loose definition in the maelstrom of the Government's internal processes. This matter has earlier been discussed in the 4th Report of the Commission also. **The Commission therefore, recommends that matters for advice under the provision of Article 338A(9) may be referred to the Commission after completion of internal process of drafting and before submission to the Apex Cabinet Committee. The Commission also re-iterates its recommendation that legislation being the most pristine articulation of Government policy, the Cabinet Secretariat and the Ministry of Law, Justice and Legal Affairs should be tasked with the responsibility of ensuring meaningful**

⁴ Proceedings of the meetings of the Commission, containing views of the Commission are available under the link " Meetings of Commission " on the website of the Commission (<http://ncst.nic.in>)

consultations with the Commission before legislative proposals are placed for consideration by the Council of Ministers.

1.5 Organizational setup of the Headquarter Office and Secretariat of the Commission

1.5.1 The Headquarter Office of the National Commission for Scheduled Tribes is located in New Delhi. Till July, 2006 the representations/petitions received in the Commission at the Headquarters were being dealt with in three different functional Wings called (i) Economic and Social Development Wing, (ii) Service Safeguard Wing, and (iii) Atrocities Wing. It was observed that this was not a very rational and balanced system of distribution of work with the available manpower composition. The Commission at its meeting held on 20 July, 2006 had decided to create four Research Units in place of the then existing three operational Wings vide Office Order dated 26 July, 2006 to deal with all matters pertaining to socio-economic and educational development, services and atrocities in relation to Ministries/ Departments (along with CPSEs and other Organizations under their administrative control) and the States/UTs allotted to them, as given below para 2 of the said Office Order. Apart from these four Research Units, there is an Administration & Establishment Unit and a separate Coordination Unit. While the Administration/ Establishment Unit provides administrative support to the Commission, the Coordination Unit deals with the various activities relating to making arrangements for holding internal meetings of the Commission, issuing communications to the State Governments for the visits of the Chairperson, Vice-Chairperson or Members of the Commission, Parliamentary and court matters and any other matter not connected with the four functional Research Units, Administration and Establishment Unit. Two Units each are presently headed by one Deputy Secretary/ Director-level officer. The Organizational Chart of the Commission as on 31/03/2010 (end of Report period) is placed at **ANNEXURE - 1.V** and the work distribution among 4 RUs during the year 2009-10 is given at **ANNEXURE 1.VI**.

1.5.2 To facilitate smooth performance of various natures of duties assigned to the Commission, through the Members, the subject matters relating to safeguards provided for the Scheduled Tribes in relation to specific States/ UTs and Central Ministries/ Departments (and CPSEs under their administrative control) have been allotted to each Member of the Commission. A copy of the Order dated 29/04/2008 specifying work among different Members of the Commission, which remained in force during the report period is placed at **ANNEXURE- 1.VII**. A copy of the work distribution Order is also available on the web-site of the Commission⁵. Cases of investigations into specific complaints about discrimination with Scheduled Tribes or violation of safeguards provided for Scheduled Tribes/ holding of sittings in such matters, proposals for de-reservation of posts reserved for Scheduled Tribes and recommendations to various Organisations are finalized with the approval of the Member concerned.

⁵ Copies of the work distribution Order are available under the link "**Commission's Profile**" on the web-site of the Commission (<http://ncst.nic.in>)

1.5.3 The Commission's efforts to fulfill its mandate are handicapped by hiccups/ inordinate delay in filling the vacancies of Members and staff. The post of Vice-Chairperson of NCST, which was initially filled along with other Members of the Commission in March, 2004, was vacated due to resignation on 31/03/2004. The post remained vacant, for over 2 years, till 25 May, 2006, and again for about a year thereafter after resignation by the then VC in May, 2007. The post of Chairperson vacated in February, 2007 due to resignation also remained vacant for about five months till it was filled on 18 June, 2007. Similarly, one post of Member vacated in March, 2007 after completion of tenure of the Members, continued to be vacant till the end of the Report period. As per terms and conditions for appointment of Members of this Commission the vacant post of Member was reserved for a woman Member. The post of the Chairperson again became vacant from 25/01/2010. **Since the term of each Member is three years from the date of assuming the charge, and the Government is fully aware about the date when the vacancy would be caused, the Commission recommends that the Government should initiate timely action for appointment of new Members against the likely vacancies.**

1.5.4 The total staff strength of the erstwhile National Commission for Scheduled Castes and Scheduled Tribes at its Hqrs. at New Delhi and the 18 State Offices at the time of its replacement by two Commissions was 340 (including the Joint Cadre and Ministerial posts in State Offices) out of which 113 posts were allotted to the National Commission for Scheduled Tribes, which included 27 posts which were vacant. A few posts were created vide Ministry of Tribal Affairs' Office Order No.17014/12/99-TDR dated 19 April, 2004 which, apart from the posts of 1 Chairperson, 1 Vice-Chairperson and 3 Members and their personal staff, include Secretary-1, Joint Secretary-1, Superintendent of Police-1, Principal Private Secretary-1, PS-1, Assistant Director (Programming)-1, Law Officer-1, Assistant Director (OL)-1, Sr. Hindi Translator-1, Librarian-cum-Documentation Assistant-1, Accountant-1, and Dispatch Rider-1.

1.5.5 The need for strengthening of the National Commission for Scheduled Tribes was mentioned in the 1st as well as 2nd Report of the National Commission for Scheduled Tribes.

1.5.6 The Parliamentary Committee on the Welfare of Scheduled Castes and Scheduled Tribes in para 1.21 of its 33rd Report (14th Lok Sabha) on the subject "NATIONAL COMMISSION FOR THE SCHEDULED TRIBES – ITS MANDATE AND ACHIEVEMENTS – A REVIEW OF ITS ORGANISATION AND WORKING" has also made the following observation and recommendation: -

*....."The Committee also note that NCST in their First Report (2004-05 and 2005-06) had recommended for upgradation of four regional offices, augmentation of the existing strength of supporting staff in six regional offices and creation of four more regional offices. The Committee do not agree with the reply of the Ministry that a formal proposal in this regard has not been submitted to them by the NCST. **The Committee feel that instead of waiting for a formal proposal from the NCST for so long,***

the Ministry of Tribal Affairs should have taken the initiative after receiving the recommendation of the NCST. The Committee view that NCST has made a legitimate and genuine demand for upgradation and augmentation of its regional offices since the existing regional offices would not be in a position to handle the needs and problems of ST population spread all over the country in almost all the States/UTs. It would be naïve to think that merely setting up of a separate Commission without sufficient number of regional offices and staff is good enough to achieve the objective for which it has been constituted. The Committee, therefore, recommend that the Government should set up more regional offices according to the present need, upgrade the four regional offices and augment the existing staff strength of NCST accordingly on a priority basis. "

1.5.7 In April 2009, Ministry of Tribal Affairs sought proposals for consideration by the Government. Accordingly, a detailed proposal for strengthening the Headquarter office as well as Regional Offices of the National Commission for Scheduled Tribes and requirement for setting up four additional Regional Offices at Hyderabad (A.P.), Nagpur (Maharashtra), Shimla (H.P.) and Ahmedabad (Gujarat) was submitted to the Ministry of Tribal Affairs vide letter dated 21/10/2009 (**ANNEXURE 1. VIII**). It was followed by reminders dated 16/11/2009, 24/02/2010, and 17/05/2010. In response to this, the MTA vide their letter dated 24/05/2010 sought certain clarifications which were furnished by the NCST vide letter dated 26/06/2010. This has been followed up by a detailed DO reminder dated 13/01/2011 from the Chairperson, NCST to the Union Minister for Tribal Affairs. A copy of the DO letter from the Chairperson is placed at **ANNEXURE 1. IX**.

1.5.8 The above issue has also been highlighted time and again in the subsequent Reports of the National Commission for Scheduled Tribes submitted to the President also. As desired by the President in the discussion during submission of the 3rd Report, a detailed letter, highlighting the important issues raised in the Report and the problems encountering effective functioning of the Commission, was sent to the President on 31/03/2010. A copy of the letter was also sent to the Prime Minister vide letter dated 7/04/2010. In response to this letter the Prime Minister's Office vide their UO No. 560/51/C/12/2010-ES.2 dated 24/05/2010 (**ANNEXURE 1.X**) directed the Ministry of Tribal Affairs that **"the Commission be given adequate staff to discharge its duties effectively"**. Despite the above directive from the PMO there is no further information about the action taken by the Ministry of Tribal Affairs in this regard.

1.5.9 The Commission deeply regrets having to Report that notwithstanding the above recommendation of the Parliamentary Committee, and continuous follow up by this Commission, no additional post has been sanctioned for the Commission so far, which has negated all the efforts of the Commission to evolve into an effective guardian of the rights of Scheduled Tribes.

1.5.10 The Commission's functional problems on account of allotment of only one- third of the total staff strength of the erstwhile NCSCST are further compounded by the fact that the Commission has not been getting the support of various Cadre Controlling authorities to fill these posts. **The Commission expresses its unhappiness on such a large number of posts being vacant in the Commission and is pained to observe that the Ministry of Social Justice & Empowerment, Ministry of Tribal Affairs and the National Commission for Scheduled Castes did not fully appreciate the problem and the severe constraints being faced by the Commission and failed to make concerted efforts to fill up these vacant posts to enable the Commission to discharge its constitutional obligations in an effective manner.**

1.5.11 There are basically two categories of Staff at the Headquarter of the Commission at New Delhi, namely (a) Secretarial Staff belonging to the Central Secretariat Service and (b) joint cadre staff comprising posts of i) Director ii) Deputy Director iii) Assistant Director iv) Research Officer v) Sr. Investigator and vi) Investigators. The staff in respect of i), ii) & iii) above (which are Group 'A' posts of Joint Cadre, is provided by the Ministry of Social Justice & Empowerment, being the Main Cadre Controlling Authority and the staff in respect of posts at Sr. No. (iv), (v) and (vi) is provided by the National Commission for Scheduled Castes, which has been acting as the Cadre Controlling Authority for these posts after predecessor NCSCST was dissolved. The Staff belonging to CSS, CSSS and CSCS is provided by the Department of Personnel & Training, through Ministry of Social Justice & Empowerment. The Secretarial Staff in the Regional Offices of the Commission is also appointed and provided by National Commission for Scheduled Castes. Some of the Group 'C' posts are filled up by the National Commission for Scheduled Tribes itself.

1.5.12 Vide NCSC Office Order dated 15/12/2004 the total sanctioned strength of the staff of the Commission including various categories of posts in Group 'A', Group 'B', Group 'C' and Group 'D' remained at 124, out of which 56 are for the Headquarter and 68 for its six Regional Offices at Bhopal, Bhubaneswar, Jaipur, Raipur, Ranchi and Shillong. Out of 56 sanctioned posts at the Headquarter, 42 were filled and 14 posts were vacant on 31/03/2009. Similarly out of 68 sanctioned posts for Regional Offices, 33 were filled and 35 posts were vacant. The sanctioned strength of 124 is inclusive of the 35 posts to be filled from the Joint Cadre (referred to in the previous para), out of which 1 post each of the Director and Deputy Director, 6 posts of Sr. Investigator and 9 posts of Investigator (total 17 posts) were vacant as on 31/03/2010. In fact a total of about 40% of those sanctioned posts were still vacant as on 31/03/2010.

1.5.13 The Commission has repeatedly requested⁶ the Cadre Controlling authorities i.e. Ministry of Social Justice and Empowerment and National Commission for Scheduled Castes to fill up vacant posts. However, despite all efforts by the Commission to get these posts, particularly the posts belonging to

⁶ Letter No. 1/9/NCST/2005-Admn dated 29/08/2005 addressed to MSJE and DO letter No. 1/9/NCST/2005-Admn. dated 15/02/2006 addressed to Secretary, NCSC followed by reminders

Joint Cadre filled up, not much progress in this direction has taken place; and as a consequence thereof the sufferings of the Commission have increased with the passage of time. A study report on the performance of National Commission for Scheduled Tribes submitted by the Centre for Policy Research, entrusted by the Department of Administrative Reforms & Public Grievances also pin-pointed this situation and strongly recommended strengthening the NCST. While discussing the report in the meeting of the Commission held on 07/11/2008, the issue of filling up of the Joint Cadre posts and other posts in the Commission was also discussed; and the Commission observed that NCST should function as Cadre Control Authority for all categories of various posts including already existing and new posts sanctioned for the Commission.

1.5.14 The matter again came up for discussion in the meeting of the Commission held on 22/01/2009 during the course of discussion on the 33rd Report (14th Lok Sabha) of the Committee on the Welfare of Scheduled Castes and Scheduled Tribes. The Commission desired that immediate action for framing the new recruitment rules for the posts of Sr. Investigator and Investigator should be taken up so that NCST should have its own cadre for these posts. It was further decided that the posts of Research Officer may, however, continue in the combined cadre, for the present, which may include the posts in Ministry of Tribal Affairs also and that the new recruitment rules for the post of Research Officer should also be prepared at the earliest. At its meeting held on 30.06.2009, the Commission reiterated its decision to have its own cadre of Investigators and Sr. Investigators and, if necessary for higher level posts also. The draft recruitment rules for the posts of Investigator and Sr. Investigator in the NCST were sent to Ministry of Tribal Affairs on 26/02/2009 for obtaining approval from DoPT. After replying to certain queries by DoPT, a detailed proposal dated 9th July 2009 has been submitted to the MTA for constitution of separate cadre for the posts of Investigator and Sr. Investigator, Research Officer, Assistant Director, Dy. Director and Director under NCST in order to have effective administrative control over the management and filling of these posts in the Commission. MTA was also requested to expedite the matter in the meeting held with the Joint Secretary, MTA on 8th March, 2010, followed by reminder dated 31/05/2010. The proposal is still under consideration by the Ministry of Tribal Affairs. In view of the foregoing, **the Commission reiterates its earlier recommendation contained in the third report for the year 2007-08 and fourth Report for 2008-09 that the Ministry of Tribal Affairs as well as Ministry of Social Justice & Empowerment should make coordinated efforts to find a solution, or alternatively, National Commission for Scheduled Tribes may be allowed to have independent cadre control over various posts belonging to the National Commission for Scheduled Tribes so that vacancies in various posts in the Commission do not remain unfilled for a long period at any point of time.**

1.6 Functional Activities of the Commission

1.6.1 The Commission receives a large number of petitions from all parts of the country about the grievances relating to (i) alleged violation of service safeguards, (ii) matters relating to alienation of land, admission in professional and technical institutions particularly in medical, engineering etc.,

and (iii) atrocities. These petitions are referred to the respective organization and the reply received from the organization is sent for information to the petitioner. In most of the cases the petitioners submit rejoinders to the Commission, which are examined in consultation with the concerned organization. Depending on the nature of the reply received from the respective organization, the Commission, with a view to expedite the disposal of the petition, organizes sittings in which the senior officers of the concerned organization are called to appear before it. After detailed interaction with them, the Commission issues the proceedings of the discussion, also requesting the organization concerned to take follow up action on its recommendations within a given timeframe. In the interest of the disposal of the maximum number of petitions, the Commission clubs all the cases/ petitions pending in the Commission in relation to an organization in a single sittings. This change has led to reduction in the number of sittings and at the same time marked increase in the disposal of cases/ petitions. This also led to increased awareness in those organizations about implementation of the reservation policy in letter and in spirit. During 2009-10, the Vice-Chairperson held sittings in respect of 12 cases relating to various Ministries/ Departments/ CPSUs while 34 sittings were held by other Members. The Schedule and proceedings⁷ of the discussions of these sittings is also made available on the Website of the Commission in the interests of transparency and good governance.

1.6.2 As mentioned in the previous Report, the three functional Wings namely (i) Economic and Social Development Wing, (ii) Service Safeguard Wing, and (iii) Atrocities Wing were restructured into four Research Units (RU-I, RU-II, RU-III and RU-IV) during 2006-07. The same Units continued to function with the same operational jurisdiction during 2009-10. Each Research Unit deals with representations relating to the grievances and other matters relating to the States and Ministries/ Departments allotted to the Research Unit. As the monitoring of the receipts and files in the Commission is being done through computerised File Tracking System, the progress of disposal of receipts/ petitions/ cases dealt in the Commission during the Report period have been discussed later in this Chapter.

1.6.3 With a view to providing information about the functioning of the Commission to the tribal petitioners who visit to the Commission, an Information and Facilitation Centre (I&FC) has been set up at the entry point of its office on 6th Floor.

1.6.4 In order to enable the poor tribal people living in different parts of the country to contact the officers of this Commission and also to send their grievances/ complaints, a Toll Free telephone number **1800117777** has been commissioned on which the officers of this Commission can be contacted free of cost from BSNL/MTNL landline telephones from anywhere in the country. The petitioners/complainants can also know the position of the petitions already filed with the Commission.

⁷ Copies of proceedings are available under the link "**Hearings/ Proceedings**" on the web-site of the Commission (<http://ncst.nic.in>)

1.6.5 With a view to making the tribal people and other persons/ Associations/ Organisations (interested in tribal affairs) and such bodies which have been entrusted with duties to promote tribal development, aware about the role, responsibilities and functioning of the Commission, the website of the Commission <http://ncst.nic.in> was launched on 12.2.2007. In order to provide greater transparency about functioning and activities of the Commission many new links have been added on the Website of the Commission and the information available on the website of the Commission was updated from time to time during the year under Report, i.e. 2009-10.

1.7 Meetings of the Commission

1.7.1 During the year 2009-10, SEVEN meetings of the Commission were held the agenda notes items discussed in the meetings during 2009-10, and proceedings of the meetings are available on the website of the Commission in keeping with the spirit of the RTI Act, 2005. These may be seen under the main link "Meetings of Commission" on the Website.

1.8 Review Meetings

1.8.1 In order to monitor and evaluate the implementation status of various development schemes and progress of investigation and disposal of the cases of atrocities on the members of Scheduled Tribes by the police authorities and the courts, the Commission interacts with the State/UT Governments by holding detailed State level review meetings with the Chief Secretaries and other senior officers, the salient points of which are also conveyed to the political executive in follow up interactions. These meetings are generally preceded with visits to the tribal bastis, hostels, Ashram Schools etc. and interactions with the tribals on the impact of the developmental projects. The Commission regards that these visits and meetings have been useful in enhancing the interest and involvement of the State/UT Governments, in better understanding of the genuine problems of the Scheduled Tribes and accordingly, in advising them to take suitable initiatives in working out remedial measures and adopting appropriate and relevant strategies.

1.8.2 The Commission and its Members also undertake review meetings with the district level officers to assess the impact of the developmental schemes and investigation of the cases of atrocities on members of Scheduled Tribes; and advise remedial action for better and more effective implementation of the projects, with a view to ensure the flow of benefits to all the tribals, including those living in inaccessible areas, and also to expedite the investigation and disposal of the atrocity cases and the cases relating to land alienation, etc. pending either with the district administration or in the courts. The Commission also interacts with tribal leaders or the members of tribal associations to ascertain ground realities and the implementation status of various projects and schemes before having review meetings with the district administration.

1.8.3 The Commission also holds review meetings with the organizations/ offices functioning under the administrative control of the Central Government, and the various Central Public Sector Undertakings including the financial institutions to ascertain the implementation of the reservation orders/

instructions in appointment to different categories of posts and the benefits which should have accrued to the tribals through the schemes of those Organisations. These review meetings by the Commission are generally preceded by meetings with the representatives of SC/ST Employees' Welfare Associations operating in those organizations to understand the actual grievances of the ST employees working in those organizations.

1.8.4 The Commission has developed separate sets of Questionnaires for eliciting information from the (i) Central Ministries/ Departments (ii) Central Public Sector Undertakings, and (iii) State Govts./UT Administrations for the purpose of undertaking review meetings. The Commission generally undertakes the review after receipt of the detailed information in the respective Questionnaire⁸. There is a separate Questionnaire for undertaking review meetings at district level which are generally carried by the Members of the Commission whenever they propose to undertake review meetings with the district level officers.

1.8.5 A statement indicating the details of visits undertaken by the Chairperson, the Vice-Chairperson and the Members of the Commission during 2008-09 is placed at **ANNEXURE 1.XI**

1.9 Presentation of the Annual Reports to the President of India and laying of the Reports in Parliament

1.9.1 Clauses (5) (d) and (5) (e) of Article 338A provide that it shall be duty of the Commission to present to the President annually and at such other times as the Commission may deem fit, reports upon the working of the safeguards provided to Scheduled Tribes, and to make recommendations as to the measures that should be taken by the Union or any State for effective implementation of those safeguards and other necessary measures for the protection, welfare and socio-economic development of the Scheduled Tribes.

1.9.2 The Commission has presented four Reports to the President and this is the fifth Report. First Report for the years 2004-05 and 2005-06 was presented on 8th August, 2006, 2nd Report for the year 2006-07 was presented on 3rd September 2008, while 3rd Report for the year 2007-08 was submitted on 29th March, 2010 and the 4th Report for the year 2008-09 was submitted on 27th August, 2010.

1.9.3 As the first two reports submitted in August, 2006 and September 2008 had not been laid in Parliament, the Vice-Chairperson, NCST vide D.O. letter dated 05/03/2010 addressed to the Union Minister for Tribal Affairs (**ANNEXURE 1.XII**) sought intervention of the Ministry for resolving certain critical problems pending with the Ministry of Tribal Affairs and also emphasized the need for timely consideration of the Annual Reports submitted by the Commission. The Commission highlighted that in view of the

⁸ The Questionnaire, information furnished to the Commission in reply to the questionnaire for these meetings and the Summary Record of the discussions is available under the link Hearings/ discussions on the NCST website i.e. <http://www.ncst.nic.in>

considerable delay in the consideration by Parliament of the Annual Report submitted by the Commission, the recommendations made by the Commission on various issues relating to the Scheduled Tribes and violation of rights and safeguards provided for the Scheduled Tribes under the Constitution are in danger of losing contextual importance. Vide the aforesaid D.O. letter the Commission has also suggested that the tabling of the Commission's report may precede submission of action taken Memorandum, which may be placed before Parliament subsequently. Response from the Ministry of Tribal Affairs in the matter is still awaited. In the meanwhile, Copies of the 3rd Report for 2007-08 and 4th Report for 2008-09 submitted to the President on 29th March, 2010 and 27th August, 2010 respectively were also subsequently submitted separately to the Prime Minister as well as Union Minister for Tribal Affairs; along with the request to de-link the submission of the Action Taken Memorandum on acceptance or reasons for non-acceptance of the recommendations made by the NCST in those Reports with the laying of the Reports in Parliament.

1.9.4 Simultaneously, as desired by the President in the discussion during submission of the 3rd Report, a detailed letter, highlighting the important issues raised in the Report and the problems encountering effective functioning of the Commission was sent to the President on 31/03/2010. A copy of the letter was also sent to the Prime Minister vide letter dated 7/04/2010. In response to this letter the Prime Minister's Office vide their UO No. 560/51/C/12/2010-ES.2 dated 24/05/2010 (**ANNEXURE 1.IX** referred in para 1.5.6 above) directed the Ministry of Tribal Affairs for taking inter-alia the following action relating to laying of the Reports of the Commission:

- b) *The Reports of the Commission, along with action taken memoranda, as envisaged in the sub-clause (6) of article 338A of the Constitution may be placed in Parliament as per the schedule below:*
 - (i) *First report in the Monsoon Session*
 - (ii) *Second report in the Winter Session*
 - (iii) *Third report in the next Budget Session*

1.9.5 Keeping in view the above directive of PMO, and to enable the Ministry of Tribal Affairs to timely place the Reports of the Commission in Parliament, requisite no. of copies in English and Hindi of the 1st Report of the Commission were provided to the Ministry by this Commission. Similarly, required number of copies of the Second Report of the Commission were got readied by the Commission for delivery to the Ministry of Tribal Affairs but the same have not been got collected by the Ministry despite reminders by the Commission. Moreover, although copies of the 1st Report were provided in August, 2010, not even that Report has been laid in the Parliament so far, as required under Art. 338A(6) of the Constitution. There is also no information whether any of these Reports has been laid in any State Assembly, as required under Art. 338A(7) of the Constitution.

1.9.6 The Commission is rather concerned about the increasingly large time gap between the submission of its Report to the President and its laying

before the Parliament/ State Legislature. This delay substantially detracts value from the Commission's recommendations as the Hon'ble Members of Parliament come to know of them many years after submission of the Report to the President. Besides, it also prevents the Commission from timely dissemination of its reports to various Organisations/ agencies including NGOs working for Scheduled Tribes / the senior officers of the Central Government and State Governments concerned with formulation of programmes and schemes for tribal development, thereby depriving them of the inputs provided by the Commission on various tribal issues.

1.9.7 The Commission would once again like to commend the suggestion of the erstwhile National Commission for Scheduled Castes and Scheduled Tribes made in its fourth Report for the year 1996-97 and 1997-98, that Clause (6) and Clause (7) of Article 338 of the Constitution should be amended to provide that the President/ Governor of a State shall cause all Reports submitted/ sent by the Commission or the Ministry of Tribal Affairs to him to be laid before each House of Parliament/ State Legislature within three months of such submissions and a memorandum of action taken or proposed to be taken on the recommendations relating to the Union/ State shall be placed before each House of Parliament/ State Legislature within six months of such submission. In its 1st as well as 2nd Report this Commission had also adverted to the action taken report submitted in the Parliament at the time of laying of the fourth Report of NCSCST, wherein the Ministry of Social Justice & Empowerment had stated as below:-

"It is not practical to expect a decision as well as action on the recommendations made by the Commission within a specified time of three months from various Ministries/ Departments of the Government. If we force the Ministries and Departments to take decision and action within a period of three months, the Ministries/Departments will not be able to take the recommendations with the seriousness they deserve. Therefore, the amendments proposed to be made in Article 338 of the Constitution shall not help in achieving the overall objectives of the Commission. Hence, this recommendation of the Commission cannot be accepted".

1.9.8 The Commission also emphasized that, having focused only on consequential action, the Ministry of Social Justice & Empowerment did not fully appreciate the recommendation of the Commission which sought to de-link the laying of the Report in Parliament from the laying of the Action Taken Memorandum on the recommendations contained in the Report of the Commission. Moreover, as subsequent experience has shown, this has only encouraged the lassitude on the part of those responsible for laying the Report.

1.9.9 The National Commission for Scheduled Tribes has reiterated the above mentioned recommendation in all its previous Reports submitted to the President. As these Reports of the Commission have not yet been laid in Parliament alongwith an action taken report, the Commission is not aware of the final decision of the Government in this regard. **The Commission, however, remains firmly of the view that it is very important that Reports**

of the Commission are laid in Parliament and the State Legislatures, as the case may be, within a reasonable period of time i.e. not exceeding three months, and memorandum of action taken/ proposed to be taken on its recommendations by the Ministry of Tribal Affairs/ the respective State Government are separately laid in the Parliament/ State Legislature within six months of such submission of the report. The Commission hopes that the Government will appreciate the concern of the Commission for timely submission of the reports in the Parliament and initiate expeditious action to amend the above-mentioned Clause of Article 338A of the Constitution on the above lines.

1.10. Compliance of the RTI Act, 2005

1.10.1 The Commission website contains information about the Commission, its functions and other information related to Schedule Tribes. On its website, the Commission has published up-to-date detailed information about pro-active disclosures under RTI Act and other information of public interest like record of hearings, meetings of the Commission, visits of the Commission; atrocity cases investigation reports, important communications, notices and circulars etc. The Website also provides useful links to several related websites. The website is being maintained by the Computer Cell of the Commission for uploading of contents and its customization.

1.10.2 During the Report period 2009-10, the National Commission for Scheduled Tribes received a total of 137 applications seeking information under the Right to Information Act, 2005. One application was withdrawn by the applicant and information was furnished in all remaining 136 applications. 14 out of 136 applications were received and replied by the Regional Offices of the Commission while others were replied by the concerned PIO of the headquarter Office of the Commission. List of the applications received and dealt during the Report period is available⁹ on the Website of the Commission. It will be noticed that information was furnished within specified time limit in 115 out of 136 applications while information could not be furnished in time in 21 applications. The scrutiny of the replies reveal that in most of these cases information sought was voluminous and needed collection and compilation of information from various sources while in one case the information sought was not clear and the same could be furnished after the applicant clarified the matter referred to in his application.

1.11. Representation in Court Cases

1.11.1. For proper implementation of the Constitutional safeguards provided for the Scheduled Tribes and to advise the Union and the State Governments on all major policy matters affecting the Scheduled Tribes, the Commission is on occasion required to file affidavits containing its views in cases relating to important issues concerning the Scheduled Tribes filed in various Courts by various parties, including the members of the Scheduled

⁹ Pl. see the Sub-link 'RTI Applications' under link 'RTI Disclosures' on the website of the Commission (<http://ncst.nic.in>)

Tribe community and/ or by their associations, involving National Commission for Scheduled Tribes as one of the respondents. A statement showing the particulars of 12 court cases pertaining to the year 2009-10 and action taken thereon by the Commission is at **ANNEXURE 1.XIII**.

1.12. Computerized Monitoring System

1.12.1 At present, NCST office is equipped with PCs, Printers and Scanners etc. All the officers and Sections/Units have been provided with computers for efficient handling of their work. The Computers are networked through NIC and have continuous support from the NIC Networking Group.

1.12.2 In order to establish an effective system for disposal and monitoring of receipts and case files, action was initiated in April 2008 with National Informatics Center (NIC). Personnel & Public Grievances Informatics (PersInfotech) Division of NIC has implemented a computerized system by integrating and customizing “Centralized Public Grievance Redressal and Monitoring System (CPGRAMS)” and “File Tracking System (FTS)” to suit specific requirements of the Commission and to maintain the integrity of the data and its sharing. These systems have evolved as an effective and powerful Complete Grievance Management Tool (CGMT), which is also being utilized as an effective “**Public Grievance Redressal and File Management System (PGRFMS)**”. The system has the following features:

- ◆ User Authentication (user name / Password)
- ◆ Access privilege to limit the access to the work pertaining to their areas only, i.e. Role-based access.
- ◆ In-built capability for automatic registration of grievances (both on-line and manual)
- ◆ Generation of forwarding-cum-acknowledgement letters after registration of grievances
- ◆ Generation of automatic reminders, with flexibility to generate manual reminders too.
- ◆ Registration of grievances either from the Diary Receipts or from a file created through FTS
- ◆ Enable linkage of any file with a registered grievance (if the grievance is registered in CPGRAMS) and corresponding file(s) which already exist, but has not been linked
- ◆ Facility to create “Dealing hand-wise unique file number”.
- ◆ Authorization to the administrator to change the section or ownership of any file.
- ◆ Editing of closed files in respect of limited parameters only
- ◆ Recording of Transaction Log related to editing of files
- ◆ Recording the ownership history of files into the system

- ◆ Facility of updating the status of grievances in the CPGRAMS through FTS without logging into CPGRAMS.
- ◆ Generation of various types of customized Reports.

1.12.3 The FTS is a web based application consisting of three modules viz. Diary, File and Dispatch Modules. The System has features like:

- ◆ Generation of files & receipts and forwarding to concerned officer/Section
- ◆ Merging of receipt(s), after their examination, into the concerned file(s). Receipts may also be de-merged from a file if necessary.
- ◆ Acknowledgement of physical receipt of files or receipts by the officers/sections
- ◆ Editing of files & receipts
- ◆ Closing of files & receipts
- ◆ Recording of movement of files/receipts facilitating their easier tracking.
- ◆ Identification of a dealing Section based on a unique number assigned to Section(s)
- ◆ Generation of various statistical and generic reports of Files & Receipts for monitoring purposes

1.12.4 The above application enables the users to maintain a consistent watch over monitoring of files/receipts and their movements at different levels, which plays an important role in the decision making process. All files have been classified subject-wise to facilitate efficient handling.

Effectiveness of the Monitoring System

1.12.5 As a result of implementation of the **PGRFMS**, the ease and efficiency in handling and monitoring of large number of files and grievances has been enhanced with the following:

- ◆ Registration of grievances into the system, automatic creation of file (with category as Grievance) related to the grievance if one does not exist and the merging of the received receipt in the file thereof.
- ◆ Entry of all receipts in the System and forwarding them to the concerned sections/divisions.
- ◆ Creation and editing of files by the sections/divisions and merging of the receipts in the concerned files for further action.
- ◆ Timely generation of Reminders to the concerned authorities.
- ◆ Effective monitoring through customized features/tools:
 - Routine review of files & receipts
 - Attention to focus areas of works.

- Search current location / status of any receipt from the FTS.
- Tracking of the movement of files and receipts.
- Management Information System with inter-linking of CPGRAMS and FTS, with facility to search/track any file/receipt based on selected criteria/parameters
- Subject-wise categorization of files facilitating close monitoring of Court/Policy/VIP and other cases etc.
- In-built flexibility to generation of various statistical and generic reports of files and grievances for customized requirements.
- Status of pendency/disposal of files and receipts in the concerned sections/divisions and focus more attention to long pending cases.

1.12.6 During the year, all pending receipts were registered in the FTS and merged with the concerned files. Similarly, pending files (including those which were inactive) were registered in FTS categorized as 'Inactive' if no action was necessary. This permitted greater attention to be paid to the live cases and attendance to fresh ones without undue delay. The status of disposal/pendency of files in relation to various subject heads (categories) opened up to 31.3.2010 has been given in **ANNEXURE-1.XIV**. Similarly, the status of disposal of receipts including fresh petitions addressed to the Members of the Commission (including Chairperson & Vice-Chairperson), Senior Officers and the Sections/Units of the Commission is given in the **ANNEXURE 1.XV**.

Linking of Regional Offices with the Computerised Monitoring System

1.12.7 The **PGRFMS** has already been implemented at the NCST Hqrs. The process of linking of the Regional Offices of the Commission has been started. The **PGRFMS** has been implemented in two of the six regional offices located at Bhopal and Raipur and training and has been imparted to the officials of the Regional offices. The linking of other Regional offices is under process. In the next phase, it is planned to implement the System by hosting it on a Central Server in public domain after enhancing the existing system further. The planned centralization of the System will enhance its effectiveness for handling and monitoring of grievances. This will also enable the public to file their grievances on-line and also to check status of their applications on-line in the future. The upgradation, remote updating and maintenance of the System are planned to be carried out by the Computer Cell, NCST Hqrs.

1.12.8 It is also proposed to fully computerize the accounting system with supporting infrastructure and by providing training and technical assistance to the users in the Commission. A proposal for necessary grants for the requisite hardware, software and manpower in this regard was submitted to the Ministry of Tribal Affairs vide the Commission's letter dated 3 May, 2010. A grant of Rs. 21 Lakhs has since been sanctioned by the Ministry of Tribal Affairs for expenditure during the FY 2010-11.

1.13. Virtual Library of the Commission:

1.13.1 A significant addition is the establishment of a sharable folder, named as 'Library', which allows access to the multiple Users in the Commission. All the Users may save file/ store matters pertaining to STs including (i) important letters/ instructions issued by the Govt. from time to time, (ii) communication by/ to the Commission on important issues, (iii) proceedings of various meetings of the Commission and hearings held by the Commission (iv) important Acts of Parliament and State Legislatures (v) important Court judgments and (vi) reference material , (vii) reports of the Parliamentary Committees/ and other Committees, (viii) research studies and (ix) Annual Reports of Ministry of Tribal Affairs, MSJE and other important Ministries etc in the Library folder. The material provides the User with enhanced searching capabilities in a digital format, the capability to download and use the text on desired manner.

1.14. Progress of disposal of receipts/ petitions/ cases in the Commission.

1.14.1 As mentioned earlier, the File Tracking System was introduced in the headquarter office since July, 2008. Centralized diarizing of the Papers/ letters/ representations etc. received in the Commission and opening and movement of files are parts of the FTS. In order to place complete information about current as well as already closed files, details about each file that was closed but not yet destroyed till July, 2008 were also being entered in the FTS. Closed files are also re-opened (and subsequently closed again) on occasion. This is a continuous process and therefore, the number of files, including case files relating to grievances, brought forward from previous year 2007-08, as downloaded now from the FTS, may be different from the information about number of live cases at the end of the year 2007-08 as given in the 4th Report. As data in respect of the Regional offices is in progress of entry, the information in the following paras is restricted to the work handled in the Headquarter office of the Commission.

1.14.2 As per computerized FTS of this Commission, 105 receipts were pending for action, at various levels, on 01/04/2009 and 6505 receipts were received during the report period 2009-10 making a total of 6610 receipts for action during the year. Out of 6610 receipts, 6482 receipts were merged in the concerned files for appropriate action and 128 receipts only were pending for action at the end of the report period 2009-10.

1.14.3 A total of 7031 files had been opened upto 31/03/2009 in the Headquarter office of the Commission, out of which 3844 files were still current on 01/04/2009. 1256 new files were opened during the year 2009-10 making a total of 5100 files for action during the report period. These files included all matters including administrative matters, RTI matters, court cases, General issues, Policy matters, Annual Plans and Tribal Sub-Plans, proposals for de-reservation of vacancies reserved for Scheduled Tribes and cases of various kinds of grievances etc. Out of these 5100 files, 2594 files were closed during

the report period 2009-10 after completion of action. Remaining 2506 files were current as on 01/04/2010.

1.14.4 As regards grievances dealt in the Headquarter office of the Commission, a total of 5206 files had been opened upto 31/03/2009, out of which 2775 files were current for action as on 01/04/2009. The number of case files opened during the report period 2009-10 was 827 making a total of 3602. Of these, 1703 case files were closed after completion of successful action during the year under report, and the remaining 1899 case files were still active as on 01/04/2010.

1.15. Functioning of the Regional Offices of the Commission

1.15.1 The National Commission for Scheduled Tribes has six Regional Offices located at Bhopal, Bhubaneswar, Jaipur, Raipur, Ranchi and Shillong. The location and jurisdiction of these Offices along with the name and designation of the Head of Regional Offices (as on 31 March 2010) are given below:-

S.No	Location & Address of Regional Office	Name & Designation of the Officer Incharge	Jurisdiction of the Regional Office
(1)	(2)	(3)	(4)
1.	Room No.309, Nirman Sadan, CGO Complex, 52-A, Arera Hills, Bhopal-462011	Shri R.K.Dubey, Assistant Director Ph: 0755 2576530 0755 2578272 (F)	M.P., Maharashtra, Karnataka, Kerala, Goa, and Union Territories of Dadra & Nagar Haveli and Lakshadweep.
2.	N-1/297, IRC Village, Bhubaneswar-751015	Shri R.K. Mishra, Assistant Director Ph:0674 2551616 0674 2551818 (F)	Andhra Pradesh, Orissa, Tamil Nadu, West Bengal and Union Territories of Andaman & Nicobar Islands, and Pondicherry
3.	Room No.101 & 102, 1st Floor, Block-A, Kendriya Sadan Sector-10, Vidyadhar Nagar, Jaipur-302023	Dr. G.S. Somawat, Director Ph:0141 2236462 0141 2235488 (F)	Chandigarh, Gujarat, Haryana, HP, Jammu & Kashmir, Punjab, Rajasthan, Uttaranchal and Daman & Diu.
4.	R-26, Sector-2, Avanti Vihar, Post Office Ravigrame, Raipur-492006	Shri R.K.Dubey, Assistant Director (Addl. charge) Ph:0771 2443334 Ph:0771 2443335 (F)	Chhattisgarh
5.	14, New A.G. Co- operative Colony, Kadru, Ranchi-834002	Shri R.K. Mishra, Assistant Director (Addl. charge) Ph: 0651 2341677 0651 2340368 (F)	Bihar, Jharkhand, and Uttar Pradesh

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|--|---|--|
| 6. Rabekka Villa,
Temple Road, Lower
Lachumiere,
Shillong-793001 | Miss. P. Syiemlieh,
Assistant Director
Ph: 0364 2504202
0364 2221362 (F) | Arunachal Pradesh,
Assam, Manipur,
Meghalaya, Mizoram,
Nagaland, Sikkim and
Tripura, |
|--|---|--|

1.15.2 All the six Regional Offices of the Commission continued to function with the same jurisdiction and administrative set-up as no new office could be set-up due to non-receipt of sanction for new Offices and for augmentation of the strength of the regional Offices, and continuing vacancies in various posts in the commission. Notwithstanding this fact the Regional Offices have endeavored to fulfill the allotted responsibilities. The various duties assigned to the Regional Offices *inter-alia* include:

- (i) to maintain effective interaction and liaison with the State Govts./UT Administrations,
- (ii) to provide information and documents about the policies and programmes of the Union Govt. for the welfare and advancement of Scheduled Tribes to the States, NGOs etc. in their respective jurisdiction and to obtain similar information and documentation from the State Government and to provide the same to the Headquarters of the Commission,
- (iii) to conduct on-the-spot enquiries into the cases of atrocity on Scheduled Tribes either on their own or as entrusted to them by the Headquarters and to interact with the concerned administrative/Police authorities and to submit report to the Headquarters,
- (iv) to deal with complaints/representations from members of Scheduled Tribes and their welfare associations etc. on various matters, and (v) to accompany the Chairperson and Members of the Commission on their tours in the States/UTs under their jurisdiction.

Performance and significant achievements in working of Regional Offices

1.15.3 The Regional offices of the National Commission for Scheduled tribes keep a watch on the formulation of policies and issue of guidelines relating to the welfare of Scheduled Tribes in the States/UTs and keep the Commission's Headquarters informed about the developments periodically. Policy decisions taken by any State Government/UT Administration affecting the interests of the Scheduled Tribes are brought to the notice of the concerned authorities for necessary action. Heads of the Regional Offices also represent the Commission in the following State level Committees and provide observations and feedback about working of the policies/ Schemes/ programmes for Scheduled Tribes in the State(s) under their jurisdiction

- i) State Level Monitoring Committee (headed by the Chief Minister of the State concerned) on implementation of the PoA Act, 1989.

- ii) High Power Caste Certificate Scrutiny Committee meetings as a special invitee member.
- iii) State level Bankers Committee meeting organized by the Nationalised Lead Bank in the State.
- iv) Nagar Rajbhasha Karyanvayan Samiti meetings.
- v) Central Govt. Employees welfare Co-ordination Committee meetings.

1.15.4 The Regional Offices of the Commission assist the Headquarter in collecting and compiling statistical and other forms of information from the State Governments/Union Territories under its jurisdiction in connection with the visits of the Commission, Review meetings taken by the Chairperson, Vice-Chairperson and/ or Members of the Commission and also for preparation of various chapters of the Annual Reports of the Commission.

1.15.5 The Regional Offices also receive a large number of receipts of various kinds including grievances and matters relating to Scheduled Tribes from the Scheduled Tribe individuals and their Associations. As most of the cases received in the Regional Offices relate to the offices located in the States, action on those receipts/ cases is taken by the concerned Regional Office. Existence of the Regional Offices in the States helps the local Scheduled Tribes and their well wishers to easily approach the Commission (through the concerned Regional Office). The presence of the Regional Office nearer to the local Government and their participation and contributions in various Committees fosters constructive relationship between the Regional Office and the Authorities concerned. Consequently, these Regional Offices play an important role in prompt disposal of the complaints of grievances or violation of safeguards for Scheduled Tribes in the States under the jurisdiction of the Regional Offices. Cases wherein intervention by the Members of the Commission is necessary, the matters are referred by the Regional Office to the Headquarter Office for taking further necessary action.

1.15.6 The Regional Offices also maintain liaison with the State, Regional or other local offices under the Central Government and its Organisations. They play an important role during the visit of the Commission, its Members and Senior Officers to the respective States and their visits to the tribal areas, meetings with the local authorities and assisting the Commission and Members in conducting meetings to review the implementation of the safeguards for Scheduled Tribes. These visits create awareness about existence of the Commission and its role with respect to the Scheduled Tribes in those State. Details of the visits/ tours undertaken is given in the Statement at **ANNEXURE 1.XI** (Ref. Para 1.8.5 above)

1.15.7 The financial budget of the Regional Offices is part of the overall Budget of the NCST, and allocation of funds to the Regional Offices is made keeping in view sanctioned staff strength and the jurisdiction of the Regional Office concerned and related requirements under each Sub-head of expenditure.

1.15.8 The disposal of various cases received by each Regional Office is briefly recapitulated below.

Regional Office BHOPAL

1.15.9 The Bhopal Regional Office received 2,354 receipts of various kinds (including grievances and matters relating to Scheduled Tribes) from the Scheduled Tribe individuals and their Associations as fresh representations, reminders and rejoinders during the year 2009-10, while 23 receipts were pending for action from the previous year. 2360 receipts were disposed during the year and 11 receipts only remained pending for action. At the end of the year 2008-09, there were 538 active files in the Regional Office. During the year 2009-10, another 260 files were opened which were related to the cases of atrocity, Service matters, Developmental matters and Caste Certificates. A total of 209 files were closed during the year, after grant of desired relief or determining inadmissibility of the claim made by the applicant in the light of the existing rules or orders. During the year, 61 cases were recorded as successfully closed. 541 cases were still active for further action at the end of the year.

Regional Office, BHUBANESWAR

1.15.10 The Bhubaneswar Regional Office received 673 receipts of various kinds (including grievances and matters relating to Scheduled Tribes) from the Scheduled Tribe individuals and their Associations, as fresh representations, reminders and rejoinders during the year 2009-10. At the end of the year 15 receipts only remained pending for action. There were 70 active files at the end of the year 2008-09 in the Regional Office. During the year 2009-10, another 57 files were opened which were related to the cases of atrocity, Service matters, Developmental matters and Caste Certificates. A total of 42 files were closed during the year, after grant of desired relief or determining inadmissibility of the claim made by the applicant in the light of the existing rules or orders. During the year 7 cases were recorded as successfully closed. 85 cases were still active for further action at the end of the year.

Regional Office, JAIPUR

1.15.11 The Jaipur Regional Office received 1678 receipts of various kinds (including grievances and matters relating to Scheduled Tribes) from the Scheduled Tribe individuals and their Associations, as fresh representations, reminders and rejoinders during the year 2009-10, while 55 receipts were brought forward for action from the previous year 2008-09. 1619 of these receipts were disposed off during the year and only 59 receipts were left for action at the end of the report year 2009-10. There were 244 active files in the Regional Office at the end of the year 2008-09. During the year 2009-10, another 137 files were opened which were related to the cases of atrocity, Service matters, Developmental matters and Caste Certificates. A total of 135 files were closed during the year, after grant of desired relief or determining inadmissibility of the claim made by the applicant in the light of the existing

rules or orders. During the year, 35 cases were recorded as successfully closed. 246 cases were still active for further action at the end of the year.

Regional Office, RAIPUR

1.15.12 The Regional Office, Raipur received 599 receipts of various kinds (including grievances and matters relating to Scheduled Tribes) from the Scheduled Tribe individuals and their Associations, as fresh representations, reminders and rejoinders during the year 2009-10. All these 599 receipts were disposed off during the year. There were 75 active files in the Regional Office at the end of the previous year 2008-09. During the year a total of 207 cases (75 old and 135 new) were dealt in the office. The complaints about violation of service safeguards related to promotion, transfer, non-implementation of reservation policy, appointment and harassment by the superior officers or colleagues. In atrocity matters, the Regional office also received complaints/ News paper reports related to murder, rape, dispossession from land, abuse on caste ground and violence. The complaints relating to developmental issues, received in the office, included the matters relating to health facilities, forest rights, housing and other developmental schemes etc, in the tribal areas.

1.15.13 In the year 2009-10, 58 cases relating to service safeguards were dealt in the office, and out of them, 14 cases were successfully redressed while 26 cases were closed as there was no merit in the complaints. In the remaining 18 cases, reply was yet to be received from the concerned departments/ Organisations. 49 cases of atrocities on Scheduled Tribes were dealt in the Regional Office during the year of which 2 cases were successfully closed. Other 30 cases were closed, as the complaint could not be established. As far as developmental issues are concerned, the Office dealt 100 cases during the year 2009-10, out of which 24 cases were successfully closed while 35 cases were closed being inconsonant as per rules/ scheme. In all, 131 cases were closed after completion of action including 40 successful cases. 76 cases were still active for further action at the end of the year.

Regional Office RANCHI

1.15.14 The Ranchi Regional Office received 244 receipts of various kinds (including grievances and matters relating to Scheduled Tribes) from the Scheduled Tribe individuals and their Associations as fresh representations, reminders and rejoinders during the year 2009-10. This also includes the News paper reports of atrocity and other development matters affecting the Scheduled Tribes on which the office had taken suo-moto action. At the end of the year 2008-09, there were 130 active files in the Regional Office. During the year 2009-10, another 62 files were opened which were related to the cases of atrocity, Service matters, Developmental matters and Caste Certificates. A total of 146 files were closed during the year, after grant of desired relief or determining inadmissibility of the claim made by the applicant in the light of the existing rules or orders and 46 files were active at the end of the year. During the year, 11 cases were recorded as successfully closed in the office.

Regional Office Shillong

1.15.15 The Regional Office Shillong received 996 receipts of various kinds (including grievances and matters relating to Scheduled Tribes) from the Scheduled Tribe individuals and their Associations as fresh representations, reminders and rejoinders during the year 2009-10. This also includes the News paper reports of atrocity and other development matters affecting the Scheduled Tribes on which the office had taken suo-moto action. All the receipts have been suitably disposed off during the year. At the end of the year 2008-09, there were 18 active files in the Regional Office. During the year 2009-10, another 35 files were opened, which were related to the cases of atrocity, Service matters, Developmental matters and Caste Certificates. A total of 14 files were closed during the year, after grant of desired relief or determining inadmissibility of the claim made by the applicant in the light of the existing rules or orders and 39 files were active at the end of the year. During the year, 6 cases were recorded as successfully closed cases in the office which is significantly high in the light of the meager man power position in the Regional office.

1.15.16 At the initiative of the Shri O.S.Myriaw, Member, National Commission for Scheduled Tribes, a Workshop on Reservation Policy was conducted by this Regional office on 9th and 10th February, 2010 where about 70 participants from different Central Government establishment, Public Sector Undertakings, Banks, etc. attended the workshop. The Workshop was sponsored by the North Eastern Council.

1.16 Submission to the Parliamentary Committee on the Welfare of Scheduled Castes and Scheduled Tribes.

1.16.1 In order to review the Organisational set up and working of the National Commission for Scheduled Tribes w.r.t. its mandate, the Parliamentary Committee on the Welfare of Scheduled Castes and Scheduled Tribes (14th Lok Sabha) had obtained information from the Ministry of Tribal Affairs as well as this Commission on various points in the form of a Questionnaire. Based on the replies and the oral evidence before it, the Committee presented its Report to the Lok Sabha on 23rd October, 2008, namely; Thirty-third Report (Fourteenth Lok Sabha) on the Ministry of Tribal Affairs "National Commission for the Scheduled Tribes – Its mandate and achievements – A review of its organization and working". The Report contained 23 observations/ recommendations.

1.16.2 The comments of this Commission on all the observations/ recommendations were forwarded to the Ministry of Tribal Affairs. Thereafter, with a view to examine the action taken on the 33rd Report (14th Lok Sabha), the Parliamentary Committee on the Welfare of SCs and STs (15th Lok Sabha) took an oral evidence on 26th October, 2009 wherein the Secretary, National Commission for Scheduled Tribes made a presentation before the Committee about the mandate and working of the Commission and the problems being faced by the Commission in smooth and effective functioning w.r.t. to the constitutional mandate assigned to the Commission under Article 338A of the

Constitution. Further comments/ views of NCST on the list of points arising out of the oral evidence held on 26/10/2009, sought by the Ministry of Tribal Affairs were forwarded by this Commission to the Ministry of Tribal Affairs *vide* letter dated 23/11/2009 for onward transmission to the Committee. The submission made to the Parliamentary Committee on behalf of the Commission are available on the Website¹⁰ of the Commission. The Committee, has since presented to the Lok Sabha its 11th Report (15th Lok Sabha) on the action taken by the Government on the recommendations contained in their Thirty-third Report (14th Lok Sabha).

¹⁰ Material available under the link "**Parliamentary Matters**" on the Website <http://NCST.nic.in>

CHAPTER 2

PLANNING AND DEVELOPMENT FOR SCHEDULED TRIBES

2.1 GENERAL

2.1.1 As per Article 366 (25) of the Constitution, Scheduled Tribes means such tribes or tribal communities as are deemed under Article 342 of the Constitution to be Scheduled Tribes. While the Constitution is silent about the criteria for specification of a community as a Scheduled Tribe, the words and the phrase 'tribes or tribal communities or part of or groups within tribes or tribal communities' in Article 342 have to be understood in terms of their historical background of backwardness. Primitiveness, geographical isolation, shyness and social, educational & economic backwardness due to these reasons are the traits that distinguish Scheduled Tribes of our country from other communities.

2.2 DEMOGRAPHY

2.2.1 There are over 700 tribes (with overlapping communities in more than one State) which have been notified under Article 342 of the Constitution of India, spread over different States and Union Territories of the country. The largest number of main tribal communities (62) has been specified in relation to the State of Orissa. The main concentration of tribal population is in central India and in the North-eastern States. The Scheduled Tribes have been specified in relation to all the States and Union Territories except Haryana, Punjab, Chandigarh, Delhi, and Puducherry. The predominantly tribal populated States of the country (having tribal population more than 50% of the total population) are: Arunachal Pradesh, Meghalaya, Mizoram, Nagaland, Union Territories of Dadra & Nagar Haveli and Lakshadweep. States with sizeable tribal population and having areas of large tribal concentration are Andhra Pradesh, Assam, Chhattisgarh, Gujarat, Himachal Pradesh, Jharkhand, Madhya Pradesh, Maharashtra, Orissa and Rajasthan. The other States and UTs having ST population are Bihar, Goa, J&K, Karnataka, Kerala, Manipur, Sikkim, Tamilnadu, Tripura, UP, Uttarakhand, West Bengal, A&N Islands and Daman & Diu. A statement indicating State/UT-wise population of Scheduled Tribes and their percentage to the total population in the respective State/ UT and to the total ST population in the country, as per Census 2001, is placed at **ANNEXURE 2.I**.

2.2.2 The Tribal communities, which constitute 8.2% of the total population as per Census 2001, live in about 15% of the country's area in various ecological and geo-climatic conditions ranging from plains to forests, hills and inaccessible areas. Tribal groups are at different stages of social, economic and educational development. While some tribal communities have adopted the mainstream way of life at one end of the spectrum, there are 75 Primitive Tribal Groups, now called as Particularly Vulnerable Tribal Groups

(PTGs), at the other end, who are characterized by (a) a pre-agriculture level of technology, (b) a stagnant or declining population (c) extremely low literacy and (d) a subsistence level of economy.

2.3 CONSTITUTIONAL PROVISIONS FOR SOCIO-ECONOMIC DEVELOPMENT & PLANNING FOR SCHEDULED TRIBES

2.3.1 The Constitution of India seeks to secure for all its citizens, among other things, social and economic justice, equality of status and opportunity and assures the dignity of the individual. The Constitution further provides social, economic and political guarantees to the disadvantaged sections of people. Some provisions are specific to both Scheduled Castes and Scheduled Tribes and some are specific to only Scheduled Tribes. Most important provisions in relation to Scheduled Tribes are embedded in Articles 15, 16, 46, 243, 244, 275, 330, 332 and 335. These special provisions aim at safeguarding and promoting the rights of Scheduled Tribes and their development along with development of tribal areas. The Constitutional provisions have also authorized the Government of India to issue guidelines and directions on these matters to the States and also release Grants-in-aid in various forms and for various purposes depending upon the nature of schemes and measures to be taken up by the State Governments. Consequently, Central and State Governments have launched several schemes for the welfare and development of the Scheduled Tribes.

2.4 DYNAMICS OF TRIBAL DEVELOPMENT STRATEGY

2.4.1 The first Five-Year Plan emphasized the provision of additional financial resources through a community development approach to address the problems of tribal people rather than evolving a distinct tribal development strategy. The first systematic effort for the development of the tribal areas was initiated in 1955 in the form of Special Multipurpose Tribal Development Projects and 43 Special Multipurpose Tribal Development Projects (MTDPs) were initiated. These MTDPs could not fully serve the interests of the tribal people since the schemes were numerous and of a general nature. The modified version of this programme was taken up on a larger scale during the 2nd Five Year Plan when the Tribal Development Blocks were started. This programme was further expanded during the 3rd Five Year Plan and all areas with more than 2/3rd tribal concentration were covered by the end of this period. Although it was agreed, in principle, to extend the programme to all those areas which had more than 50% tribal population, yet it was not possible to do so during the 4th Five Year Plan. The development effort in the then existing Tribal Development Blocks was consolidated by extending the period of their operation and the area coverage therefore remained practically unchanged upto the end of 4th Five Year Plan. In the meantime, this programme was reviewed on a number of occasions, notably by a Study Team appointed by the Planning Commission under the chairmanship of Shri Shilu Ao. It was found that the development effort from the general sector programmes was not adequate in these areas, particularly in the context of

their comparatively lower economic base. It was, therefore, decided to evolve a new strategy for the development of the tribals and the tribal areas.

2.5 THE TRIBAL SUB-PLAN STRATEGY

2.5.1 A detailed and comprehensive review of the tribal problem was undertaken on the eve of the Fifth Five Year Plan. An Expert Committee set up by the then Ministry of Education and Social Welfare (Nodal Ministry for tribal development) in 1972 under the Chairmanship of Prof. S.C. Dube for the rapid socio-economic development of tribal people formulated the Tribal Sub Plan strategy and the same was adopted for the first time in the Fifth Five Year Plan. It was observed that an integrated approach to the tribal problems was necessary in terms of their geographic and demographic concentration if a faster development of this community is to take place. Accordingly, the tribal areas in the country were classified under three broad categories:

- States and Union Territories having a majority scheduled tribe population.
- States and Union Territories having substantial tribal population but majority tribal population in particular administrative units, such as development blocks and tehsils.
- States and Union Territories having dispersed tribal population.

(A) Criteria for Identification of TSP Areas in the States and UTs

2.5.2 In the light of the above approach, it was decided that tribal majority States like Arunachal Pradesh, Meghalaya, Mizoram, Nagaland and U.Ts. of Lakshadweep and Dadra & Nagar Haveli may not need a Tribal sub-Plan, as the entire plan of these States/Union Territories was primarily meant for the S.T. population constituting the majority. For the second category of States and Union Territories, Tribal sub-Plan approach was adopted after delineating areas of tribal concentration into two categories (i) areas having more than 50% tribal concentration and (ii) dispersed tribals. In respect of the former, it was decided to adopt an integrated area development approach with focus on tribals. For dispersed tribals, family oriented programmes were decided to be taken up.

2.5.3 The Tribal Sub-Plan strategy adopted for tribal development comprised:

- (i) identification of development block in the State where tribal population was in majority and their constitution into ITDPs with a view to adopting therein an integrated and project based approach for development,
- (ii) earmarking of funds for the Tribal Sub-Plan and ensuring flow of funds from the State and Central Plan sectoral outlays, Special Central Assistance and from Financial Institutions; and
- (iii) creation of appropriate administrative structure in tribal areas and adoption of appropriate personnel policy.

(B) Scheduled Areas and Tribal Sub-Plan strategy

2.5.4 The Constitution also provides for special administration of certain tribal-predominant areas, specified as Scheduled Areas under the Fifth Schedule to the Constitution, in a number of States. Since the Scheduled Areas specified under the Fifth Schedule to the Constitution are well-defined compact tribal areas, it was decided that the (then existing) entire Scheduled Area in those States should be included in the Tribal Sub-Plan area of the State. In addition to the Scheduled Areas, all the Tribal Development Blocks and CD Blocks, which had more than 50% tribal population and were outside the Scheduled Area of the State, also formed part of the Tribal Sub-Plan areas. In the States which did not have Scheduled Area, the TSP area comprised all the Tribal Development Blocks and all the CD Blocks which had more than 50% tribal population in the State as per 1971 Census.

2.5.5 In order to give them special consideration, the TSP areas were made co-terminus with Scheduled Areas by notifying fresh Constitution Orders specifying revised Scheduled Areas in respect of those States which were originally having Scheduled Areas. After reorganisation of the States in the year 2000, the States having Scheduled Areas are Andhra Pradesh, Chhattisgarh, Gujarat, Himachal Pradesh, Jharkhand, Madhya Pradesh, Maharashtra, Orissa, and Rajasthan. The TSP areas in these 9 States also have the benefits of special provisions relating to development and administration of Scheduled Areas as provided under the Fifth Schedule and Article 244 of the Constitution.

(C) Extension of TSP strategy to dispersed tribals

2.5.6 In the Sixth Plan, emphasis shifted from Area development only to include welfare of family and beneficiary-oriented development schemes within the general frame work of socio-economic programmes specifically directed at, and designed for, the benefit of the scheduled tribes. The ambit of the Tribal Sub-Plan was thus widened in the Sixth Plan to cover the dispersed tribal areas in all the States. The Modified Area Development Approach (MADA) was adopted for covering smaller contiguous areas of tribal concentration having a total population of 10,000 of which 50% or more were tribals. During the Seventh Plan, the Tribal Sub-Plan strategy was further extended to cover all tribals, including the dispersed tribals, for beneficiary-oriented programmes. Clusters or pockets of tribal concentration comprising of contiguous tribal villages having minimum of 5000 ST population constituting at least 50% of the total population were identified to cover the tribal beneficiaries living outside the Tribal Sub-Plan and MADA areas, thereby trying to assure that 100% tribal population in all the States and UTs having Tribal Sub-Plan were covered under the new strategy. The Planning strategy for tribal development during this Plan continued to be a mix of beneficiary-oriented and infrastructure and human development programmes. Special emphasis was placed on (i) minor irrigation, soil and water conservation, cooperation, rural roads and land reforms, in the infrastructure sector, (ii) drinking water supply, general education, technical education and health in the social services sector

and (iii) agriculture, horticulture, animal husbandry, dairy development fisheries, forests and small, village, and cottage industries in the production sector.

(D) Preparation of Tribal Sub-Plans of States and UTs

2.5.7 The salient features in respect of the State/ UT Tribal Sub-Plan are:

- (i) Preparation of a plan meant for the welfare and development of tribals within the ambit of a State or a UT plan is a part of the overall plan of a State or UT, and is therefore called a Sub-Plan.
- (ii) The funds provided under the Tribal Sub- Plan out of State Plan have to be at least equal in proportion to the ST population of each State or UT.
- (iii) Tribals and tribal areas of a State or a UT are given benefits under the Tribal Sub-Plan, in addition to what percolates from the overall Plan of a State/ UT.
- (iv) The Tribal Sub-Plan should:
 - a.) Identify the resources for TSP areas;
 - b.) Prepare a broad policy framework for development; and,
 - c.) Define a suitable administrative strategy for its implementation
- (v) The TSP funds, comprising the TSP component of various departments/ sectors of the States, have to be aggregated in a separate demand head in the budget of the Tribal Development Department of the State.

2.5.8 The TSP strategy has been in operation in 22 States and 2 UTs. The names of States and UTs having Tribal Sub-Plans are given in the following TABLE

TABLE
States & Union Territories having Tribal Sub-Plan

Andhra Pradesh	Himachal Pradesh	Maharashtra	Tripura
Assam	Jammu & Kashmir	Manipur	Uttar Pradesh
Bihar	Jharkhand	Orissa	Uttarakhand
Chhattisgarh	Karnataka	Rajasthan	West Bengal
Goa	Kerala	Sikkim	A & N Islands
Gujarat	Madhya Pradesh	Tamil Nadu	Daman & Diu

(E) Integrated Tribal Development approach within TSP

2.5.9 To focus on the needs of the tribal population under the new Tribal Sub-Plan strategy in a coordinated manner, Integrated Tribal Development Projects (ITDP) were conceived during the Fifth Five Year Plan, and these ITDPs have been continued. In accordance with the situation prevailing in each State, some ITDPs are co-terminus with the district

boundaries while some other ITDPs extend to a Tehsil/ Sub-Division or part of the Tehsil/ Sub-Division depending upon the area identified under Tribal Sub-Plan. The Tribal development strategy now comprises the following multi-prong approach:

- (i) Integrated Tribal Development Project (ITDP) areas : These are generally contiguous areas of the size of a block or a tehsil or more within a district, in which the ST population is 50% or more of the total population.
- (ii) Modified Area Development Approach (MADA) pockets : These are identified pockets having 50% or more ST population of a total population of 10,000 or more.
- (iii) Clusters : These are identified clusters of villages, altogether having ST population of 5000 or more, which constitutes 50% or more of the total population of the cluster.
- (iv) Primitive Tribal Groups : These are characterized by a low rate of growth of population, pre-agricultural level of technology and extremely low level of literacy. Keeping in view the need for special attention towards these communities these Groups have been rechristened as Particularly Vulnerable Tribal Groups.
- (v) Dispersed tribal population outside the categories at Sr. No.(i) to (iv) above

2.5.10 There are 192 ITDPs, 259 MADA Pockets, 82 Clusters, and 75 PTGs in the country. State-wise detail is given in **ANNEXURE 2.II**.

(F) Administrative set up for Tribal Sub-Plan in the States/ UTs

2.5.11 Detailed guidelines for preparation of Tribal Sub-Plan by the States and the Central Ministries were issued in the 5th Five Year Plan. Each State Government and Central Ministry/ Department was required to set up a Nodal Department/ Cell to monitor the preparation of Tribal Sub-Plan as part of Annual as well as Five Year Plan exercises. Accordingly, Tribal Welfare Departments in the States were created out of then existing Social Welfare Departments. Similarly the Directorates of Social Welfare in most of the States were replaced by separate Directorates for Scheduled Castes, Scheduled Tribes and other Backward Classes respectively. The Directorates for Scheduled Tribes in major States were redesignated as Commissioners for Tribal Development and the Commissioners were given the power of Head of Department in the States. Some States also created separate Units namely Directorate of Tribal Area Development and Planning (TADP) for preparation and monitoring of the Tribal Sub-Plan in the States. TSP Cells were also set up in many of the Central Ministries/ Departments for similar objective.

(G) Funding of Tribal Development Programmes

2.5.12 The Planning Commission had issued guidelines for the States to earmark funds for Tribal Sub-Plan, out of the total State Plan outlay, to be

placed under a separate Budget Head. As per guidelines issued by the Planning Commission, the Tribal Welfare Departments will be nodal Departments for the formulation and implementation of the Tribal Sub-Plan in the States. Funds for Tribal Sub-Plan are sourced from:

- (i) State Plans
- (ii) Sectoral programmes of Central Ministries/ Departments,
- (iii) Grants under Article 275 (1) of the Constitution and funds under other Schemes of the Ministry of Tribal Affairs.
- (iv) Special Central Assistance (SCA) to Tribal Sub Plan,
- (v) Institutional Finance.

2.5.13 The State Governments have to undertake an exercise to prepare a Tribal Sub-Plan along with the exercise for preparing the Annual/Five-Year Plan of the State. The Tribal Sub-Plan documents should be self-contained in respect of programmes and schemes to be taken up during the Plan period and the input of funds from various sources as indicated above. The States are expected to earmark under the TSP funds from the State Plan which are at least equal to the percentage of the tribal population to the total population in the State. Similarly, the Central Ministries/ Departments were also required to earmark funds in proportion to the population percentage of the Scheduled Tribes in the country, and release those funds for various schemes under the Tribal Sub-Plan.

(H) Quantification of funds from the State Plan to the TSP

2.5.14 Though, the actual flow of funds to the TSP areas has increased significantly after adoption of this approach since the Fifth Five Year Plan, yet it did not reach the desired level. A fundamental change in the process of formulating the Tribal Sub-Plan on the Maharashtra model was introduced at the end of the 8th Five Year Plan. The State Plan funds, in proportion to the ST population percentage of the State, were required to be separately earmarked and placed under the control of the Nodal Department for Tribal Development in the State; which would place those funds at the disposal of the line Department after approving the Scheme received from that Department. In this way the Nodal Department was expected to ensure full utilization of the TSP funds in the State. For this purpose TSP funds were to be earmarked under a separate budget head of the State Nodal Department. This Model further helped in improving the actual expenditure under Tribal Sub-Plan in the States having TSP. The State Plan expenditure for tribal development, which was just 0.51% during Fourth Plan i.e. prior to adoption of TSP strategy, increased to 9.47% during the Eighth Plan and was approximately 8% during the Ninth Plan and is likely to be over 10% during 11th Five Year Plan due to adoption of TSP strategy since Fifth Plan. A comparative statement indicating State/UT-wise allocation and expenditure during first three years of the 11th Five Year Plan i.e. 2007-08, 2008-09 and 2009-10 is placed at **ANNEXURE 2.III**.

(I) Quantification of funds from the Sectoral programmes of the Central Ministries/ Departments to the TSP -- Tribal Sub-Plan Component of Central Ministries/Departments

2.5.15 As the Central Government has special constitutional responsibilities towards the Scheduled Tribes and Scheduled Areas, the role of Central Ministries/ Departments assumes significance. The Planning Commission and the Ministry of Tribal Affairs (subject previously vested with Ministry of Home Affairs and then Ministry of Welfare) have been issuing instructions from time to time to the Central Ministries/Departments to formulate a clear idea of the problems of tribal people and tribal areas, to prepare specific programmes relating to their concerned sectors and adapt the programmes wherever necessary in consultation with the State Govt. In order to focus attention on tribal development, the Central Ministries were called upon by the then Prime Minister in 1980 to take the following steps:

- (i) quantification and earmarking of funds for tribal areas under the programmes of Central Ministries
- (ii) formulation of appropriate need-based programmes for tribal areas
- (iii) adaptation of the on-going programmes to meet the specific requirements of Scheduled Tribes
- (iv) identification of a senior officer in a Ministry to monitor the progress of implementation of programmes for the welfare of Scheduled Tribes.

2.5.16 These guidelines have been reiterated from time to time by the then Ministry of Welfare and now the Ministry of Tribal Affairs, and the Planning Commission, particularly that funds at least equivalent to the percentage of ST population in the country should be set apart under TSP by the concerned Central Ministries and Departments. The objective is that areas in which Central Ministries and Departments can play distinct role are to be identified and accordingly, quantified TSP outlays projected.

2.5.17 The contribution of Central Ministries has been reviewed from time to time and on the whole it has been found to be much below expectation. According to the Tenth Plan document of the Planning Commission, earmarking of funds for TSP was being carried out in 25 Ministries/Departments of the Central Government and 20 States/UTs. The Parliamentary Committee on Welfare of Scheduled Castes and Scheduled Tribes had observed that the quantification of benefits was not satisfactory. On occasions the Committee has expressed unhappiness at the performance of the Ministries and urged them as well as the Planning Commission to ensure that the intended funds and benefits from the general sectors are actually availed of for the welfare of Scheduled Tribes. The Parliamentary Committee has also suggested evaluation, to be undertaken periodically, to assess the extent of flow of funds and benefits with a view to rectification of shortcomings and augmentation of the provisions.

2.5.18 The Ministry of Tribal Affairs in their Annual Report 2005-06 have given the details of the plan budget allocations for the year 2005-06 of 36 Central Ministries/ Departments with expected 8% allocation of funds for TSP areas, and almost the same position has been re-iterated in the Annual Report for 2009-10, stating that the TSP strategy is expected to be followed in the Central Ministries/ Departments also. It has been further stated that many Ministries have reported difficulty in segregation of their TSP component citing indivisibility of projects, because their projects are applicable to all communities, including SCs/ STs. Taking this into account the Ministry has approached Planning Commission for devising a different strategy for Central Ministries on TSP.

2.6. REVIEW OF TSP STRATEGY AND TSP GUIDELINES

(A) Prime Minister's directive

2.6.1 The Prime Minister, in his address to the 51st Meeting of the National Development Council held on 27.6.2005, had *inter alia*, stated as follows:

"If the benefits of growth have to reach all sections of our diverse society, there is a need to equip them with the necessary skills and resources to become active participants in growth processes. This is the only way of achieving our dream of an inclusive, prosperous society. In the mid-1970s, the Special Component Plan and the Tribal Sub-Plan were initiated. Tribal Sub- Plans and Special Component Plans should be an integral part of Annual Plans as well as Five Year Plans, making provisions therein non-divertible and non-lapsable, with the clear objective of bridging the gap in socio-economic development of the SCs and STs within a period of 10 years"

(B) Consolidated Guidelines for Tribal Sub-Plan (and SCSP)

2.6.2 While referring to the observations of the Prime Minister for effective implementation of Tribal Sub-Plan (and Scheduled Caste Sub-Plan), the Planning Commission issued consolidated guidelines to all State Governments/UTs vide D.O. No. 13011/3/2005-SP-Co dated 31/10/2005. A copy of this letter alongwith consolidated guidelines is placed at **ANNEXURE 2.IV**. Similar guidelines were also issued by the Planning Commission to the Central Ministries/ Departments vide DO letter dated 26/12/2006. The Central Ministries were impressed to ensure that the guidelines were followed while preparing Annual Plan 2006-07 of the Ministry. A copy of the DO letter is placed at **ANNEXURE 2.V**. The consolidated revised guidelines issued vide above mentioned DO letter are given below:

(a) For States and UTs

- (i) *Earmarking of funds for (SCSP and) TSP from the total State Plan outlay should at least be proportionate to the (SC and) ST population of the State/UT.*

- (ii) *Making the Social Welfare/Tribal Welfare Department—which are concerned with the well-being and development of (SCs and) STs—the nodal department for formulation and implementation of (SCSP and) TSP.*
- (iii) *Placing the funds earmarked for (SCSP and) TSP at the disposal of the Principal Secretary/Secretary, Social Welfare/Tribal Welfare, who will work as Planning Secretary and have exclusive authority for the reallocation of funds to other line departments in respect of (SC and) ST development schemes.*
- (iv) *Placing the funds earmarked for (SCSP and) TSP under separate budget head/sub-head for each development department.*
- (v) *Backing the (SCSP and) TSP earmarked funds by 100% budget provision, sanctions and timely release of funds to the line departments and implementing agencies.*
- (vi) *Including only those schemes under (SCSP and) TSP that ensure direct benefits to individuals or families belonging to(Scheduled Castes or) Scheduled Tribes.*
- (vii) *Preparing a detailed (SCSP and) TSP document with physical and financial targets against each Scheme with the objective of bridging the gap between the rest of the population and the (SCs and) STs within 10 years.*
- (viii) *Ensuring that the other line departments cooperate in the proper implementation of the (SCSP and) TSP schemes allocated to them and put up the schemes to the nodal departments for sanction and release of funds.*
- (ix) *To circumvent the problem of non-divisible nature of funds for certain sectors like major irrigation, power, roads, and so on, (SCSP and) TSP funds may be accounted only to the extent of about 5% or the actual area (belonging to STs) being covered or benefited by the projects and not the population percentage. The percentage of (SC and) ST beneficiaries and the area being covered/ benefited is always less than the population percentage of the (SC and) ST population in the State/UT.*
- (x) *Preventing the diversion and lapse of funds allocated to (SCSP and) TSP in the Annual Plans. (SCSP and) TSP should not be allowed to be changed at revised estimate (RE) stage by the Planning Commission.*
- (xi) *Carrying forward the lapsed/unutilized (SCSP and) TSP amount to the next Annual Plan of the State/UT as an additional fund for SCSP and TSP.*
- (xii) *All the CSS and SCA Schemes of the Centre necessarily should have a (SCSP and) TSP component in them as per the proportion of (SCs and) STs in the States/UTs.*

(b) For Central Ministries/Departments

- (i) Earmarking of funds by every Central Ministry/Department towards (SCSP and) TSP should be as per the proportion of (SC and) ST population in the country. Non-earmarking of (SCSP and) TSP funds by the Ministry/ Department will result in non-approval of their Annual plan.*
- (ii) (SCSP and) TSP funds should be non-divertible. Creation of separate budget heads and minor heads ([789 for SCSP and] 796 for TSP).*
- (iii) A dedicated (SCSP and) TSP unit should be created for the formulation and implementation of (SCSP and) TSP schemes and programmes.*
- (iv) Only those schemes/programmes should be implemented which accrue direct benefit to (SCs and) STs.*
- (v) All the other guidelines issued to Central Ministries/Departments should be followed strictly.*

(C) Evaluation report of the Study on “Adoption of TSP approach in Maharashtra, Andhra Pradesh and M.P.”

2.6.3 This report is the result of a study conducted at the behest of the Ministry of Tribal Affairs (MTA), Govt. of India¹. (For convenience, a copy of the Executive Summary of the Report is also available on the Website² of the National Commission for Scheduled Tribes.) The study was conducted in the three States, namely Andhra Pradesh, Maharashtra and Madhya Pradesh for the comparative analysis of adoption of Tribal Sub Plan approach in the said States with the following Terms of Reference:

1. Whether the State Government and the Central Ministries allocate TSP funds at least in proportion to Scheduled Tribe population in the State/country.
2. Whether various central ministries and state government have formulated appropriate need-based programmes for tribal areas and made their financial and physical targets for STs separately and in divisible manner.
3. Whether they suitably adapt all the ongoing programmes to suit the specific requirements for Scheduled Tribes.
4. Whether they have any mechanism to monitor the progress of implementation by different departments in the centre /State for welfare of Scheduled Tribes.
5. Whether the different States adopt an integrated approach for development through the allocation of TSP funds in the tribal areas.
6. A comparison of the implementation in the different States and specific comments about success/ failure should be indicated.

¹ Executive Summary is available on the Website of the Ministry of Tribal Affairs_ <http://www.tribal.nic.in>

² <http://ncst.nic.in/> Reports/ Other Reports

7. Any other aspects of relevance including specific suggestion to enable suitable changes in the schemes and improve delivery mechanism.
8. Mechanism for monitoring implementation of schemes out of TSP funds, especially to ensure that expenditure is not notional.

2.6.4 The Study Report, based on the data regarding expenditure under TSP during three years 2002-03, 2003-04 and 2004-05 in these three States, made the following Recommendations

- (i) A mission statement needs to be drafted by each State specifying clear cut goals, time-frame, investments required etc.
- (ii) Centre needs to take lead in ensuring seriousness of efforts.
- (iii) Planning Commission may make it necessary for the states to discuss TSP with the Ministry of Tribal Affairs before discussion on Annual Plan of the state.
- (iv) There is plethora of agencies in all the states visited by the study team. Therefore, institutional mechanism for tribal development needs to be rationalized.
- (v) TACs need to meet at least twice in a year.
- (vi) Regularity of visit of the officials of the department to villages needs to be increased/ rationalized.
- (vii) A monthly meeting at some convenient place in the presence of senior functionaries may help the process of needs assessment.
- (viii) Focus on integrated planning may be reiterated as it was the major plank of TSP approach, and which can be achieved through functional integration. Forward and backward integration is the hallmark of integrated planning.
- (ix) This problem has been noticed in all the three States that if the Project Officer is not of sufficient seniority, the ability to extract performance from other departmental functionaries is compromised. Young IAS / IFS officers may be given this responsibility early in their career, which will not only help the cause of TSP but will also groom them for bigger responsibilities later on.
- (x) Incentives for working in remote areas should be maintained and it should be both carrot and stick policy.
- (xi) Allocation from State Plan funds in proportion to the ST population of the State may be linked to some incentive in SCA to TSP along with some cuts in case of non-adherence.
- (xii) In many cases project costs vary from place to place. Therefore, limits on costs of various projects need to be flexible.
- (xiii) Projects costs need to include maintenance costs and training for the projects.
- (xiv) Process of identification of beneficiaries needs to be made transparent. A process of self-selection would be most appropriate like in M.P., where the format notes the BPL no. and depending on the position of the household in the list is given the benefit.

- (xv) Governor's Report should be submitted regularly by the states as it is a powerful tool of monitoring.
- (xvi) Efforts need to be made for the effective engagement of the tribal population in the process at each stage- planning, implementation, monitoring and review.

2.6.5 Information about action taken by the Ministry of Tribal Affairs and the Planning Commission on the observations, findings and recommendations made in the Study Report is not available

(D) Task Force to re-examine and review Guidelines on Scheduled Caste Sub-Plan & Tribal Sub-Plan-- Recommendations to Revise Guidelines for implementation of Scheduled Caste Sub Plan & Tribal Sub-Plan

2.6.6 The Planning Commission had set up the above mentioned Task Force under the Chairmanship of Dr. Narendra Jadhav, Member, Planning Commission:

- i) *to re-examine and revise the extant Guidelines issued by the Planning Commission for implementation of Scheduled Caste Sub-Plan and Tribal Sub-Plan ;*
- ii) *to understand the operational difficulties in consultation with implementing Ministries and suggest remedial action so that Scheduled Caste Sub-Plan and Tribal Sub-Plan can be implemented effectively.*

2.6.7 The Task Force examined the situation in relation to implementation of Tribal Sub-Plan and Scheduled Caste Sub-Plan in the States and UTs and preparation of the Sub-Plans by the State Govts./ UT Admns. as well as Central Ministries / Departments. The Task Force has submitted the recommendations in respect of the Central Ministries/ Departments on 25/11/2010 which have been incorporated into this Report for the sake of completeness. These have been discussed in detail in para 2.10 of this Chapter

2.6.8 The Task Force, has initiated steps to re-examine and revise the TSP and SCSP guidelines pertaining to State Governments and UT Administrations

2.7. Role of the National Commission for Scheduled Tribes in Planning for Tribal Development.

2.7.1 Article 338A (5)(c) of the Constitution vests the Commission with the duty to participate and advise on the planning process of socio-economic development of the Scheduled Tribes and to evaluate the progress of their development under the Union and any State. In view of this, an officer of the Commission is invited to participate in the Annual Plan meetings held in the Planning Commission. For this purpose the National Commission for Scheduled Tribes has requested a number of times to the Ministry of Tribal Affairs, Planning Commission as well as State Governments and UT

Administrations for furnishing copies of Annual Plans as well as Tribal Sub-Plans. It has been ascertained from Planning Commission as well as Ministry of Tribal Affairs that most of the States were not submitting Tribal Sub-Plan documents alongwith Annual Plan proposals; and in many cases the consolidated Annual Plan documents were also not ready/ available at the time of discussions in the meetings held in the Planning Commission.

2.7.2 The Commission noted that TD Division was created during 5th Five-Year Plan in MHA, after acceptance of the TSP strategy by the Government with a view to ensure implementation of Tribal Sub-Plan guidelines and programmes. The TD Division has later been upgraded into a full-fledged Ministry of Tribal Affairs. Similar steps were taken in Planning Commission also by restructuring the then BC Division (now BC&TD Division). This is unfortunate that despite comprehensive guidelines for preparation of Tribal Sub-Plan, which have been re-iterated from time to time by the Planning Commission and the Ministry of Tribal Affairs, the guidelines were not being followed by all the States while preparing the Annual Plans for the last few years. The Commission is of the view that this situation indicated lack of interest on the part of the Ministry of Tribal Affairs as well as Planning Commission in monitoring preparation and implementation of TSP by State Governments as well as Central Ministries/ Departments. **The Commission, therefore, recommends that both Planning Commission and Ministry of Tribal Affairs should take immediate steps to ensure timely formulation and implementation of Tribal Sub-Plan by States/ UTs as well as Central Ministries/ Departments.**

2.8 Observations on implementation of TSP of States and UTs

2.8.1 Since Annual Plan documents and Tribal Sub-Plan statements indicating flow of funds from State Plan to Tribal Sub-Plans were not available, the State Governments and UT Administration were, therefore, requested by the National Commission for Scheduled Tribes to furnish statements of allocation and expenditure under Tribal Sub-Plan during each year of the 11th Five Year Plan. The information has been received from the States of Andhra Pradesh, Chhattisgarh, Goa, Kerala, Madhya Pradesh, Manipur, Orissa, Rajasthan, Sikkim, Tamil Nadu, Tripura, Uttarakhand and Uttar Pradesh only. It is again unfortunate that some of the tribal States having Scheduled Areas and sizable tribal population have not furnished complete information to the Commission. The Tribal Sub-Plan document as well as requisite information has not been received from the State of Maharashtra also, which is considered as a model State w.r.t. TSP. The Ministry of Tribal Affairs and the Planning Commission have also not responded to specific communications from this Commission for furnishing requisite information relating to allocation and actual flow of funds to Tribal Sub-Plans and the utilisation of Special Central Assistance for Tribal Sub-Plan and the funds released as Central Assistance for various Central Sector and Centrally sponsored Schemes. Compilation of the information about approved flow of funds from State Plan to Tribal Sub-Plan and their utilization for the first 3 years of the 11th Five Year Plan was attempted from Annual Reports of the Ministry of Tribal Affairs which are available on the website of the Ministry of Tribal Affairs. The compiled statement does not give clear

position in respect of each State/UT having Tribal Sub-Plan in respect of each of the first three years of the XIth Five Year Plan. The Background Note on Tribal Sub-Plan of the States for discussion by the Task Force received from the Ministry of Tribal Affairs contained a Statement indicating allocation and expenditure under TSP out of three Annual Plans of the TSP States and UTs. This Statement is placed at **ANNEXURE 2.III**. As mentioned in another context earlier, information in respect of Maharashtra State is not complete even in this Statement. The position in respect of each State/UT is discussed below.

(1) Andhra Pradesh

2.8.2 There is a separate Budget Head Code No.796 for the Tribal Sub-Plan of the State. The Population for Scheduled Tribes in the State of AP as per 2001 Census is 6.6 %. The Tribal Sub-Plan allocation out of State Plan outlay was 8 % during 2007-08, 7.6% during 2008-09 and 7.1% during 2009-10. However, the allocation made under Tribal Sub-Plan have not been utilized to a great extent, as the percentage of utilization which was 96.0% during 2007-08 has come down to 61.6% during 2008-09 and 42.5% only during 2009-10. Although the Tribal Sub-Plan allocation was more than Population percentage of 6.6%, the allocation was decreasing from year to year and the expenditure was also much less than the allocated amount. This indicates either diversion of TSP funds or lapsing of the funds due to non-existence of control mechanism as provided under the TSP guidelines. As per the guidelines of Planning Commission, the TSP funds are non-lapsable. Therefore the unutilized funds should be used under TSP Schemes during the subsequent Annual plan periods.

(2) Assam

2.8.3 There is a separate Budget Head Code No.796 for the Tribal Sub-Plan of the State. The Population for Scheduled Tribes in the State of Assam as per 2001 Census is 12.4 %. The Tribal Sub-Plan allocation out of State Plan outlay was 17.1 % (Rs. 650.00 Crores) during 2007-08, 15.2% (Rs.760.00 Crores) during 2008-09 and 0.9% (Rs. 55.28 Crores) only during 2009-10. Although the Tribal Sub-Plan allocation was more than Population percentage of 12.4%, during the first 2 years of the Five-Year Plan, the allocation was decreasing from year to year so much so that the TSP allocation during 2009-10 was 0.9% only and the expenditure was also much less than the allocated amount. It is , however, noted that the allocation made under Tribal Sub-Plan have not been utilized to a great extent as the percentage of utilization which was 97.9% (Rs. 636.14Crores) during 2007-08 has come down to 17.2% (Rs. 130.62 Crores) during 2008-09. During the year 2009-10 the Tribal Sub-Plan utilisation is stated to be 382.8% (Rs. 211.59 Crores) as against allocation of Rs. 55.82 Crores. This information is not correlative and there appears to be some discrepancy in furnishing/ compiling the information about Tribal Sub-Plan allocation and utilisation during the years 2008-09 and 2009-10 in the Statement. It is further noted that though the Tribal Sub-Plan allocation was more than Population percentage of 12.4%, the expenditure was much less. This indicates either diversion of TSP funds or lapsing of the funds due to non-existence of control mechanism as provided under the TSP guidelines. As per

the guidelines of Planning Commission, the TSP funds are non-lapsable. Therefore the unutilized funds should be used under TSP Schemes during the subsequent Annual plan periods.

(3) Bihar

2.8.4 There is a separate Budget Head Code No.796 for the Tribal Sub-Plan of the State. The Population for Scheduled Tribes in the State of Bihar as per 2001 Census is 0.9 %. The Tribal Sub-Plan allocation out of State Plan outlay was 0.9 % (Rs. 93.94 Crores) during 2007-08, 1.5% (Rs. 203.99 Crores) during 2008-09 and 1.0% (Rs. 163.38 Crores) during 2009-10. The information about utilisation of allocations made under Tribal Sub-Plan is not available for all the three years of the Plan period. Although the Tribal Sub-Plan allocation was stated to be more than population percentage of 0.9%, non-reporting of the expenditure indicates weak/ non-existence of control mechanism as provided under the TSP guidelines. As per the guidelines of Planning Commission, the TSP funds are non-lapsable. Therefore the unutilized funds should be used under TSP Schemes during the subsequent Annual plan periods.

(4) Chhattisgarh

2.8.5 There is a separate Budget Head Code No.796 for the Tribal Sub-Plan of the State. The Population for Scheduled Tribes in the State of Chhattisgarh as per 2001 Census is 31.8 %. The Tribal Sub-Plan allocation out of State Plan outlay was 36.7% (Rs. 2722.31 Crores) during 2007-08, 33.6% (Rs. 3221.23 Crores) during 2008-09 and 33.5% (Rs. 3663.10 Crores) during 2009-10. The percentage of utilization which was 82.3% (Rs. 2240.31 Crores) during 2007-08 has gone up to 89.4% (Rs. 2880.17 Crores) during 2008-09 and to 95.3% (Rs. 3491.34 Crores) during 2009-10. However, the allocation made under Tribal Sub-Plan have not been utilized to a great extent which indicates either diversion of TSP funds or lapsing of the funds due to weak/ non-existence of control mechanism as provided under the TSP guidelines. As per the guidelines of Planning Commission, the TSP funds are non-lapsable. Therefore the unutilized funds should be used under TSP Schemes during the subsequent Annual plan periods.

(5) Goa

2.8.6 There is no information whether there is separate Budget Head Code No.796 for the Tribal Sub-Plan of the State. The list of Scheduled Tribes in respect of Goa State was notified in the year 2002. Therefore, population for Scheduled Tribes in the State of Goa as per 2001 Census is Nil. According to estimates prepared after 2002, the population of Scheduled Tribes is stated to be 12.07%. Accordingly, the flow from State Plan to TSP of Goa State should not be less than the population percentage level of 12.07% but the Tribal Sub-Plan allocation out of State Plan outlay was 6.5% (Rs. 92.91 Crores) during 2007-08, 5.8% (Rs.101.58 Crores) during 2008-09 and 6.1% (Rs. 136.99 Crores) during 2009-10. Further, the allocations made under Tribal Sub-Plan have not been utilized to a great extent. The percentage of utilization, which was 64.3% (Rs. 59.44 Crores) during 2007-08, has slightly increased to 76.0%

(Rs. 77.23 Crores) during 2008-09 and 71.5% (Rs. 97.94 Crores) only during 2009-10. On the one hand, the Tribal Sub-Plan allocation was much less than the ST Population percentage of 12.07%, while on the other, the expenditure was also much less than the allocation each year (though the TSP expenditure show increasing trend). This indicates either diversion of TSP funds or lapsing of the funds due to weak/ non-existence of control mechanism as provided under the TSP guidelines. As per the guidelines of Planning Commission, the TSP funds are non-lapsable. Therefore the unutilized funds should be used under TSP Schemes during the subsequent Annual plan periods.

(6) Gujarat

2.8.7 There is no information whether there is a separate Budget Head Code No.796 for the Tribal Sub-Plan of the State. The Population for Scheduled Tribes in the State of Gujarat as per 2001 Census is 14.8 %. The Tribal Sub-Plan allocation out of State Plan outlay was 14.8% (Rs. 2361.60 Crores) during 2007-08, 13.6% (Rs. 2862.73 Crores) during 2008-09 and 15.4% (Rs. 3616.03 Crores) during 2009-10. However, the allocations made under Tribal Sub-Plan, which in actual terms have been increasing from year to year, have not been utilized fully and the percentage of utilization which was 97.6% (Rs. 2305.21 Crores) during 2007-08 has come down to 94.4% (Rs. 2703.51 Crores) during 2008-09 while NIL expenditure has been reported during 2009-10. This indicates either diversion of TSP funds or lapsing of the funds due to weak/ non-existence of control mechanism as provided under the TSP guidelines. As per the guidelines of Planning Commission, the TSP funds are non-lapsable. Therefore the unutilized funds should be used under TSP Schemes during the subsequent Annual plan periods.

(7) Himachal Pradesh

2.8.8 There is no information whether there is a separate Budget Head Code No.796 for the Tribal Sub-Plan of the State. The Population for Scheduled Tribes in the State of Himachal Pradesh as per 2001 Census is 4.0 %. The Tribal Sub-Plan allocation out of State Plan outlay was 9.0% (Rs. 189.00 Crores, Rs. 216.00 Crores and Rs. 243.00 Crores respectively) during each year of 2007-08, 2008-09 and 2009-10. However, the allocation made under Tribal Sub-Plan, which in actual terms have been increasing from year to year, have not been utilized fully as the percentage of utilization which was 99.6% (Rs. 2703.51 Crores) during 2007-08 has come down to 96.3% (Rs. Crores) during 2008-09 and 94.7% (Rs. Crores) during 2009-10. This indicates either diversion of TSP funds or lapsing of the funds due to weak/ non-existence of control mechanism as provided under the TSP guidelines. As per the guidelines of Planning Commission, the TSP funds are non-lapsable. Therefore the unutilized funds should be used under TSP Schemes during the subsequent Annual plan periods.

(8) Jammu & Kashmir

2.8.9 There is no information whether there is a separate Budget Head Code No.796 for the Tribal Sub-Plan of the State. The Population for

Scheduled Tribes in the State of Jammu & Kashmir as per 2001 Census is 10.9 %. The Tribal Sub-Plan allocation out of State Plan outlay is stated to be 0.2% (Rs. 11.97 Crores) during 2007-08, 0% (NA) during 2008-09 and 10.2% (Rs. 559.57 Crores) during 2009-10. While this indicates that the process of preparation of TSP in the State allocation of funds under Tribal Sub-Plan has been concretised, in the absence of the document relating to TSP 2010-11 of the State it is not known whether TSP allocations made during 2009-10 have been utilized and to what extent. As per the guidelines of Planning Commission, the TSP funds are non-lapsable. Therefore the unutilized funds should be used under TSP Schemes during the subsequent Annual plan periods.

(9) Jharkhand

2.8.10 There is a separate Budget Head Code No.796 for the Tribal Sub-Plan of the State. The Population for Scheduled Tribes in the State of Jharkhand as per 2001 Census is 26.3 %. The Tribal Sub-Plan allocation out of State Plan outlay is stated to be 10.9% (Rs. 729.96 Crores) during 2007-08, 51.3% (Rs. 4111.84 Crores) during 2008-09 and 70.2% (Rs. 5760.46 Crores) during 2009-10. It is noted that the allocations made under Tribal Sub-Plan were increased substantially in actual terms as well as in terms of %age to the total Plan outlay during each year of the 11th FYP, there seems to be no control over fund mechanism as there is no information about utilisation of TSP funds during 2007-08 as well as 2009-10 while utilisation during 2008-09 is shown as 96.3% (Rs. 3849.50 Crores) only. The State Government has not responded to the communication sent by this Commission also. Thus, although the Tribal Sub-Plan allocation was shown to be much higher than the population percentage of 26.3%, during 2008-09 and 2009-10, nothing can be said about working of the TSP in the State of Jharkhand due to non-availability of expenditure figures. This indicates non-existence of control mechanism as provided under the TSP guidelines. As per the guidelines of Planning Commission, the TSP funds are non-lapsable. Therefore the unutilized funds should be used under TSP Schemes during the subsequent Annual plan periods.

(10) Karnataka

2.8.11 There is no information whether there is a separate Budget Head Code No.796 for the Tribal Sub-Plan of the State. The Population for Scheduled Tribes in the State of Karnataka as per 2001 Census is 6.6 %. The Tribal Sub-Plan allocation out of State Plan outlay was 6.5% (Rs. 1160.82 Crores) during 2007-08, 4.8% (Rs. 1263.90 Crores) during 2008-09 and 3.9% (Rs. 1144.05 Crores) during 2009-10. It is noted that the Tribal Sub-Plan allocations have not only been less than the minimum flow of 6.5%, but are also decreasing in actual terms as well as %age flow from the State Plan allocations. Moreover, these funds have not been fully utilized, though the level of utilisation increased from year to year. The percentage of utilization which was 61.8% (Rs.717.57 Crores) during 2007-08 has risen to 78.2% (Rs. 988.76 Crores) during 2008-09 and to 100% (Rs. 1144.05 Crores) during 2009-10. Thus, not only the Tribal Sub-Plan allocation was less than Population

percentage of 6.6%, but there was non-utilisation of those funds. The State Government has to ensure allocation of Tribal Sub-Plan funds at not less than 6.6% of the State Plan outlay and also to check diversion of TSP funds or lapsing of the funds by enforcing strong control mechanism as provided under the TSP guidelines. As per the guidelines of Planning Commission, the TSP funds are non-lapsable. Therefore the unutilized funds should be used under TSP Schemes during the subsequent Annual plan periods.

(11) Kerala

2.8.12 There is a separate Budget Head Code No.796 for the Tribal Sub-Plan of the State. The Population for Scheduled Tribes in the State of Kerala as per 2001 Census is 1.1 %. The Tribal Sub-Plan allocation out of State Plan outlay was 2.0% (Rs. 139.00 Crores) during 2007-08, 2.0% (Rs.154.10 Crores) during 2008-09 and 2.0% (Rs. 180.86 Crores) during 2009-10. Although the Tribal Sub-Plan allocation was more than Population percentage of 1.1%, the expenditure was less. The percentage of utilization which was 92.4% (Rs. 128.43Crores) during 2007-08 has gone upto 96.9% (Rs. 149.37Crores) during 2008-09 and 100% (Rs. 180.86 Crores) during 2009-10. As per the guidelines of Planning Commission, the TSP funds are non-lapsable. Therefore the unutilized funds should be used under TSP Schemes during the subsequent Annual plan periods.

(12) Madhya Pradesh

2.8.13 There is a separate Budget Head Code No.796 for the Tribal Sub-Plan of the State. The Population for Scheduled Tribes in the State of Madhya Pradesh as per 2001 Census is 20.3%. The Tribal Sub-Plan allocation out of State Plan outlay was 22.9% (Rs. 2748.88 Crores) during 2007-08, 22.1% (Rs. 3137.06 Crores) during 2008-09 and 23.0% (Rs. 3714.43 Crores) during 2009-10. Although the Tribal Sub-Plan allocations were stated to be more than the population percentage of 20.3% in each year, due to non-availability of expenditure figures it is not possible to assess the implementation of the Tribal Sub-Plan in the State having the largest ST population in the country. This indicates that the control mechanism as provided under the TSP guidelines is not functioning effectively. As per the guidelines of Planning Commission, the TSP funds are non-lapsable. Therefore the unutilized funds should be used under TSP Schemes during the subsequent Annual plan periods.

(13) Maharashtra

2.8.14 As mentioned earlier, the State Government of Maharashtra has neither furnished copy of the TSP document nor requisite information in the prescribed Statement sought by the Commission. There is no information whether there is separate Budget Head Code (No.796) for the Tribal Sub-Plan of the State, although TSP of Maharashtra has been adopted as Model TSP. The Population for Scheduled Tribes in the State of Maharashtra as per 2001 Census is 8.9%. The Tribal Sub-Plan allocation out of State Plan outlay was 8.9% (Rs.1798.00 Crores) during 2007-08, 7.8% (Rs. 1941.50 Crores) during 2008-09 while there is no information in respect of 2009-10 as per Statement

received from the Planning Commission. However, the allocations made under Tribal Sub-Plan have not been utilized to a great extent as the percentage of utilization was 24.5% (Rs. 440.44 Crores) during 2007-08 and there is no information regarding 2008-09 and 2009-10. Although the Tribal Sub-Plan allocation during 2007-08 was stated to be in proportion to the population percentage of 8.9%, but the expenditure was much less, while there is no information regarding 2008-09 and 2009-10. State Government has to ensure that the Tribal Sub-Plan guidelines and the control mechanism prescribed by the Planning Commission are followed in letter and spirit in the matter of implementation of Tribal Sub-Plan in the State.

(14) Manipur

2.8.15 There is a separate Budget Head Code No.796 for the Tribal Sub-Plan of the State. The Population for Scheduled Tribes in the State of Manipur as per 2001 Census is 32.3%. The Tribal Sub-Plan allocation out of State Plan outlay was 43.1% (Rs.592.61Crores) during 2007-08, 44.1% (Rs. 731.73 Crores) during 2008-09 and 37.1% (Rs. 741.15 Crores) during 2009-10. It is, however, noted that while the allocations made and the expenditure incurred under Tribal Sub-Plan have in actual terms been increasing from year to year, the allocations made under Tribal Sub-Plan have not been utilized fully as the percentage of utilization which was 84.3% (Rs. 499.60 Crores) during 2007-08, came down to 81.7% (Rs. 597.83 Crores) during 2008-09 and was estimated to be at 99.4% (Rs. 736.88 Crores) during 2009-10. This indicates either diversion of TSP funds or lapsing of the funds due to weak/ non-existence of control mechanism as provided under the TSP guidelines. As per the guidelines of Planning Commission, the TSP funds are non-lapsable. Therefore the unutilized funds should be used under TSP Schemes during the subsequent Annual plan periods.

(15) Orissa

2.8.16 There is a separate Budget Head Code No.796 for the Tribal Sub-Plan of the State. The population for Scheduled Tribes in the State of Orissa as per 2001 Census is 22.1%. The Tribal Sub-Plan allocation out of State Plan outlay was 24.6% (Rs. 1257.00Crores) during 2007-08, 22.7% (Rs. 1699.73 Crores) during 2008-09 and 22.9% (Rs. 2171.48 Crores) during 2009-10. The percentage of utilization which was 140% (Rs. 1759.78 Crores) during 2007-08 has come down to 105.5% (Rs. 1792.58 Crores) during 2008-09 and 99.4% (Rs. 2159.46 Crores) only during 2009-10. It is noted that not only the Tribal Sub-Plan allocation during each year was more than population percentage of 22.1%, but the utilisation has been 100% or more and in actual term also it has been increasing from year to year.

(16) Rajasthan

2.8.17 There is a separate Budget Head Code No.796 for the Tribal Sub-Plan of the State. The Population for Scheduled Tribes in the State of Rajasthan as per 2001 Census is 12.6%. The Tribal Sub-Plan allocation out of State Plan outlay was 12.3% (Rs. 1431.17 Crores) during 2007-08, 12.2% (Rs.

1706.60 Crores) during 2008-09 and 12.2% (Rs. 2115.35 Crores) during 2009-10. It is noted that while in actual terms, the allocations as well as expenditures under TSP have been increasing from year to year in view of the increasing level of State Plan allocations and expenditures, the Tribal Sub-Plan allocation during each year remained slightly below the level of Population percentage of 12.6%. The allocation made under Tribal Sub-Plan have generally been utilized, as the percentage of utilization was 101.5% (Rs. Crores) during 2007-08, 97.6% (Rs. Crores) during 2008-09 and estimated to be at 100% (Rs. 2115.35 Crores) during 2009-10. State Government should ensure that TSP allocations should in no case be less than the population % age of the Scheduled Tribes in the State and since the TSP funds are non-lapsable as per the guidelines of Planning Commission, the unutilized funds should be used under TSP Schemes during the subsequent Annual plan periods.

(17) Sikkim

2.8.18 There is a separate Budget Head Code No.796 for the Tribal Sub-Plan of the State. The population for Scheduled Tribes in the State of Sikkim as per 2001 Census is 20.6%. The Tribal Sub-Plan allocation out of State Plan outlay was 19.6% (Rs. 135.16 Crores) during 2007-08, 9.8% (Rs. 83.62 Crores) during 2008-09 and 0.7% (Rs. 7.64 Crores) only during 2009-10. It is noted that in actual terms, as well as %age-wise, the allocations as well as expenditures under TSP have been decreasing drastically from year to year despite the increasing level of State Plan allocations, and also remained much below the level of population percentage of 20.6%. Moreover, the allocation made under Tribal Sub-Plan have not been utilized to a great extent, as the percentage of utilization which was 4.8% (Rs. 6.48 Crores) during 2007-08 remained at 7.7% (Rs. 6.45 Crores) during 2008-09 though it was 100% during 2009-10, as the allocation was a meagre amount of Rs. 7.64 Crores only. This clearly indicates weak/ non-existence of monitoring and control mechanism as provided under the TSP guidelines. As per the guidelines of Planning Commission, the TSP funds are non-lapsable. Therefore the unutilized funds should be used under TSP Schemes during the subsequent Annual plan periods.

(18) Tamil Nadu

2.8.19 There is a separate Budget Head Code No.796 for the Tribal Sub-Plan of the State. The Population for Scheduled Tribes in the State of Tamil Nadu as per 2001 Census is 1%. Information about Tribal Sub-Plan allocation and expenditure out of State Plan outlay appears to be erroneous. The allocation is stated to be Rs. 3185.05 Crores (22.8%), during 2007-08, Rs. 32.11 Crores (0.2%) during 2008-09 and Rs. 36.36 Crores (0.2%) during 2009-10. Similarly, the TSP expenditure is stated to be RS. 240.89 Crores (7.6% utilisation) during 2007-08, Rs. 206.99 Crores (644.6% utilisation) during 2008-09 and Rs. 360.08 Crores (990.3% utilisation) during 2009-10. This indicates non-existence of control mechanism as provided under the TSP guidelines. As per the guidelines of Planning Commission, the TSP funds are non-lapsable. Therefore the unutilized funds should be used under TSP Schemes during the subsequent Annual plan periods.

(19) Tripura

2.8.20 There is no information whether there is a separate Budget Head Code No.796 for the Tribal Sub-Plan of the State. The population for Scheduled Tribes in the State of Tripura as per 2001 Census is 31.1%. The Tribal Sub-Plan allocation out of State Plan outlay was 33.5% (Rs. 408.50 Crores) during 2007-08, 34.6% (Rs. 501.34 Crores) during 2008-09 and 34.3% (Rs. 575.91 Crores) during 2009-10. However, the allocations made under Tribal Sub-Plan have not been utilized to a great extent. The percentage of utilization was 79.6% (Rs. 325.01 Crores) during 2007-08, 93.4% (Rs. 468.49 Crores) during 2008-09 and 102.1% (Rs. 587.90 Crores) during 2009-10. Although the Tribal Sub-Plan allocation was more than Population percentage of 31.1%, the utilisation was less in the years 2007-08 and 2008-09. It may be recalled that Tripura State also used to earmark Tribal Sub-Plan funds on Maharashtra pattern. It is, however, felt necessary that proper monitoring and control mechanism as provided under the TSP guidelines need to be maintained for proper implementation of the Tribal Sub-Plan in the State. As per the guidelines of Planning Commission, the TSP funds are non-lapsable. Therefore the unutilized funds should be used under TSP Schemes during the subsequent Annual plan periods.

(20) Uttar Pradesh

2.8.21 There is a separate Budget Head Code No.796 for the Tribal Sub-Plan of the State. The population for Scheduled Tribes in the State of Uttar Pradesh as per 2001 Census is 0.1%. The Tribal Sub-Plan allocation out of State Plan outlay was 0.1% during each year of 2007-08, 2008-09 and 2009-10. However, the allocations made under Tribal Sub-Plan have not been utilized to a great extent as the percentage of utilization which was 56% during 2007-08 which increased to 95.3% during 2008-09 has come down to 17.9% only during 2009-10. This indicates either diversion of TSP funds or lapsing of the funds due to non-existence of control mechanism as provided under the TSP guidelines. As per the guidelines of Planning Commission, the TSP funds are non-lapsable. Therefore the unutilized funds should be used under TSP Schemes during the subsequent Annual plan periods.

(21) Uttarakhand

2.8.22 There is a separate Budget Head Code No.796 for the Tribal Sub-Plan of the State. The population for Scheduled Tribes in the State of Uttarakhand as per 2001 Census is 3%. The Tribal Sub-Plan allocation out of State Plan outlay was 3.1% during 2007-08, 3% during 2008-09 and 3.9% during 2009-10. However, the allocation made under Tribal Sub-Plan have not been utilized to a great extent as the percentage of utilization which was 75.8% during 2007-08 has come down to 63.2% during 2008-09 and further down to 46.9% only during 2009-10. Although the Tribal Sub-Plan allocation was more than the Population percentage of 3%, the expenditure was much less. This indicates either diversion of TSP funds or lapsing of the funds due to non-existence of control mechanism as provided under the TSP guidelines. As per

the guidelines of Planning Commission, the TSP funds are non-lapsable. Therefore the unutilized funds should be used under TSP Schemes during the subsequent Annual plan periods.

(22) West Bengal

2.8.23 There is a separate Budget Head Code No.796 for the Tribal Sub-Plan of the State. The population for Scheduled Tribes in the State of West Bengal as per 2001 Census is 5.5%. The Tribal Sub-Plan allocation out of State Plan outlay was 7.9% during 2007-08, 6.6% during 2008-09 and 6.8% during 2009-10. Although the Tribal Sub-Plan allocation was more than population percentage of 5.5%, the expenditure was much less during 2008-09. The percentage of utilization which was 100% during 2007-08 has come down to 85.8% during 2008-09 and was 100% during 2009-10. As per the guidelines of Planning Commission, the TSP funds are non-lapsable. Therefore the unutilized funds should be used under TSP Schemes during the subsequent Annual plan periods.

(23) A & N Islands

2.8.24 There is a separate Budget Head Code No.796 for the Tribal Sub-Plan of the State. The Population for Scheduled Tribes in the State of A & N Islands as per 2001 Census is 8.3%. The Tribal Sub-Plan allocation out of State Plan outlay was 7.5% during 2007-08, 11% during 2008-09 and 8.3% during 2009-10. However, the allocation made under Tribal Sub-Plan have not been utilized to a great extent, as the percentage of utilization was 49.9% during 2007-08 which increased to 73.8% only during 2008-09 and 96.2% only during 2009-10. This indicates either diversion of TSP funds or lapsing of the funds due to weak/non-existence of monitoring and control mechanism as provided under the TSP guidelines. As per the guidelines of Planning Commission, the TSP funds are non-lapsable. Therefore the unutilized funds should be used under TSP Schemes during the subsequent Annual plan periods.

(24) Daman & Diu

2.8.25 There is a separate Budget Head Code No.796 for the Tribal Sub-Plan of the State. The population for Scheduled Tribes in the State of Daman & Diu as per 2001 Census is 8.8%. The Tribal Sub-Plan allocation out of State Plan outlay was 8.8% during 2007-08, 1.7% during 2008-09 and again 8.9% during 2009-10. However, the allocations made under Tribal Sub-Plan have not been utilized to a great extent, as the percentage of utilization which was 23.5% during 2007-08 increased to 82.3% during 2008-09 and again decreased to 16% only during 2009-10. On the one hand the Tribal Sub-Plan allocation was varying from year to year expenditure has also been varying. This indicates either diversion of TSP funds or lapsing of the funds due to weak/ non-existence of monitoring and control mechanism as provided under the TSP guidelines. As per the guidelines of Planning Commission, the TSP funds are non-lapsable. Therefore the unutilized funds should be used under TSP Schemes during the subsequent Annual plan periods.

2.9 Recommendations w.r.t. TSP of States/ UTs

2.9.1 In keeping with (i) the views expressed by the Prime Minister in the meetings of the NDC, (ii) the Constitutional responsibility of the National Commission for Scheduled Tribes towards planning for development of Scheduled Tribes and (iii) the position discussed above, the Commission recommends as below:

- (i)** The Planning Commission, in its communication to the State Governments, regarding preparation of Annual Plan and Five Year Plan should invariably emphasize that the Plan proposals of the State Government for Annual Plan as well as Five Year Plan will not be considered unless Tribal Sub-Plan document is also received. The communication should also clearly specify that the State Governments will simultaneously send the copies of State Plan documents and Tribal Sub-Plan documents to the National Commission for Scheduled Tribes.
- (ii)** As has been the practice in the past, the draft Tribal Sub-Plan of the State should also be discussed in the first phase by the Ministry of Tribal Affairs and the revised Tribal Sub-Plan document may be discussed for final approval in the Planning Commission, after finalization of the Five Year Plan/ Annual Plan size of the State. The Tribal Sub-Plan outlays approved in the meeting in the Planning Commission should be adhered by the State Government.
- (iii)** In order to ensure non-diversion of Tribal Sub-Plan funds, the Planning Commission and the Ministry of Tribal Affairs should ensure that each State Government budgets the earmarked TSP funds under a single budget demand under the control of the State Tribal Welfare/ Development Department of the State, as envisaged in the Maharashtra Model and advocated by Planning Commission as well as Ministry of Tribal Affairs from time to time.
- (iv)** The funds allocated under Tribal Sub-Plan of the States should be non-divertible and non-lapsable with the objective of bridging the gap in socio-economic development of the Scheduled Tribes and the Scheduled Areas (and other tribal areas) under Tribal Sub-Plan in a time-bound manner. The Ministry of Finance, Ministry of Tribal Affairs and the Planning Commission may take necessary steps for creation of a non-lapsable Tribal Sub-Plan fund under each State/ UT having Tribal Sub-Plan and formulate guidelines for utilisation of such funds. Infrastructure development aimed at accelerated development of the Tribal Sub-Plan areas should be a priority area for expenditure from the non-lapsable fund.
- (v)** Allocation from state plan funds in proportion to the ST population of the state may be linked to some incentive in SCA to TSP.

2.10 TRIBAL SUB-PLAN OF CENTRAL MINISTRIES

2.10.1 The Central Government having a special constitutional responsibility towards the Scheduled Tribes and Scheduled Areas, the role of Central Ministries/ Departments assumes significance. The basic philosophy of Tribal Sub-Plan for tribal development adopted during Fifth FYP is applicable in respect of the Plans prepared by the States and UTs as also the Plans of the Central Ministries/ Departments. Therefore, the TSP strategy is expected to be followed in the Central Ministries/ Departments also. Hence, an adequate flow of funds to Tribal Sub-Plan in the Plans of all the Central Ministries/ Departments needs to be ensured. The Planning Commission and the Ministry of Tribal Affairs (then Ministry of Home Affairs) have requested all the Central Ministries and Departments in the past to quantify the funds for the TSP in their Annual Plans in accordance with the population percentage of STs in the country, ie. 8.2%, as per 2001 census. It is important that the Ministries and Departments of the Central Government take an integrated view of the developmental programmes undertaken by them, simultaneously with an appreciation of the special needs of the tribal socio-economic situation, in order to be able to identify schemes of relevance to the tribal areas and tribal population.

2.10.2 The issue relating to quantification of funds for TSP by Central Ministries/ Departments was discussed in detail in the first Report of the Commission for the period 2004-05 and 2005-06. It was pointed out that no Ministry was quantifying the funds while preparing the Plan document. The Annual Report of the Ministry of Tribal Affairs also mentioned that the Central Ministries/ Departments should have earmarked 8% of their budget for TSP of the Ministry/ Department.

2.10.3 The 11th Five Year Plan document of the Planning Commission however, mentions that 17 Ministries/ Departments were preparing Special Component Plan for Scheduled Castes (now called SCSP) but there is no information about preparation of Tribal Sub-Plan by the Central Ministries. The Task Force set up by Planning Commission to re-examine and revise the guidelines for SCSP and TSP has also made similar observations. The Annual Reports of the Ministry of Tribal Affairs for 2008-09 as well as 2009-10 have reiterated the following position:

Many Ministries have reported difficulty in segregation of their TSP component citing indivisibility of projects, because their projects are applicable to all communities, including STs. The Ministry, taking this into account has approached Planning Commission for devising a different strategy for Central Ministries on TSP.

2.10.4 The National Commission for Scheduled Tribes has noted that the consolidated guidelines for preparation of TSP of Central Ministries/ Departments were issued by Planning Commission on 26/12/2006 (**ANNEXURE 2.V** above) and the Ministries were impressed to ensure that the guidelines were followed while preparing the Annual Plan. As per available information, no Ministry/ Department has prepared TSP along with Annual Plan

for 2007-08 or subsequent years. Once again, in the context of exercise for preparation of Annual Plan 2010-11, the Secretary, Planning Commission vide her D.O. letter dated 26/10/2009 (**ANNEXURE 2.VI**) addressed to Secretaries of Central Ministries/ Departments has again stressed in para 9 that the guidelines for formulation, implementation and monitoring of SCSP and TSP need to be followed and ensured that these are used for attaining the desired outcome. A copy of the guidelines for formulation, implementation and monitoring of Scheduled Caste Sub Plan (SCSP) for Scheduled Castes and TSP for Scheduled Tribes was also enclosed with the D.O. letter. It was impressed upon the Ministries that to facilitate proper monitoring of expenditure under SCSP and TSP, necessary information may be provided in formats at Appendix-9 (to the letter).

2.10.5 In view of above, the Commission decided to collect current position about formulation of TSP by Central Ministries/ Departments and requested the Planning Commission and Ministry of Tribal Affairs for furnishing information on select relevant points. The Commission also requested all Ministries/ Departments to furnish information about outlays and expenditure under Tribal Sub-Plan in respect of the Ministry/ Department during first three years of the 11th Five Year Plan, as per the format, [circulated as Appendix-9 (Annexure-II) to the above mentioned D.O. letter dated 26/10/2009 of the Secretary, Planning Commission]. The response has been received only from the following Ministries:

- Ministry of Agriculture, Department of Agriculture and Cooperation
- Ministry of Chemical and Fertilizer, Department of Fertilizers
- Ministry of Civil Aviation
- Ministry of Commerce and Industry, Department of Commerce
- Ministry of Communications and IT,
--Department of IT
--Department of Telecommunications
- Ministry of Housing and Urban Poverty Allocation
- Ministry of Labour and Employment
- Ministry of Youth Affairs and Sports
- Ministry of Woman and Child Development

2.10.6 The Ministry of Chemicals and Fertilizers, Department of Fertilizers had informed that Department of Fertilizers currently have no special scheme exclusively for any particular community of farmers and subsidized fertilizer products are available to all farmers. However, this Department has been implementing a policy for 25% reservation of fertilizer dealership for SC/ST candidates in fertilizer PSUs.

2.10.7 The Ministry of Civil Aviation have furnished NIL information. The Ministry of Information and Broadcasting have informed that “the plan scheme of the Ministry of I&B aim at mass communication of the policies and programmes of the Government as well as entertainment and education. The benefits of such schemes/ programmes/ activities uniformly flow to the entire population, including SCs/ STs . As such, it may kindly be appreciated that it is not possible to earmark specific funds for SCs / STs in our Annual Plans, given

the nature of the schemes. However, SCs / STs form an integral part of all mass communication efforts and the Media Unit do focus attention on various aspects of welfare of SCs / STs . Prasar Bharati (All India Radio & Doordarshan) is implementing a special package for accelerating Radio & TV coverage in the North Eastern Region, which has considerable population representing Scheduled Tribes. “

2.10.8 The Ministry of Agriculture, Department of Agriculture and Cooperation have informed that presently allocation under Tribal Sub-Plan is to tune of 8% under various schemes of the Department of Agriculture and Cooperation. Statements containing outlays for TSP during the years 2007-08, 2008-09 and 2009-10 have been furnished by the Department. Out of the budget estimates of Rs. 5560 Crores for 2007-08 an outlay of Rs. 441.60 Crores (7.9%) has been earmarked. Similarly for 2008-09, and 2009-10, outlays of Rs. 552.00 Crores (5.4%) and Rs. 576.00 Crores (5.1%) have been earmarked for TSP out of total BE of Rs. 10105. 67 Crores and 11307.07 Crores. Information regarding utilization of TSP funds has not been furnished as the same was stated to be not available with the Department.

2.10.9 The Ministry of Commerce and Industry, Department of Commerce have intimated that the basic objective of the various programmes/ schemes implemented by the Department of Commerce is to create a favourable environment and infrastructure for boosting the country's exports and trade. These programmes/ schemes are intended to benefits the various sections of the community to the extent they are engaged in trade related activities. Keeping in view the nature of activities undertaken by the Department, it is not possible to separately design and implement programmes suited to the specific needs of any particular community. Accordingly, this Department does not have a Tribal Sub-Plan component for the schemes/ programmes being implemented during the 11th Plan period, and hence has no information to furnish in this regard.

2.10.10 The Ministry of Communications and IT, Department of Information Technology has informed that the Department of Information Technology (DIT) is a Scientific Department and major programmes are in the areas of R&D, Export Promotion, Technology and Infrastructure Development. The Department allocates its resources to various projects programmes for Infrastructure Development or Sponsored Projects for Specific Technology for Manpower Development. Since, the Schemes are non-divisible in nature; it is difficult to make quantification of expenses flowing to Scheduled Tribes exclusively. As part of Government policy, 10% budgetary provisions are kept for implementation of schemes/programmes for development of North East Region & Sikkim. It is added that in DIT there is Plan Scheme "IT for Masses (SC/ST and Gender)" through which projects are supported for development of SC/ST and empowerment of women using IT. The Department has furnished a note on schemes benefiting Scheduled Tribes. The note mentions about schemes for direct benefit to Scheduled Tribes including the scheme 'IT for Masses' . Under this Plan scheme, the Department has initiated several projects for Development of SC/ ST and empowerment of women using IT. DIT has funded various projects in different States for Training, Capacity Building

and Entrepreneurship Creation. The total number of ST beneficiaries is 8111 under various projects implemented/ being implemented in 9 States.

2.10.11 The Ministry of Communications and IT, Department of Telecommunications have informed that the Department is basically responsible for framing policy for the Telecommunication sector, licensing and spectrum allocation and is no longer directly involved with the service provisioning function in the country which has been opened up for the private sector and public sector companies i.e. BSNL and MTNL. As a public sector company, BSNL is working for the development of telecom facilities in Tribal areas through the Tribal Sub-Plan. BSNL has a special focus for the development of telecom network in the tribal areas of the country which helps in the socio-economic up-liftment of the tribal people as a result of multiplier effect of telecom facilities of the area concerned. However, the funding for the Tribal Sub-Plan component of BSNL is entirely through its Internal and Extra Budgetary Resources without any Gross Budgetary Support from the Government of India.

2.10.12 The Ministry of Housing & Urban Poverty Alleviation has informed that no separate provisions have been made during the Tenth and Eleventh Plan periods (including years 2007-08, 2008-09 and 2009-10) for Tribal Sub-Plan since the schemes/ projects implemented by this Ministry are on whole town basis in which the ST population gets the benefit of the Schemes/ Projects.

2.10.13 The Ministry of Labour and Employment have forwarded the responses collected from DGET, Central Board for Workers Education and V V Giri National Labour Institute. The DGET has informed that it has been implementing the scheme of "Welfare of SC/ ST job seekers through Coaching, Vocational Guidance and Training". This Scheme is exclusively meant for Scheduled Castes and Scheduled Tribes only. The DGET has forwarded a statement of outlays under the scheme during 10th Plan and 11th Plan but there is no information about the financial or physical benefits accrued to the Scheduled Tribes under the schemes. The Central Board for Workers Education has not furnished any detail about the scheme. However, outlays under the scheme and flow to TSP during 10th Plan and each year of the 11th Plan has been furnished. The TSP figures appear to be notional as these reflect just 8% of the total outlay under the scheme. The name of the scheme indicates that exact quantification for Scheduled Tribes cannot be done as actual participation of Scheduled Tribes may vary from area to area and the place of training. Similarly, the V V Giri National Institute have stated that the Institute does not have a specific scheme that ensures direct benefit to individuals or families belonging to Scheduled Tribes.

2.10.14 The Ministry of Youth Affairs and Sports has informed that "all the schemes being implemented by this Ministry are general in nature and the beneficiaries include all categories of young people irrespective of any caste or community. Although there is no specific scheme for Scheduled Castes/ Scheduled Tribes in this Ministry, nevertheless youth welfare schemes viz; Promotion of National Integration, Promotion of Youth Activities and Training

etc. stipulate that grantee institutions/ organizations must ensure that at least 15% of the beneficiaries come from the Scheduled Castes/ Scheduled Tribes. This Ministry has been monitoring the benefits accruing to the SC/ ST population under these schemes. One such recent assessment has shown that SC beneficiaries, under various schemes, account for more than 25% which is considered quite satisfying. Similarly, under the National Service Scheme, care is always taken to ensure that due representation is given to the Scheduled Castes/ Scheduled Tribes at the time of enrolment of volunteers. As regards Sports schemes, it may be mentioned that the Special Area Games scheme of the Ministry aim at scouting and nurturing talent for modern competitive sports from tribal, rural and coastal areas of the country. The Scheme also envisages tapping of talent from regions which are endowed with genetic or geographic advantage for achieving excellence in particular sports disciplines. Similarly, under the Rural Sports Programme, North East Sports Festival is organized by the Sports Authority of India in order to broad-base games and sports in the otherwise neglected area of the North Eastern States and to tap the hidden talent which is in abundance there. In view of the above, it may be appreciated that although this Ministry has not formulated SCSP/ Tribal Sub-Plan, it endeavours to ensure that adequate share of the benefits of various schemes do reach the SC/ ST population. As such this Ministry is not in a position to furnish the requisite information as desired.”

2.10.15 The Ministry of Women and Child Development have furnished note about the schemes of ICDS Projects & Anganwadi Centers (AWCs) and Mini AWCs, Hostels for Working Women, Support for Training and Employment Programme (Step) and Setting up of Employment-cum-Income Generation Training-cum-Production Units for Women run by the Ministry, Community Food and Nutrition Extension Units of Food and Nutrition Board and scheme of Condensed Courses for Adult Women run by Central Social Welfare Board. All the schemes have ST beneficiaries but it is difficult to quantify the funds exclusively for Scheduled Tribes under all the schemes. The Ministry has furnished the details of State-wise ST beneficiaries under ICDS scheme during 2007-08 and 2008-09. Similarly number of AWCs and Mini-AWCs sanctioned in tribal areas in each State/ UT has also been furnished. Financial figures are not available. However, Central Social Workers Board have furnished information about outlays and expenditure under TSP in respect of the schemes run by the Board during 2007-08, 2008-09 and 2008-10. The funds quantified for Tribal Sub-Plan are about 6% of the total provision.

Recommendations of the Task Force to re-examine and review Guidelines on Scheduled Caste Sub-Plan & Tribal Sub-Plan w.r.t Central Ministries

2.10.16 As mentioned earlier in para 2. 6 (D) of this Chapter, the Planning Commission had set up the above mentioned Task Force under the Chairmanship of Dr. Narendra Jadhav, Member, Planning Commission. The observations and recommendations of the Task Force w.r.t. the Scheduled

Caste Sub-Plan and Tribal Sub-Plan of Central Ministries are highlighted below.

(i) Status of Implementation of Existing Guidelines-observations of the Task Force

The Task Force has made the following observations:

- (a) *Implementation of the guidelines has remained inadequate. Hardly any Ministry is showing its SCSP/TSP outlays under separate Budget Heads. Some Ministries are showing a notional earmarking, but the criterion followed in doing so is not uniform and transparent. Also, in the absence of this outlay being shown under a separate minor head (789 for SCSP or 796 for TSP, as the case may be), such notional earmarking does not have much significance, nor is its non-divertibility ensured. In the absence of separate earmarking and budgeting of funds under SCSP/TSP by Central Ministries/Departments, it is not possible, as of now, to quantify the total amount allocated and/or spent by the Central Government under SCSP/ TSP. The SCSP and TSP strategies thus remain substantially un-implemented at the level of the Central Ministries/ Departments mainly due to lack of an effective mechanism in this behalf.*
- (b) *Some indication of Central Government allocation on schemes of SCs and STs is available from Statement 21 of the Expenditure Budget (Volume I). This statement gives information about allocations under schemes that are substantially meant for SCs/STs, in the following two parts:-*
 - i. Schemes in which there is 100% provision for SCs/STs, and*
 - ii. Schemes where at least 20% of the allocation is earmarked for SCs/STs.*
- (c) *The above referred Statement 21 of the Expenditure Budget clubs allocations for SCs and STs. From Part A of the statement, which details schemes in which there is 100% provision for SCs/STs, it appears that, other than allocations under the schemes of the Ministries of SJ&E and the Ministry of Tribal Affairs, only a miniscule allocation is exclusively for SCs/STs.*

2.10.17 The Task Force has recommended that 68 Ministries / Departments of the Central Government can be grouped into four categories:

- I) No Obligation;*
- II) Earmarking less than 15 % for Scheduled Castes and 7.5 % for Scheduled Tribes ;*
- III) Earmarking outlays between 15%-16.2% for Scheduled Castes and 7.5% - 8.2% for Scheduled Tribes ;*

IV) Earmarking more than 16.2% for Scheduled Castes and 8.2% for Scheduled Tribes.

2.10.18 The Task Force has further observed that the subject, being a complex one, requires detailed examination and deliberations. Also, there are commonalities as well as differences between implementation of SCSP and TSP at the Central and State levels. Observing the problem to be more acute at the Central level, the Task Force has, in the first instance, recommended that, from the financial year 2011-12, substantial reforms be introduced in the SCSP/TSP system, for Central Ministries/Departments, which can be further refined from the XII Five Year Plan commencing in 2012- 13.

(ii) Criteria proposed by Task Force for categorizing Plan Expenditure of Central Ministries/ Departments under SCSP &TSP

2.10.19 The Task Force is of the view that the Plan outlay and expenditure falling under the following two broad categories will be eligible for being classified in SCSP/TSP:-:

(i) Expenditure on Poverty Alleviation and individual beneficiary oriented schemes, e.g. MNREGA, IAY, NRLM, SGSRY, PMEGP etc., and

(ii) Expenditure on other schemes which is incurred in:

a) SC and ST concentration areas respectively, i.e. in the villages, blocks and districts having more than 40% SC/ST population respectively, and largely benefiting such villages, blocks and districts, and

b) in other areas, but which demonstrably benefits Scheduled Castes /Scheduled Tribes respectively

2.10.20 Following from the above broad principles, detailed criteria for categorization of plan expenditure under SCSP/TSP and the extent to which this may be done, with reference to some major schemes, as recommended by the Task Force are given in the Statement at **Annexure 2.VII**. The Task Force, after applying the criteria given above, has classified the Ministries/ Departments into the four categories under SCSP and TSP respectively. A Ministry-wise, classification under TSP is given in **Annexure 2. VIII**.

(iii) Recommendations of the Task Force

(a) "NO OBLIGATION" Ministries

2.10.21 As per the existing guidelines, all Ministries/ Departments are required to earmark 8.2 per cent of their plan outlay under TSP, but in the new system proposed, only 28 Ministries/ Departments would be required to earmark varying percentages of their plan outlays under Tribal Sub-Plan so however that, overall at least 8.2% of the total plan outlay gets earmarked under Tribal Sub-Plan. There are 33 Ministries/ Departments in "**NO OBLIGATION**" category, which are mainly engaged regulatory, targeting

special groups or engaged in basic scientific research / policy matters. The Task Force has, however, suggested that a view (about NO OBLIGATION) should be taken at the time of finalization of their Annual Plan 2011-12 in respect of following Ministries/ Departments:

- a) Ministry of Railways,
- b) Ministry of Food Processing,
- c) Ministry of Power,
- d) Ministry of Environment and Forest,
- e) Ministry of New and Renewable Energy,
- f) Ministry of Commerce,
- g) Department of Animal Husbandry and Fisheries,

(b) Ministries for which Targets for Earmarking Plan Outlay, under Tribal Sub-Plan have been suggested by the Task Force

2.10.22 The Task Force has suggested category-wise earmarking of funds under TSP. Applying these percentages to BE, 2010-11, of the respective Ministries/ Departments, total funds attributable to TSP has been estimated to be Rs 24,157 crore (including SCA to Tribal Sub-Plan). This is stated to be 8.6% of the sum of {(i) Central Plan outlay, as reflected in Statement 12 of the BE 2010-11 and (ii) the figure of SCA to TSP}. Thus, earmarked funds under TSP, as per BE-2010-11, are seen to be slightly higher than the stipulated percentage of 8.2% of central sector plan outlay.

(c) Placing of Earmarked Funds for SCSP under the Separate Budget Head '789' and for TSP under '796' of Central Ministries

2.10.23 The Task Force pursued this matter with the Ministry of Finance, which, consequently, in its Budget Circular for 2011-12 has incorporated the following instructions:

"From 2011-12 Budget, the Planning Commission will be making separate allocations for the SC Sub-Plan/Tribal Sub Plan as part of the Plan allocations, and the same will also be indicated clearly in the Memorandum of Understanding signed between the Planning Commission and the concerned Ministry/Department. The Ministries/Departments for which such allocations are made by the Planning Commission as part of the Plan Agreement in Budget 2011-12, must ensure that the provisions are accurately reflected in the concerned Minor Heads relating to Scheduled Caste Sub-Plan and Tribal Sub Plan in their Detailed Demands for Grants by opening a minor head "Special Component Plan for Scheduled Castes" Code '789' for SCSP and a minor head 'Tribal Sub Plan' Code '796' below the functional major/sub-major heads whenever necessary, in terms of the instructions under Para 3.8 of the General Directions to the List of Major and Minor Heads of Accounts."

(d) Strengthening of Administrative Arrangements for Planning and Implementation of SCSP/Tribal Sub-Plan

2.10.24 The Task Force has also recommended that administrative mechanism in Central Ministries / Departments will need to be adequately strengthened so that they properly implement SCSP/TSP as per the recommendations outlined in the Report. The Task Force has also recommended that the Planning Commission may take immediate steps for implementation of the recommendations made in the report, from the year 2011-12.

(e) Implementation of Non-lapsability feature

2.10.25 The Task Force has further recommended that the SCSP and TSP funds (shown respectively under the Minor Head 789 and 796 of all Ministries) remaining unutilized at the end of a financial year may be transferred, on the lines of the Non-lapsable Central Pool of Resources (NLCPR) for the North Eastern Region, to two Pools to be named as “Non-lapsable Central Pool of SCSP Funds (NLCPSF)” and “Non-lapsable Central Pool of Tribal Sub-Plan Funds (NLCPTF)” - two Heads to be created in the Public Account similar to that created for NER. The funds from these non-lapsable pools may be allocated to the Ministry of SJ&E and Ministry of Tribal Affairs respectively for implementing schemes for SCs and STs Development as well as for providing incentives to State Governments for effective implementation of SCSP and TSP, which may form a part of Central Assistance for State Plans.

2.11 OBSERVATIONS AND RECOMMENDATIONS OF THE NATIONAL COMMISSION FOR SCHEDULED TRIBES

2.11.1 The Commission noted that the issue relating to preparation of Tribal Sub-Plan by Central Ministries and pooling of unutilized funds has also been earlier examined by the Standing Committee on Inter-Sectoral Issues relating to Tribal Development headed by Dr. Bhalchandra Mungekar, Member Planning Commission. In its Report the Committee had recommended that the TSP funds of each Ministry/ Department should be made non-lapsable and non-divertible. The Committee further added that, as in the case of the 'Non-Lapsable Central Pool of Resources' for North East Region, the unutilized and non-lapsed TSP funds of each Ministry/ Department should be made eligible for pooling at the end of the year. The Task Force has also examined and recommended on the same lines.

2.11.2 **The National Commission for Scheduled Tribes, while agreeing with the recommendations of the Standing Committee and the Task Force, strongly recommends that the Planning Commission as well as concerned Ministries strictly follow these recommendations so that smooth operation of the Tribal Sub-Plan of the Central Ministries/ Departments takes place w.e.f. 12th Five Year Plan.**

2.11.3 The Commission further noted that some of the Ministries/ Departments which have been listed by the task force in **'No Obligation'** category for the Tribal Sub-Plan are responsible for infrastructure development and public services in critical areas. It may be recalled that the First Proviso to Article 275(1) of the Constitution of India guarantees grants from the Consolidated Fund of India each year for promoting the welfare of Scheduled Tribes and in pursuance of this Constitutional obligation, the Ministry of Tribal Affairs provides funds through the Central Sector Scheme "Grants under Article 275(1) of the Constitution". The objective of the scheme is to meet the cost of such projects for tribal development as may be undertaken by the State Govts. for raising the level of administration of Scheduled Areas therein to that of the rest of the State. The scheme covers all the 21 Tribal Sub-Plan States and 4 other tribal majority States of the country. The grants are to be used essentially for creation and upgradation of critical infrastructure required to bring the tribal areas with the rest of the country. The basic purpose is to create opportunities conducive to income and employment generation. Due emphasis is given to infrastructure in sectors critical to enhancement of human development indices such as in health, education, income generation etc. This can be achieved at higher scale and quality if, in addition to the measures taken by the Ministry of Tribal Affairs under Art 275, all other Central Ministries/ Departments which are concerned with various service sectors also essentially contribute and ensure that the benefits of services provided by them also reach the Scheduled Tribes, who by themselves, are not able to have access to those services. It is the Tribal Sub-Plan approach only which can ensure this objective. **The Commission, therefore, recommend that appropriate outlays for TSP should also be earmarked in respect of all these Ministries/ Departments, to ensure that TSP areas/ Scheduled Areas don't continue to be hamstrung by poor infrastructure/services.**

2.11.4 The Commission also recommends that the Government of India bear the responsibility for infrastructure development/ upgradation of Administration in Scheduled Areas under Art. 275 of the Constitution. Besides, allocation for Tribal Sub-Plan should not be per population share but according to "problem-share" and "need-based". As regards utilisation of non-lapsable pool funds, the Commission recommends that the unutilized non-lapsed fund should be placed in a non-lapsable development fund administered by the Ministry of Tribal Affairs and the fund should preferably be used for infrastructure development in the TSP areas. It is also necessary to prepare detailed guidelines for expenditure out of this fund, to make optimum use of those funds and to ensure that the desired benefits reach the Scheduled Tribes and the tribal areas.

2.11.5 The Commission also recommends that Planning Commission should not consider the Five Year Plan/ Annual Plan proposal of any Ministry/ Department which is not accompanied by the Tribal Sub-Plan, which should be finalized after discussion with the representatives of the Ministry of Tribal Affairs.

2.11.6 The Commission further recommends that each Ministry should set up TSP Cell as in the past. The TSP Cell should be functional

throughout the year like the Official Language Section in each Ministry/ Department. The TSP Cell will monitor implementation of TSP schemes of the Ministry and, by using the inputs received through monitoring, prepare the TSP component, of Annual Plan and Five Year Plan of the Ministry/ Department in terms of financial and physical aspects.

2.11.7 In the recent past various Ministries concerned with development and services have formulated National Missions on crucial services like National Rural Health Mission, National Drinking Water Mission, Mahatma Gandhi NREGA. These missions have direct impact on the life of Scheduled Tribes but do not make specific provisions for Scheduled Tribe beneficiaries. It may be recalled that 50% of the targets fixed under IRDP were reserved for Scheduled Caste and Scheduled Tribe beneficiaries. The Commission has noted that formulation of various National Missions are policy matters affecting the life of Scheduled Tribes and therefore, the Government is expected to consult the National Commission for Scheduled Tribes as per provisions of Article 338A(9) of the Constitution. However, no consultation with the Commission was made by the Government while formulating the National Missions. **The Commission recommends that the Ministries/ Departments administering the National Missions must ensure that adequate investments/ benefits are earmarked for Scheduled Tribes under Tribal Sub-Plan of the Ministry/ Department concerned during each plan period so as to provide for their accelerated development and in general each Ministry/ Department should consult the National Commission for Scheduled Tribes in all policy matters affecting Scheduled Tribes, as provided under Article 338A(9) of the Constitution.**

CHAPTER 3

EFFECTIVENESS OF MGNREGA FOR SCHEDULED TRIBES

3.1 Introduction

3.1.1 The Mahatma Gandhi National Rural Employment Guarantee Act, 2005, (MGNREGA) was enacted on 7th September 2005 as “An Act to provide for the enhancement of livelihood security of the households in rural areas of the country by providing at least one hundred days of guaranteed wage employment in every financial year to every household within a period of 15 days of demand for such employment”. Besides creation of sustainable assets, rural infrastructure, etc., the scheme aims to ensure better quality of life and enhanced income for rural households by providing 100 days of unskilled manual employment in a staggered manner, which is intended to be utilized by the beneficiaries in a rational and judicious way to combat drought, distress migration and lean agricultural seasons, etc.

3.1.2 The Act is an important step towards realization of the right to work and arresting out-migration of rural households in search of employment, simultaneously enhancing people’s livelihood on a sustained basis by developing the economic and social infrastructure in rural areas. The Act came into force on February 2, 2006 and was implemented in a phased manner. In Phase I, it was introduced in 200 of the most backward rural districts of the country. It was implemented in an additional 130 districts in Phase II in 2007-2008. The Act was notified in the remaining 285 rural districts of India from April 1, 2008 in Phase III.

3.2. Objectives

3.2.1 The objectives¹ of MGNREGA are:

a)	To enhance livelihood security in rural areas by providing at least 100 days of guaranteed wage employment in a financial year to every household whose adult members volunteer to do unskilled manual work;
b)	Strong social safety net for the vulnerable groups by providing a fall-back employment source, when other employment alternatives are scarce or inadequate;
c)	Growth engine for sustainable development of an agricultural economy. Through the process of providing employment on works that addresses causes of chronic poverty such as drought, deforestation and soil erosion, the Act seeks to strengthen the natural resource base i.e.

¹ The NREGA 2005, Operational Guidelines 2008, 3rd edition, Ministry of Rural Development

	augmenting productivity and supporting creation of durable assets, of rural livelihood and create durable assets in rural areas. NREGA has the potential to transform the geography of poverty;
d)	Empowerment of rural poor through the processes of a rights-based Law; and
e)	New ways of doing business, as a model of rural governance through decentralisation and principles of transparency, accountability and grass root democracy.
f)	Act also serve other objectives as empowering rural women, reducing rural-urban migration and fostering social equity, among others.

3.2.2 Thus, MNREGA aims to foster conditions for inclusive growth ranging from basic wage security and recharging rural economy to a transformative empowerment process of democracy.

3.3 Salient Features of the Act

i)	Adult members of a rural household, willing to do unskilled manual work, may apply for registration in writing or orally to the local Gram Panchayat.
ii)	The Gram Panchayat after due verification will issue a Job Card. The Job Card will bear the photograph of all adult members of the household willing to work under NREGA and is free of cost.
iii)	The Job Card should be issued within 15 days of application.
iv)	A Job Card holder may submit a written application for employment to the Gram Panchayat, stating the time and duration for which work is sought. The minimum days of employment have to be at least fourteen.
v)	The Gram Panchayat will issue a dated receipt of the written application for employment, against which the guarantee of providing employment within 15 days operates.
vi)	Employment will be given within 15 days of application for work, if it is not then daily unemployment allowance as per the Act, has to be paid. Liability of payment of unemployment allowance is of the States.
vii)	Work should ordinarily be provided within 5 km radius of the village. In case work is provided beyond 5 km, extra wages of 10% are payable to meet additional transportation and living expenses.
viii)	Wages are to be paid according to the Minimum Wages Act 1948 for agricultural labourers in the State, unless the Centre notifies a wage rate which will not be less than Rs. 60/ per day ² . Equal wages will be provided to both men and women.

² Wage rate has been revised vide Gazette notification No. 74 dated 14.01.2011

ix)	Wages are to be paid according to piece rate or daily rate. Disbursement of wages has to be done on weekly basis and not beyond a fortnight in any case.
x)	At least one-third beneficiaries shall be women who have registered and requested work under the scheme
xi)	Work site facilities such as crèche, drinking water, shade have to be provided
xii)	The shelf of projects for a village will be recommended by the gram sabha and approved by the zilla panchayat.
xiii)	At least 50% of works will be allotted to Gram Panchayats for execution.
xiv)	Permissible works predominantly include water and soil conservation, afforestation and land development works.
xv)	A 60:40 wage and material ratio has to be maintained. No contractors and machinery is allowed.
xvi)	The Central Government bears the 100 percent wage cost of unskilled manual labour and 75 percent of the material cost including the wages of skilled and semi skilled workers.
xvii)	Social Audit has to be done by the Gram Sabha.
xviii)	Grievance redressal mechanisms have to be put in place for ensuring a responsive implementation process.
xix)	All accounts and records relating to the Scheme should be available for public scrutiny.

3.4 Amendments in the Act

3.4.1 Amendments in the Schedules were made in response to field feedback to facilitate the implementation of the Act. These were:

i) Notification dated 2.4.2008 regarding Amendment in Schedule II, para 2

The Amendment provided for essential details of registered adult members to be contained in Job Cards, photographs of only registered members to be included in the Job Card and custody of the Job Card to remain with the Job Card holder.

ii) Notification dated 18.6.2008 regarding Amendment to Schedule I, para I outlining the conditions to be fulfilled while executing works on individual land:

- a)** The individual land owner shall be a Job Card holder and also work in the project.
- b)** For each such project, the labour material ratio of 60:40 shall be maintained at the Gram Panchayat.

- c)** Project shall be approved by the Gram Sabha and the Gram Panchayat and shall be part of the annual shelf of projects.
- d)** No contractors or machinery shall be used in the execution of work.
- e)** No machinery shall be purchased.

iii) Notification dated 11.9.2008 regarding Amendment to Schedule II after para 34, regarding the implementation of the Scheme in the event of national calamities in the nature of flood, cyclone, tsunami and earthquake resulting in mass dislocation of rural population. Under the Amendment, rural households may:

- a)** seek registration and get Job Card issued in the area of temporary relocation
- b)** submit written or oral application for work in the area of temporary relocation
- c)** apply for re-registration and re-issuance of Job Card in the even of loss or destruction

On restoration of normalcy, the Job Card will be clubbed with original Job Card and the number of days of employment guarantee shall remain 100 days.

iv) Notification dated 31.12.2008 regarding Amendment to Schedule I para 3, 13, 16 regarding execution of works, maintenance of records, pro-active disclosure of information and processes and procedures to be followed during Social Audits.

- a)** The works taken up shall have a unique identification number to be executed only by Job Card holders
- b)** Muster roll shall have a unique identity number, be certified by the Programme Officer and be maintained at the work site. Workers will countersign their attendance on the muster rolls
- c)** Worker groups of not less than five will verify and certify all the bills/vouchers of their worksite at least once a week.
- d)** A copy of sanction/work order, measurement records, muster rolls, must be available for public inspection at worksite

Proactive Disclosure.

- e)** At the worksite proactive disclosure shall be through Citizen Information Boards, reading out of measurement book and muster rolls, work done and wages paid in the presence of workers.
- f)** All information on NREGA will be placed in public domain at the Gram Panchayat Block Programme Office through display of information on boards and shall include at least information pertaining to provision of

employment, funds received and expenditure, shelf of projects approved and through the NREGA website.

Social Audit

g) The Social Audit shall be held at least once in every six months and announcement of Social Audit to be made at 30 days in advance.

h) For each Social Audit by the Gram Sabha, the Gram Sabha will elect from itself a Social Audit Committee of workers who have worked in current/previous works under NREGA of the same Gram Panchayats and not less than one third members of Social Audit Committee shall be women. The Committee will verify all documents and information. The Social Audit Committee shall read out its findings publicly in the gram sabha. Any person may submit any information to the social audit committee deemed relevant

i) The Programme Officer shall ensure that all relevant documents, including complete files of the works or copies of them, of works of Implementing Agencies for the jurisdiction of that Gram Panchayat shall be available for inspection at the Gram Panchayat.

j) The Gram Panchayat shall present all necessary information and documents at least 15 days in advance to the Social Audit Committee and shall notify in writing all the Public Representatives and also concerned staff implementing the NREGA well in advance to ensure that they are kept informed about the process and are present at the Social Audit.

k) The action taken report relating to the previous Social Audit shall be read out at the beginning of each Social Audit.

l) The Minutes shall be recorded by Secretary and signed before and after the completion of the Social Audit by all participants. Any dissent/ objections shall be addressed and recorded in the minutes.

m) The Social Audit shall be open to public participation. Any outside individual person apart from the Gram Sabha shall be allowed to attend the Social Audit as observers without intervening in the proceedings of the Social Audit.

n) All Action Taken Reports shall be filed within a month of convening of the Social Audit and all findings related to Contravention of the Act shall be treated as complaint and enquiry shall be conducted for any dispute in findings.

o) Any Fund Deviations shall follow with an Action against the concerned person and fund recovery shall be expedited.

p) While certifying accounts of the NREGS the Government Auditor shall take cognizance of any complaint, regarding financial irregularities or misappropriations, raised through a Social Audit before certifying the accounts.

v) Notification dated 31.12.2008 regarding Amendment to Schedule II after para 35, strengthening the processes and procedures for effective disposal of complaints. These included

- a)** Enquiry through spot verification, inspection and disposal to be completed within 7 working days.
- b)** Complaints to be disposed by Programme Officer within 7 days. In case the complaint involves other authority, the Programme Officer will conduct a preliminary enquiry and refer matter within 7 days.
- c)** In case of financial irregularities DPC will ensure filing of an FIR.
- d)** On establishment of guilt, penalty against the concerned under Section 25 of the Act will be imposed.
- e)** In case violation of entitlements is found, grievance redressal should be done no later than 15 days.

vi) Notification dated 1.1.2009 regarding notification of the minimum wages for agricultural labourers as the NREGA wage rate.

vii) Notification dated 19.2.2009 regarding Amendment to Schedule II para 31 and 32 on the *payment of wages*. As per the Amendment, the payment of wages shall be made through individual or joint savings accounts of workers in banks of post offices opened in accordance with the directions of the Central Government.

viii) Ministry of Rural Development notified the amendment to Schedule I Para 1(iv) of NREGA Act vide Notification dated 22.07.2009 as under :

“provision of irrigation facility, horticulture plantation and land development facilities to land owned by households belonging to the SCs and STs or BPL families or to beneficiaries of land reforms or to the beneficiaries under the Indira Awas Yojana of the GOI or that of the small farmers or marginal farmers as defined in the Agriculture debt Waiver and Debt Relief Scheme, 2008.”

In order to ensure due compliance with the amendment notified and creation of durable assets and strengthening the livelihood resource base of the rural poor, the following directions were issued on 1.09.2009 in accordance with Section 27(1) of NREGA.

- (i) Works of the land of SCs and STs households will be taken on priority. Once works on the lands of SCs and STs are saturated in a Gram Panchayat, works on lands of small and marginal farmers may be considered.
- (ii) Works on lands of small and marginal farmers will be of water conservation and water harvesting like construction of dug wells and farm ponds, recharge structures on existing well and conveyance systems.

The conditions as notified vide Notification dated 18.06.2008 mentioned above are also required to be fulfilled while executing the above said directions.

3.5 Organisational Structure

i) Ministry of Rural Development (MORD)

3.5.1 The Ministry of Rural Development (MORD) is the nodal Ministry for the implementation of NREGA. It is responsible for setting up the Central Employment Guarantee Council (CEGC). It has to ensure timely and adequate resource support to the States. It has to undertake regular review, monitoring and evaluation of processes and outcomes. It has to establish an MIS to capture and track data on every critical aspect of implementation, and assess the utilization of resources through a set of performance indicators.

ii) Central Employment Guarantee Council (CEGC)

3.5.2 The Central Employment Guarantee Council (CEGC) has been created for advising the Central Government on NREGA-related matters, and for monitoring and evaluating the implementation of the Act. It is expected to prepare Annual Reports on the implementation of NREGA and submit these to Parliament.

iii) State Government

3.5.3 The State Government has to formulate a Rural Employment Guarantee Scheme (REGS), and the Rules pertinent to its implementation, in consonance with the Act. It is required to set up the SEGC (State Employment Guarantee Council), and also designate an officer as the State Rural Employment Guarantee Commissioner responsible for ensuring that all activities required to fulfil the objectives of the Act are carried out. Besides providing the State Share of the REGS budget on time, it has to ensure wide communication of the Scheme and dissemination of information regarding its implementation, all administrative, financial and technical support to the District Programme Coordinator, Programme Officer, PRIs and all other agencies involved in implementation.

iv) State Employment Guarantee Council (SEGC)

3.5.4 The State Employment Guarantee Council (SEGC) advises the State Government on the implementation of the Scheme, and evaluate and monitor it. It also decides on the 'preferred works' to be implemented under REGS, and prepares Annual Reports for submission to the State Legislature.

v) District Panchayats

3.5.5 The District Panchayat is responsible for finalizing the District Plans and for monitoring and supervising the REGS in the District. It can also

execute works from among the 50 per cent that are not to be executed by the Gram Panchayats.

vi) District Programme Co-ordinator (DPC)

3.5.6 The State Government designates a District Programme Co-ordinator (DPC), who shall be responsible for the overall co-ordination and implementation of the scheme in the District.

vii) Intermediate Panchayat (IP)

3.5.7 The Intermediate Panchayat is responsible for planning at the Block level, and for monitoring and supervision. It can also be given the responsibility of executing works from among the 50 *per cent* that are not to be executed by the Gram Panchayat.

viii) Programme Officer (PO)

3.5.8 The Programme Officer at the Block level, is responsible for coordinating the works undertaken by the Gram Panchayat and the implementing agencies at the Block level.

ix) Gram Panchayat (GP)

3.5.9 The Gram Panchayat has a pivotal role in the implementation of REGS. It is responsible for planning of works, registering households, issuing job cards, allocating employment, executing 50 *per cent* of the works, and monitoring the implementation of the Scheme at the village level.

x) Gram Sabha (GS)

3.5.10 NREGA authorizes the Gram Sabha to recommend works to be taken up under REGS, to monitor and supervise these works, and to conduct social audit of the implementation of the Scheme.

xi) Other Implementing Agencies

3.5.11 In addition to Panchayats, Line Departments, NGOs, Central and State Government Undertakings, and Self-Help Groups (SHGs) can also be identified as Implementing Agencies.

3.6 Funding of the Scheme

3.6.1 The Central Government bears the costs on the following items:

- (i) The entire cost of wages of unskilled manual workers.
- (ii) 75% of the cost of material, wages of skilled and semi-skilled workers.

- (iii) Administrative expenses as may be determined by the Central Government, which will include, inter alia, the salary and the allowances of the Programme Officer and his supporting staff, work site facilities.
- (iv) Expenses of the Central Employment Guarantee Council.

3.6.2 The State Government bears the costs on the following items:

- i) 25% of the cost of material, wages of skilled and semi-skilled workers.
- ii) Unemployment allowance payable in case the State Government cannot provide wage employment on time.
- iii) Administrative expenses of the State Employment Guarantee Council.

3.6.3 Districts have dedicated accounts for NREGA funds. Proposals are submitted based on clearly delineated guidelines so that funds may be distributed efficiently at each level, and adequate funds may be available to respond to demand. Under NREGA, fund releases are based on an appraisal of both financial and physical indicators of outcomes.

3.7 Implementation

3.7.1 The Gram Panchayat is the single most important agency for executing works as the Act mandates earmarking a minimum of 50 per cent of the works in terms of costs to be executed by the Gram Panchayat. This statutory minimum, upto hundred percent of the work may be allotted to the Gram Panchayat (GP) in the annual Shelf of Projects (SoP).

3.7.2 The other Implementing Agencies can be Intermediate and District Panchayats, line departments of the Government, Public Sector Undertakings of the Central and State Governments, Cooperative Societies with a majority shareholding by the Central and State Governments, and reputed NGOs having a proven track record of performance. Self-Help Groups may also be considered as possible Implementing Agencies.

Role of Line Departments

3.7.3 The role of the Line Department is to give technical support in the nature of estimates, measurement and supervision of the works executed. Works will be executed by Job Card holders. Muster Rolls will be maintained. No overhead charge will be given to any line department for this.

- (i) The selection of the Implementing Agency, other than the Gram Panchayat that has a mandatory responsibility for work execution, will be based on technical expertise resources, capacity to handle work within the given time frame, and proven track record for work, and the overall interests of beneficiaries. The selection of the Implementing Agency will have to be indicated in the Development Plan. A panel of agencies

approved in order of priority may be considered to ensure that alternative options are available in the event where an agency fails to execute the work. This will ensure that works do not suffer because of individual agency failure, and that work seekers get employment on time.

- (ii) If any Implementing Agency (including a Gram Panchayat) is unable to execute the works allotted within 15 days, it will immediately inform the Programme Officer, who will entrust it to another agency, chosen from a panel of agencies approved projectwise for that Block in the Development Plan for the District. If a Gram Panchayat does not execute a work within 15 days, the Programme Officer will direct the applicants to a work being executed by another Implementing Agency. The time for various activities must be fixed according to the needs of workers, particularly migrant workers.
- (iii) As stated in the Act (Schedule I), contractors cannot be engaged in any manner in the execution of works.

3.7.4 The outcome of the scheme³ (in the year 2008-09) is as follows:

- (i) Increasing Employment Opportunities: In 2008-09, 4.51 crore households were provided employment and 216.32 crore persondays of employment were generated.
- (ii) Enhancing Wage Earning and Impact on Minimum Wage: The enhanced wage earnings have led to a strengthening of the livelihood resource base of the rural poor in India; in 2008-09, more than 67% of funds utilised were in the form of wages paid to the labourers. Some of the states where the minimum wages have increased after the implementation of NREGA are Maharashtra (from Rs. 47 to Rs. 72), Rajasthan (Rs. 73 to Rs. 100), Madhya Pradesh (from Rs 58 to Rs 91), Himachal Pradesh (from Rs 65 to Rs. 100), Nagaland (from Rs 66 to Rs 100), Jammu & Kashmir (from Rs 45 to Rs. 70), and Chhattisgarh (from ₹ 58.73 to Rs 72.23).
- (iii) Increasing Outreach to the poor and marginalised: Self-targeting in nature, the Programme had high work participation for marginalised groups like SC/ST (54%)(SC-29,ST-25), women (48%) in 2008-09.
- (iv) Strengthening Natural Base: In 2008-09, 27.75 lakh works have been undertaken, of which 46% were water conservation, 18% rural connectivity, 15% land development and 20% irrigation works on individual beneficiaries.
- (v) Financial Inclusion of the poor: With a view to universalise the system of wage payments through institutional accounts, it has been recommended to all States to disburse wages through Post Offices and Bank Accounts. 6.86 crore NREGA bank and post office accounts have been opened to disburse wages in FY 2008-09.

³ MGNREGA, Report to the People 02.02.2006 – 02.02.2010, Ministry of Rural Development

- (vi) Insurance Coverage: NREGA workers have been identified as a category for Jan Shree Bima Yojna for insurance cover
- (vii) Independent studies and research indicates that NREGA has aided in enhancement of agricultural productivity (through water harvesting, check dams, ground water recharging, improve moisture content, check in soil erosion and micro-irrigation), stemming of distress migration, increased access to markets and services through rural connectivity works, supplementing household incomes, increase in women workforce participation ratios, and the regeneration of natural resources.

3.7.5 As per on-line data available on the web-site of the Ministry of Rural Development as on 28.06.2010 :

Employment provided to Households	0.95 crore
Total person days	23.04 crore
SCs	4.59 (19.94%)
STs	4.35 (18.9%)
Women	11.8 (51.23%)
Others	14.09(61.16%)
Total works taken up	46.42 Lakhs
Works completed	0.09 Lakhs
Works in progress	46.33 Lakhs

3.8 Impact

3.8.1 Following impacts (in the year 2008-09) were listed in the 'MGNREGA, Report to the People 02.02.2006 – 02.02.2010' by the Ministry of Rural Development as a result of implementation of the scheme.

- (i) Increasing Employment Opportunities
- (ii) Enhancing Wage Earning and Impact on Minimum Wage
- (iii) Increasing Outreach to the poor and marginalized
- (iv) Strengthening Natural Base
- (v) Financial Inclusion of the poor
- (vi) Insurance Coverage
- (vii) The Ministry of Rural Development asserts that independent studies and research indicates that NREGA has aided in enhancement of food security, agricultural productivity (through water harvesting, check dams, ground water recharging, improve moisture content, check in soil erosion and micro-irrigation), stemming of distress migration, increased access to markets and services through rural connectivity works, controlling deforestation, supplementing household incomes especially of marginalized families, increase in women workforce participation ratios, and the regeneration of natural resources. Copies of these reports are, however, not available.

3.9 Monitoring⁴ and Evaluation of the Scheme

3.9.1 The following targets are fixed for internal verification of works at the field level by the official functionaries to be achieved within a quarter.

100% of works at the Block level
10% of works at the District level
02% at the State level.

3.9.2 The following aspects of the scheme are monitored at each level for the scheme to be implemented effectively to achieve its objectives:

- i) Effectiveness and outreach of IEC activities specially among the Job Card holders
- ii) Application for Registration and verification process for registration
- iii) Time taken to issue Job Cards
- iv) Application for Demand
- v) Issue of dated receipts
- vi) Allocation of employment within fifteen days
- vii) Maintenance of authentic updated Muster Rolls on work sites
- viii) Quality of work executed
- ix) Measurement of work done and maintenance of measurement books
- x) Timely and correct payment
- xi) Entries in the Job Cards
- xii) Maintenance of records prescribed under the Guidelines
- xiii) Grievance redressal
- xiv) Fund utilization
- xv) Organisation of social audits

3.9.3 One of the objectives of NREGA is the 'creation of durable assets and strengthening the livelihood resource base of the rural poor' (Schedule I, Section 2). Investments made under NREGA are expected to generate employment and purchasing power, raise economic productivity, promote women's participation in the workforce, strengthen the rural infrastructure through the creation of durable assets, reduce distress migration, and contribute to the regeneration of natural resources. Thus, outlays for NREGS have to be transformed into outcomes. Regular evaluations and sample surveys of specific NREGS works should be conducted to assess outcomes⁵.

⁴ The NREGA 2005, Operational Guidelines 2008, 3rd edition, Ministry of Rural Development

⁵ The NREGA 2005, Operational Guidelines 2008, 3rd edition, Ministry of Rural Development

3.9.4 The Ministry of Rural Development has set up internal and external systems⁶ to closely monitor NREGA both physical and financial performance of states. These mechanism also assess the pace and quality of NREGA processes and procedures and identify critical issues that need to be addressed on priority.

Internal Monitoring

i) Management Information System (MIS): A web enabled MIS has been developed. The village level household data base has internal checks for ensuring consistency and conformity with normative processes. All critical parameters get monitored in public domain: a) workers' entitlement data and documents such as registration, job cards, muster rolls, (b) shelf of approved and sanctioned works, works under execution, measurement (c) employment provided (d) financial indicators including wage payment. Till FY 2008-09, 6 crore Job Cards and 1.2 crore muster rolls have been placed on MIS.

ii) Monthly Progress Reports are submitted by districts on physical and financial performance.

External Monitoring

Statutory Institutional Mechanisms

i) Central Employment Guarantee Council has been set up at the National level with the statutory mandate of monitoring and reviewing the Act.

ii) CAG: The Ministry invited the CAG to conduct a concurrent audit of the programme in the very first year of implementation to assess gaps in programme by States so as to initiate remedial measures at the an early stage of the programme.

Other Mechanisms

iii) National Level Monitors and Area Officers: The National Level Monitors, Area Officers and officials of the Ministry of Rural Development undertake annual field visits to NREGA Phase I, II and III districts.

iv) Review with States: Feedback on programme implementation is discussed and analyzed with State Governments through quarterly Performance Review Committee meeting and periodic state level reviews.

v) Professional Institutional Network and other Research Studies: A Professional Institutional Network (PIN) has been constituted for steady,

⁶ MGNREGA, Report to the People 02.02.2006 – 02.02.2010, Ministry of Rural Development

sustainable interventions that enhance the quality of the programme. The institutions will conduct impact assessment, concurrent monitoring and appraisal, research, capacity building to identify both good practices/factors that have or will limit the optimal performance of the Scheme. The main focus will be on strengthening the capacity of the district to implement the programme and create positive impact. Currently the network has 18 member institutions, including Indian Institute of Technology (IITs), Indian Institute of Management (IIMs), Administrative Staff College of India (ASCI), Indian Institute of Forest Management (IIFM), Agriculture Universities and other professional institutions.

3.10 New Initiatives⁷

3.10.1 The new initiatives taken by the Ministry of Rural Development in order to make NREGS more effective for the target group are as follows:

(1.) District Level Ombudsman

3.10.2 Appointment of District Level Ombudsman for effective grievance redressal. Ombudsman will be an agency independent of the central or state government. The Ombudsman will also issue directions for conducting spot investigation, lodge FIRs against the erring parties, initiate proceedings suo motu when required and look into direct redressal, disciplinary and punitive actions. In cases of corruption, he will forward the matter to take up criminal prosecution. He will send monthly and annual report to Chief Secretary (CS) and Secretary in charge of NREGA.

(2.) Toll free National Helpline

3.10.3 The Ministry has set up a Toll free National Helpline 1800110707 to enable the submission of complaints and queries to the Ministry for the protection of workers entitlements and rights under the Act. State Governments have also been requested to set up similar Helplines at the State and District levels. The National Helpline will be integrated with the State and District Level Helplines and also linked to Office of the Ombudsman at district level for registration of complaints.

(3.) Wage Rate

3.10.4 Implementing the commitment to Rs.100 per person day, a policy decision has already been taken by Ministry of Rural Development for revision of wage rate under Section 6 (1) of Mahatma Gandhi NREGA. Wage rate for the States, who have approached the Ministry of Rural Development for revision of their wage rate, has been revised to Rs.100 per day. Wherever the wage rate was more than Rs. 100/- per day, it has been kept at the same level. The Notification dated 15th December, 2009 has been made effective from the

⁷ MGNREGA, Report to the People 02.02.2006 – 02.02.2010, Ministry of Rural Development

date of actual payment of minimum wages as notified by the State Government.

(4.) Social Audits

3.10.5 Social Audits enable the rural communities to monitor and analyze the quality, durability and usefulness of NREGA works as well as mobilize awareness and enforcement on their rights. The Act was amended to provide for procedures on conducting social audits.

(5.) 100 Eminent Citizens Monitors for NREGA

3.10.6 100 Eminent Citizens are being identified to monitor and report on the implementation of NREGA. Their reports and findings, to be placed on the website is expected to enable further programme improvements.

(6.) Convergence

3.10.7 The Ministry of Rural Development has developed and disseminated Joint Guidelines for convergence of NREGS with different Schemes and specific programmes viz Indian Council of Agriculture Research, National Afforestation Programmes and other schemes of the Ministry of Forest and Environment, Schemes of the Ministry of Water Resources, PMGSY (Department of Rural Development), SGSY (Department of Rural Development). Convergence by the Ministry of Rural Development for the purpose of NREGA is perceived to be a process that brings together existing schemes and resources and not a new scheme with additional overheads and additional budgets. The basic premise of planning is decentralisation and community participation, with a central role for the PRIs, specially Gram Sabha and Gram Panchayat. Convergence is expected to create value addition through resource and activity synergies as well as infusion of professional quality in planning and implementation. In selected districts, pilot projects on convergence have been taken up for action research identifying further possibilities and up-scaling

3.10.8 Convergence initiatives taken by some of the State Governments are mentioned below:

Madhya Pradesh: State Government has formulated various sub schemes of convergence of different schemes for increasing agriculture related activities. The initiative are Kapildhara, Bhoomishilp, Resham, Nandan phal udyan and sahastradhara. The State has under taken such sub-scheme to provide Irrigation facility for SC/ST/BPL/LR & IAY beneficiaries through dug well/farm ponds/stop dam/ check dam/minor tanks.

Gujarat: Government of Gujarat has initiated convergence between water resource department, environment and forests department and agriculture department with NREGS. The important activities undertaken through

convergence are rainwater harvesting, dug wells, group irrigation wells, vermicompost, lift irrigation and agriculture activities.

Rajasthan: Krishi Vigyan Kendras(KVKs) in the pilot districts have provided plans for technical training on vermicompost, improved rearing practices of goats, cattle and pig, poultry, production of planting material of vegetables and fruits, beekeeping and seed production. Horticulture department and water resources department have discussed convergence initiatives at the district level.

Chhattisgarh: The State Govt. has undertaken convergence initiatives for optimizing the irrigation capacity of all the major, medium and minor projects through construction of field channels, correction of system deficiencies and drains. Some of the convergence initiatives include Shakambari Yojana, Goan Ganga Yojana, district development plan.

3.11 Audit by CAG⁸

3.11.1 A performance Audit was carried out by the CAG during May-September, 2007, in response to a request from the Ministry of Rural Development. The scope of audit was restricted to the initial 200 districts identified for implementation of NREGA with effect from February 2006. The period of audit coverage was from February 2006 to March 2007. Field audit of the relevant records of the MoRD, State Rural Development offices, and Block and Panchayat level offices was conducted at the Ministry and 26 States.

Audit Sampling

3.11.2 In each State, 25 per cent of the NREGA districts (subject to a minimum of two) were selected by Simple Random Sampling Without Replacement (SRSWOR). Data relating to Performance Audit was got updated by the Commission for some States having ST concentration, viz; Chhattisgarh, Gujarat (Dahod & Sabarkantha Districts), Madhya Pradesh, Orissa and Rajasthan. A copy of the Performance Audit Report in respect of these States is placed at **ANNEXURE 3.I.**

3.11.3 Below the district level, the following sampling plan was followed:

- In each sampled district, two blocks were chosen using SRSWOR.
- In each sampled block, four Gram Panchayats (GPs) were chosen using Probability Proportionate to Size (PPS) Sampling. The size measure for PPS was the number of registered households. Wherever the same was not readily available, the BPL population was taken, failing which the village population was used.

⁸ A copy of the report is available under 'Important circulars/reports for Reference' under sub-heading 'RTI Disclosures' on NCST web site <http://ncst.nic.in>

- Within each Gram Panchayat's area, four works (preferably, three completed and one ongoing) were selected for detailed examination using SRSWOR.

3.11.4 Thus, records relating to 68 districts, 128 blocks within the selected districts, and 513 GPs in the selected blocks were selected for detailed examination.

3.12 Observations of CAG

3.12.1 The maintenance of **basic records** at the GP and Block levels was poor, as a result of which the authenticity of the figures of employment demanded, employment provided, number of days of employment generated, entitlement for employment allowance etc. could not be verified. Significant deficiencies were also noticed in maintenance of Muster Rolls. There is a high probability of only partial capturing of the demand for work.

3.12.2 As the applications for **demand for work were not documented** or dated, and dated receipts for such applications were not issued in most cases, the eligibility of rural households for unemployment allowance, in these cases, was unverifiable.

3.12.3 There were several cases of **delayed payment** of wages, for which no compensation was paid. There were also instances of non-payment of unemployment allowance which became due to the employment seekers.

3.12.4 Deficiencies were noticed in the set up of implementing machinery, particularly at the Block and GP levels like non-appointment of full-time Programme Officers and non-appointment of Gram Rozgar Sewaks.

3.12.5 There were deficiencies in the planning process, particularly in the preparation of the 5 year District Perspective Plans (DPPs).

3.12.6 The status of inspection of works at the State, District and Block levels was poor, and most States had not designated State and District Quality Monitors. Also, in most cases, Gram Sabha was not held twice a year to conduct Social Audit Forums.

3.12.7 Lack of an effective grievance redressal mechanism which defeated the very purpose of the Act of conferring a statutory right on the rural households for demanding upto 100 days of employment. Yet no one was fined for the violation of the Act.

3.13 Conclusion by CAG

3.13.1 The performance audit of its implementation in these districts revealed significant deficiencies, and scope for improvement.

3.13.2 The main deficiency was the lack of adequate administrative and technical manpower at the Block and GP levels, especially the Programme

Officer, Technical Assistants, and Employment Guarantee Assistants. The lack of manpower adversely affected the preparation of plans, scrutiny, approval, monitoring and measurement of works, and maintenance of the stipulated records at the block and GP level. Besides affecting the implementation of the scheme and the provision of employment, this also impacted adversely on transparency, and made it difficult to verify the provision of the legal guarantee of 100 days of employment on demand.

3.13.3 Planning was inadequate and delayed, which resulted in poor progress of works. Further, the provision of employment fell far short of the targeted employment in 2006-07, both vis-à-vis the Annual Plans, as well as the legal limit of 100 days.

3.13.4 There were several cases of delayed payment of wages, for which no compensation was paid. There were also instances of non-payment of unemployment allowance which became due to the employment seekers.

3.13.5 Systems for financial management and tracking were deficient, with numerous instances of diversion/ misutilisation, and delay in transfer of State Share. Monthly squaring of accounts at different levels to maintain financial accountability and transparency was also not being done. Maintenance of records at the block and GP levels was extremely poor, and the status of monitoring, evaluation and social audit was also not up to the mark.

3.14 Effectiveness of MGNREGA in Scheduled Areas

3.14.1 From the Performance Audit report of the CAG, data and findings relating to Scheduled Tribes dominated States and their ST dominated blocks were accorded for specific attention by the National Commission for Scheduled Tribes and the deficient data was obtained from the State Govt. The States which were taken up for study were Rajasthan, Gujarat, Orissa, Chhatisgarh, Jharkhand and Madhya Pradesh.

3.14.2 After analyzing the audit report of CAG in terms of financial performance for the year 2006-07, the utilization of available funds in all the six selected States was over and above the average of all the States (73.08%) except for Gujarat (69.38%) and Jharkhand (72.44%).

3.14.3 As far as physical achievement is concerned, overall 24.08 % of Job cards were issued to the STs (Gujarat – 49.47%, M.P. – 41.20%, Orissa – 46.41%, Rajasthan – 57.82, Chhatisgarh – 48.125 and Jharkhand – 38.35). The number of households, which have completed 100 days of employment during 2006-07 were 5.67 % of the number of households which issued job cards (Gujarat – 1.93%, M.P. – 11.95%, Orissa – 5.94%, Rajasthan – 4.24%, Chhatisgarh – 7.05% and Jharkhand - 2.22%).

3.14.4 During the year 2008-09 a total of 4.51 crore household were provided employment under the scheme and a major share was from the SC/ST community i.e. 54% (SC – 29.29% & ST – 25.43%). The share of ST

household which provided employment during the year in Chhatisgarh, Gujarat, Jharkhand, Madhya Pradesh and Orissa was 45%, 50%, 40%, 45% and 38% respectively.

3.14.5 From the data available from the reports available from the Ministry of Rural Development, more than 50% of person days generated under MGNREGS have been the result of SC/ST participation. In most States, the ST workforce participation ratio has been much higher than the ST share in the State population. The percentage of ST participation in person days for the year 2009-10 in Chhatisgarh was 38.20% against ST population of 31.8%, in Gujarat 39.46% against 14.8%, in Jharkhand 42.98% against 26.3 %, in Madhya Pradesh 45.30% against 20.3%, in Orissa 36.27% against 22.1 % and in Rajasthan 22.81% against 12.6%.

3.15 Areas of Concern.

(i) Scope & focus

3.15.1 There should be a specific TSP component in NREGS so that proper and adequate attention is given to the needs of less vocal / marginalized group of STs. Development of a need based approach / framework built on the demand for work and the principle of equity is required. The TSP component (which may even exceed the guaranteed duration of 100 days) should endeavour to mitigate the rampant unemployment / under employment prevalent in these areas.

3.15.2 Focus of the programme in TSP areas has to shift from mere wage employment to sustainable rural livelihood, and ensuring that the focus on the unemployed poor is not diluted by enlarging coverage to other groups in the guise of promoting skill development, graduating to semi-skilled to skilled work, etc.

(ii) Assessment of Demand

3.15.3 Proper assessment of demand by conducting local survey should be done to enable preparation of proper Annual Action Plans. Factors such as limited availability of work on account of industries, agriculture and other seasonal activity, schooling of children, income of the household, etc should be taken into account.

3.15.4 Tribals lack literacy and capacity for negotiating their rights. Demand registration should also be supplemented by effective third party monitoring system especially in the tribal dominated areas, since the programme embeds moral hazard in that the implementing agency may not acknowledge the labour demand that can be invoked against it for unemployment allowance.

(iii) Planning Appropriate works

3.15.5 Planning at Gram Panchayat (GP) level is not proper due to non-availability of resources and sufficient technically trained manpower. Advance planning timely and execution of works should be ensured.

3.15.6 Participation of locals in the planning process also ensures taking up and execution of works as per the local demand, requirement and expectations.

(iv) Minimum wage structure

3.15.7 Wages paid under the scheme should be indexed with the inflation. The resources of NREGA should not be diverted from more needy unskilled persons to others through diversification of employment options.

(v) Accountability and deficiencies

3.15.8 Though District level Ombudsman are being appointed to settle the grievance related to the scheme.

- (i) There should be a fine/penalty for failure to perform duty/ role under the act.
- (ii) Role/function at each level should be clearly defined.
- (iii) Compensation should be given for delays in payment.
- (iv) Grievance and Redressal rules should be framed on priority.
- (v) Locals should be involved in Social Audit.
- (vi) Due to lack of accountability, there is lack of supervision.
- (vii) Poor record keeping resulting in leading to situation for payment of unemployment allowance or debarring them from claiming the unemployment allowance and inflation of estimates.
- (viii) Weak village level infrastructure.
- (ix) Vested interests of the people involved at various levels.

3.16 Views/Comments of the Ministry of Rural Development

3.16.1 The views/comments of the Ministry of Rural Development on the above issues, received vide their letter dated 14.02.2011 are as follows:-

- (i) Mahatma Gandhi NREGA is a demand based legislation providing for a legal guarantee for at least 100 days of wage employment to every rural household in every financial year for doing unskilled manual work on demand. Employment under the Act is open to all rural households irrespective of their caste/community. Hence, there is **no Tribal Special Programme (TSP) component under the Act**. The Ministry, however, monitors the participation of beneficiaries belonging to Scheduled Tribes. As regards the works to be taken up on the individual land of the ST

beneficiaries, instructions have been issued to the States that works on the lands of SC and ST households will be taken on priority. Once works on the lands of SC and ST are saturated in a Gram Panchayat, works on the lands of small and marginal farmers may be considered.

- (ii) Planning is critical to the successful implementation of any programme. Every Gram Panchayat prepares development plan and maintain a shelf of works for scrutiny and submits to the District Programme Coordinator (DPC). The DPC then submits the shelf of projects to the District Panchayat. The entire process of approval has to be completed by each district by 31st December. A development plan has 4 components viz. (i) Assessment of labour demand, (ii) identification of works, (iii) Estimated cost of works and wages and (iv) benefits expected. Thus the planning process starts at the GP level and takes into account the rural population, availability of other employment opportunities, income of the households and trends in the previous year.
- (iii) As regards the lack of literacy among the rural population, awareness generation about the benefits under MGNREGA through intensive IEC activities involving print as well as electronic media have been taken up in this direction. In order to overcome the necessity of a written application for demanding work, use of hand held devices is being made which will not only register the demand for work but will also generate a dated receipt, mark the attendance and disburse wages to the workers.
- (iv) Planning under MGNREGA begins at the level of GP level. To strengthen the GPs for performing its duties in a more meaningful manner, professional staff is being deployed at the GPs. To begin with, it is proposed that two posts, namely Panchayat Development Officer (PDO) and Junior Engineer (JE) be created and filled for select Panchayats for a period of 8 years from the amounts available under administrative expenditure head of MGNREGA.
- (v) Wages paid under MGNREGA have already been indexed with the inflation.
- (vi) Section 25 of MGNREGA provides that whoever contravenes the provisions of this Act shall on conviction be liable to a fine which may extend to 1000 rupees.
- (vii) Roles and functions of each functionary in the implementation of MGNREGA have been clearly defined in Sections 13 to 17 of the Act.
- (viii) Para 30 of Schedule-II of the Act provides that in case the payment of wages is not made within the period specified under the scheme, the labourers shall be entitled to receive payment of compensation as per the provisions of the payment of Wages Act, 1936.
- (ix) Section 19 of the Act provides for setting up of a Grievance redressal mechanism by each State for dealing with any complaint by any person in respect of implementation of the scheme.
- (x) In accordance with section 17 (2) of the Act, Social Audit of all the projects taken up within a panchayat is to be done only by the Gram

Sabha. Any outside person can attend the social audit as observer without intervening the proceedings of the social audit

- (xi) Section 23 of the Act provides for transparency and accountability under the Act. Besides, an ICT based MIS has been made operational to make data available to public scrutiny, inclusive of Job cards, Muster rolls, Employment demanded and allocated, number of days worked, shelf of works, Funds available/spent and fund to various implementing agencies, Social Audit findings, registering grievances and generating alerts for corrective action. Payment of wages has been made mandatory through accounts in Banks/Post Office and Rolling out Biometric based ICT enabled real time transactions of MGNREGA workers enabled transparency and eliminate vested interests.
- (xii) With a view to ensure proper record keeping and its management, it has been impressed upon all States to deploy adequate technical and non-technical staff, data entry operators, computer operators etc. at each level and make full use of the 6% administrative expenses under the Act.
- (xiii) With a view to strengthen the infrastructure at village level, the Government has decided to construct Bharat Nirman Rajiv Gandhi Sewa Kendra at GP level to function as Panchayat Bhavan and also as a knowledge resource centre. It is also proposed to equip them with computers for operationalisation of ICT based MIS.

3.17 Meeting with the Ministry of Rural Development

3.17.1 A meeting was held in the Commission with the Secretary, Ministry of Rural Development on 07.03.2011 to discuss the concerns of the Commission in the matter. The Ministry of Rural Development vide their letter dated 30.03.2011, re-iterated point-wise observations as under:

- (i) The households who had demanded employment under Mahatma Gandhi NREGA had not exhausted their legal right of 100 days of employment guaranteed under the Act. Therefore, amendment in the number of days of guaranteed employment under the Act is not considered desirable at this stage.
- (ii) MGNREGA is a demand driven legislation and not an allocation based programme. Funds are released under the Act for implementation to the States in accordance with the labour demand. Inter District transfer of funds may be considered by the State Govt., where central funds were released to the State Employment Guarantee Fund Account.
- (iii) There is no provision in MGNREGA for earmarking funds for catering the demand of any specific category of workers (TSP). It is a demand based programme and any adult irrespective of any caste or creed will be provided work. However, during 2006-07, 2007-08, 2008-09, 2009-10 and 2010-11 (upto01/11), STs were able to avail respectively 36%, 29%, 25%, 21% and 17% of total person days of employment.
- (iv) ICT based MIS has been made operational to make data available to

public scrutiny. Biometric based ICT enabled real time transactions of MGNREGA workers to eliminate fake attendance and false payment is also being rolled out.

- (v) Instructions have been issued to all States for considering the proposal to create and fill up two posts at GP level namely Panchayat Development Officer and Junior Engineer. In addition, Gram Rozgar Sahayak should be trained in computers. Administrative expenses had been enhanced to 6% for meeting the expenditure towards salary of such dedicated staff.
- (vi) Necessary instructions have been issued to the State Govts. for proper record keeping and to deploy adequate dedicated staff with the implementing authorities.
- (vii) Principal role in the Act is given to Panchayati Raj Institutions (PRI). GP are taking majority of decisions as per recommendations of Gram Sabha and Ward Sabha . Act provides that Gram Sabha shall conduct regular social audit of all the projects under the scheme.
- (viii) Following steps have been taken for effective implementation of the scheme:
 - a) Independent Monitoring and verification by National Level Monitors (NLM).
 - b) Quarterly Performance Review Committee meeting.
 - c) Inclusion of monitoring of MGNREGA in the agenda of District and State level Vigilance and Monitoring Committee meetings.
 - d) Payment of wages under MGNREGA made mandatory through Banks/Post Office.
 - e) Progress and impact of MGNREGA in rural areas are done by Professional Institutions like IITs and IIMs.
 - f) States have been asked to set up District level Ombudsman for redressal of grievances.

3.17.2 The Commission is of the view that the full benefits of Scheme have not been extended for STs, who are the main constituent of the remote rural population in the tribal dominated areas for the reasons that, tribals being shy and ignorant about the scheme are mostly unable to assert their legitimate demands. Greater awareness is required in these areas, and a survey should be made to ascertain the reason of underutilization of guaranteed number of days of employment in those areas, since, quite possibly, work may not have been provided to the poor tribals per expectations. Higher participation of STs among the beneficiaries of the scheme is actually indicative of their deprivation; and a concerned approach should be adopted to address their problem. Use of high-tech devices are good for controlling corruption and malpractices, but other pro-active measures are required to ensure that the illiterate and poor tribal should get full benefit of the scheme.

3.18 Recommendations.

3.18.1 In view of the areas of concern and the deficiencies noted, the Commission recommends that

(i) There is need to incorporate a TSP component in the implementation of the Scheme in order to meet the objective of inclusive growth. The TSP component should not be based merely on the population share, rather on the extent of deprivation or even more than that to make up the backwardness/ negligence experienced over the years. Considering the fragile economic condition of the tribals, primarily as a result of poor agricultural practices including single crop culture, the Commission feels that rather than relying on capricious demand estimates, it was desirable to ensure a minimum 100 days of employment to all tribal families as per the latest census in the tribal areas; and earmark sufficient funds, under the TSP component of the Scheme to ensure adequate livelihood opportunity in these areas. The Scheme should be designed for providing sustainable rural livelihood in respect of STs, strengthening its convergence with use of natural resources, productivity, human development, etc. It should also be ensured that the focus on the unemployed unskilled poor is not diluted by enlarging coverage to other groups or in the guise of promoting skill development graduating to semi-skilled to skilled work, etc.

(ii) Keeping in view the lack of managerial capacity in the Panchayats, the Scheme should develop a need based approach / plan of implementation based upon pro-active assessment of the demand for work in tribal areas. The demand for the work should be properly anticipated through local surveys in ST areas, taking into account all factors such as limited availability of work on account of industries, agriculture and other seasonal activity, schooling of children, wage level of households, etc. The communication with tribals should also be strengthened to build up their capacity to articulate and demand rights.

(iii) Limit of providing maximum 100 days employment to a household in a given financial year should be removed in Scheduled areas, as agriculture labour is available only for a period of 2-3 months during the year in such areas. If need be, the Ministry may bring necessary amendment in the Act to this effect.

(iv) The Scheme provides that, in case of inability of the Implementing agency (IA) to provide employment within 15 days of registration of demand for employment, the IA is responsible for payment of unemployment allowance. Such provision is likely to result in erosion of accountability, and reluctance on the part of the IA to acknowledge labour demand that can be invoked against it for payment of unemployment allowance. Therefore, the feasibility of having separate agency for receiving demand applications (other than the IA) should be examined.

(v) Record maintenance at GP level needs to be streamlined. It should be ensured that all applications are dated, and dated receipts of applications are given to the job applicants.

(vi) State Govts. should be directed to put in place effective grievance redressal mechanisms to ensure that the purpose of NREG Act to provide 100 days employment as a matter of right is not diluted.

(vii) MoRD may consider amending the current pattern of funding administrative expenses, and certain specified posts at the Block (e.g. Programme Officer) and GP levels (especially the EGA) may be fully funded in Scheduled Area districts, which suffer from acute poverty and employment demand is high, so that such posts could be manned on a stable, ongoing basis for effective monitoring and implementation of NREGA.

(viii) MoRD may consider adding additional categories of works, and also consider empowering State governments/SEGCs to add other region-specific works, especially in the context of STs.

(ix) MoRD may consider amending NREGA for partial reimbursement (out of Gol funds) of payment of unemployment allowance in Scheduled Areas, while instituting controls to minimize chances of persons drawing unemployment allowance. This is required to be implemented in the tribal districts on priority as the tribals are generally illiterate and incapable of asserting their rights and hence easily victimized. In the present scenario, since State Govts. have to shell out funds for payment of unemployment allowance, there is an incentive for non-transparent recording of employment demand.

(x) There is a need to strengthen existing mechanism for enforcing accountability in ST dominated areas in respect of the following:

- Section 25: Fine for failure to perform duty under the Act.
- Schedule II Section 30: Compensating workers for delays in payment.
- Section 19: Framing of Grievance and Redressal Rules.
- Independent Grievance Redressal Mechanism.
- STs' participation in Social Audit

(xi) The existing provisions regarding imposition of penalty should also be made stricter for habitual defaulters.

CHAPTER 4

SERVICE SAFEGUARDS

4.1 Constitutional Provisions

4.1.1 The Scheduled Tribes have remained socially, educationally and economically backward due to isolation from the rest of the world. Due to this backwardness, the Scheduled Tribes were not able long reap the benefits of general development. In order to eliminate these handicaps, the framers of the Constitution of independent India advocated positive discrimination in favour of the ST communities in matter of education and employment. The Constitution of India provides for reservation for Scheduled Tribes in civil posts and services under the Government. The essence of relevant articles of the Constitution, pertaining to service safeguards, is summarized, as under:

(i) **Article 16(4)** : This Article provides that "Nothing in this Article shall prevent the State from making any provision for reservation in appointments or posts in favour of any backward class of citizens which, in the opinion of the State, is not adequately represented in the services under the State".

(ii) **Article 16(4A)** : This Article was inserted vide the **Constitution (Seventy-seventh Amendment) Act, 1995** in the year 1995 with the provision: "Nothing in this Article shall prevent the State from making any provision for reservation in matters of promotion to any class or classes of posts in this services under the State in favour of the Scheduled Castes & Scheduled Tribes which, in the opinion of the State, are not adequately represented in the services under the State".

Further amendment of Article 16(4A) : Article 16(4A), inserted by the Constitution (77th Amendment) Act, 1995, was further amended in the year 2001 to substitute the words " in matters of promotion to any class" by words "in matters of promotions, with consequential seniority, to any class" vide the **Constitution (Eighty-fifth Amendment) Act, 2001**. This amendment was made operative retrospectively from 17 June 1995, i.e. the date of addition of this Article vide the Constitution (Seventy- seventh Amendment) Act, 1995.

(iii) **Article 16(4B)**: This Article inserted vide the **Constitution (Eighty-first Amendment) Act, 2000**, provides that "Nothing in this article shall prevent the State from considering any unfilled vacancies of a year which are reserved for being filled up in that year in accordance with any provision for reservation made under clause (4) or clause (4A) as a separate class of vacancies to be filled up in any succeeding year or years and such class of vacancies shall not be considered together with the vacancies of the year in which they are being filled up for determining the ceiling of fifty percent reservation on total number of vacancies of that year".

- (iv) **Article 335:** This Article provides that "The claims of the members of the Scheduled Castes and the Scheduled Tribes shall be taken into consideration, consistent with the maintenance of efficiency of administration, in the making of appointments to services and posts in connection with the affairs of the Union or of a State". The following proviso was added to this Article by the **Constitution (Eighty-second Amendment) Act, 2000-**

"Provided that nothing in this Article shall prevent in making of any provision in favour of the members of the Scheduled Castes and Scheduled Tribes for relaxation in qualifying marks in any examination or lowering the standards of evaluation, for reservation in matters of promotion to any class or classes of services or posts in connection with the affairs of the Union or of a State".

- (v) **Article 320 (4):** Clause (3) of Article 320 of the Constitution, inter alia, provides that the Union Public Service Commission or the State Service Public Commission, as the case may be, shall be consulted on all matters relating to methods of recruitment to civil services and for civil posts, and on the principles to be followed in making appointments to civil services and posts and in making promotions and transfers from one service to another and on the suitability of candidates for such appointments, promotions or transfers. Clause (4) of this Article, however, provides that "Nothing in clause (3) shall require a Public Service Commission to be consulted as respects the manner in which any provision referred to in clause (4) of Article 16 may be made or as respects the manner in which effect may be given to the provisions of Article 335".

4.1.2 Pursuant thereto, the Govt have issued instructions from time to time providing for reservation in matters of employment under the Govt., public sector undertakings and other autonomous bodies under the control of the Govt. Compendium of instructions on this subject is available on the Department of Personnel and Training website¹.

4.2. Constitutional validity of the amendments

4.2.1 The constitutional validity of the above-mentioned amendments i.e. point number (ii), (iii), (iv) & (v) was challenged in the Hon'ble Supreme Court of India in Writ Petition (Civil) No.61 of 2002 in M. Nagaraj & Ors. vs. Union of India & Ors. The Hon'ble Supreme Court observed that the impugned constitutional amendments, by which Article 16(4A) and 16(4B) have been inserted, flow from Article 16(4) and do not alter the structure of Article 16(4). They retain the controlling factors or the compelling reasons, namely backwardness and inadequacy of representation, which enables the State to provide for reservation keeping in mind the overall efficiency of the State administration under Article 335. The Hon'ble Court further observed that the

¹ <http://persmin.gov.in>. Copy Also available on the NCST website <http://ncst.nic.in> under subheading 'RTI Disclosure' -> 'Important Circulars' -> 'DOPT Circulars'

impugned amendments are confined only to SCs & STs and that they do not obliterate any of the constitutional requirements, namely ceiling-limit of 50% (quantitative limitation), and the concept of creamy layer (qualitative exclusion).

Creamy layer among STs and SCs

4.2.2 The Department of Personnel & Training, in consultation with the law officers of the Government, vide their letter No.36036/2/2007-Estt.Res dated 29 March, 2007, addressed to the Chief Secretaries of all the States and Union Territories clarified that reference to creamy layer in the concluding paragraph and other portions of the judgment mentioned above did not relate to the Scheduled Castes and Scheduled Tribes. Hon'ble Supreme Court also in its judgement dated 10.04.2008 in the case of Ashok Kumar Thakur Vs Union of India & Ors stated that "Creamy layer" principle is one of the parameters to identify backward classes. Therefore, the "creamy layer" principle cannot be applied to STs and SCs, as they are separate classes by themselves.

Ceiling on filling of vacancies reserved for SCs/STs & OBCs

4.2.3 The vacancies which were reserved for a category in an earlier recruitment year according to post-based reservation but remained unfilled in the previous recruitment attempt on account of non-availability of suitable candidates belonging to that category and are still lying unfilled are called **backlog reserve vacancies**. DoPT OM No. 36012/5/97-Estt(Res.) dated 29.08.1997 provided 50% limit on reservation to current as well as backlog reserved vacancies. These instructions were modified by DoPT OM No. 36012/5/97-Estt(Res.) Vol.II dated 20.07.2000 to the effect that the backlog reserved vacancies of SCs and STs would be treated as a separate and distinct group; and would not be considered together with the reserved vacancies of the year in which they are filled for determining the ceiling of 50% reservation on total number of vacancies of that year. The DoPT vide its OM No. 36033/1/2008-Estt.(Res.) dated 15.07.2008 issued instructions to treat the backlog reserved vacancies of OBCs also as a separate and distinct group the same way as the backlog reserved vacancies of the SCs and STs are treated. Thus, the ceiling of 50% reservation on filling of reserved vacancies now applies only to the vacancies which arise in the current year; and the backlog reserved vacancies of SCs, STs and OBCs in case of direct recruitment and backlog reserved vacancies of SCs and STs in case of promotion of earlier years, would be treated as a separate and distinct group.

Relaxations and Concessions for STs and Scheduled Castes.

4.2.4 Concessions were admissible to SCs and STs in all types of direct recruitment and promotion, such as relaxation in the age limit, experience, qualification, permitted number of chances in written examination, extended zone of consideration (larger than what is provided for general category candidates) etc. However, DoPT vide OM No. 36012/23/96-Estt.(Res) dated 22.07.1997 issued instructions that henceforth there shall be no separate standards of evaluation for candidates of the SCs/STs for promotion, and assessment of all candidates for this purpose will be with reference to uniform

standards, and any other instructions of the Government, which provide for lower qualifying marks / lesser standards of evaluation in matters of promotion for candidates belonging to SCs/STs, may also be treated as having been modified to this extent. In pursuance of the enabling proviso of Article 335 of the Constitution, it was decided to restore, with immediate effect, the relaxations/concessions in matters of promotion for candidates belonging to SCs/STs by way of lower qualifying marks, lesser standards of evaluation that existed prior to 22.7.1997; and instructions to this effect were issued vide DoPT Om No. 36012/23/96-Estt.(Res.) Vol.II dated 03.10.2000.

4.3. Own merit appointments

4.3.1 DoPT clarified vide its OM No. 36011/1/98-Estt.(Res) dated 01.07.1998 that such SC/ST/OBC candidates who are selected on the same standard as applied to general candidates shall not be adjusted against reserved vacancies. In other words, only when a relaxed standard is applied in selecting an SC/ST/OBC candidate, for example in the age limit, experience qualification, permitted number of chances in written examination, extended zone of consideration larger than what is provided for general category candidates etc., the SC/ST/OBC candidates are to be counted against reserved vacancies.

4.4. Cadre strength- Direct Recruitment and Promotion-adjustments

4.4.1 It was clarified by DoPT through an illustration in their O.M. No.36012/2/96-Estt.(Res.) dated 2.7.1997 that the term 'cadre strength' meant the number of posts required to be filled by a particular mode of recruitment in terms of the relevant Recruitment Rules.

4.4.2 As per DoPT O.M. No. AB.14017/30/89-Estt.RR dated 10.07.1990, where recruitment to a grade is made both by promotion and direct recruitment, i.e. where separate quota for promotion and direct recruitment are prescribed in the Recruitment Rules, reserved vacancies falling in the promotion quota, which cannot be filled due to non-availability of eligible persons belonging to SC/ST in the feeder cadre, may be temporarily diverted to the direct recruitment quota; and filled by recruitment of candidate(s) belonging to SC or ST, as the case may be, in accordance with the provisions relating to direct recruitment contained in the Recruitment Rules. In the subsequent year(s), when a reserved vacancy in the direct recruitment quota becomes available it may be diverted to the promotion quota to make up for the vacancies diverted earlier; and filled from SC/ST candidates in the feeder cadre who might by then become eligible for promotion. To meet this objective, the Ministries/Departments may themselves exercise the power of relaxation of the Recruitment Rules subject to approval of UPSC, wherever necessary.

4.5. Reservation in promotion and Zone of Consideration

4.5.1 In modification of their OM dated 19.08.1993, the Department of Personnel & Training vide their OM No. 36012/18/95-Estt.(Res.), Part-II dated 13.08.1997, issued instructions to all Ministries/ Departments of the Govt. of India to continue reservation in promotion for the Scheduled Castes and Scheduled Tribes in the service/posts under the Central Govt. beyond

15.11.1997 till such time as the representation each of these two categories in each reached the prescribed percentage of reservation.

4.5.2 The present instructions of the Govt.² provide for reservation in promotion by selection for SCs & STs upto the lowest rung of Group 'A', but not within this Group. But when promotions by selection are made from a Group A post to a Group A post, which carries an ultimate salary of Rs.18,300/- (pre-revised), or less, the SC and ST Officers, who are senior enough in the zone of consideration for promotion so as to be within the number of vacancies for which the select list has to be drawn up, would be included in that list provided they are not considered unfit for promotion. (DoPT O.M. No. 36028/21/2003-Estt.(Res) dated 29.01.2004)

4.5.3 There is a prescribed **zone of consideration in the matter of promotion by selection** i.e. merit-cum-seniority. There is, however, no specified zone of consideration in the case of promotion by non-selection i.e. seniority subject to fitness. The following instructions are applicable for filling up the vacancies reserved for SCs & STs in promotions by selection:-

- (i) Scheduled Caste and Scheduled Tribe officers who are within the **normal zone of consideration** (i.e. twice the number of vacancies +4) shall be considered for promotion alongwith others and adjudged on the same basis as others, and those Scheduled Caste and Scheduled Tribe officers amongst them who are selected on that basis may be included in the general select list against unreserved vacancies.
- (ii) If the number of candidates from Scheduled Castes and Scheduled Tribes, other than the candidates selected on their own merit and adjusted against unreserved (UR) vacancies, is less than the number of vacancies reserved for them, the difference should be made up by selecting candidates who are in the zone of consideration irrespective of merit, i.e. irrespective of whether they meet the prescribed benchmark or not, but who are considered fit for promotion.
- (iii) If the number of SC/ST candidates found fit for promotion against reserved vacancies is still less, the difference should be made up by selecting candidates of these communities who are in the **extended zone of consideration (i.e. five times the number of vacancies)** irrespective of merit, i.e. irrespective of whether they meet the prescribed benchmark or not, but who are considered fit for promotion.

4.5.4 **In case of promotion by non-selection**, if the number of Scheduled Caste/ Scheduled Tribe candidates found fit within the range of actual vacancies is less than the number of vacancies reserved for them, additional Scheduled Caste/Scheduled Tribe candidates to the extent required are to be located by going down the seniority list provided they are eligible and found fit for appointment.

4.5.5 The Department of Personnel & Training vide their O.M. No.22011/2/2002-Estt.(D) dated 6 January, 2006 modified the existing provisions relating to the size of the zone of consideration. As per the O.M. the normal zone of consideration for one vacancy will be 5 and for vacancies more

² DoP&AR OM No. 10/41/73-Estt. (SCT) Dated 20.07.1974

than one it will be twice the number of vacancies plus four. The extended zone of consideration for SC/ST will be five times the number of vacancies. As in the case of promotion by non-selection, there is no prescribed zone of consideration for making ad hoc promotions.

4.5.6 The Hon'ble Supreme Court of India in their interim order in Civil Appeal No.4026 of 1988 in the case of UP Rajya Vidyut Parishad SC/ST Karamchari Kalyan Sangh vs. U.P. State Electricity Board & Ors. held that there has to be a separate zone of consideration so far as SC/ST candidates are concerned.

4.5.7 The issue regarding drawal of a Separate Zone of Consideration for SCs and STs has been extensively discussed in the Second Report of the Commission for the year 2006-07. **The Commission reiterates that in compliance with the Hon'ble Supreme Court's directions, the DOPT should revise the instructions contained in O.M. No. 36012/27/2000-Estt.(Res.) dated 15.03.2002 at the earliest to provide for a separate zone of consideration for SCs & STs in the matter of promotion by whatever method and whether on temporary or on regular basis.**

4.6 Grant of reservation to migrant SCs/ STs in civil posts under the Government of NCT of Delhi.

4.6.1 Even though only certain castes are notified as Scheduled Castes in respect of Delhi, (no Scheduled Tribes have been notified) the Government of NCT of Delhi has been following the all-India pattern for a long time now in respect of reservation to civil posts under that Government, thereby giving reservation to all categories of SCs and STs, irrespective of nativity. The Hon'ble Supreme Court of India in its judgment dated 04.08.2009 in SLP No. 24327/2005 titled 'Subhash Chandra & Anr. vs. Delhi Subordinate Service Selection Board & Ors' clubbed with WP (Civil) No. 507 of 2006 titled 'Sarv Rural & Urban Welfare Society vs. Union of India & Ors' in the matter of reservation to migrant Scheduled Castes and Scheduled Tribes in NCT of Delhi had held that reservation in State or UT under Article 15 (relating to education) and Article 16 (relating to employment) can be given only to those Scheduled Castes and Scheduled Tribes who figure in the notified list under Article 341 or 342 for the State or UT, as the case may be.

4.6.2 As the implementation of the said Supreme Court judgment involved a major shift in policy, the Ministry of Home Affairs decided to explore the scope for inclusion of migratory SCs and migratory STs in the lists notified under Article 341 and Article 342 and the possibilities of providing a common reservation policy in respect of migratory SCs and STs in respect of all UTs including Delhi, and thereafter, approach the Cabinet posing all options. Accordingly, the Ministry of Home Affairs vide letter dated 27.11.2009³ forwarded to the Commission for consideration, a proposal for inclusion of all Scheduled Caste & Scheduled Tribe communities in the list of Scheduled Castes and Scheduled Tribes, respectively, in relation to the NCT of Delhi and all other Union Territories.

4.6.3 The Commission discussed the proposal in its meeting held on 22/02/2010. The details of the discussion and views/comments of the

³ MHA Letter No. U-13028/31/2006-Delhi-I dated 27.11.09

Commission have been included in Chapter 7 of this Report. However, for the sake of the completeness of issues, the recommendation made by Commission in this matter are reproduced as under:

- (a) While refraining comment on the merit of the Hon'ble Supreme Court judgment since Commission does not have any legal expertise, a common list of ST communities may not be notified under Article 342 in respect of all UTs, as this may lead to marginalization of the original tribal inhabitants of the concerned UT beside compromising the sanctity of Article 342.
- (b) Keeping in view the unique status of the NCT of Delhi being the National Capital of the Country and existence of various offices of the Union Government in Delhi, and the fact that the employment opportunities and educational facilities of high order have been created in the NCT of Delhi through the use of central revenues, it is desirable to extend the benefit of reservation, to the STs resident in Delhi irrespective of their nativity and period of residence while retaining the reservation level of 7.5% for Scheduled Tribes as admissible at National level.
- (c) A constitutionally valid scheme of reservation may, however, be evolved to extend benefits of reservation to migratory STs living outside their original place of nativity as indicated in para 41 of the judgment of the Hon'ble Supreme Court of India in SLP (C) 24327 of 2005 (WP (C) No. 507 of 2006).

4.7 Important OMs issued by DoPT during 2009-10

4.7.1 Some important OMs issued by DoP&T during 2009-10, which are significant for STs are quoted as under:

(1) 36011/3/2009-Estt.(Res.) dated 02.09.2009⁴

Acceptance of caste certificate produced by candidates:

4.7.2 It is stated that the Caste/Tribe/Community certificates in the proforma prescribed and issued by any of the authorities stated in the Department O.M. No.3601216188-Estt. (SCT) dated 24.4.1990 and O. M. No.36012122193-Estt. (Res.) dated 15.11.1993 will only be accepted by the appointing authorities as sufficient proof in support of a candidate's claim to belong to a Scheduled Caste/ Schedule Tribe/ Other Backward Class.

(2) 36012/43/2008-Estt.(Res.) dated 14.01.2010⁵

Reservation for SCs and STs beyond 15.11.1997 in financial institutions/ Banks consequent to judgement of Madras High Court dated 09.12.2009 :

4.7.3 DoP&T O.M No. 36012/18/95-Estt.(Res.) Pt II dated 13.08.1997 provides that reservation for SCs and STs in promotion, as applicable on the date of issue of the O.M., shall continue beyond 15.11.1997 till such time as the representation of each of the above two categories in each cadre reaches the

⁴ Complete O.M. can be seen on the web site of Ministry of Personnel (<http://persmin.nic.in>).

⁵ Complete O.M. can be seen on the web site of Ministry of Personnel (<http://persmin.nic.in>).

prescribed percentages of reservation, where after, the reservation in promotion shall continue to maintain the representation to the extent of the prescribed percentages for respective categories. In their judgement dated 09.12.2009 the Madras High Court, in WA-304, 324 and 342/1998 and WP-4599 and 7031/1998 etc. has directed as given below:

" The respondent Banks are directed to implement O.M. dated 13.08.1997 issued by the Govt. of India within a period of eight weeks from the date of receipt of a copy of this order, keeping in view of the observations made by us supra."

4.7.4 In order to ensure implementation of the above directive of the Madras High Court the Department of Personnel and Training have issued the above OM directing the Department of Financial Services, Ministry of Finance which is the Nodal Department for framing and implementing the reservation policy in Financial institutions/ Banks for taking necessary action in the matter.

4.8 Representation of Scheduled Tribes in public services

(A) Representation of Scheduled Tribes in Central Ministries/ Departments

4.8.1 Representation of Scheduled Tribes in Central Govt services as on 01.01.2010 as per the information made available by the Department of Personnel and Training (Ministry of Personnel and Training) vide their letter No. 36027/1/2010-Estt. (Res.) dated 09.07.2010 is as given in the table below:

(As on 01.01.2010)			
Group (1)	Total (2)	STs (3)	%age (4)
A	8000	428	5.4
B	30310	1667	5.5
C	117753	7837	6.7
D (Excl Sweepers)	26592	1599	6.0
Total(Excluding Sweepers)	182655	11531	6.31
Total (Including Sweepers)	185194	11624	6.24

Note: The above figures do not include information in respect of President Secretariat, Prime Minister Office, Cabinet Secretariat, Dept. of Atomic Energy, Dept. of Space, Ministry of Chemical & Fertilizer, Civil Aviation, Coal, Communication & IT, Corporate Affairs, Culture, Development of North Eastern Region, Earth Sciences, Environment & Forests, Finance, Food Processing Industries, Health & family Welfare, Heavy Industries & Public Enterprises, Home Affairs, Housing & Urban Poverty Alleviation, Information & Broadcasting, Labour & Employment, Mines, Minority Affairs, Micro Small & Medium Enterprises, Panchayati Raj, Personnel Public Grievances & Pensions, Rural Development, Youth Affairs & Sports, Railways, New & Renewable Energy, Textile, Tourism, Water Resources and Planning Commission.

4.8.2 From the above data it is clear that the representation of STs in posts is much less than the prescribed percentage of 7.5 in not only in Group A and B categories of posts, but also in all the categories is less than the prescribed percentage. Even in Group 'D' category, the representation of STs is not satisfactory. It is obvious that this situation has arisen on account of the continuing backlog vacancies in these Groups, which are not being filled up by the concerned Ministries/ Departments. **The Commission expresses its concern over this matter and re-iterates its earlier recommendation that the DoPT should take up the matter with all the Central**

Ministries/Departments, particularly those which are cadre controlling authorities, for appointment to various posts/ services and oblige them to fill up the backlog vacancies reserved for Scheduled Tribes by launching Special Recruitment Drives (SRDs). The Commission is also of the view that Special Recruitment Drive in promotion will not yield the desired result without drawing separate lists of eligible candidates among Scheduled Tribes, as directed by the Supreme Court of India in the Civil Appeal No.4026 of 1988. Commission is further of the view that Department of Personnel and Training OM No.36012/27/2000-Estt.(Res.) dated 15-03-2002, which was issued in part fulfillment of the Supreme Court of India judgement, should be suitably amended since the OM prescribed drawing separate eligibility lists in case of ad-hoc promotions only. Where the Recruitment Rules provide for 100% appointments by promotion, the cadre controlling authorities may also consider amending/relaxing Recruitment Rules to include an element of direct recruitment or a clause "failing which by Direct Recruitment" in each grade of posts in the case of Scheduled Tribes to increase their representation at various levels.

(B) Representation of Scheduled Tribes in Central Public Sector Enterprises (CPSEs)

4.8.3 Based on information furnished by the Ministry of Heavy Industry and Public Enterprises (Department of Public Enterprises), the representation of Scheduled Tribes in CPSEs as on 1.1.2009 in various categories of posts i.e. Groups A,B,C and D is as given in the Table below:-

Group	Total No. of Employees(As on 01.01.2009)	No. of STs (As on 01.01.2009)	%age	Position as on 01.01.2008 (in %)
(1)	(2)	(3)	(4)	(5)
A	1,86,056	9302	4.99	4.81
B	2,06,836	11,946	5.77	5.82
C	7,77,203	66,725	8.58	8.63
D (Excl. Safai Karamcharis)	2,49,587	29,592	11.85	12.44
Group D (Safai Karamcharis)	16,945	1800	10.62	3.05
Grand Total	14,36,627	1,19,365	8.30	8.38

Note:- Group 'A': Executive level, Group 'B': Supervisory level, Group 'C': Workmen/Clerical level, Group 'D': Semi-skilled/Unskilled labour.

4.8.4 It is noted that there is a marginal improvement in the representation of STs in Group 'A', but in all other categories and overall there is a reduction in representation of STs as compared to the position as on 01.01.2008, the representation of STs in Group 'A' and 'B' is less than the prescribed reservation of 7.5%. **The Commission re-iterates its earlier recommendation that the Department of Public Enterprises should oblige the Central Public Sector undertakings to make concerted efforts to fill up the backlog vacancies reserved for Scheduled Tribes in Group A and B posts through SRDs to bring their representation to the prescribed level**

of 7.5%. DOPT and Deptt. of Public Enterprises should formulate a time-bound Action Plan to fill up the vacant positions to meet the target.

(C) Representation of Scheduled Tribes in different cadres of the Public Sector Banks

4.8.5 The representation of Scheduled Tribes in the Public Sector Banks in respect of the cadre of (i) Officers, (ii) Clerks, and (iii) Sub-staff as on 01.01.2010 is given below:-

(As on 01.01.2010)

S. No	Name of the Bank	Officers			Clerks			Sub Staff		
		Total	ST	%	Total	ST	%	Total	ST	%
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)
1	Allahabad Bank	8713	552	6.34	8099	361	4.46	2683	141	5.26
2	Andhra Bank	8478	540	6.36	3024	89	2.94	2683	189	7.04
3	Bank of Baroda	13346	952	6.63	15317	817	5.33	6862	633	9.22
4	Bank of India	14278	1089	7.63	17026	1217	7.15	5285	501	9.48
5	Bank of Maharashtra	4342	270	6.22	6423	420	6.53	2860	250	8.74
6	Canara Bank	17621	1138	6.46	16324	859	5.26	7494	348	4.64
7	Central Bank of India	12053	752	6.24	12754	808	6.34	7165	534	7.45
8	Corporation Bank	5207	244	4.68	4913	241	4.91	2565	185	7.21
9	Dena Bank	4263	421	9.88	4069	485	11.92	2218	315	14.20
10	Indian Bank	7731	458	5.92	9158	235	2.57	2932	134	4.57
11	Indian Overseas Bank	10348	609	5.15	11817	609	5.15	3259	142	4.36
12	Oriental Bank of Commerce	7516	382	5.08	5349	207	3.87	2329	90	3.86
13	Punjab National Bank	20131	1160	5.76	24475	801	3.27	9344	580	6.20
14	Punjab & Sind Bank	5624	149	2.65	1437	34	2.37	1308	38	2.90
15	Syndicate Bank	10043	647	6.44	10845	611	5.63	3834	247	6.44
16	Union Bank of India	13221	780	5.90	8627	383	4.44	5719	417	7.29
17	United Bank	5051	370	7.32	6981	245	3.50	3420	127	3.71
18	UCO Bank	8742	558	6.35	10046	458	4.56	3576	179	5.01
19	Vijaya Bank	5250	265	5.04	3819	132	3.45	2214	155	7.00
20	State Bank of India	71370	4366	6.12	89137	6407	7.19	42716	3083	7.22

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)
21	State Bank of Bikaner & Jaipur	4611	427	9.26	4891	334	6.82	2260	242	10.70
22	State Bank of Hyderabad	5206	324	6.22	6104	381	6.24	2528	148	5.85
23	State Bank of Indore	2484	236	9.50	2854	514	18.01	1065	233	21.88
24	State Bank of Mysore	3193	234	7.32	4706	219	4.65	1652	94	5.69
25	State Bank of Patiala	4506	152	3.40	5668	62	1.1	2366	63	2.7
26	State Bank of Travancore	4215	129	3.06	5812	177	3.05	1820	85	4.67
27	IDBI	9300	327	3.52	1452	42	2.89	932	67	7.19
28	NABARD	3863	289	7.48	880	104	11.81	0	0	0
29	EXIM Bank	233	19	8.15	0	0	0	8	0	0
30	SIDBI	877	52	5.93	99	8	8.08	71	14	19.72
31	Reserve Bank of India	9427	658	7.00	3789	439	11.6	5811	590	10.2
32	National Housing Bank	92	4	4.35	0	0	0	0	0	0

4.8.6 It is seen from the above Table that the representation of Scheduled Tribes in the officers' cadres is less than the prescribed percentage of 7.5% except in Bank of India (7.63), Dena Bank (9.88%), State Bank of Bikaner & Jaipur (9.26%), State Bank of Indore (9.5%) and EXIM Bank (8.15%). The percentage of STs in the cadres of Clerks is above the prescribed level of 7.5 only in State Bank of Indore (18.1%), Dena Bank (11.92%), SIDBI (8.08%), RBI (11.6%) and NABARD (11.81). The representation of STs in the cadre of Clerks in many of banks is less than 6% and even 1.1% in State Bank of Patiala and 2.37% in Punjab & Sind Bank. As regards the cadre of Subordinate staff (Sub-staff) the percentage of representation for STs in some of the Banks is not satisfactory, for example Oriental Bank of Commerce (3.86%), Punjab & Sind Bank (2.90%), United Bank (3.71%), State Bank of Patiala (2.70%) and others. **Dena Bank is the only Bank in which representation of STs in all the cadres is 7.5 % or above.**

4.8.7 The respective Banks are the recruiting agencies for all the categories since 2001 and, therefore, the Commission fails to understand the low representation of Scheduled Tribes in respect of either Officer Cadre or Clerks Cadre or Sub-staff cadres. It appears that the banks have not taken effective steps to fill up the backlog vacancies reserved for Scheduled Tribes. **The Commission re-iterates its earlier recommendation that the Department of Economic Affairs (Banking division) should oblige the banks to devise a time bound programme to make up the shortfall / backlog of ST vacancies by launching Special Recruitment Drive or by deputing special recruiting teams in the tribal areas or both.**

4.8.8 The Commission also recommends that Department of Financial Services, Ministry of Finance should take special note of the efforts of the Dena Bank for achieving and maintaining the reservation percentage in respect of STs in all categories as a model employer.

(D) Representation of Scheduled Tribes in Public Sector Insurance Companies

4.8.9 The information relating to representation of STs in Public Insurance Companies as on 01.01.2010 was provided by the Ministry of Finance, Department of Financial services vide their letter No. 5/7/2010-SCT(B) dated 19.08.2010. The Group wise representation of STs in these Companies is as given in the table below:

S No.	Name of Insurance Company	Group	Total employees	(As on 01.01.2010)	
				ST employees	% age
(1)	(2)	(3)	(4)	(5)	(6)
1	Insurance Regulatory and Development Authority , Hyd.	Group A&B	60	1	1.60
		Group C	0	0	0.00
		Group D	33	2	6.00
		Total	93	3	3.00
2	Life Insurance Corporation of India, Mumbai	Group A&B	49788	3261	6.55
		Group C	64737	4660	7.20
		Group D	2421	176	7.27
		Total	116946	8097	6.92
3	General Insurance Corporation of India, Mumbai	Group A&B	274	13	4.74
		Group C	131	12	9.16
		Group D	34	1	2.90
		Total	439	26	5.92
4	National Insurance Company Ltd., Kolkatta	Group A&B	6686	304	4.55
		Group C	7239	494	6.82
		Group D	2047	165	8.06
		Total	15972	963	6.03
5	The New India Assurance Company, Mumbai	Group A&B	7996	390	4.88
		Group C	9090	704	7.74
		Group D	2461	198	8.05
		Total	19547	1292	6.61
6	Oriental Insurance Company Limited, New Delhi	Group A&B	6506	323	4.96
		Group C	6582	478	7.26
		Group D	1988	174	8.75
		Total	15076	975	6.47
7	United India insurance Company Limited, Chennai	Group A&B	6558	295	4.50
		Group C	8438	598	7.09
		Group D	2437	240	9.85
		Total	17433	1133	6.50
8	Agriculture Insurance Company Ltd., New Delhi	Group A&B	155	13	8.39
		Group C	33	5	15.15
		Group D	8	1	12.50
		Total	196	19	9.70
	Total (All Companies)	Group A&B	78023	4600	5.89
		Group C	96250	6951	7.22
		Group D	11429	957	8.37
		Grand Total all Companies – all Groups	185702	12508	6.74

4.8.10 It may be observed that the actual representation in Groups A & B combined, Group C & Group D was 5.89%, 7.22 % & 8.37 % respectively. It is worth mentioning that the representation of STs in Group A&B is much less than the prescribed percentage of 7.5%. The representation of STs in Group A&B in the United India Insurance Company is only 4.5 percent against the required percentage of 7.5.

4.8.11 However, it is appreciable that the overall representation of STs in Group C & D is satisfactory. **The Commission therefore, re-iterates its earlier recommendation that in order to enhance the representation of STs in Group A & B the Ministry of Finance should take special measures like SRD to achieve the required representation of 7.5 percent in the Insurance companies through a time bound action plan.**

(E) Representation of Scheduled Tribes in Teaching and Non-Teaching posts in Central Universities

4.8.12 The University Grant Commission provided statistical data in respect of Teaching & non-Teaching posts reserved for STs in respect of Central Universities vide their letter no. F .1-8/2008(SCT) dated 16.11.2010. The post-wise representation of STs in Teaching posts for the year 2009-10 are as given in table below:-

(i) Teaching posts

(for the year 2009-10)

S NO.	Name of the University	Professor		Reader		Lecturer		Back-log (ST)
		In Position (Sanctioned)	STs	In position (Sanctioned)	STs	In position (Sanctioned)	STs	
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
1	Hyderabad	161(106)	0	145(221)	1	51(214)	7	NA
2	Central Instt of English & Foreign Lang.	52(32)	1	52(60)	1	78(145)	9	NA
3	Assam	45(32)	0	81(94)	0	170(199)	11	NA
4	Tezpur	34(48)	0	45(64)	0	72(120)	5	NA
5	Jamia Millia Islamia	170(113)	0	186(176)	0	267(434)	14	NA
6	Jawaharlal Nehru	223(165)	3	195(287)	0	67(271)	7	NA
7	MG Antar Rashtriya Hindi Vishwavidyalaya	9 (16)	0	6(10)	0	28(43)	2	NA
8	Manipur University	50 (35)	0	63(81)	0	54(141)	6	NA
9	Mizoram University	22(43)	0	44(67)	0	147(228)	10	NA
10	Allahabad	98(70)	1	143(167)	5	79(534)	18	NA
11	Babasaheb Bhimrao Ambedkar, Lucknow	12(22)	0	20(43)	0	43(65)	3	NA
12	Banaras Hindu	635(347)	0	555(680)	0	300(1368)	21	NA
13	Visva Bharti	131(62)	0	151(128)	1	180(359)	14	NA
14	Pondicherry	79 (69)	0	96(138)	0	83(253)	10	NA
15	Aligarh Muslim University	358(173)	0	428(356)	0	360(853)	0	NA

4.8.13 It is observed from the above data that the representation of STs among the teaching staff is negligible in respect of Professors and Readers as against the required percentage of 7.5. Universities like Jamia Millia Islamia, JNU*, Banaras Hindu University, Vishwabharti University, Hyderabad University, AMU having large number of posts in the cadre of Professors, are not having even a single Professor from the ST communities. The same position prevails in the cadre of Reader also, in these Universities. **The Commission, therefore, reiterate its recommendation contained in its earlier Reports that the Ministry of Human Resource Development (Department of Higher Education) and the University Grants Commission should issue strict instructions to all the Central Universities to ensure that 7.5% reservation is provided to the Scheduled Tribes in such posts of Professor and Reader, which are filled up, as per recruitment rules, by direct recruitment. These Universities should further be asked to work out the shortfall / backlog vacancies reserved for Scheduled Tribes in such posts of Professor, Reader and Lecturer which are filled up by direct recruitment, and to chalk out a time bound programme to fill up these vacancies.**

4.8.14 The Group-wise representation in non-Teaching posts for the year 2009-10 in various Central Universities are as given in table below:-

(ii) Non-Teaching posts

(for the Year 2009-10)

S. No.	Name of the University	Group `A`		Group `B`		Group `C`		Group `D`	
		In position (Sanctioned)	STs	In Position Sanctioned)	STs	In position (Sanctioned)	STs	In position (Sanctioned)	STs
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
1	Hyderabad	72(87)	4	176(195)	5	355(426)	15	498(629)	34
2	Central Instt. of English & Foreign Lang.	21(43)	2	53(102)	4	101(189)	13	71(106)	4
3	Assam	16(22)	1	29(37)	0	140(157)	12	71(72)	6
4	Tezpur	32(37)	2	31(41)	1	82(102)	5	74(74)	3
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
5	Jamia Millia Islamia	41(65)	0	48(59)	2	618(645)	4	446(447)	2
6	Jawaharlal Nehru	69(104)	3	185(253)	7	479(558)	18	676(710)	15
7	M G A Hindi Vishwa-vidyalaya	9(13)	0	9(9)	0	35(46)	1	23(23)	0
8	Manipur University	23(34)	2	20(25)	2	178(236)	22	84(119)	17
9	Mizoram University	19(40)	0	32(80)	0	248(384)	108	0(0)	0
10	Allahabad	28(48)	0	13(21)	0	493(588)	0	624(653)	0
11	Babasaheb Bhimrao Ambedkar, Lucknow	11(17)	0	7(8)	0	47(53)	1	25(28)	0
12	Banaras Hindu	169(231)	6	200(297)	12	2035(3127)	44	2712(3568)	101
13	Visva Bharti	70(86)	1	102(114)	5	521(663)	20	510(886)	42
14	Pondicherry	54(67)	1	56(72)	2	260(299)	10	224(238)	13
15	Aligarh Muslim University	122(168)	0	791(999)	0	1557(1851)	0	2709(2896)	9

4.8.15 The above Table indicates that in all categories of posts the representation of STs is much less against the minimum requirement of 7.5 %. It is a matter of concern that the representation of STs even in Group D post is lesser than 7.5 percent and therefore, needs immediate attention.

4.8.16 **The Commission would like to reiterate its recommendation contained in its earlier Reports that the Ministry of Human Resource Development (Department of Higher Education)/ University Grants Commission should issue stringent instructions to all the defaulter Central Universities to identify the backlog vacancies reserved for Scheduled Tribes in the non-teaching posts in respect of Group 'A', 'B', 'C' and 'D' and to launch SRDs to fill them within a specified time limit.**

4.8.17 The Parliamentary Committee on the Welfare of Scheduled Castes and Scheduled Tribes (1999-2000), Thirteenth Lok Sabha, in their first report have recommended that

- i) Government should issue instructions to the Aligarh Muslim University that it is bound to implement the reservation orders for SCs and STs. The Committee also recommended that if AMU fails to implement the reservation orders the status of Central University may be withdrawn from it and payment of grants, if any, may also be stopped.
- ii) The reservation orders should be followed by the AMU in case of promotion of teaching and non-teaching staff.
- iii) Reiterated the recommendation of in their 38th Report (8th Lok Sabha) that AMU must maintain rosters for filling up vacancies reserved for SCs and STs through direct recruitment as well as through promotion so that interest of these communities could be well protected.
- iv) JMI should make special efforts to fill up vacant posts of SCs and STs in accordance with the Government guidelines which have already been adopted by the other Universities also. The Committee would like to be apprised of the action taken in the matter.
- v) In each DPC/Board and SC/ST member should, invariably be associated, if SC/ST member of comparable status is not available within JMI, then a member from other university should be included to safeguard the interest of SC/ST employees.

4.8.18 It was noticed that representation of STs in Aligarh Muslim University (AMU) and Jamia Milia Islamia (JMI), which are Central Universities, was still very low. It was understood in discussions with the UGC that the reservation policy of the Govt. of India is not binding on a minority institution like AMU. A clarification regarding the minority status of AMU and JMI was sought from the UGC. In the absence of any response from UGC, AMU and JMI were expedited for requisite clarification in the matter, and a discussion was held with the Department of Higher Education, Ministry of HRD, Chairman, UGC, VC, AMU and VC, Jamia Milia Islamia on 11.05.2010 in the Commission on this subject.

4.8.19 Govt. of India, Ministry of Human Resource Development (Dept. of Secondary & Higher Education), vide their Order No. F.No. 6-30/2005 U-5 dated 06.12.2005 have issued directions to the UGC that in exercise of the powers vested under Section 20(1) of the UGC Act, 1956, it has to ensure effective implementation of the reservation policy in the Central Universities and those of Institutions Deemed to be Universities receiving aid from the public funds **except in minority institutions** under Article 30(1) of the Constitution. JMI is not having minority status and is currently following the guidelines pertaining to reservation for the SCs and STs in admission as well as in recruitment.

4.8.20 As per Section 2(L) and Section 5(2)(c) of the AMU Act, 1920 (as amended upto date), AMU is a Minority Institution. Aligarh Muslim University is the only Central University with minority status receiving grants from the UGC in addition to other institutions, viz. colleges etc., having minority status.

4.8.21 Hon'ble High Court of Allahabad in its Judgement dated 05.01.2006 in SA No 1324/2005 stated that AMU is not a minority institution within the meaning of Article 30 of the Constitution. Further Sections 2(l) and 5(2)c introduced in the Aligarh Muslim University Act 1920 by the 1981 Amendment Act are invalid. Those insertions were struck down and also the Muslim quota of 50% in post graduate course in Department of Medicine was invalidated. Subsequently, AMU approached the Hon'ble Supreme Court against the Judgement of the Hon'ble High Court of Allahabad. Hon'ble Supreme Court in its decision dated 24.04.2006, stated that status quo as on the filing of writ petition in High Court of Allahabad should be maintained in AMU. The Council for AMU also gave an undertaking that 50% reservation to Muslims will also not resorted to.

4.8.22 **As there was no response from the Aligarh Muslim University and Jamia Milia Islamia as per the recommendations of the Commission in the discussion held on 11.05.2010, the Commission reiterates its earlier recommendations that:-**

- (i) **Jamia Milia Islamia should take necessary steps to fill up the backlog ST vacancies both in teaching and non-teaching category within a period of three months. Vacant posts of Professor and Reader identified for STs should also be filled up by adopting the correct procedure as per reservation policy. They should also arrange training of their officials regarding operation of Post Based Rosters.**
- (ii) **UGC should amend the guidelines so that ST reserved vacancies are not lapsed as expressed by the Registrar, JMI.**
- (iii) **Aligarh Muslim University, through their Executive Council should take special initiatives to recruit candidates from weaker sections of the society (especially STs) in the teaching and non-teaching category to reflect diversity in representation in these categories.**

4.8.23 A number of Minority Educational Institutions have come into existence in various parts of the country. It is difficult for the ST/SC students to get admission in these institutions as the policy of reservation for SCs/STs is not applicable to these institutions as per the provisions of the Central Educational Institutions (Reservation in Admission) Act, 2006. The difficulty is more pronounced in the case of ST students as most of them belong to remote areas and cannot afford to get quality coaching for securing admission to these institutes by competing with the students of more forward communities. There is, therefore, urgent need for review of the provisions of Central Educational Institutions (Reservation in Admission) Act, 2006. **Therefore, the Commission would like to reiterate its recommendation contained in its third Report for the year 2007-08 that the Ministry of HRD and the Ministry of Minority Affairs should consider suitable amendment in the Central Educational Institutions (Reservation in Admission) Act, 2006 to ensure that reservation for STs is made applicable in admissions to Govt. run educational institutions which have been granted minority status.**

4.9 Key Issues requiring urgent attention regarding implementation of reservation policy.

The Scheduled Castes and the Scheduled Tribes (Reservation in Posts and Services) Bill 2008

4.9.1 The Commission noted from the media reports that the Scheduled Castes and Scheduled Tribes (Reservation in Posts and Services) Bill 2008 (copy available on NCST website: <http://www.ncst.nic.in>) was being processed by the Department of Personnel and Training for presentation in the 14th Lok Sabha after it was passed by the Rajya Sabha on 23/12 /2008. The Commission observed that the Bill in its present form, varied in its contents from the earlier draft Bill viz; the SCs, STs and other Backward Classes (Reservation in Posts and Services) Bill, 2004 received from the DoPT for comments of the Commission, comments on which were furnished in December, 2004. The Commission deliberated on the SCs and STs (Reservation in Posts and Services) Bill 2008 in its meeting held on 22/02/2010 and noted that the views of the Commission have not been sought before introducing the SCs and the STs(Reservation in Posts and Services) Bill 2008 in Parliament. The, Commission, therefore, desired that the concern of the Commission in this regard may be communicated to the concerned Ministry/ Department; and it be suggested to them that the updated version of the Bill should be referred to this Commission also for comments before it is introduced in the Lok Sabha.

4.9.2 The concern of the Commission regarding the Reservation Bill 2008 were communicated⁶ to the DoPT vide letter dated 26/03/2010 with the request to intimate the final outcome of the Bill with reference to the recommendations of the Commission. The DoPT vide letter dated 12/05/2010 informed that the Bill was passed by the Rajya Sabha on 23.12.2008 and couldn't be discussed in the Lok Sabha and lapsed on the dissolution of the

⁶ NCST Letter no 13/1/NCST/2004-Admn/RU-I dated 26/03/2010

14th Lok Sabha. The DoPT also informed that the issue of introduction of a fresh Bill regarding reservation for SCs and STs was under examination; and whenever, a decision is taken to introduce the Bill, the National Commission for Scheduled Castes and the National Commission for Scheduled Tribes will be consulted before such introduction.

4.9.3 The following issues have been taken up with the Minister of State for Department of Personnel and Training vide D.O. No 4/3/08-Coord dated 30.06.2009 from the Chairperson, NCST.

(i) The Hon'ble Supreme Court of India in Appeal (Civil) No. 4026/1988 has directed to draw a separate zone of consideration in the matter of promotion by selection for SCs and STs. DoPT has, however, issued instructions vide their OM dated 15/3/2002 to follow these directions of Hon'ble Supreme Court only in the matter of ad hoc promotions of SCs and STs and not in regard to their regular promotions. This Commission has requested DoPT to issue revised instructions in compliance with the directions of the Hon'ble Supreme Court to provide a separate zone of consideration (ZoC) in respect of promotion by selection consisting of SC/ST candidates only. Despite several letters from the Commission, no action has been taken by DoPT in compliance with the directions of the Hon'ble Supreme Court; nor has the Commission been informed of anything in this regard. Besides, the concept of filling a single vacancy, reserved for STs (as per Post-Based Roster) during a recruitment year, by an unreserved candidate in a post also needs to be reviewed as it has no relevance in view of the process of replacement as per Post-Based Roster.

(ii) Rajya Sabha had passed the SCs and STs (Reservation in Posts and Services) Bill 2008 (which lapsed on dissolution of the 14th Lok Sabha), which, inter-alia, provides for ban on de-reservation in posts to be filled up by direct recruitment as well as by promotion (so far de-reservation was banned only in respect of direct recruitment posts). This means that the vacancies reserved for members of SCs/STs shall be filled respectively by members of the SCs/STs only in future. However, a large number of vacancies, reserved for STs, have been lying vacant in most of the Ministries/ Departments/PSUs/Banks/Insurance companies for a considerable period, in spite of various instructions issued by DoPT from time to time for launching of Special Recruitment Drives (SRDs) in direct recruitment as well as in promotion to fill up the backlog vacancies reserved for STs. This indicates imperative need for immediate review to evolve an effective mechanism/ initiatives to ensure timely filling of posts under SRDs to fill up the backlog ST vacancies as well as those arising in the normal course.

(iii) The Commission is of the view that certain steps need to be taken to make SRDs really effective. These may include: (i) introduction of a computerized roster management system to introduce transparency and easier manpower planning and (ii) making enabling provisions in the Recruitment Rules (RRs) (a) to go for direct recruitment if an eligible ST

candidate with required length of service is not likely to be available (in the feeder grade post) for promotion to the higher post and (b) temporarily downgrading the post to the feeder grade level and filling that downgraded post from amongst ST candidate(s). In the matter of computerization of implementation of reservation system, DoPT has since informed the Commission that the Government has not prescribed any format for maintenance of rosters; and, in the absence of a prescribed format for maintaining rosters/registers, it is not possible to develop computer software for this purpose- which seems rather odd, to say the least, since the Govt. is committed to spread of e-governance. (During the review meetings with various Organisations Commission has been informed that State Bank of India has computerised all the rosters while Cochin Port Trust and the Cochin Shipyard are in the process of computerization as part of HR Module. These Organisations were requested to confirm whether the computerization of rosters is logic driven or mere computation of data. The State Bank of India has confirmed that the computerisation of rosters is simply computerisation of data only.)

(iv) In order to assess the level of representation of STs in the service in different Ministries/Departments and to make recommendations for their proper representation, the Commission has been obtaining data in regard to representation of STs in different Ministries/Departments from the DoPT, as on 1st January of every year (to be sent to the Commission latest by 31st March of that year). Regrettably, every year this data is being furnished very late, in spite of repeated requests from the Commission. Moreover, the data furnished also doesn't cover all Ministries/Deptts. Under these circumstances, it becomes very difficult to analyse data in comparison with the preceding years to identify slippages and to suggest remedial measures. Such a position is not conducive to proper monitoring of implementation of reservation policy by the concerned Ministry/ Department, DoPT as well as the NCST.

4.9.4 DoPT's reply is still awaited. **The Commission regrets DoPT's indecision despite the matter having been taken up by the Commission time and again and at the highest level; and recommends immediate action to implement the suggestions made in the interests of transparent and effective implementation of Constitutional safeguards for Scheduled Tribes.**

4.9.5 The Commission has taken up the matter of recognition of ST welfare associations with the DoP&T *vide* DO letter No. 17/DoPT/1/2009/RU-I dated 27/07/2009. However, it was mentioned that it has not been found feasible to agree to the suggestion given by NCST regarding grant of recognition to SC/ST Welfare Service Associations under the CCS(RSA) Rules, 1993. Earlier O.M. dated 28.02.2006 from DoP&T mentioned that according to CCS(RSA) Rules, 1993 associations formed on the basis of caste can't be recognized. (Since SC/ST associations are formed on the basis of castes of the candidates, these are not recognized.)

4.10 DERESERVATION

4.10.1 Existing instructions relating to appointment to civil posts require that, the vacancies reserved for Scheduled Tribes are required to be filled from the candidates belonging to Scheduled Tribes only, both in respect of direct Recruitment and promotion⁷. In this connection, instructions have been issued from time to time for launching Special Recruitment Drive (s) for filling the reserved vacancies. However, some times, it is not possible to fill a vacancy reserved for ST candidates by promotion because of non-availability of eligible candidate in the prescribed zone of consideration in the seniority list of the feeder grade; and at the same time, it is administratively not possible to keep the post vacant indefinitely as it may adversely affect the performance of a Ministry/ Department/Organisation. Such situations arise because, very often, adequate efforts are not made while making appointment to the posts in the feeder grade (or its next below feeder grade) through direct recruitment from candidate(s) belonging to ST category.

4.11 Ban on Dereservation in Direct Recruitment

4.11.1 In view of the alarming situation due to non-appointment of Scheduled Tribes in Direct Recruitment the Govt. of India imposed a ban on de-reserving the post(s) to be filled by direct recruitment⁸. The instructions relating to ban on dereservation in Direct Recruitment provide that in exceptional cases in Group 'A' services where posts cannot be allowed to remain vacant in public interest, the administrative Ministry/Department under which the recruitment was being made shall make a proposal for dereservation giving full justification for such action and consult NCST / NCSC by obtaining comments and place the same for consideration before the Committee comprising the Secretaries in the (i) Ministry of Personnel & Training (ii) Ministry of Welfare (now the Ministry of Social Justice Empowerment or the Ministry of Tribal Affairs, as the case may be) and (iii) the administrative Ministry under which recruitment was being made. The recommendations of the Committee are required to be placed before the Minister in-charge of DoPT for a final decision.

4.12 Procedure for Dereservation of posts to be filled by promotion

4.12.1 Since inadequate appointment through Direct Recruitment in the past caused non-availability of ST candidates for promotion, the Government of India, made it permissible to dereserve a vacancy in a post reserved for Scheduled Tribes subject to adherence to stipulated procedure while making appointment by promotion.

4.12.2 An elaborate procedure was prescribed by DoPT vide OM No. 36011/20/79-Estt.(SCT) dated 02/11/1979 for dereserving a reserved vacancy and filling the same by a candidate other than ST while making promotion, also

⁷ Ministry of Home Affairs Resolution No. 42/21/9/NGSad 13.9.1950

⁸ Department of Personnel & Training OM No. 16012/6/88-Estt.(SCT) dated 25.04.1989

ensuring that the rights of Scheduled Tribes, temporarily curtailed by the process of dereservation due to non-availability of eligible ST candidates in the feeder grade in a recruitment year, are restored to them in the next or subsequent recruitment year by carrying forward the reserved point for ST from the previous year. Thus, an additional vacancy out of the vacancies occurring in the next or subsequent recruitment year is reserved for the Scheduled Tribes and is filled by promotion from amongst eligible ST candidates. In case the eligible ST candidate is not available in the next recruitment year, the same procedure of dereservation and filling the carried forward reserved point in the next recruitment year has to be followed.

4.12.3 DoPT, vide OM No. 16/27/74-Estt. (SCT) dated 12/11/1975, inter- alia, provide that the Liaison Officers(SCs/STs) should ensure proper working of service safeguards for SCs/STs and that they should concur in the proposals of dereservation after carefully examining them with reference to the DoPT's instructions on dereservation. DoPT, vide OM No. 28/14/74/Estt. (SCT) dated 12/07/76, OM 36011/25/79-Estt (SCT) dated 16/11/79 and OM 36012/17/2002/Estt. (Res.) dated 06/11/2003 has streamlined the procedure for submission of proposals for dereservation. However, in view of a number of subsequent developments like replacement of vacancy-based rosters by post-based rosters, creation of separate Commissions viz; National Commissions for the Scheduled Castes and the National Commission for Scheduled Tribes respectively in place of erstwhile NCSCST, ban on exchange of reservation between SCs and STs have taken place, it became necessary to modify the proforma for seeking de-reservation. Department of Personnel and Training Vide OM No. No. 3602012/2007-Estt (Res) dated 7th December 2009 issued revised instructions and revised proforma for sending the dereservation proposal. A copy of this OM is placed at **ANNEXURE 4.I**.

4.12.4 As per these instructions, the administrative Ministries and Deptts. have been delegated the power to accord approval to the dereservation of reserved vacancies subject to the following conditions:

- (i) There is no eligible SC/ST candidate available or likely to be shortly available for promotion in the feeder cadre;
- (ii) A copy of the proposal for dereservation in the appropriate prescribed proforma is sent immediately to (i) the Department of Personnel and Training and (ii) the National Commission for Scheduled Tribes in case of post reserved for ST or the National Commission for Scheduled Caste in respect of post reserved for SC as the case may be and thereafter the concerned Deptt. is required to wait for a period of 15 days before going for dereservation;
- (iii) The proposal for dereservation has been seen and concurred with by the Liaison Officer of the Ministry/Department concerned;
- (iv) The proposal for dereservation has been agreed to at a level not lower than that of the Joint Secretary to the Government of India in the administrative Ministry/ Department (Proper) concerned;
- (v) In the event of a disagreement between the appointing authority and the

Liaison Officer, the advice of the DoPT has been obtained;

- (vi) The proposal contains a certificate that it is being made with the full knowledge and concurrence of the Liaison Officer of the Ministry/ Department concerned.

4.12.5 The above cited instructions further require that the proposal for dereservation of reserved vacancies in respect of posts under attached/ subordinate offices etc. should not be sent directly. Such proposals should be sent to the administrative Ministry/ Department who will examine the proposals and send them to the Department of Personnel & Trg. and NCST / NCSC after satisfying itself that the prescribed procedure has been followed.

4.13 Examination of dereservation proposals

4.13.1 Since dereservation in promotion has not been banned, the National Commission for Scheduled Tribes receives a large number of proposals for dereservation in promotions. The National Commission for Scheduled Tribes received 52 proposals for 112 posts from various Ministries/ Departments for dereservation during the year 2009-10. A list of such proposals is placed at **ANNEXURE 4. II**. A few salient cases received for dereservation are given at **ANNEXURE 4. III**. As will be clear from these lists, only a few Ministries/ Departments have sent the proposals for de-reservation. Therefore, nothing can be said about other Ministries/Departments as to whether the reservation policy was being implemented in letter and spirit.

4.13.2 As mentioned earlier in the 3rd and 4th Report of the National Commission for Scheduled Tribes, most of these proposals reflect one of the following two situations:-

- (i) The mode of filling a post or chain of posts in a cadre is 100% by promotion from the feeder grade post(s) and there is no ST candidate in the feeder grade and also in the next below feeder grade post(s). This situation might occur either because reservation instructions were not followed for years together while making Direct Recruitment to the lowest grade feeder post(s) or due to non-availability of ST candidates. Consequently, as no ST candidate is available for several years for making appointment by promotion against reserved points in various grades of posts in the channel for promotion, the concerned Ministry/ Department/ Organisation frequently resorts to dereservation. This leads to the situation in which "carried-forward" reserved points would never be filled in the absence of ST candidates in the feeder posts and suitable provisions in the RRs that a certain percentage of posts be filled up through direct recruitment. This situation also results in non-filling up higher promotion posts reserved for ST by the ST candidates.
- (ii) The eligible ST candidates are not available even after enlarging the zone of consideration (ZoC), upto five times the total number of vacancies to be filled in one recruitment year. In many cases, candidates fulfilling the eligibility conditions for promotion are available outside the extended ZoC.

4.13.3 From the perusal of the proposals for de-reservation received in the Commission, it is felt that the ban on de-reservation in Direct Recruitment applied in the year 1989 has not been followed in letter and spirit by various Ministries and Departments as non-availability of ST candidates amongst a long seniority list of the feeder grade/initial grades of cadres continues to be the main reason for seeking de-reservation in promotion. On the one hand reservation has not been applied at Direct Recruitment stage in the initial/feeder grade; and on the other hand, there is no provision for Direct Recruitment, or transfer on deputation, in the method of promotion to the higher grade. **The National Commission for Scheduled Tribes is, therefore, of the view that de-reservation should be banned totally; and each cadre controlling/ recruiting authority should ensure the following for implementation of policy of reservation for Scheduled Tribes in posts/ services.**

- (i) **Recruitment Rules for each post must specifically mention about applicability of reservation for Scheduled Tribes, Scheduled Castes and OBCs (where admissible).**
- (ii) **Recruitment Rules should provide elements of Direct Recruitment as well as deputation/transfer on deputation, beside promotion, instead of 100% by promotion (or, at least provision for relaxation of the same for filling up ST vacancies), so that deficiencies due to non-availability of reserved category candidate(s) in the seniority list of the feeder grade may be made up through Direct Recruitment or deputation/transfer on deputation as the case may be. As per DoPT O.M. No. AB.14017/30/89-Estt.RR dated 10.07.1990, reserved vacancy can be temporarily transferred from one mode of recruitment to other and this relaxation of RRs can be exercised by Ministries/Departments themselves subject to approval of UPSC.**
- (iii) **As per instructions of the Supreme Court of India separate list of eligible ST and SC candidates, fulfilling the prescribed conditions relating to educational and experience qualification may be prepared for filling the posts reserved for Scheduled Tribes and Scheduled Castes respectively.**
- (iv) **No exchange of vacancies be permitted between ST, SC or OBC or vice-versa.**
- (v) **In case of non-availability of ST/SC candidates in the feeder grade, in the near future, the post may be filled by deputation of ST candidates from other Organisations and the reserved point in promotion to be carried forward as shortfall/ backlog vacancy till such time the eligible ST/SC candidates becomes available for promotion.**
- (vi) **In case of non-availability of ST/SC candidates, at all, in the feeder grade the post(s) could be filled by Direct Recruitment from the candidates belonging to the concerned reserved category to the extent of shortfall/backlog. This may be done by resorting to Special Recruitment Drive.**

4.14 Recommendations.

4.14.1 The National Commission for Scheduled Tribes made certain recommendations in its earlier Reports with regard to de-reservation. Since no information is available about action taken on those recommendations, by way of OM's issued by Department of Personnel and Training or any other reference from the DoPT or the Ministry of Tribal Affairs, and in view of the above observations of the Commission, the Commission makes the following recommendation (including re-iteration of its earlier recommendations):-

- (i) There should be total ban on dereservation of posts reserved for Scheduled Tribes to be filled by any method i.e. whether Direct Recruitment or promotion in all Ministries/Depts./Organisations except those where reservation is exempted..**
- (ii) The ban on dereservation in Direct Recruitment should be monitored strictly as many Ministries/Depts./Organisations including DoPT have failed to appoint Scheduled Tribes candidates against Direct Recruitment posts/ grades of general nature, for which there should be no paucity of qualified/ eligible ST candidates.**
- (iii) Recruitment Rules in r/o each post must specifically mention about applicability of reservation for Scheduled Tribes, Scheduled Castes and OBCs (where admissible).**
- (iv) There should be total ban on dereservation in general, excluding certain exceptional categories of posts. The exceptional posts should be decided in consultation with the Ministry of Tribal Affairs as well as National Commission for Scheduled Tribes also.**
- (v) No exchange of vacancies be permitted between ST, SC or OBC or vice-versa.**
- (vi) Instead of seeking dereservation of the post, provisions of the DoPT OM No. 36011/14/83-Estt.(ST) dated 30/04/1983 relating to consideration of cases of ad-hoc promotion of SC/ ST employees should be applied in the matter of promotion of ST candidates against reserved posts. The relaxation in period of ad-hoc appointments upto 3 years agreed in respect of Group 'C' and 'D' posts vide DoPT OM No. 28036/01/2007-Estt(D) dated 14/11/2007 may be allowed, with suitable amendments, in case of ad-hoc promotion of ST candidates appointed against all categories of posts reserved for Scheduled Tribes.**
- (vii) To check various issues and problems connected with de-reservation and to ensure accomplishment of the targets of achieving required percentage of reservation for Scheduled Tribes in all categories of posts, the DoPT OM No. 36011/14/83-Estt.(ST) dated 30/04/1983 may be revised to prescribe drawing of separate lists of eligible ST/ SC candidates in respect of all kinds of promotion on regular as well as ad-hoc basis in all categories of posts.**

- (viii) If no ST candidate is likely to become available for a long time, steps should be taken to fill the reserved post from ST candidates through direct recruitment by amending the RRs if the existing RRs do not provide for the same or relaxing them, instead of seeking de-reservation of the post.
- (ix) Action should simultaneously be taken to amend the RRs for each post to provide for element of direct recruitment in all cases where appointment is being made 100% by promotion, by incorporation of 'failing which' clause, or, at least provision for relaxation of the same for filling up ST vacancies.
- (x) In normal course Recruitment Rules should provide elements of Direct Recruitment as well as deputation/transfer on deputation, beside promotion, instead of 100% by promotion, so that deficiencies due to non-availability of reserved category candidate(s) in the seniority list of the feeder grade may be made up through Direct Recruitment or deputation/transfer on deputation as the case may be. In this connection, DoP&T O.M. No. AB.14017/30/89-Estt.RR dated 10.07.1990 also provide that reserved vacancy can be temporarily transferred from one mode of recruitment to other and this relaxation of RRs can be exercised by Ministries/Departments themselves subject to approval of UPSC.
- (x) As per instructions of the Supreme Court of India separate list of eligible ST and SC candidates, fulfilling the prescribed conditions relating to educational and experience qualification may be prepared for filling the posts reserved for Scheduled Tribes and Scheduled Castes respectively.
- (xii) In case of non-availability of ST/SC candidates in the feeder grade, in the near future, the post may be filled by deputation and the reserved point to be carried forward as shortfall/ backlog vacancy till such time the eligible ST/SC candidates becomes available for promotion.
- (xiii) In case of non-availability of ST/SC candidates, at all, in the feeder grade the post(s) could be filled by Direct Recruitment from the candidates belonging to the concerned reserved category to the extent of shortfall/backlog. This may be done by resorting to Special Recruitment Drive.

CHAPTER 5

ATROCITIES AGAINST SCHEDULED TRIBES

5.1 Constitutional and Legal Rights of Scheduled Tribes

5.1.1 The Scheduled Tribes are the most disadvantaged segment of the weaker sections of our society. Atrocities are committed on them on account of their economic dependence, educational backwardness and social discrimination. For ensuring all-round development of Scheduled Tribes and to protect them from all types of exploitation, a number of safeguards have been provided in the Constitution of India. Under Article 15 no citizen shall on grounds only of religion, race, caste, sex, place of birth or any of them, be subject to any disability, liability, restriction or condition with regard to (a) access to shops, public restaurants, hotels and places of public entertainment; or (b) the use of wells, tanks, bathing ghats, roads and places of public resort maintained wholly or partly out of State funds or dedicated to the use of general public. "Untouchability" stands abolished under Article 17 and its practice in any form is forbidden and punishable under law. Traffic in human beings and forced labour is prohibited under Article 23 of the Constitution of India. The Minimum Wages Act, 1948, provides for fixing minimum wages for different types of labour and the Bonded Labour System (Abolition) Act, 1976, provides for abolition of the bonded labour system and for release and rehabilitation of freed bonded labourers.

5.1.2. Special enactments have been made by the Central and State Governments to protect SC and ST from all forms of exploitation. There are two important legislations related to Article 17, viz., The Protection of Civil Rights Act, 1955 (PCRA), and The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (PAA). Initially the Untouchability (offences) Act, 1955, had been enacted to abolish the practice of untouchability and social disabilities arising out of it against members of the Scheduled Castes. It was amended in 1977 and renamed as the Protection of Civil Rights Act, 1955. Under the revised Act the practice of untouchability was made both cognizable and non-compoundable and stricter punishment was provided for the offenders. This Act is applicable in matters of discrimination on ground of untouchability with any person belonging to any community.

5.1.3. A more comprehensive and punitive Act was enacted to protect the members of SCs & STs from atrocities through the SCs & STs (POA) Act, 1989, which came into force on 30.01.1990. The offences under this Act are mainly related to patterns of behavior which shatter the self-respect and self-esteem of the Scheduled Tribes, denial of economic rights, denial of democratic honour, deliberate abuse of the legal and/ or administrative process, assault and/ or exploitation of woman, damage and/ or destruction of property and heinous offences against person and property already covered under Indian Penal Code carrying a sentence of ten years or more. Willful negligence by public servant in

performing their duties required to be performed under the Act has also been made a punishable offence. The offences under this Act are cognizable, non-bailable and trial is to be conducted by Special Court set up under the Act.

5.1.4. In exercise of the powers conferred by Sub Section (1) of Section 23 of the said Act, the Central Government made the Scheduled Caste and the Scheduled Tribes (Prevention of Atrocities) Rules, 1995 which were notified on 31.03.1995. The Rules assigned certain duties to be performed by the District Magistrate, District Superintendent of Police and State Government. The Rules, inter-alia, prescribe the amount of economic assistance and mode of rehabilitative measures to be taken by State Government for providing socio-economic rehabilitation of the victims and/ or their family members.

5.1.5. The above said Act is not only a penal policy measure. It has been made mandatory for the State Government to ensure prevention of atrocities and to assist the victims. Legal aid, traveling and maintenance allowance during investigation and trial have now to be provided. Identification of atrocity-prone areas and adoption of safety and preventive measures is to form a part of the scheme. Periodic surveys providing social audit of the working of the Act are also mandatory. An Annual Report on the administration of the Act has to be placed every year on the table of each House of Parliament by the Central Government. Ministry of Social Justice & Empowerment which is the Nodal Ministry with respect of this Act has been laying Annual Reports in Parliament and the latest report that has been laid in the Parliament relates to the year 2008.

5.1.6. Responsibility in regard to implementation of the Act is allocated as under: -

Ministry of Home Affairs

Criminal offences against members of the Scheduled Castes and Scheduled Tribes, including those under the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989. (Administration of criminal justice).

Ministry of Social Justice & Empowerment

Implementation of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, (in so far as they relate to Scheduled Castes) excluding the administration of criminal justice in regard to offences under the Act.

Ministry of Tribal Affairs

Implementation of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, (in so far as they relate to Scheduled Tribes) excluding the administration of criminal justice in regard to offences under the Act.

5.1.7 Ministry of Home Affairs is thus the Nodal Ministry for crime relating to atrocities on Scheduled Tribes. National Crime Record Bureau (NCRB), an organization under MHA, monitors data relating to various categories of crimes

in India. This data also include information about crimes against STs and the cases of atrocities on STs registered in various States and UTs, by Police are entered online on the website of the NCRB. The latest available information relates to the year 2008.

5.2 Mandate of the Commission and Atrocities on Scheduled Tribes

5.2.1 The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 or the Rules made thereunder do not provide any specific role for this Commission in this respect. Rule 16 of the SCs & STs (PoA) Rules 1995 however, make it mandatory to associate the Director/ Dy. Director of the Regional office of the Commission as member of the State level Vigilance Committee to monitor cases of atrocities on STs under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

5.2.2 The duties assigned to the Commission by Clause 5 of Article 338A of the Constitution include investigation and monitoring of all matters relating to the safeguards provided for the Scheduled Tribes under the Constitution or under any other law for the time being in force or under any order of the Government, and to evaluate the working of such safeguards and inquire into specific complaints with respect to the deprivation of rights and safeguards of the Scheduled Tribes. These matters and complaints also include atrocities on STs.

5.3 Procedure adopted by Commission in dealing with atrocity-related complaints

5.3.1 The Commission has formulated standard guidelines for dealing with atrocity-related complaints in a time-bound manner. The guidelines require the authorities of the State Governments/UT Administrations to be asked to furnish, within a stipulated period of 30 days (10 days in respect of offences relating to serious nature) report on the complaints. The concerned authorities are advised to take necessary steps e.g. timely registration of FIR under relevant sections of (PoA) Act, alongwith the applicable sections of IPC, filing of charge-sheet within stipulated time period and grant of relief and rehabilitation to the victims and their family members. The guidelines further lay down that the report received from the State authorities should be examined in an objective manner and on-the-spot inquiry should be conducted if found necessary. A hearing may be held in this Commission if the report is not received or reply received from the concerned authority is not found to be satisfactory.

5.4 Analysis of complaints received in the Commission

5.4.1 The Commission receives complaints from various sources regarding atrocities on STs. More than 200 complaints about offences of atrocities were received by the Commission during the year 2009-10. The complaints were referred to the concerned States/UTs calling for their comments and action taken reports within 30 days. It has been observed that no response to the communications of the Commission was received from the States/UTs in

more than 20% of the cases despite reminders. Even in the cases in which replies were received, complete details e.g. date of FIR, date of filing of chargesheet, payment of monetary or other relief and status of the case after chargesheet were not furnished to the Commission in most of the cases. Information about the time taken by police in completion of investigation was missing in almost all the reports received from States/UTs.

5.4.2 The Commission has observed that:

- (i) In some cases, the reports have not been found to be comprehensive with specific comments on the issues raised in the representations/communications forwarded by the Commission. This has resulted in non-availability of requisite input to the Commission to analyze the case with reference to the requirement of PoA Act at different stages and also in avoidable delay in examination of the cases by the Commission.
- (ii) Where the complaints have been made against the police personnel, it is necessary that such reports should pass through internal verification mechanism in the police deptt. However, in almost all cases, such verification is missing.
- (iii) The Commission has also noted that abnormal delay in spot investigation, prosecution after FIR, filing of charge sheet as well as payment of relief and rehabilitation to the victims is evident in many cases.
- (iv) The complainants should be given adequate and fair opportunity to present their case. In some cases, the ST complainants have not been heard during the process of investigation by the Police.

5.4.3 With a view to analyzing the action being taken by States/UTs in implementing the provisions of PoA Act and PoA Rules, 224 case reports received in the Commission containing information about date of FIR, date of filing of chargesheet, invoking of provisions of PoA Act in FIR/ chargesheet, payment of monetary relief, etc. were scrutinized. **(ANNEXURE 5.I)**

5.4.4 Out of 224 cases, reply has not been received as yet in respect of 12 cases. Out of the remaining 212 cases, replies within the stipulated period of 30 days were received in only 65 cases. Despite reminders, replies in 65 cases were received after a period of 1 to 3 months, whereas more than 3 months' time was taken by the States/UTs in furnishing replies in respect of 63 cases. Reply in 19 cases were abnormally delayed for more than a year. It would, therefore, be observed that the communications from the Commission are not given due priority by the States/UTs.

5.4.5 The Commission has noted that out of the total 212 cases analyzed complete information has not been received in respect of most of the cases while partial information has been received in respect of 159 out of 212 cases. FIRs had already been registered in 135 cases before the complaints were received in the Commission but the complainants were perhaps not informed about registration of the FIR by the police when they submitted the representation to the Commission. In only 24 cases, FIRs were registered after

the complainants approached the Commission. It shows that the cases are not disposed of in time by the police after registering FIRs as a result of which the aggrieved ST persons approach the Commission requesting it to plead their cases with the concerned authorities for ensuring effective and timely redressal of their grievances. It is thus clear that the investigation of cases is not properly monitored at the senior levels in the police department. It is also possible that the provision of appointment of the Investigating Officer of the level of Dy. Supdt. of Police as contained in Rule 7(1) of PoA Rules is not being strictly followed by the States/UTs and police officers below the level of Dy. Supdt. of Police are being entrusted with investigation of cases. **The Commission therefore re-iterates its earlier recommendations contained in 4th Annual Report for the year 2008-09 that the above provision in Rule 7(1) of the PoA Rules should be strictly complied with by the State/UTs and investigation of atrocity cases should be closely monitored by the Supdt. of Police and higher officials.**

5.4.6 From the statement, it is apparent that the provisions of PoA Act were invoked in FIRs as well as charge-sheets in 49 cases out of the total 212 cases under scrutiny; while in 32 cases, these provisions were invoked in the FIR but not incorporated in the chargesheets. PoA Act was not invoked in 17 cases.

5.4.7 In accordance with the provisions contained in Rule 7(2) of the PoA Rules, investigation of an offence of atrocity is required to be completed within thirty days by the Investigating Officer. This provision is aimed at ensuring the expeditious filing of chargesheets in courts in atrocity cases. The scrutiny of the above mentioned 224 cases in the Commission shows that chargesheet were not filed in 53 cases whereas dates of filing of chargesheets were not indicated in 4 cases. Information is not available in respect of other cases:

5.4.8 It would be observed from the position indicated above that chargesheets are not being filed in the courts in time in majority of the cases of atrocities, which causes delay in providing desired relief/justice to the aggrieved persons.

5.4.9 The norms for providing relief in cash or in kind or both in terms of provisions of Rule 12(4) of PoA Rules have been laid down in the Schedule to the PoA Rules. These norms provide that in cases involving offences like outraging the modesty/sexual exploitation of a woman 50% of the total monetary relief of Rs.50,000/- should be paid after medical examination of the victim. Similarly, in the cases relating to offences like disability of the victim and bonded or forced labour monetary relief of 50% and 25% respectively of the admissible amount should be paid at FIR stage. In cases of death/murder, 75% of the relief amount is to be paid after postmortem. Out of the 224 cases under scrutiny, information about providing any relief to the victims of atrocities in 106 cases has not been provided by the States/UTs and no relief was paid in 205 cases. In only 2 cases monetary relief was paid at the FIR stage, whereas in 17 cases payment of relief was made after filing of chargesheets. Information about date of payment of relief is not available in respect of remaining cases. **The Commission therefore re-iterates its earlier recommendations contained in**

4th Annual Report for the year 2008-09 that the State level and District level Vigilance & Monitoring Committees should closely review the implementation of provisions regarding payment of monetary relief to the victims of atrocities strictly in accordance with the norms laid down under PoA Rules.

5.4.10 The issues indicated in paragraph above were also discussed in the Review Meetings organized with the representatives of the Governments of Rajasthan, Andhra Pradesh, Chhattisgarh, Tamil Nadu, Madhya Pradesh, Orissa, Jharkhand and the NCT of Delhi during the period under Report. For the sake of completeness of the matter, the gist of discussions and important observations/ recommendations of the Commission in the Review Meetings were incorporated in the 4th Report of the Commission.¹

5.5 Crime head-wise analysis of Crimes against Scheduled Tribes

5.5.1 As per data compiled by National Crimes Record Bureau, the incidence of Crimes including Atrocities committed on the members of the Scheduled Tribes by non-Scheduled Tribes during the year 2008 in the country is given below:

Comparative Incidence of Crime against Scheduled Tribes

S.NO	Crime – Head	Year					
		2004	2005	2006	2007	2008	% age Variation in 2008 over 2007
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
1.	Murder	156	164	195	140	128	-8.6
2.	Rape	566	640	699	627	585	-6.7
3.	Kidnapping & Abduction	79	72	88	89	93	4.5
4.	Dacoity	40	27	12	9	14	55.5
5.	Robbery	50	49	29	21	18	-14.3
6.	Arson	33	38	46	54	49	-9.2
7.	Hurt	767	767	838	855	873	2.1
8.	Protection of Civil Rights Act	11	162	49	5	6	20.0
9.	SC/ST (Prevention of Atrocities) Act	1175	1283	1232	1104	1022	-7.4
10.	Others	2658	5211	2603	2603	2794	6.3
	Total	5535	5713	5791	5532	5582	0.9

Source: NCRB Report 2008

5.5.2 It is noticed from the above Table that a total of 5,582 cases of crimes against Scheduled Tribes were reported in the country during 2008 as compared to 5,532 cases in 2007, showing an increase of 0.9% in 2008 over

¹ Copy of the record of discussions is available on the website of the Commission

2007. The increase was observed in all heads except Murder, Rape, Robbery, Arson and cases under the SC/ST (Prevention of Atrocities) Act. Crime-wise analysis of the incidence of crime against Scheduled Tribes is discussed below:

Murder

5.5.4 A total of 128 cases of Murder of Scheduled Tribes were reported in 2008 as compared to 140 cases in 2007, showing a decline of 8.6%. Madhya Pradesh with 14.51 % of the tribal population of the country has reported 35.2% (45 cases) of the total cases reported in the country.

Rape

5.5.5 A total of 585 cases were reported in 2008 as compared to 627 cases in 2007 showing a decline of 6.7% in 2008. Madhya Pradesh has reported the highest number of cases (234) accounting for 40.0% cases of the total cases in the country.

Kidnapping & Abduction

5.5.6 The incidents of Kidnapping & Abduction have slightly increased by 4.5% in the year 2008 over the previous year (2007) when 89 cases were reported. Madhya Pradesh has reported highest (20) number of cases followed by Assam and Gujarat (13 cases each). These three States taken together accounted for 49.5% of the total cases reported in the country.

Dacoity

5.5.7 A total of 14 cases were reported in the country during 2008 as compared to 9 cases in the year 2007 showing an increase of 55.5% over the previous year. 5 out of 14 cases were reported from Assam and 3 cases each were reported from Gujarat and Maharashtra. 1 case each was reported from Chhattisgarh, Jharkhand and Madhya Pradesh.

Robbery

5.5.8 A total of 18 cases were reported during 2008 as compared to 21 cases in 2007. Orissa has reported 44.4% (8 cases) and Assam 33.3% (6 cases) of the total cases reported in the country.

Hurt

5.5.9 A total of 873 cases were reported during 2008 as compared to 855 cases in 2007 showing an increase of 2.1% in 2008. Madhya Pradesh, by reporting 169 cases, has accounted for the highest (19.4% of total) number of cases reported in the country followed by Rajasthan (130 cases i.e., 14.9%). The crime rate was highest at 3.2 in Arunachal Pradesh as compared to National average of 0.1.

Arson

5.5.10 A total of 49 cases were reported in 2008 as compared to 54 cases in 2007 showing a decrease of 9.2%. Madhya Pradesh has accounted for 22.4% (11 cases) of total such cases reported in the country.

Protection of Civil Rights Act, 1955

5.5.11 A total of 6 cases were reported during 2008 as compared to 5 cases in 2007 showing an increase of 20.0% over 2007. Andhra Pradesh has reported 5 cases and one case was reported from Gujarat.

The SC & ST (Prevention of Atrocities) Act, 1989

5.5.12 A total of 1,022 cases were reported in 2008 as compared to 1,104 cases in 2007, showing a decline of 7.4%. Andhra Pradesh with 5.96% of the tribal population of the country has accounted for 25.2% (258 cases) of the total cases reported in the country followed by Karnataka (172). Chhattisgarh reported the highest crime rate (incidence of crime per lakh of population) at 0.6 as compared to 0.1 at the National level.

5.6 State-wise incidence of crimes against Scheduled Tribes

5.6.1 A statement giving State/UT-wise details about incidence & rate of the Crimes committed against the Scheduled Tribes during 2008, as per National Crime Records Bureau Report for 2008, is available at **ANNEXURE – 5.II**. The statement reveals that Madhya Pradesh has reported 19.2% (1,071) followed by Rajasthan, viz. 18.6% (1,038) of the total cases reported in the country. However, the crime rate reveals that the rate of crime against Scheduled Tribes was highest in Arunachal Pradesh at 5.2 as compared to only 0.5 at National level. Next highest crime rate was 2.6 in Chhattisgarh State followed by 2.0, 1.6, 1.5 and 1.3 in Sikkim, Rajasthan, Madhya Pradesh and Orissa State respectively. It is further noted that the crime rate was highest in the State of Arunachal Pradesh during the year 2005 as well as 2007, while during the year 2006, Nagaland had the highest crime rate and Arunachal was in 4th place. This may be occasioned by the fact that Arunachal Pradesh as well as Nagaland, like other NE States, are tribal majority States, the ST population as per 2001 Census being 64.2% in Arunachal Pradesh and 89.1% in Nagaland.

5.7 Disposal of Cases by Police during 2008

5.7.1 As per NCRB data, the average charge-sheeting rate for the crimes against the Scheduled Tribes stood at 96.0% in comparison to National level general charge-sheeting rate of 79.8% for IPC crimes and 94.6% for Special and Local Laws crimes. In respect of PoA cases, the average charge-sheeting rate was 73.52%. The crime head-wise details of crimes against Scheduled Tribes disposed by the Police are presented in **ANNEXURE 5.III** and the State/UT-wise details of these crimes against Scheduled Tribes disposed by the Police is given at **ANNEXURE 5.IV**.

5.7.2 It is noted from the State-wise statement at ANNEXURE 5.IV that 26% of the cases in the country were pending for investigation by the Police at the end of the year 2008. However, 13 States and 2 UTs were having more than 26% pendency; Goa, Meghalaya and Daman & Diu had 100% pendency followed by 96.7% in Manipur, 70.5% in Assam, 66.7% in West Bengal, 64.6% in Bihar, 60% in A & N Islands, 56.3% in Sikkim and 53.8% in Jharkhand. Daman &

Diu had 2 cases pending at the end of 2007, which remained pending at the end of 2008 also while no new case was registered during the year. The same is the position in respect of Meghalaya State, as 1 case that was pending at the end of 2007 remained pending for investigation at the end of 2008 also. Goa had no pendency and only 1 case was registered during 2008 and the same remained pending at the end of year. In respect of Manipur State, 29 cases pending at the end of 2007 continued to remain pending at the end of 2008, along with the sole case registered during 2008. The States with very high rate of disposal of investigation by Police are Himachal Pradesh (100%), UP (100%), Madhya Pradesh (96%), Gujarat (93.7%), Arunachal Pradesh (90.6%), Tamil Nadu (90%), Rajasthan (89.7%) and Chhattisgarh State (88.8%). Other States with high rate of disposal are D & N Haveli (75%), Karnataka (74.5%), Maharashtra (69.9%), Andhra Pradesh (66.8%), Tripura (66.7%), Kerala (63.5%) and Orissa (57.7%).

5.7.3 In terms of actual number of cases disposed by the police it is noted that 5582 cases were registered during the year 2008 while 1621 cases were pending for the investigation at the end of the previous year 2007, making a total of 7203 cases to be investigated by the police during the year 2008. Out of these 7203 cases a total of 4104 cases i.e. 56.98 % cases, were charge-sheeted in the courts in all the States taken together during the year 2008. As regards State-wise position, the only case brought forward from previous year was to be investigated in Himachal Pradesh State as no new case was registered during the year and the same was charge-sheeted during the year. The charge-sheeting rate was more than 80% in three States i.e. Madhya Pradesh (93.96%), Gujarat (90.71%), Chhattisgarh (83.4%), followed by Arunachal Pradesh (78.12%), U.P. (77.7%), Tamil Nadu (70.0%), Tripura (66.6%) and Maharashtra (63.53%). The charge-sheeting rate was between 50% to 60% in the States of Karnataka, Orissa and UT of D&N Haveli. The States of Andhra Pradesh, Jharkhand and Rajasthan, which also have Scheduled Areas, have on the one hand high incidence of crime against Scheduled Tribes but low rate of charge-sheeting viz; 40.5%, 34.7% and 40.41% respectively. No cases were registered and charge-sheeted in the UTs having ST population i.e. Daman & Diu, Lakshadweep and Puducherry in the year 2008.

5.8 Disposal of Cases by Courts during 2008

5.8.1 The average conviction rate for crimes against the Scheduled Tribes stood at 27.2% as compared to overall conviction rate of 42.6% relating to IPC cases and 83.5% relating to SLL cases. The statement giving crime head-wise details of crimes against Scheduled Tribes disposed by the courts are presented in **ANNEXURE 5.V** and the State/UT-wise details of crimes against Scheduled Tribes disposed by the courts is given in the statement at **ANNEXURE 5.VI**.

5.8.2 Looking at the information relating to completion of trial in cases of crimes against Scheduled Tribes in various States during the year 2008, various Courts in the country had 19556 cases for disposal during the year. Out of these, 289 cases were either compounded or withdrawn. The remaining cases for trial

during the year were 19267. A total of 3742 cases (19.42% of 19267) only were disposed by the Courts. Out of these 3680 cases 1018 cases only ended in conviction while bulk of the other cases led to acquittal of the accused. The States of Arunachal Pradesh, and Meghalaya, and UTs of A&N Islands, D & N Haveli, Daman & Diu as well as Lakshadweep have 100% pendency at the end of the year 2008 as no case was disposed by the Courts in these States and UTs. Sikkim and Tripura States had pendency of 46.7% and 44.8% respectively, while most of the other States including those with Scheduled Areas/ areas of high tribal concentration are having pendency of about 70% and above.

5.9 Performance by Special Courts setup for trial of offences under PoA Act.

5.9.1 Section 14 of the POA Act, 1989 provide for designating Courts of Sessions in the Districts as Special Courts for trial of offences registered under this Act. While some States designated the existing Sessions Courts or Additional Session Courts as Special Courts, 9 States have set up Exclusive Special Courts for trial of cases registered under the Act. The Statement at **ANNEXURE 5.VII** gives the location of 136 Exclusive Special Courts set up in these 9 States (A.P, Bihar, Chhattisgarh, Gujarat, Karnataka, M.P, Rajasthan, Tamil Nadu and U.P).

5.9.2 It is further noted that, amongst the States having sizable ST population as well as sizable incidence of crimes against Scheduled Tribes, the highest rate of conviction was 43.2% (192 out of 444 cases disposed) in Rajasthan where there are Exclusive Special Courts in Seventeen Districts, followed by 40.1% (504 out of 1257 cases disposed) in Madhya Pradesh having 29 Exclusive Special Courts, 32.2% (159 out of 494 cases disposed) in Chhattisgarh having 7 Exclusive Special Courts in Seven Districts, while Jharkhand had a 16.6% (16 out of 96 cases disposed) conviction rate followed by Orissa (15.7%) (37 out of 236 cases disposed), Maharashtra (11.6%) (26 out of 225 cases disposed), AP (10%) (40 out of 392 cases disposed) and Gujarat (3.1%) (8 out of 261 cases disposed) only. The conviction rate in respect of other States having low %age of Scheduled Tribes population as well as low level of incidence of crime against STs are; Himachal Pradesh, Assam, Tripura, Bihar, Kerala, Karnataka have conviction rate of 33.3%, 20%, 18.8%, 10%, 9.8%, and 26.% respectively. It indicates that the establishment of Exclusive Special Courts in some States have shown good result w.r.t disposal of cases as well as conviction rate while the position is not encouraging in other States.

5.10 Disposal by Courts of persons arrested/ chargesheeted by Police

5.10.1 As will be seen from the statement at ANNEXURE 5.VII referred to above, 8,621 persons out of 10,058 persons arrested for crimes committed against Scheduled Tribes were charge-sheeted, accounting for 85.7%. A total of 1,827 persons were convicted out of 7,392 persons against whom trials were completed, representing 24.7% conviction rate.

5.10.2 The poor rate of conviction is generally due to slow pace of investigation by Police in certain cases and very slow pace of trial by the courts. The delay at various stages reduces the interest of the victims as well as witnesses in the disposal of the case, which subsequently leads to very low conviction on account of dilution of the sections of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 included in the FIR/ Charge-sheet due to undue delay in processing the case.

5.10.3 The National Commission for Scheduled Tribes re-iterates that the poor pace of trial of cases calls for setting up Exclusive Special Courts for trial of crimes against Scheduled Tribes instead of designating existing court of Sessions as Special Courts in each State and regular monitoring of the Exclusive Special Courts so that by no reason their efficiency is marred. The number of Special courts setup in various States for trial of crimes against Scheduled Tribes may also be increased, for early disposal of pending cases and timely disposal of future cases in all the States having high incidence of crimes against Scheduled Tribes and also in the States which have high pendency. However, there is a need to ensure that the Exclusive Special Courts set up in various States function effectively and promptly other wise the objective of making of Special provision in the Special Act aimed at curbing Atrocities of Scheduled Tribes will not be fulfilled and consequently Atrocities will continue to be committed on the Scheduled Tribes

5.11 Assurance of safeguards provided under PoA Act to ST persons migrated to other states

5.11.1 Instances came to the notice of the Commission where scheduled tribe persons, become victims of atrocity committed by non-SC/ST persons, in a State other than the State of their origin, to which they had migrated, and their cases were not registered under the PoA Act on the plea that victim's community was not scheduled as ST in that State. The Commission brought the above matter to the notice of the Ministry of SJE and the Ministry of Tribal Affairs. The Ministry of Tribal Affairs took up the matter with the Ministry of Law & Justice (Department of Legal Affairs) who referred to the ruling of a Division Bench of the Supreme Court in the case (Masumsha Hasanasha Musalman (2000) 557) and observed that "the State Government is under obligation to register a case under the Act of 1989 in respect of atrocities committed on the Scheduled Caste and Scheduled Tribes, migrated to that State for any social, religious or other cause and that the State Government cannot shrink its responsibilities for the atrocities committed on the members of the Scheduled Castes and Scheduled Tribes by the upper strata of the society."

5.11.2 The Commission re-iterates its earlier recommendations contained in the 4th Annual Report for the year 2008-09 that the above observations of the Department of Legal Affairs should be brought to the notice of all States/ UTs for strict compliance.

5.12 General Recommendations

5.12.1 There is an imperative need of timely investigation of atrocity cases so that a chargesheet is submitted in the Court at the earliest. **The Commission, therefore, reiterates its earlier recommendations contained in the reports of the NCSCST for the years 1992-93 and 1994-96 and also in 4th Report of this Commission for the year 2008-09, that it should be ensured that the case is investigated by an officer of the rank of Dy. SP and investigation report is submitted by him within 30 days. The Commission also feels that the chargesheet should be filed with due care and with a sense of urgency to ensure that the accused person is not acquitted on technical grounds or on account of delay in filing the chargesheet.**

5.12.2 The delay in the arrest of the accused also leads to delay in investigation of the cases and which, in turn, causes delay in dispensing justice to the victim(s). **The Commission, therefore, reiterates its earlier recommendations contained in NCSCST reports for the year 1996-98 also in 4th Report of this Commission for the year 2008-09 that all efforts should be made by the police to ensure that the accused is arrested as early as possible particularly in the cases of heinous crimes like murder, arson, rape, etc.**

5.12.3 A large section of the general public and ST population is still unaware of the provisions of the PoA Act and Rules. **The Commission, therefore, reiterates its earlier recommendations contained in NCSCST reports for the years 1992-93, 1993-94, 1994-96, 1996-98 and 1998-99 and also in 4th Report of this Commission for the year 2008-09 that with a view to create awareness among the masses about various provisions of the Act and Rules including the provisions for relief and compensation, Special Awareness Programmes should be conducted by the Government through the mass media and by organizing seminars and workshops at different places, particularly in rural and remote areas. NGOs working for the cause of combating crimes of atrocities on STs along with the local bodies should also be involved in the task by extending adequate financial help to them. Awareness about the provisions of the Act/Rules may also be spread by installing hoardings at prominent locations.**

5.12.4 The Commission has noted that although there are clear-cut provisions in the Act/Rules for providing monetary relief and rehabilitation facilities to the victims of atrocities, district authorities are not prompt in carrying out this important duty. The erstwhile NCSCST in its reports for the years 1996-98 and 1998-99 had recommended that the District Magistrate should be held responsible for the failure of the district administration in providing timely and adequate relief/rehabilitation facilities to the victims and the members of their families. **In order to ensure effective implementation of the PoA Act, the Commission recommends that the District Level Vigilance and Monitoring Committee should regularly review the implementation of the provisions of the Act, relief and rehabilitation facilities provided to the victims and other matters connected therewith, prosecution of cases under the act, role of**

different officers/agencies responsible for implementing the provisions of the Act and various reports received by the District Administration, at least once in three months in accordance with Rule 17 of the PoA Rules.

5.12.5 Section 14 of the PoA Acts lays down that all States should set up Special Courts for speedy trial of various offences under the Act. This provision has not so far been implemented by many States where only designated Special Courts have been set up which remain burdened with the cases with the result that the disposal of atrocity cases is very slow. **The Commission, therefore, reiterates earlier recommendations contained in NCSCST reports for the years 1992-93, 1993-94, 1994-96 and 1996-98 and also in the 4th Report of this Commission for the year 2008-09 that exclusive Special Courts should be set up by all the States/UTs urgently for rendering speedy justice to the victims of atrocities.**

5.12.6 The Commission has noted that even in the States, where Special Courts have been set up, a large number of cases remain pending disposal for a considerable time. **The Commission, therefore, re-iterates its recommendations contained in the 4th Report for the year 2008-09 that the Government may consider for providing a time-limit for disposal of PoA cases by these Courts under the Act, similar to the provisions in the Consumer Protection Act, 1986.**

5.12.7 The Commission also re-iterates earlier recommendations contained in NCSCST reports for the years 1992-93, 1993-94, 1994-96 and 1996-98 and also in 4th Report of this Commission for the year 2008-09 that the police personnel in every State/UT need to be sensitized about the importance of effective implementation of the PoA Act through regular training and refresher programmes by the Police Training Institutes. The training programmes for the police personnel should also include lessons about legal provisions and related procedures to ensure drafting of fool proof chargesheets in atrocity cases.

5.12.8 There is an imperative need to strengthen working of the Special Public Prosecutors also for timely disposal of the cases in the Special Courts. **The Commission, therefore, reiterates earlier recommendations contained in the reports of the NCSCST for the years 1994-96 and 1998-99 and also in 4th Report of this Commission for the year 2008-09 that Directorate of Prosecution should make all efforts to ensure that adequate number of Special Public Prosecutors are attached with the Special Courts for speedy trial of atrocity cases. The Special Public Prosecutor should possess requisite qualifications and experience and their selection should be made through a well laid down procedure. The fee of the Special PP requires to be suitably enhanced to attract more qualified and dedicated persons.**

5.12.9 The Commission has noted that the ST persons are, very often, subjected to naxalism related violence and deprivation in States like Chhattisgarh, Jharkhand and Orissa, ineffective implementation of Minimum Wages Act and Bonded Labour, non-implementation of land reforms and

abnormal delay in redressal of land disputes etc. These results in denial of not only basic rights and freedom granted to them under the Constitution, but may also lead to the atrocities covered under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. **The Commission, therefore, recommends that there is an imperative need to formulate a policy to taking effective precautionary measures to check offences of atrocities and ensure effective implementation of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 in such cases.**

5.12.10 The Commission has noted lack of effective monitoring of atrocity cases. **The Commission, therefore, re-iterates its earlier recommendations contained in the reports of the NCSCST for the years 1996-98 and 1998-99 that the State level Vigilance and Monitoring Committees should play a pro-active role in overseeing the implementations of PoA Act by holding quarterly meetings on regular basis. These Committees should issue necessary guidelines and directions to the District level Committees. Registration of FIRs and the disposal of cases by the Special Courts should be particularly monitored by the State level Committees.**

5.12.11 It has been observed by the Commission during the review meeting with various State Governments that a large number of cases are being closed by the Police Department on various counts including undue delay by police officials. **The Commission, therefore, re-iterates its recommendations contained in the 4th Report for the year 2008-09 all the State Governments/UTs Administration should issue necessary instructions that the Superintendent of Police in all the districts will review at least 5% of the closed cases on a quarterly basis and initiate action against the concerned police officials if the cases were closed due to delay on their part.**

5.12.12 It was brought to the notice of the Commission during the Review Meetings with the State Governments that in a large number of cases, the victims and their witnesses become hostile during the hearing of POA cases in the Courts. This results in the acquittal of the accused by the Courts. One of the main reason behind the victims and witnesses turning hostile in the Courts was that there is no clear policy /norms for payment of TA/DA to the victims and witnesses in most of the States; and a paltry sum is generally given to them for the days on which they are called in the Court which deprives them of their wages for the day(s) as most of the victims and witnesses earn their livelihood on daily wage basis. **The Commission, therefore, re-iterates its recommendations contained in the 4th Report for the year 2008-09 that the State Governments/UTs should issue instructions to ensure that the victims and witnesses are paid TA/DA which should not be less than minimum wages fixed from time to time.**

CHAPTER 6

CASE STUDIES

6.1. Approach and Methodology

6.1.1 The Commission receives representations from individual members of Scheduled Tribes, or their associations, etc. These representations/petitions pertain to (i) the violation of the instructions for reservation in services/posts, (ii) problems relating to the socio-economic development of Scheduled Tribes such as admission in educational institutions, land alienation, rehabilitation and displacement as a result of setting up of projects etc., and (iii) atrocities on members of Scheduled Tribes by non-Scheduled Tribe persons. These representations are referred to the concerned organizations of the Central Govt. or the State Govts. by the Commission, requesting them to furnish full facts within a given timeframe. The facts furnished by the concerned organization are examined by the Commission; and in case, on examination, the Commission finds that there has been violation of the safeguards of the members of Scheduled Tribes, provided under the Constitution or under any other law or order of the Government, it advises the concerned organization to take corrective measures within a given timeframe and apprise the Commission of the action taken.

6.1.2 A copy of the reply sent by the concerned organization is forwarded to the petitioner for his/her information and in case the petitioner submits a rejoinder containing additional material, the same is further examined in consultation with the concerned organization. If the Commission does not get a reply from the concerned organization on the points raised in the petition/rejoinder despite repeated reminders, the Commission holds a sitting in the case and invites the Head of the organization and/ or any other senior officer of that organization to appear before the Commission for discussion. The petitioner is also permitted to be present during the hearing. The recommendation made after the discussions are recorded and sent to the respective organization for taking necessary action on the Commission's advice/recommendation within a specified period of time. The Commission organized 40 sittings during the year. Details of 15 cases in which the recommendations of the Commission were not accepted/implemented by the Organisation are given in the statement at **ANNEXURE 6.I**

6.1.3 The Commission's intervention brought relief to a number of petitioners as per the list at **ANNEXURE 6.II**. A few representative cases dealt with at the Headquarters office at New Delhi and at the Regional Offices of the Commission are discussed below:

6.2. Grievances pertaining to Service matters

6.2.1 Shri Karam Chand Oraon, Asstt. Diesel Driver, Andal, Asansol Division, West Bengal.

6.2.1.1 Shri Karam Chand Oraon, Asstt. Diesel Driver, Andal, Asansol Division submitted a representation dated 11/12/2009 alleging reduction of pay

during fixation by the Eastern Railway after (mutual) transfer from the Ambala Cantt, Northern Railway to the Asansol.

6.2.1.2 The Commission took up the matter with the Advisor (Staff), Railway Board vide letter dated 16.12.2009. The Railway Board vide letter dated 10.06.2010 intimated that as per the service records of Sh.Oraon forwarded by the Ambala Division, his pay was shown as Rs.7540/- w.e.f. 01.07.2008 whereas, his LPC indicated that he was drawing Rs.8210/-w.e.f. 01.07.2008. The Railway Board further mentioned that after making correspondence with the Ambala Division necessary corrections had been made and his pay had been fixed at Rs.8210/- w.e.f. 01.07.2008 and Rs.8460/- w.e.f. 01.07.2009.

6.2.2 All India SC and ST Railway Employees/ Association, Eastern Zone, Kolkata.

6.2.2.1 All India SC and ST Railway Employees/ Association, Eastern Zone, Kolkata represented to the Commission vide letter dated 23.08.2009 alleging denial of promotion of Sh.S.P.Saren, ASTE/W/Bandel to the DSTE (Sr.Scale Officer) and requesting for his posting at the Howrah Division against ST vacancy due to his family circumstances as he had to look after his widow widowed mother and two school-going children. Moreover, his wife was also working as Headmistress in a Govt. School at the Howrah.

6.2.2.2 The Commission took up the matter with the Advisor (Staff), Railway Board vide letter dated 17.09.2009. The Railway Board vide letter dated 14.12.2009 intimated that Sh.SP Saren had been promoted to senior scale on adhoc basis as SSTE/Construction/I/HQ in accordance with the Eastern Railway's Order dated 04.09.2009 and was also posted at the Hqrs., Kolkata in the Construction Organisation as per his request.

6.2.3 Smt.Sunita Meena, appointment as Asstt. Teacher in Directorate of Education, Delhi.

6.2.3.1 Smt.Sunita Meena, New Delhi represented to the Commission vide letter dated 13.07.2009 regarding undue delay in granting by approval by the Directorate of Education, Govt. of NCT of Delhi in respect of her appointment as Assistant Teacher in the Guru Nanak Girls Sr.Sec.School, Sabzi Mandi, Delhi-7. Smt.Sunita Meena mentioned that she had applied against the post of Assistant Teacher (Female) advertised in the Times of India dated 17.06.2008. There were four posts under UR category, two reserved for OBC, one for SC and one for ST. She further mentioned that four candidates were called for the interview for the post of Asstt. Teacher ST (Female). After the interview and selection, she had accepted the offer of the School Management and joined the job with medical fitness certificate on 20.09.2008. Subsequently, though Smt Meena continued to perform her duty, she was not paid salary for the reason that approval for her appointment had not been received from the Directorate of Education. She had also represented to the Addl Director (Admn.), Directorate of Education, but received no response. She also informed the Commission that approval of all other appointments had already been issued by the Directorate of

Education and Office- in-Charge of the School had also directed her not to mark her attendance on the attendance sheet w.e.f. 02.04.2009.

6.2.3.2 The Commission took up the matter with the Director of education, Govt. of NCT of Delhi vide letter dated 16.07.2009. Meanwhile, Smt. Meena informed the Commission vide letter dated 07.08.2009 that the School Management had informed Smt. Meena vide letter dated 30.07.2009 that the Zonal Office, Deptt. of Education had communicated to them that being a single eligible candidate, the appointment as Asstt Teacher was invalidated as it was not as per the Recruitment Rules. In this connection, the School Management further mentioned in their letter dated 30.07.2009 that Smt Meena was also informed that her appointment was subject to the approval from the Deptt. of Education.

6.2.3.3 As even after repeated reminders to the Director of Education and the Principal Secretary, Education Deptt., Govt. of NCT of Delhi, the requisite comments in the matter were not received, Member of the Commission fixed a sitting in this case on 27.11.2009 with the Principal Secretary, Education Deptt. In the Sitting, the Education Officer of the Zone submitted a reply from the Addl Director (ACT), which stated that against the one post of Asstt Teacher (ST/Female), 20 candidates were forwarded by the Dte of Employment and 4 candidates responded to the advertisement in the news papers. Out of these 24 candidates, only 4 candidates, who had responded to the open advertisement, appeared for verification of their certificates and interview. After verification, it was found that only 1 candidate met the eligibility criteria. It was further mentioned that as per the CCS rules, in case of availability of inadequate number of SC/ST candidates within the normal field of choice, the field of choice may be extended to five times. Accordingly, in view of only one eligible candidate being available in the instant case, a decision was taken that no appointment can be validly made as a result of deliberations of the Staff Selection Committee (SSC) and the proposal was not approved.

6.2.3.4 During the sitting, the Commission explained that the extension of zone of consideration to 5 times in case of non availability of eligible SC/ST candidates in the normal zone of consideration was applicable in case of promotion to the vacancies reserved for SCs/STs. The decision of the SSC to recommend the name of Smt. Meena for appointment to the post of Assistant Teacher (ST) is totally as per rules. Accordingly, the Commission recommended review of the case of appointment of Smt. Meena and its approval at the earliest.

6.2.3.5 The Directorate of Education (ACT Branch) vide letter dated 09.07.2010 informed the Commission that the matter of Smt. Meena had been reviewed and approval has been granted by the Competent Authority for her appointment as Assistant Teacher in the Guru Nanak Girls Sr. Sec. School, Subzi Mandi, Delhi-7.

6.2.4 Sh.Anil Kumar, New Delhi regarding relaxation in appointment to the post of Teacher in MCD and Dte. of education, Govt. of NCT of Delhi

6.2.4.1 Sh. Anil Kumar, New Delhi-75 submitted a representation to the Commission dated 18.01.2010 alleging denial of relaxation of 5% marks in 10+2 examination for SC/ST/PH candidates against the advertisement number 004/2009 for the post of Primary Teacher in the MCD (Post Code 70/09) and Assistant Teacher (Primary) in the Directorate of Education (Post Code 71/09) issued by DSSSB. Sh. Kumar mentioned that essential qualification for both the posts was 10+2 or intermediate or its equivalent with 50% marks from a recognized Board. There was no mention of standard 5% relaxation of marks for SC/ST/PH candidates. It was further mentioned that in 2008 also in an advertisement issued by DSSSB for the post of Primary Teacher in MCD, there was no relaxation of marks for SC/ST/PH candidates and after taking up the matter, the relaxation was provided by issuing a corrigendum and the date of receipt from SC/ST/PH candidates was also extended. This time even after taking up the matter with MCD and Directorate of Education no action has yet been taken.

6.2.4.2 The matter was taken up with the DSSSB vide letter dated 04.02.2010. The DSSSB vide their letter dated 24.02.2010 informed that Directorate of Education, GNCTD, has relaxed essential eligibility condition of 50% marks at 10+2 or equivalent level by 5% for SC/ST/PH candidates who had qualified two year diploma/certificate course in ETE/JBT/BEI.Ed or equivalent exam and corrigendum to this effect in respect of the earlier advertisement had been issued.

6.2.5 NEEPCO Tribal Employees Welfare Association Laitumkhrah, Shillong regarding permission for attending training programme

6.2.5.1 A representation dated 30.07.2009 was received from NEEPCO Tribal Employees Welfare Association, Laitumkhrah, Shillong alleging denial of permission to Shri A. G. West, General Manager (Finance), NEEPCO by Ministry of Power to attend the Advanced Management Programme organized by ASCI, Hyderabad, which includes study tour to Europe in spite of the availability of the KFW, Germany grant for all the expenses. The matter was taken up with the Ministry of Power vide letter dated 03.08.2009.

6.2.5.2 Ministry of Power vide their letter dated 12.08.2009 informed that Shri A. G. West has proceeded to join the training programme on "Building Leadership in a Turbulent Business Environment" organized by the ASCI, Hyderabad including study tour to Europe.

6.2.6 Shri R. M. Bhamre, Bharat Petroleum Corpn. Ltd, Mumbai regarding denial of promotion

6.2.6.1 A representation dated 21.04.2009 was received from Shri R. M. Bhamre, Bharat Petroleum Corpn. Ltd, Mumbai regarding denial of promotion from Job Group "D" (JE) to Job Group "E". The matter was taken up with the BPCL vide letter dated 27.04.2009. BPCL vide their letter dated 10.06.2009 intimated that Shri Bhamre has since been promoted to Job Gp "E" w.e.f. 01.05.2009.

6.2.7 Shri Prakash Chand Meena, Section Officer, Ministry of Urban Development, Delhi regarding promotion to the post of Under Secretary

6.2.7.1 A representation dated 11.01.2010 was received from Shri Prakash Chand Meena, Section Officer, Ministry of Urban Development, Nirman Bhawan, N. Delhi regarding his non-promotion as Under Secretary by DoP&T. Shri Meena mentioned that he was working as Section Officer of CSS-1998 in the Ministry of Urban development. He further mentioned that DoP&T had finalized the select list of Under Secretary for the year 2004-2008 on 07.01.2010 in which Section Officers (CSS) up to the Select List 1999 in the ST category were promoted. He was informed that his name has not been included as some criminal complaint was pending against him and DPC had put its recommendations in sealed cover. He explained that no criminal proceedings or charge sheet was pending against him.

6.2.7.2 The matter was taken up with the DoP&T vide letter dated 12.01.2010. DoP&T vide their letter dated 25.01.2010 intimated that the name of Shri P. C. Meena was forwarded to the UPSC for consideration and inclusion of his name in the Select Lists of Grade-I of CSS for the years 2004-2008. DPC conducted by the UPSC had considered his case of promotion and decided to keep the outcome in a 'Sealed Cover' as Ministry of Urban Development had intimated that a complaint against Shri Meena was pending under police investigation with Delhi Police.

6.2.7.3 DoP&T vide their letter dated 08.06.2010 informed that due to cases subjudice before the CAT, Kolkata, it would not be appropriate to open the 'Sealed Cover' and take further action. However, Shri P. C. Meena was promoted as Under Secretary on ad-hoc basis vide Order dated 26.05.2010.

6.2.8. Shri Ajay Oraon, Lecturer, BIT Sindri Institute Dhanbad, Jharkhand – alleging denial of NOC / permission for doing PHD from IIT Delhi

6.2.8.1 Shri Ajay Oraon, Lecturer, BIT Sindri Institute Dhanbad, Jharkhand vide letter dated 22/9/2009 represented to the Commission regarding deliberately not giving 'No objection' certificate / permission for doing PHD from IIT Delhi.

6.2.8.2 In his representation, Shri Oraon intimated that he had joined as a Lecturer on 08/09/2006 in the Chemical Engg Department in the ST Category. He did M. Tech from the Indian institute of Science (I.I.Sc.) Bangalore. He had applied for Part-Time Ph.D at the IIT Delhi and he got selected there. For admission in IIT Delhi No, Objection certificate (NOC) and One year Relieving certificate was required. Before applying for NOC/ Relieving certificate to the Director, BIT Sindri, Chemical Engg. HOD, Dr. S.P. Singh ill-treated him. He had not forwarded his application and had not even given Departmental peon book for dispatch. He was harassed by the officer to first go and ask the Secretary, Science and Technology Department, that if he would recommend Shri Ajay Oraon's application or not. He went to Science and Technology Department, which was located in Ranchi, and met with the Secretary. Even then Dr. S.P.

Singh has not forwarded his application and he submitted his application to the Director, BIT Sindri on 24/06/2006.

6.2.8.3 Shri. Oraon further mentioned that till date he had not received the NOC/Relieving Certificate, while IIT Delhi had given him 03 Months extension for submission of NOC/Relieving Certificate.

6.2.8.4 The petitioner further mentioned that whenever he met with Director BIT Sindri he always reminded him about his application. Although Director had been promising to do so, he never directed the Head of Department (HOD) for grant of permission. When Dr. Arun Kumar, Director, DST, Ranchi, visited Institute the petitioner put his problem before him in the Faculty meeting. On 09/09/2009 he gave reminder letter to the Director, BIT Sindri, and advance copy sent to the Director, DST, Ranchi, mentioning that the extension granted by IIT was going to lapse soon; but no progress was made and the institute closed from 18/09/2009 for Durga Puja holidays for 40 days.

6.2.8.5 The Commission took up the matter with Director, BIT Sindri, District-Dhanbad, Jharkhand vide letter dated 23/11/2009. Director BIT Sindri vide letter No. 1946 dated 26/11/2009 informed reasons of administrative difficulties and shortcomings on the part of Shri Ajay Oraon; and informed that Shri Ajay Oraon has been given permission for doing PhD from the IIT Delhi with the condition that no monetary compensation / relief as well as no study leave for doing PhD program from IIT Delhi would be granted to him and also no salary of leave period would be paid. Accordingly action was taken to relieve Shri Oraon for PhD. Commission noted that even an educated person has to undergo various administrative ordeals just to get NOC for doing higher studies PhD, due to apathetic attitudes of the officials holding charge of the affairs.

6.2.9. Sh. Shri Ram Meena, Kalawati Saran Children's Hospital regarding promotion as UDC

6.2.9.1 A representation dated 09/09/2009 was received from Sh. Shri Ram Meena, LDC Kalawati Saran Children's Hospital, New Delhi regarding denial of promotion to the post of UDC. Shri Meena had stated that he has been working in the Kalawati Saran Children's Hospital, New Delhi as LDC since 05/03/1997 and belonged to ST community. Shri Meena further alleged that hospital has not taken action to fill up the ST posts in the grade of UDC. Shri Meena stated that he was eligible for promotion to the post of UDC but had been ignored by the Hospital Admn.. NCST vide letter dated 25/2/2010 invited report on the alleged Non-implementation of Reservation rules and filling up the ST reserved post from the Secretary, Ministry of Health & Family Welfare. In response the Addl. Medical Superintendent vide letter dated 25/05/2010 intimated the National Commission for Scheduled Tribes that review DPC was held on 20/05/2010 and it was decided to promote Sh. Shri Ram Meena to the post of UDC and Sh. Shri Ram Meena had since joined the post of UDC.

6.2.10 Sh. R.N. Meena Assistant/UDC working in Doordarshan Kendra Jaipur (Raj.) regarding cancellation of transfer.

6.2.10.1 A representation dated 27/4/2009 was received in the NCST from Shri R.N. Meena, Assistant/UDC, Doordarshan Kendra, Jaipur – regarding cancellation of transfer from Shri Ganga Nagar to Mount Abu. Shri Meena stated that he was posted as Accountant at Bhilwada but he requested for cancellation of transfer due to sickness of his wife, to attend to his old parents and education problems of his children's and other reasons.

6.2.10.2 The matter was taken up with Director General, Doordarshan Kendra vide letter dated 19/05/2009. Vide letter dated 11/06/2009 Commission was informed that the transfer request of Shri R.N. Meena has been considered. As per his willingness Shri R. N. Meena was transferred to Mount Abu in place of Shri Ganga Nagar keeping in view genuine difficulties raised in his petition.

6.2.11 Shri R.K.Mahale, President, M.P.Dalit Panther, Bhopal

6.2.11.1 Shri R.K.Mahale, President, M.P.Dalit Panther, Bhopal submitted a representation to the Regional Office of the Commission at Bhopal, complaining that there were 84 sanctioned posts of Dy. Director in the Agriculture Department of the Govt. of M.P. against which only 3 Scheduled Tribe Officers had been working. Thus, other 13 posts reserved for Sch.Tribes were vacant, while there were many Assistant Directors working in the Deptt. who belonged to ST and were eligible for promotion. He requested the Commission to intervene in the matter so that the backlog post could be filled up. The Commission took up the matter with the concerned Department. Subsequently, the Under Secretary, Farmer Welfare and Agriculture Development Department, Govt. of M.P. through an interim reply to the Commission, informed that there was a sanctioned strength of 81 posts of Dy. Director against which 82 officers were working. So, there were no vacant post(s) available to fill up the backlog of Sch.Tribes. However, a proposal had been sent to the Public Service Commission, M.P. for promotion to the posts of Jt. Director and Addl. Director in the Department and 15 posts of Dy. Director were likely to be vacant thereafter. At that time, the Department would take care of the backlog. After constant follow up, with the concerned department, the Commission was informed vide letter dated 31-10-09 that 15 officers belonging to ST category had been promoted to the post of Dy. Director vide order dated 1-10-2009.

6.2.12. Shri Mukesh Narthe, R/o Rajiv colony, Post- Binjhia, District Mandla (MP).

6.2.12.1 Shri Mukesh Narthe, R/o Rajiv colony, Post- Binjhia, District Mandla represented to the Regional Office of the Commission at Bhopal informing that he had appeared in the written examination for selection to the post under Madhya Pradesh Subordinate Accounts Service (backlog) in the year 2006 and was placed at S.No. 1 in the waiting list. The selected candidates were issued orders of appointment. As one of the selected candidates did not turn up within the stipulated time- frame, the Department operated the waiting list, and the applicant was called in the Directorate of Treasury and Accounts along with all original testimonials. His antecedents were also verified through Police authorities. There are orders of Government of Madhya Pradesh that if delay occurs in verification of antecedents while filling up the backlog post,

appointment order should be issued immediately and the verification may be done later on. However, this order was not followed and he was not appointed on the post. Shri Narthe sought the intervention of the Commission in the matter. The Commission took up the matter with the concerned department which, vide letter dated 15-9-09 informed the Commission that offer of appointment had been given to the applicant on 7-5-09 and the applicant had also joined his duties from 19-5-09.

6.2.13 Shri Laxmidhar Nayak (ST), Sabarsahi, Nayapalli, Bhubaneswar (Orissa).

6.2.13.1 Shri Laxmidhar Nayak(ST), Sabarsahi, Nayapalli, Bhubaneswar submitted a representation dated 02-09-2009 to to the Regional Office of the Commission at Bhubaneswar regarding regular appointment in a Group 'D' post in the Regional Institute of Education, Bhubaneswar against the existing vacancy. He submitted that he worked in the Institute as a Casual Worker from 1989 to 1994 but his case was not considered by the Principal of the Institute for giving him regular appointment in a group 'D' post as per the DoPT OM No.51016/2/90-Estt.(C) dated 10-09-1993 and the decision of the 30th Meeting of the Establishment Committee of NCERT, New Delhi held on 08-06-1998. The Commission took up the matter with the Principal, Regional Institute of Education, Bhubaneswar as well as with the Director, NCERT, New Delhi. Subsequently, the NCERT issued direction to the Principal of the Institute to constitute a Committee to examine the claim of the applicant. On the recommendation of the Committee Shri Nayak joined in a Group 'D' post in the Regional Institute of Education on temporary status.

6.2.14 Shri Goura Chandra Pradhan, Ex-DSF, O/o the Asst. Director of Fisheries, Rayagda

6.2.14.1 Shri Goura Chandra Pradhan, Ex-DSF, O/o the Asst. Director of Fisheries, Rayagda submitted a representation dated 2-03-2010 to the Regional Office of the Commission at Bhubneshwar regarding harassment in the matter of payment of arrear salary as per the recommendation of the Sixth Pay Commission. The Commission took up the matter with the Principal Secretary, Fisheries and Animal Resources Development Department, Govt. of Orissa, Bhubaneswar. Subsequently, arrear salary amounting Rs.66,674/- was paid to Shri Pradhan vide Cheque Bearing No.275347 dated 30-03-2010 as per the information received from the Joint Director of Fisheries (L-II), Cuttack.

6.2.15 Shri Roop Singh Meena S/o Shri Jaynarayan Meena R/O Village Manema Tehsil – Hinduan, District – Karuali, Rajasthan

6.2.15.1 Shri Roop Singh Meena S/o Shri Jaynarayan Meena R/o Village Manema Tehsil Hinduan, District Karuali, Rajasthan submitted a representation dated 16.01.2006 to the Regional Office of the Commission at Jaipur and requested that the State Government was not issuing appointment letter to him though he was already selected by the R.P.S.C., Ajmer on the post of Teacher (Illrd Grade) in the Education Department, Govt.of Rajasthan. The Commission

took up the matter with the Education Department vide letter dated 17.01.2006 followed by reminders dated 25.10.2007, 18.12.2007, 16.12.2008, 30.06.2009 and 19.02.2010 with the authorities concerned. Subsequently, Directorate of Primary Education, Bikaner, Rajasthan vide letter dated 11.03.2010 informed the Commission that Shri Roop Singh Meena along with others had been appointed and posted as Illrd Grade Teacher at the Government Middle School, Madna Khedi, Chabra, District – Baran, Rajasthan.

6.2.16 Shri Babu Lal Meena, Lab. Assistant, Government High School, Kot Kasim, District – Alwar (Raj)

6.2.16.1 Shri Babu Lal Meena, Lab. Assistant, Government High School, Kot Kasim, District Alwar submitted a petition to the Regional Office of the Commission at Jaipur regarding fixation of his seniority in the seniority list of Lab. Assistant. The matter was very old as the petitioner was seeking fixation of his seniority w.e.f the year 1987. The Commission vigorously followed up the matter with the Education Department vide letters dated 21.06.2007, 10.09.2007, 26.10.2007, 11.12.2007, 11.12.2008, 28.04.2009 and 21.07.2009. Finally, the Deputy Secretary, Education Department vide letter No. 10(29) Babu Lal/Education-2/2007 dated 3/8/3009 intimated to the Commission that Shri Meena's seniority as Lab. Assistant had been fixed at No. 83 (v) year 1987.

6.2.17 Dr. R. K. Meena, CMO, CGHS, Jaipur (Raj)

6.2.17.1 Dr. R. K. Meena, CMO, CGHS, Jaipur submitted a petition to the Regional Office of the Commission at Jaipur requesting for cancellation of his transfer from Jaipur to Delhi, ordered vide DGHS New Delhi Office order No. 22012/1/2006-AV (Pt-III) dated 6/5/2008. The petitioner stated that on any parameter he should not have been transferred. The Commission took up the matter with the Secretary, Ministry of Health & Family Welfare, Govt. of India, New Delhi as well as the Director General, CGHS., New Delhi vide letter dated 15/5/2008 to consider Dr. Meena's request regarding cancellation of his transfer order. Subsequently, the Director, CGHS, New Delhi informed the Commission that transfer of Dr. R. K. Meena had been cancelled. The petitioner also informed the Commission that he had joined at his original place of posting i.e. at Jaipur.

6.2.18 Shri Mool Chand Meena, UDC, All India Radio, Nagaur

6.2.18.1 Shri Mool Chand Meena, UDC, All India Radio, Nagaur alleged in his representation dated 5/3/2009 that employees belonging to General category have been transferred to Jaipur in the recent transfer order whereas his case was not considered for transferring him to Jaipur. Matter was taken up with the authorities and discussions were held with AIR Senior Officers; Liaison Officers for SCs/STs and Station Director, Jaipur. Constant follow up was made vide letters-dated 13.4.2009, 5/6/2009 and 2/7/2009. The Deputy Director General (Adm.) AIR, New Delhi vide his letter No. 3/7/2002-S-II/1176 dated 4/13.11.2009 informed the Commission that Shri Mool Chand Meena, UDC has been transferred from AIR Centre, Nagaur to Jaipur and he has since joined .

6.2.19 Smt. Savitri Meena, IIIrd Grade Teacher, Government Girls Secondary School, Rawatbhata, District Chittorgarh (Rajasthan) for promotion

6.2.19.1 A representation from Smt. Savitri Meena, IIIrd Grade Teacher, Government Girls Secondary School, Rawatbhata, District Chittorgarh (Rajasthan) was received on 25.08.2009 in which she stated that she fulfilled all eligibility requirement for promotion to the post of II Grade Teacher but she has been left out of the promotion exercise. The matter was taken up with the Education Department, Government of Rajasthan vide letter dated 9/9/2009 and 7/12/2009 for considering his case for promotion along with other Teachers. The matter was also discussed by the Director during his District level Officers Meeting held on 11/12/2009 at Chittorgarh and an assurance was given by the District Education Officer to amend the seniority list and that her case would be finalized shortly as the Department had realised the mistake. Accordingly, finally the Deputy Secretary, Education Department, Government of Rajasthan vide his letter No. 8/2/Shiksha-2/Savitri Meena/2009 dated 01/01/2010 informed to this office that Smt. Savitri Meena has been promoted as IIRD Grade Teacher and posted at Govt. Girls Middle School, Badodia, Bhansrogarh, near to her residence place in District – Chittorgarh.

6.2.20 Shri Laxmi Narayan Parihar, Branch Manager, State Bank of Patiala, Faridabad, Haryana regarding promotion

6.2.20.1 Shri Laxmi Narayan Parihar, Branch Manager, State Bank of Patiala, Faridabad, Haryana submitted a petition to the Commission and his main grievance was the non-promotion to the post of Senior Management Scale IV. He has been appearing in the interview for last 3-4 years. Moreover, he was also Senior most officer in general and Scheduled Tribe category. His petition was taken up with the Bank Management. The case was also discussed in detail with the Senior Level Officers of the Bank in the meeting held with them on 2.5.2009 at Jaipur. The Bank Management assured to examine the case in reference to DOPT order and subsequently he was promoted in the promotion exercise year 2009.

6.2.21 Shri P.K Bage, Assistant, State Bank of India, Baloda Bazar Branch, Raipur (Chhattisgarh) regarding promotion

6.2.21.1 Shri P.K Bage, Assistant, State Bank of India, Baloda Bazar Branch, Raipur sent a representation dated 20-06-2009 to the Commission informing that a departmental enquiry was ordered against him by the Bank management and natural justice was denied in the process of enquiry. A fine of Rs 3000/- was imposed on him which was deposited by him in spite of the fact that he has not violated any rule of the Bank. He had appeared in the departmental promotion examination under normal channel for the year 2007-08 for the post of JMGS-I (Officer) and attended the interview also in which he was declared "Pass". The applicant further informed the Commission that One year has passed since then and his result has been kept under sealed cover. He is not being promoted by the management and any reply is also not given by the management. He has been forced to appear in the same examination for the

year 2008-09 though he had passed the earlier examination. He requested the Commission to help in the matter.

6.2.21.2 The matter was taken up by the Commission with Chief General Manager, State Bank of India, Bhopal vide letter dated 24-06-2009 and reminder dated 27-07-2009. He informed the Commission that the applicant was debarred for promotion due to serious irregularities committed by him and the statements made by him in his representation are far away from facts. The report, however, revealed that the applicant has since been promoted to the post of JMGS-I (Officer) on 12-08-09.

6.2.22 Shri Sunderlal Patel, Attdt. Gr. II(L0, Chhattisgarh State Power Distribution Company Limited, Substation, Gujra, Block- Dondi, District- Durg (Chhattisgarh) regarding cancellation of transfer

6.2.22.1 Shri Sunderlal Patel, Attdt. Gr. II(L0, Chhattisgarh State Power Distribution Company Limited, Substation, Gujra, Block- Dondi, District- Durg submitted a representation on 10.07.2009 that his office has transferred him to Nawagarh, District Durg which is 200 Km. away from his present place of posting. He further mentioned that he is working as class IV Employee and due to his above illegal transfer to Nawagarh, not only his family's financial condition will be affected but also education of his children will be affected who were studying in a local College. He requested the Commission for cancellation his above transfer order or he may be posted in nearby sub station.

6.2.22.2 The matter was taken up by the Commission with the Superintending Engineer, Chhattisgarh State Power Distribution Company Limited, Durg vide latter dated 17.07.2009. The Superintendent Engineer, Chhattisgarh State Power Distribution Company Limited, Durg vide his office letter dated 20.08.2009 informed that their office has modified the previous transfer order on 28.07.2009 and Shri Patel was accommodated at Power Station, Dondi as per his request.

6.2.23 Press Report highlighting plight of Anganwaadi Workers at Jashpur (Chhattisgarh)

6.2.23.1 A News appeared in the Daily Haribhumi, News paper, Raipur edition on 21.12.2009 highlighting that the Aganwadi workers were forced to take training without hand-Mills in Tribal District Jashpur (CG).

6.2.23.2 The detailed report was sought from the Commissioner, Women & Child Development Department, Govt. of Chhattisgarh, Raipur & District Collector, Jaspur vide office letters dated 23.12.2009. The Commissioner, Women & Child Development Department, Raipur informed the Commission vide letter dated 27.01.2010 that because of the transfer of Smt. Kumud Mehar, Principal & Incharge of Training institute, Jashpur to Jagdalpur, Shri S.N.Singh , Lecturer was given charge of the Training Centre and on 17.12.2009 in evening Smt. Kumud Mehar got the stay order against her transfer order to Jagdalpur from the Hon'ble High Court, Bilaspur. Hence, there was misunderstanding about charge of Mess & Hostel responsibility between Smt. Mehar & Shri Singh

because of the reason some delay occurred in preparation of Mill for trainees. After inspection by District programme officer of Training Institute he has given suitable direction to Mess & Hostel Incharge of the Training Institute. The Mess & Hostel are now running smoothly with out further complaint.

6.3. Grievances pertaining to Development matters

6.3.1. Smt. Kumud Bala Uike, Forest Colony, Pandri, Raipur, Chhatisgarh regarding establishment of Retail Outlet (R.O.) at Dhamtari City (Chhatisgarh) by Indian Oil Corporation.

6.3.1.1 A representation dated 28.06.2009 was received from Smt. Kumud Bala Uike, Forest Colony, Pandri, Raipur, Chhatisgarh regarding non-establishment of Retail Outlet (R.O.) at Dhamtari City by Indian Oil Corporation Ltd. (IOCL) Raipur, Chhatisgarh against a letter of intent (LOI) dated 02.11.2004 under ST (Female) category. It was mentioned that IOCL was not able to get the land for establishing the R.O. from district administration, through advertisement or through individual negotiations.

6.3.1.2 The matter was taken up with the CMD, IOCL, Mumbai vide letter dated 20.07.2009. IOCL vide their letter dated 11.08.2009 intimated that they had failed in getting the land for establishing the R.O. As per the guidelines of MoP&NG date 06.09.2006 for allotting temporary COCOs to the pending LOI holders under SC/ST category, Smt Uike was requested to give her choice for one of the allottable COCOs of IOCL in Chhatisgarh vide their letter dated 15.02.2007, but she refused to accept the offer. Again Smt. Uike was offered COCO at Rajim, Raipur by IOCL, which she had accepted. The retail outlet had been handed over to Smt. Kumud Bala Uike on 28.07.2009 and the sales have commenced.

6.3.2 Shri Anuj S. Hembrom, Bokaro Steel City, Jharkhand regarding Home Loan

6.3.2.1 A representation dated 06.05.2008 received from Shri Anuj S. Hembrom, Bokaro Steel City, Jharkhand regarding rejection of Home loan. The matter was taken up with the Chairman cum Managing Director, State Bank of India, Mumbai on 13.05.2008 and subsequent reminder dated 18.12.2008. The Chief General Manager (Personal Banking), State Bank of India, Mumbai vide his letter dated 17.02.2009 informed that the loan under Tribal Plus Scheme was sanctioned to the petitioner.

6.3.3. Smt. Sujata, Zilla Panchayat Member, Gokunda Circle, Taluka Kinwat, District Nanded requesting for cancellation of license of a country liquor shop in Mandwa village Panchayat area of the District (Mah)

6.3.3.1 Smt. Sujata, Zilla Panchayat Member, Gokunda Circle, Taluka Kinwat, District Nanded sent a representation to the Commission requesting for cancellation of license of a country liquor shop in Mandwa village Panchayat area of the District. She enclosed a copy of proceedings of Gram Sabha and

signature of hundreds of villagers in support of this demand. The Commission took up the matter with the concerned department as a result of which the license of the shop was cancelled.

6.3.4. Smt. Madi Bai, widow of Jheetra Bhuria, Jhabua regarding payment of family pension.

6.3.4.1 Smt. Madi Bai, widow of Jheetra Bhuria. R/o 51. Kailash Marg, Jhabua sent a representation to the Commission and informed that payment of her family pension, which she was receiving since the year 1976 after the death of her husband, has been stopped by the District Treasury Officer and the State Bank of India, Jhabua branch. The Commission took up the matter with the concerned departments as a result of which payment of pension was restored.

6.3.5 Smt. Munni Singh, Sarpanch, Gram Panchayat Mahroi, Janpad Pali, District Umaria regarding upgradation of Madhyamik Kanya Ashram, Mahroi to High School and increasing the number of seats.

6.3.5.1 Smt. Munni Singh, Sarpanch, Gram Panchayat Mahroi, Janpad Pali, District Umaria sent a representation to the Commission and requested that the Madhyamik Kanya Ashram, Mahroi should be upgraded up to High School and the number of seats should be increased from 50 to 100. She informed that the area is predominantly inhabited by Baigas, which is a PTG, and the above up-gradation will be in the interest of the tribal & PTG girl students. The Commission took up the matter with the concerned authorities and constantly followed up the matter. The Asstt. Commissioner, Umaria informed the Commission that a proposal to increase the seats in the Kanya Ashram has been sent to the Government. However, the up-gradation from Madhyamik to High School is not possible as it is against the guidelines issued by the Government. Thereafter the Commission took up the matter with Commissioner, Tribal Development Department, Bhopal who informed the Commission vide letter dated 2-12-09 that the Government has issued order to increase the number of seats from 50 to 100 in the Mahroi Kanya Ashram vide order dated 10-11-09.

6.3.6 Shri Amarnath Puri, Sarpanch, Gram Pachayat Changeri, Janpad Panchayat Kotma, District Anuppur (MP) regarding electrification of Mauhar Tola of Gram Panchayat Changeri.

6.3.6.1 Shri Amarnath Puri, Sarpanch, Gram Pachayat Changeri, Janpad Panchayat Kotma, District Anuppur sent a representation to the Commission informing that the residents of Mauhar Tola of Gram Panchayat Changeri, who belong to the SC/ST category are living in the poor condition and there was no electricity in the Tola. He requested that the Commission should help them in the matter. The Commission took up the matter with District Collector, Anuppur. After regular follow up, the Assistant Commissioner, Tribal Welfare Department, Anuppur informed the Commission that the Mauhar Tola under Changeri Gram Panchayat has been included in the Rajiv Gandhi Rural Electrification scheme for electrification and the concerned electric distribution Company has been requested to do the needful in this regard.

6.3.7 S/Shri A. Ekka and Ratikant Naik, ST students of Engineering College, Burla (Orissa) regarding publication of their results

6.3.7.1 S/Shri A. Ekka and Ratikant Naik, ST students of Engineering College, Burla, submitted a representation on 14-07-2009 in the Regional Office of the Commission, Bhubaneswar wherein they alleged that they were harassed in the matter of publication of their results. They further alleged that they were not allowed to attend the class. The matter was taken up with the Principal, Burla Engineering College, Burla. On the intervention of the Commission their result was published and they were allowed to attend the class. They were also given extra classes to make up the syllabus.

6.3.8. Shri Obbani Subba Rao, S/o Venkateswarlu, Aluru, Village, Kothapatnam Mandal, Prakasam Distt, Andhra Pradesh alleging harassment by the Branch Manager, Indian Overseas Bank, Ongole Branch, Andhra Pradesh.

6.3.8.1 One Shri Obbani Subba Rao, S/o Venkateswarlu, Aluru, Village, Kothapatnam Mandal, Prakasam Distt, Andhra Pradesh submitted a representation in the Regional Office of the Commission, Bhubaneswar wherein it was alleged that he was harassed by the Branch Manager, Indian Overseas Bank, Ongole Branch, Andhra Pradesh in the matter of sanction of loan for purchase of Oil Engine under Bankable Income Generating Scheme of the ST Corporation, Ongole, Andhra Pradesh. The matter was immediately taken up with the concerned authorities of the Bank. On intervention by the Commission a loan of Rs.20,000/- was released to the representationist by the Bank and the Oil Engine Project was Commissioned.

6.3.9 Shri Gopal Meena S/o Shri Mohan Lal R/o Devli village District Tonk (Raj) alleging demand of bribe for demarcation of land.

6.3.9.1 Shri Gopal Meena S/o Shri Mohan Lal R/o Devli village District Tonk alleged in his representation dated 19/5/2009 that Patwari demanded bribe for demarcation of his land. He demanded action against Patwari. The matter was taken up vide letter dated 21.10.2009 and subsequent reminders dated 26.11.2009, 10.12.2009 with the Collector, District Tonk requesting him to enquire the matter and initiate action against corrupt employee. The Collector, District Tonk vide his letter dated 23.02.2010 intimated this office that Shri Ram Dayal, Patwari has been suspended. An enquiry has been set up against the Patwari.

6.3.10 Smt. Rukmani Bai, Ex. Sarpanch Gram Panchayat Bhairupura, District Bundi (Raj.) about harassment of SC/ST Employees and Contractors by the Executive Engineer, PHED, Bundi.

6.3.10.1 Smt. Rukmani Bai, Ex. Sarpanch Gram Panchayat Bhairupura, District Bundi and others made a written complaint to the Commission's Regional Office-Jaipur on 17.09.2009 about harassment of SC/ST Employees and Contractors by the Executive Engineer, PHED, Bundi. On taking up the matter vide letter-dated 23.12.2009 with the Chief Engineer, PHED, Government of

Rajasthan, Jaipur the Department vide their letter dated 9/2/2010 informed that Shri V. K. Chaturvedi, Executive Engineer, PHED, Bundi has been transferred to Baran, Rajasthan. There is, however, no information about alleged complaint of seeking bribe by the Engineer.

6.3.11 Serv Samaj Jan Kalyan Samitee, New Delhi regarding compensation to families of those who lost their life in accident in Sawai Madhopur (Raj.)

6.3.11.1 Serv Samaj Jan Kalyan Samitee, New Delhi, vide representation dated 28.10.2009, demanded compensation to the Scheduled Tribe families of Shri Ram Nivas S/o Shri Revad Mal, Shri Hari Mohan S/o Shri Asha Ram, Shri Ramji Lal S/o Shri Kanwarpal and Shri Meetha Lal S/o Shri Ravad Mal, all residents of Khirni, District Sawai Madhopur, Rajasthan who lost their life in an accident. The Collector, District Sawai Madhopur in response to Commission's letter dated 9/11/2009 intimated the Jaipur Regional Office of the Commission, vide letter dated 19.11.2009, that an amount of Rs. 20,000/- has been disbursed to each family of the deceased from the Chief Minister's Relief Fund.

6.3.12. Shri Dhanna Lal Meena, Village Polyadi, Tehsil Deoli, District Tonk, Rajasthan regarding road accident claim

6.3.12.1 Shri Dhanna Lal Meena, Village Polyadi, Tehsil Deoli, District Tonk, Rajasthan stated in his representation dated 27.6.2009 that her daughter Kumari Rekha Meena, studying in Class XIth at Government High School, Nivania expired on 26.12.2007 in a road accident. He immediately submitted the claim to the State Insurance Department, Government of Rajasthan under Student Accidental Insurance Scheme but Department has not settled the case and was delaying the payment. After pursuing the case by the Commission's Regional Office, Jaipur with the State Insurance Department the case was finally settled and claim amount of Rs. 50,000/- was given to him.

6.3.13. Shri Prathvi Raj Meena S/o Shri Ram Kishan Meen Village & Post-Pali, Tehsil – Mahwa, District – Dausa, Rajasthan regarding payment of scholarship.

6.3.13.1 A representation dated 01.01.2009 regarding non-payment of scholarship for the year 2007-08 was received from Shri Prathvi Raj Meena S/o Shri Ram Kishan Meen Village & Post-Pali, Tehsil Mahwa, District Dausa, Rajasthan. The matter was taken up with the Social Justice & Empowerment Department, Government of Rajasthan. The petitioner later on informed that due to intervention of the Commission he got Scholarship amount of Rs. 17400/- from the Shubham Industrial Training Centre, Rajgarh, Alwar, Rajasthan.

6.3.14 News Report regarding Memorandum submitted to Management of National Mineral Development Corporation Limited, by Tribal Mahasabha, in the region Bachel-Kirandul, District Dantewara, (Chhattisgarh)

6.3.14.1 A News item appeared in the Daily Haribhumi, News paper, Raipur edition on 2.06.2009 regarding 15-Points Memorandum submitted to

Management of National Mineral Development Corporation Limited, by Tribal Mahasabha, in the region Bachel-Kirandul, District Dantewara, (CG). In their Memorandum, the Tribal delegation mentioned 15 issues relating to ground development in the region, compassionate appointment to family member of the deceased employees, and the adequate compensation to be given to all the employees including labourers working under contractor of the projects etc.

6.3.14.2 The Commission addressed to the Executive Director, NMDC Limited, Kirondul Complex, Dantewara Chhattisgarh, in the matter vide letter dated 31.07.2009. Sr. Manager (Personnel) MNDC Limited informed the Commission vide their letter dated 9.08.2008 that MNDC Limited had held a meeting with District Collector & Tribal Mahasabha and demands of the Tribal Mahasabha were considered. In the first phase the following issues were considered with Cooperation of District Administration, of Dantewara.

- i. A list of the farmer's land which has to be levelled will be prepared and submitted by the village Sarpanch by the end of August 2009. After completion of monsoon action will be initiated in this regard by the NMDC Limited with prior consultation of the Farmer.
- ii. The Collector has directed for constitution of a Committee for preparation of a List of land and cattle which has been badly affected due to red water of the NMDC Limited. The Compensation amount for effected families will be deposited with the District Collector by the NMDC Limited as per the Guidelines of the State Government.
- iii. For Tribal's of the region, a photo identity card will be issued by the district administration for Free Medical facilities in central hospitals of NMDC –Apollo.
- iv. A rest house along with basic infrastructure to be built in Bachel for Tribal Market visitors.

6.3.15 Shri Jeevan Kispotta S/o Late Ram Briksha Kispotta, Gwala Toli Road, Ranchi alleging grabbing of his land by Police.

6.3.15.1 Shri Jeevan Kispotta S/o Late Ram Briksha Kispotta, Gwala Toli Road, Ranchi representation that his landed property Khata no. 38, Plot no. 166, area 870 karris MS Plot no. 1400 P.S.- Hindpiri Ranchi was improperly grabbed by the Distt. Police and a T.O.P. opened in his plot. He has requested to restore his landed property.

6.3.15.2 The office took up the matter with the Sr. S.P., Ranchi vide office letter dated 25.09.08 and the Sr. S.P., Ranchi vide his letter dated 29.07.09 has intimated that T.O.P. Hindpiri has been removed from the plot of Shri Jeevan Kispotta, Ranchi.

6.3.16. Dr. T. Nongkhaw, Shillong regarding refund of fee paid to the Medical College for admission of his son.

6.3.16.1 Dr. T. Nongkhlaw of Shillong vide his representation dated 22.10.09 sought help to get back an amount of Rs.3 lakhs paid to the Basaveswara Medical College and Hospital for admission of his son. As his son got better opportunities somewhere, he did not join this college. The petitioner had written several letters requesting for refund of the charges. The case was taken up with the authorities where finally an amount of Rs.2.80 lakhs was refunded.

6.4. Grievances pertaining to atrocities against Scheduled Tribes.

6.4.1. News Report regarding alleged molestation of Tribal girl by the incharge of the hostel at Solan (Himachal Pradesh).

6.4.1.1 A news article titled 'Hostel Incharge held for molesting girl for a year' appeared in the Hindustan Times dated 10.02.2010. It was mentioned that the incharge of the hostel for the tribal girls in Solan was arrested for allegedly molesting 9 tribal girls of the hostel hailing from tribal districts of Kinnaur in H.P. and Jharkhand for more than a year. The victims were students of class 7 to 10 at a Govt. Secondary School, Salogra.

6.4.1.2 Considering the importance and sensitivity of the issue, the matter was taken up with the Supdt. of Police, Solan through FAX dated 16.02.2010. SP, Solan vide his fax dated 17.02.2010 submitted a detailed reply. As per the reply FIR No.27/2010 had been registered under different sections of IPC and POA Act dated 09.02.2010 on the complaint of Ms.Soma Kumari village Pangi, Distt. Kinnaur received through ADGP,(CID), H.P. In her complaint Ms.Soma Kumari stated that Sh.Pawan Kumar Goel, Hostel Incharge used to molest inmate girls. Immediately, on receipt of the complaint a case was registered and investigation was handed over to Dy.SP, HQ, Solan and SI of Women Cell, Solan. The tribal girls' hostel at Salogra was being run by an NGO Bhartiya Adim Jati Sewak Sangh (Regd), Delhi. At that time five girls from Jharkhand were staying there and their statements corroborated the complaint. The accused Pawan Kumar Goel was arrested and immediately rewarded to police custody. During investigations, all the documents were seized from the hostel which revealed that there were total 31 tribal girls, out of them 26 were from district Kinnaur and five were from Jharkhand. Due to winter vacations 26 girls from Kinnaur had gone back to their home and girls from Jharkhand were present in the hostel. Police had also informed the NGO at their Delhi office about the incident and asked for making alternating arrangement to take care of the hostel. Officials of the NGO visited the hostel and deputed Sh.Rattan Chand Roja as Incharge of the hostel. As per the report, two lady constables in civil clothes had been deputed to look after the remaining 5 girls in the hostel.

6.4.1.3 The Superintendent of Police, Solan vide his letter dated 30.08.2010 intimated that after investigation, challan has been presented in the court of CJM Solan on 18.06.2010 and the case is under trial. Regarding financial assistance, first installment of Rs.6250/- has been sanctioned on account of relief assistance in favour of victim.

6.4.2 Sh.Uttam Chand Meena, Rohini (Delhi) regarding Harassment by his neighbours

6.4.2.1 A complaint dated 23.06.2009 was received from Sh.Uttam Chand Meena, Rohini, Delhi-85 regarding harassment to him and his family by his neighbours Smt.Vinni Arora W/o Sh.Vijay Arora and their family. It was mentioned that Sh.U.C.Meena was residing at Flat No.22, Pocket 9, Sector 25, Rohini, Delhi-25 and he is working as Asistant Manager (Tech) in DTL(Govt. of Delhi). Smt.Vinni Arora and her family were residing at Flat No.23, Pocket 9, Sector-25, Rohini, Delhi. There was a raid by NDPL in the locality including the premises of Smt.Vinni Arora. Smt.Vinni Arora and her family doubted him for the said raid and started quarreling with Sh.Meena and abusing him and his family almost daily. On 19.06.2009, these persons called him on mobile when he was on duty and threatened him using abusive language.

6.4.2.2 The matter was taken up with the Commissioner, Delhi Police vide letter dated 25.06.2009. A reply dated 13.08.2009 was received from the Delhi Police stating that a statement of the complainant was recorded and no public independent witness had corroborated the allegations leveled by the complainant. The matter is still pending inquiry and in case any corroboratory evidence comes on record appropriate legal action will be taken. This reply was intimated to the petitioner who submitted a rejoinder dated 22.08.2009. He had mentioned that due to inaction by police on his complaint, Smt.Arora and family had become more adamant and were trying very hard to frame him & his family in forged/baseless allegations or harassing by using derogatory/abusive remarks. Further he has mentioned that police had raised kalandari challan against both the parties. However, he has not received any notice in relation to this challan. He also mentioned that the life of his family is threatened and requested police protection. The rejoinder from Sh.Meena was forwarded to the Delhi Police for comments.

6.4.2.3 A report was received from Delhi Police mentioning that both the parties started quarreling and making complaints dated 22.04.2010 against each other since the month of June, 2009. PCR calls were also made on a number of occasions by both the parties. On 09.09.2009, PCR call was received regarding quarrel between these two parties but no cognizable offence was found, the call was filed. Another call was received on 09.09.2009 itself in Police Station Shahbad Diary from BSA hospital regarding admission of Smt.Vinni Arora vide MLC No.4922/09. The statement of Smt.Vinni/Rema Arora was recorded. She stated that at about 9 A.M. When she was brushing her teeth, Sh.U.C.Meena came there and caught her and his wife doused kerosene oil upon her clothes as she has refused to compromise. She was saved by her dog. The inquiry revealed that there was no such incident and local residents mentioned that Sh.Meena and his wife were not present at the time of alleged incident. The PCR call form mentioned that there were heated arguments between Smt.Meena and Smt.Arora. Result of MLC was opined as simple. Both the parties are in the habit of making complaints against each other. They have also filed complaints/cases against each other u/s 156(3), CrPC which is pending in the court of MM, Rohini. Preventive action u/s 107/150 CrPC has been taken against both the parties to maintain peace in the area which is pending trial in the court of SEM/Outer District. This report has been intimated to Sh.Meena on 28.04.2010.

6.4.3 Tribal Girl set afire for resisting molestation – Press News appeared in the “Hindustan Times” dated 21/3/2010

6.4.3.1 A Press Clipping in the “Hindustan Times” dated 21/03/2010 captioned that a 15 year old tribal girl of Damoh district was burnt to death by a policeman’s son when he tried to rape. The Commission called for detailed report from SP Damoh SP vide letter 21/5/2010 SP intimated that the deceased was admitted to District Hospital Damoh in burnt condition on 20/03/2010. As per dying declaration of the deceased taken by Tehsildar, a case under crime No. 0/10 sections 452, 307, 450 IPC and 3(2)5, 3(1)10 of SC / ST PoA Act was registered initially and transferred to Police Station Batiyagarh District Damoh where this case was registered under crime No. 57/10 on 21/3/2010. Since the victim died, section 302 IPC was added in the case and culprit was arrested and produced before the competent court. After investigation Chalan No. 86/10 dated 14/5/2010 has been submitted to the Court. Regarding monitory relief, it was intimated that the case has been sent to District Organizer Office Damoh. Further, SHO Patharia was instructed to ensure security of victim's family. Vide letter dated 16/11/2010 District Collector Damoh informed, the Commission that a monitory relief of 75,990/- was sanctioned to the victim's family.

6.4.4 Sexual assault on Tribal Girls in Nurpur Tapra Village near Ganjbasoda District Vidisha, (MP)

6.4.4.1 A Press news appeared in Times of India dated **30/7/2009** captioned 'Teacher strips girls to take measurement'. As per news reports a government school teacher was arrested.

6.4.4.2 The NCST immediately took up the matter with District Collector. The Collector Office Vidisha vide letter dated 13/7/2010 intimated that a case under crime No. 131/09 section 354A IPC and 3(1)XI of prevention of SC/ST PoA Act, 1989 was registered and the matter was under investigation. Sanjeev Sharma, a teacher in the EGS School in Noorpurtapra Village near Ganjbasoda, 70km from Vidisha town, was arrested after parents of the girls complained to the police that the teacher had molested the girls. The police registered a case under Section 354 IPC (outraging modesty) and the teacher was terminated from his job. It was also mentioned that the Investigation were completed and Challan No. 112/09 dated 12/8/09 has been submitted to competent Court and the case has been sent to Tribal Welfare Department Vidisha, for sanction of the relief amount to the victims as per PoA rules. On follow up the matter it came to the notice that the matter is in the Special Court and as per report of Collector Vidisha vide this letter dated 21.11.2010 section 354 IPC, 3(01)(11) SC/ST POA Act, 1989 has been added in the case and each victim is to be sanctioned Rs. 50,000/-. Payment of 50 % of the sanctioned amount is to be made after medical examination and 50% after trial. Since the medical examination of the victim has not been done in the instant case it was decided by the district level relief committee held on 24.08.09 that the matter will be considered for sanctioning relief to the victims after Court decision.

6.4.5 Smt. K. Vidya, W/o Shri Shivaraj, Mysore, Karnataka

6.4.5.1 A representation dated 29.06.2007 was received in the NCST from Smt. K. Vidya, W/o Shri Shivaraj, Jyothi Nagar, Mysore, Karnataka complaining about illegal demolition of the residential building constructed by ST family. Smt. K. Vidya mentioned that the said property was possessed by her by virtue of the Registered Gift Deed executed by her mother Smt. Kalavathi on 29.12.2003 and registered the same on 29.12.2003. As an absolute owner having lawful possession and enjoyment of the said sites, she had applied for the building licence and plan before the City Municipal Council, Shimoga. The concerned authorities after satisfying with the steps taken by her have issued the building licence and approved the building plan, and commencement certificate in her favour on 02.02.2007. For getting the said licences she had paid the requisite fees to the City Municipal Council, Shimoga. After obtaining necessary licences from the City Municipal Council, Shimoga, she had started the work of construction by digging the foundation. The authorities suddenly forcibly stopped the construction work. All the documents/explanation was given to the Officers, but the City Municipal Council people were bent upon stopping the construction work. When questioned about the illegal acts of those City Municipal Council people, it was mentioned that "Hon'ble Deputy Chief Minister has strongly directed them to stop immediately the construction work and to demolish the constructed portion". Her husband categorically refused to stop the construction work. The City municipal Council people again came on 26.04.2007 in a Jeep alongwith J.C.B. Machine and within no minutes they illegally dismantled and demolished the foundation and the compound wall.

6.4.5.2 The matter was taken up with the Deputy Commissioner, Shimoga Distt. Karnataka and ADGP, CRE Cell, Bangalore vide NCST letter dated 10.07.2007 for facts and records alongwith action taken report on the complaint. There was no response from the Deputy Commissioner, Shimoga and ADGP, CRE Cell, Bangalore w.r.t. NCST's letter dated 10.07.2007. Having received no response, the NCST asked the petitioner vide letter dated 24.03.2009 about the status of the case. The petitioner sent a letter dated 24.04.2009 to Commission that on account of immediate action taken by the Commission the City Municipal Commissioner (C.M.C.) alongwith the Commissioner of Hon'ble Lokayukta had settled the issues and they had constructed house in the site.

6.4.6 Complaint about kidnapping and raping of a ST girl, R/o village Rasoi, P.S.Budera, District Tikamgarh (MP)

6.4.6.1 A ST girl, R/o village Rasoi, P.S.Budera, District Tikamgarh (MP) sent a representation to the Commission, informing that one Mahesh Yadav, a non SC/ST person of her village lured, kidnapped and raped her. He left her back at her village on 30-7-2009 and fled away. She made a complaint in the Budera Police Station and the Police got her medically examined. The Police had registered a case against him but had not arrested him and the accused was threatening her and her family to settle the matter. The Commission took up the matter with the Collector and S.P., Tikamgarh who informed the Commission that a case was registered in Budera Police Station under section 363, 366, 376 IPC and 3(2)(v) of SC/ST (POA) Act, but the accused could not be arrested as he was absconding. As there was no information about monetary relief provided to the victim and the arrest of the accused was also not done, the Commission

sought further details from S.P., Tikamgarh. Thereafter it was informed that the accused has been arrested and challan has been produced in the court and the case was under trial. District Collector, Tikamgarh separately informed the Commission that an amount of Rs. 25,000/- was sanctioned to the victim of the case.

6.4.7. Smt. Sukanti Singh, Village Kaliposh, PS: Lahunipada, Distt: Sundargarh (Orissa) regarding harassment by Police

6.4.7.1 Smt. Sukanti Singh Dandapat (ST), W/o Tikeswar Singh Dandapat, Village Kaliposh, PS: Lahunipada, Distt: Sundargarh submitted a representation in the Regional Office of the Commission, Bhubaneswar regarding atrocities committed on her and Police inaction in registering the case and the FIR. The matter was immediately taken up with the Superintendent of Police, Rourkela. On intervention by the Commission, the case was registered at Lahunipada P.S. vide case No.168 dated 15-11-2009 u/s 294/506/34 of IPC and Section 3 of the PoA Act, 1989. Subsequently, Charge-sheet was also submitted vide Lahunipada Police Station C.S. No.55 against the accused persons.

6.4.8 News Reports regarding attempted hostage of a Girl in Village Bijbhata, Bemetara, District Durg (Chhattisgarh)

6.4.8.1 A News appeared in the Daily Nav Bharat, News paper, Raipur edition on 03.02.2009 regarding attempted hostage of a Girl in Village- Bijbhata, Bemetara, District Durg by Shri Navatej Singh S/o Shri Kashmira Singh.

6.4.8.2 Detailed enquiry report along with action taken in the matter was called vide letter dated 5.02.2009 from Director General of Police, Govt. of CG, Raipur and Superintendent of Police, District-Durg (CG). Vide reply dated 29.06.2009 Superintendent of Police, Durg (CG), informed the commission that in the basis of complaint of Shri Kartik Ram Divakar father of victim Ku. Jyoti Divakar in Police Station Bemetara that his daughter was forcefully kept hostage by accused Shri Navatej Singh, a Crime was registered against the accused. The SP further informed that the accused Shri Navatej Singh S/o Shri Kashmira Singh, Punjabi Para Bemetara, District- Durg (CG) was arrested on 2.02.2009 under Section 354, 34 IPC and 3(1) 11 SC/ ST (PAO) Act, 1989. There is no information about grant of relief to the victim.

6.4.9 Shri Rakesh Sharma, Karyakari, Executive editor, Savera New Papers and Publication Limited, Mumbai alleging large scale trafficking of tribal girls from Chhattisgarh State

6.4.9.1 A representation was received on 5.06.2009 from Shri Rakesh Sharma, Karyakari, and Executive editor, Savera New Papers and Publication Limited, Mumbai. Shri Sharma mentioned in his representation that village Tribal Girls from Sarguja, Korja, Jaspur, Raigarh of Chhattisgarh are being inducted into trafficking on a large scale by agents in the name of house hold servant or other services in big cities like Mumbai, Delhi and Goa.

6.4.9.2 A detailed factual report was called from Principal Secretary, Department of Home & Director General of Police, Government of Chhattisgarh, Raipur vide this office letter dated 23.06.2009. Enquiry report of DIG, Police, Raipur was received from Under Secretary, Department of Home, Govt. of Chhattisgarh Raipur. The report of the DIG, Police has mentioned that the matter was enquired by Superintendent of Police of Sarguja & Jaspur and it appeared that some of the incidents of human trafficking were noticed and the police department had immediately registered criminal cases against the agents involved in the human trafficking. It was further informed that custody of some of the girls was handed over to their parents. It was further mentioned that the alleged agents by name of Pramila, Thomas and Sonia Kujur were arrested and produced before Hon'ble Court. The report also contains the action taken by the Police in 49 cases reported in Jashpur District.

6.4.10 Smt. Hirai Bai Belsaria, W/o Late Shri P.L. Belsaria Naya para, Antagarh Road, Bhanupratappur District- North Bastar Kanker (CG) regarding encroachment of land by her Neighbours.

6.4.10.1 A representation dated 8.07.2009 was received from Smt. Hirai Bai Belsaria, W/o Late Shri P.L. Belsaria Naya para, Antagarh Road, Bhanupratappur District- North Bastar Kanker (CG) regarding encroachment of her land by Neighbors. She further informed that she is a widow, Tribal lady and tried her level best for vacation of encroachment of her family land but she could not succeed.

6.4.10.2 The Commission called for the detailed report from District Collector and Superintendent of Police, District- North Bastar, Kanker vide letter dated 14.07.2009. The Superintendent of Police, North Bastar, Kanker vide his letter dated 17.08.2009, informed that inquiry was conducted by Sub Divisional Police Officer, Bhanupratappur, District- Kanker, inquiry report revealed that land of Smt. Hirai Bai was encroached by her neighbours, Shri Nabal Kishor Jain who encroached 48 Square Meters, Shri Jaisingh Purre who encroached 42 Square Meters and Smt. Lata/ Shri Sanjay Soni encroached 8 Square Meters. He further informed that Court of the Tahsildar, Bhanupratappur is hearing the matter. The SP further informed that the matter being of civil nature it was outside the purview of his jurisdiction.

6.4.10.3 Examination of the Report of the Superintendent of Police, North Bastar, Kanker revealed that the Police had failed to take action in matter on the complaint lodged by the petitioner and the accused should have been booked under section 3(1)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. Therefore, vide letter dated 15.09.2009, the Superintendent of Police, North Bastar, Kanker was advised to register a case against all the accused who were found involved in encroachment of Land of Smt. Hirai Bai Belsaria, Tribal Women under Section 3(v) of SC/ST (POA) Act, 1989 and report to the Commission without further delay.

6.4.10.4 The SP, Kanker informed the commission vide letter dated 26.10.2009 that as per advice of Commission a crime case no. 214/09 under Section 3 (1)(v) of SC/ST (POA) Act, 1989 was registered against the accused

involved in this case on 24.10.2009. A Copy of the FIR was also enclosed with above letter. There was, however, no information about status of arrest of accused involved in the case and providing financial assistance to the victim. The Commission called for those details from SP vide letter dated 29.12.2009, who informed the Commission vide letter dated 20.01.2010 that the accused in the matter Shri Naval Kishor Jain was arrested on 16.11.2009, accused Shri Jaising could not be arrested since he had expired and another accused Smt. Lata Soni will be arrested shortly. The SP further informed vide letter dated 7.06.2010 the accused Smt. Lata Soni was also arrested on 28.01.2010. The Commission was further informed that after completion of investigation in the matter the accused were produced before Hon'ble Court. Further details in the case are not available

6.4.11 Shri Haridawar Gond, S/o Late Jagan Gond, Distt. Bhojpur, Bihar alleging dispossessing his family from his land.

6.4.11.1 Shri Haridawar Gond Scheduled Tribe s/o Late Jagan Gond, Mohala-Bind Toli Akhada, Araha P.S. Nagar Arrha, Distt. Bhojpur, Bihar vide his representation submitted to the Commission stated that his forefather has constructed a hut and were living there with his family on Kata no. 122 Keshra-1046 Rakba 6 decimal Govt. land. Some antisocial people who want to dispossess them from above plot. A case u/s 107 Cr PC was lodged against the antisocial people who have promised not to obstruct again. But on 14.01.09 Shri Rambabu Saha & Co. armed with lethal weapons have destroyed his hut in order to disposses him from his homestead Land.

6.4.11.2 The matter was taken up with the DM and SP Bhojpur vide Commission's letter dated. 20.02.09 and again on 19.06.09. The SP Bhojpur vide his letter dated 04.07.09 has intimated this Commission that Arrha Nagar PS case no. 90/09 dated 30.06.09 u/s 107 Cr PC was filed in the Court. At present there was peace and the police have been asked to keep a watch on the matter.

CHAPTER 7

CONSULTATION ON POLICY RELATED ISSUES

7.1 Constitutional provision

7.1.1 Clause 9 of Article 338A of the Constitution provides that the Union and every State Government shall consult the Commission on all major policy matters affecting Scheduled Tribes.

7.1.2 The views proffered by the Commission on policy-related issues fall in 3 categories as under:

- i Proposals received from the Central and the State Governments/UT Administrations pursuant to Clause 9 of Article 338A of the Constitution.
- ii Suo-motu recommendations by the Commission on various tribal concerns.
- iii Submissions made in Court cases in which the Commission is one of the Respondents.

7.2 Procedure adopted by Commission in dealing with policy related issues

7.2.1 The Commission has formulated standard guidelines¹ for dealing with policy related issues in a time-bound manner. The guidelines detail the procedure for selection and approval of agenda item, content and format of the agenda note, presentation of agenda note and preparation/issue of minutes. The policy-related issues referred by any Ministry for comments/ views/ advice of the Commission, or any Court case having policy implications in which NCST, is one of the respondents is brought to the notice of the Secretary, NCST to decide whether the matter needs immediate attention of the Chairperson or that of the Vice-Chairperson (in case the Chairperson is unavailable) and whether the matter requires discussion in the meeting of the Commission. On approval by the Secretary, the material received from Ministry/ Deptt. is circulated by the Unit concerned for comments amongst all Members and Senior Officers of the Commission. Keeping in view the suggestions received, an Agenda Note on the issue is prepared for consideration in the meeting of the Commission.

7.2.3 The agenda note, *inter-alia*, examines conceivable effects of the proposed policy on scheduled tribes, earlier recommendations of the NCST or the erstwhile NCSCST, if any, and present status of implementation and

¹ Copy of the Guidelines may be seen at the website of the Commission i.e. <http://ncst.nic.in>

relevance of the earlier recommendation(s) of the Commission(s) alongwith suggestions for fresh opinion and draft comments/views/advice for consideration of the Commission. If the matter had been received earlier also, then the purpose of referring the matter again by the Government is also brought out in the agenda note.

7.2.4 The Commission endeavours to communicate the views/comments/ advice on policy related issues in a time-bound manner and also solicits feedback/outcome regarding acceptance or non-acceptance of the comments/ views/advice tendered by the Commission from the concerned Ministry/ Department for inclusion in its Annual Report .

7.3 Views of the National Commission for Scheduled Tribes on policy-related issues

7.3.1 During the year 2009-10, the Commission communicated its views on several policy-related issues, the details of which have been given below in para 7.4, 7.5 and 7.6 respectively. List of these issues has been furnished **ANNEXURE 7.I**

7.4 Views on Proposals received from the Central and the State Governments pursuant to Clause 9 of Article 338A of the Constitution

7.4.1 Comments on the Questionnaire received from Commission on Centre-State Relations [MHA]

Proposal in brief

7.4.1.1 The Commission on Centre-State Relations (CCSR) under the Ministry of Home Affairs sought the comments/suggestions of the Commission on the draft questionnaire prepared by them on Centre-State Relations vide letter `dated 01/03/2008². It was noted that only the issues raised in the items contained in para 4.4, 4.9, 4.11, 5.4, 6.7, 6.8, 7.2, 7.3, 8.5, 8.8 and 9.1 of the questionnaire were relevant to the needs and problems of the Scheduled Tribes and the Scheduled Areas, viz:

- (i) Desirability and effectiveness of the practice of direct release of funds and the role of the States in monitoring the implementation of the schemes
- (ii) Role of the local Governments in infrastructure creation, specially mega-projects, which may involve acquisition of land and displacement of people, in areas under the jurisdiction of the local Governments
- (iii) Congruence with the spirit of the 73rd and 74th amendments of the Constitution, Strengthening of the traditional institutions of governance falling in the Scheduled Areas (Schedules V & VI), co-existing with or substituting Panchayati Raj Institutions.

² MHA Letter No. 3-64/2007-CCSR dated 01.03.2008

- (iv) Prevention and control of sectarian violence
- (v) Reconciliation of conflicting interests of development and environmental conservation. Steps to be taken to build sustainable models of conservation by involving tribal and other forest dwelling communities.
- (vi) Policy changes in the existing processes of land acquisition and payment of compensation thereof. Need for bringing in any changes in the rehabilitation and resettlement policies in order to minimize displacement, ensure fair compensation for the project affected people and provide them commensurate livelihood security.
- (vii) Evolving a national consensus on rehabilitation policies and strategies and conflict resolution mechanisms.
- (viii) Measures to contain social tensions arising out of large scale migration from the under developed to the better developed regions within the country having implications for Centre-State and inter-State relations
- (ix) Measures for the participation of wide range of stakeholders- the organized private sector, public-private partnership institutions, civil society organizations, user and consumer groups, special interest groups, associations of industry and a variety of other non-state organizations in the scheme of governance to address the growing challenges of ensuring good governance for promoting the welfare of the people.
- (x) New forms of inter-State cooperation for synergistic development

Views of the Commission

7.4.1.2 The Draft comments³ on the relevant paras, as mentioned above, in the Questionnaire were discussed in the meeting of the Commission held on 30/06/2009. The salient observations/ views of the Commission on these paras are highlighted below:

- (i) Too many levels of financial administration only increase delay in transmission of funds and enhance the risk of diversion since money is fungible and most State Govts. suffer a perpetual resource crunch because of un-realistic budgeting.
- (ii) Local bodies should have a voice in selection and acquisition of land as well as rehabilitation of displaced persons.
- (iii) The traditional institutions have not yet outlived their utility because democratic institutions have yet to inspire confidence among marginalized communities.
- (iv) The Central Govt. should have over-arching supervisory control and authority to assume jurisdiction in case of prolonged sectarian

³ Views / comments on the issues are available under the sub- link 'Agenda' under the main link 'Meetings of Commission' on the Website of the Commission.

violence even though their primary role should be one of coordinating the efforts of the concerned States.

- (v) Existing arrangement have been proved to be quite unsatisfactory inviting the intervention of the Supreme Court which a set up an Empowered Committee to grant such clearances. It would appear that independent regulatory mechanisms are required for better enforcement of laws and balanced appreciation of developmental concerns.
- (vi) It is too early to pronounce on the efficacy of the STs and Scheduled Tribes and Other Forest Dwellers (Recognition of Forest Rights) Act, 2006 because the implementation of the Act has not yet taken off in most of the States. Also, the integration of tribal communities into mainstream development process has underlined the wide gap in infrastructure facilities compared to more developed areas, contributing to greater dis-satisfaction and alienation.
- (vii) Considering the reduced availability of land appurtenant to urban areas, the assessment of requirement of land have to be more rigorous and participative. Govt. policies should also aim to reduce (rather than enlarge) land requirements for non-agriculture purposes. Compensation to displaced person should also include an element of financial participation in the profit of enterprise by way of sweat equity.
- (viii) States are merely geographical entities. The responsibility for proper rehabilitation of displaced persons before commencement of the same should unequivocally devolve on all those who expect benefit from the project;. For this purpose, the time frame and cost; of rehabilitation and related activities should be part of Project cost; and the share of different stake holder should be decided while approving the project.
- (ix) Migration from the under-developed to developed regions take place due to lack of opportunities/ adequate re-sources for ensuring proper livelihood in the under-developed regions. Action plan has to be initiated, involving public private partnership, for the growth of under-developed region as a whole, and not in terms of mini, micro, or macro level administrative unit within a State. The rights and benefits available to Scheduled Tribes should also not be extinguished by virtue of migration alone; and their discontinuation in the new habitat should be based on a conscious assessment of relative backwardness and isolation.
- (x) A much higher order of transparency is required involving voluntary disclosure of actions and unfettered access to public records. Public policy debate should also extend beyond the premises of Parliament and include an element of public referendum in key areas.
- (xi) Considering the development gap between the Scheduled areas and the other regions of the country even after 60 years of planning, it would appear necessary that specific regional plans be prepared for the Scheduled Areas. The TSP strategy initiated since 5th Five Years

Plan has not been able to make appreciable dent on the problems of the tribal areas, as the projects for integrated tribal development under Tribal Sub-Plan approach are confined to specific administrative units. The TSP approach should now think of integrated development of continuous backward tribal areas/ belts/ regions in the country irrespective of State or Distt. Boundaries.

Action taken status

7.4.1.3 The views/ comments of the Commission were communicated to the Secretary, Inter-State Council Secretariat, Ministry of Home Affairs vide letter dated 25/08/2009⁴ with the request to take necessary action in the matter. Subsequently, the MHA vide letter dated 18/11/2009 intimated that the CCSR had circulated the Questionnaire to various stakeholders including NCST for eliciting their response on the questions posed thereon to assist CCSR in its deliberations and to enable it finalise its report/ recommendations. The tenure of CCSR was up to 31/03/2010 and it was supposed to submit its report by that date. As the NCST is not aware about the submission of the report by the CCSR and their views on the relevant issues, the Hon'ble Minister for Home Affairs has been requested vide letter dated 8/10/2010 to direct the Ministry to furnish the requisite information to this Commission.

7.4.2 Reservation to Economically Backward Classes of General Category (unreserved category) (13th Meeting 3rd July) [NEBCC, Ministry of Social Justice and Empowerment]

Proposal in brief

7.4.2.1 As per the Terms of Reference of the National Economically Backward Classes Commission set up under the Ministry of Social Justice and Empowerment, the NEBCC sought⁵ views/comments of the National Commission for Scheduled Tribes on providing reservation to Economically Backward Classes of General Category (Unreserved Category).

Views of the Commission

7.4.2.2 The Commission observed that the economic status of an individual is fluctuating. It is also not an easy task to identify such backward persons based upon any criterion of consumption or ownership of assets because of local factors like cultural differences, price variation, etc. Therefore, reservation to Economically Backward Classes of Unreserved Category is neither feasible nor sustainable. Moreover, unless all-out efforts are made to empower such classes of people by extending educational and health care facilities at their door-step and preparing them to enjoy the fruits of development, the proposed efforts may be insufficient. Further sub-categorization of the un-reserved (UR) category may not yield desired benefits

⁴ NCST Letter No. MHA-1/Devl../08/RU-III dated 25/08/2009. Copy available on Commission's website i.e. <http://www.ncst.nic.in>

⁵ NEBCC, Ministry of Social Justice and Empowerment Letter No. 36/CEBC/2007 dated 15/01/2009

in practice, since it is apprehended that in the present system of reservation through Post-Based Roster, even if a few vacancies are reserved for the Economically backward classes out of unreserved categories these may well remain unfilled till a vacant post reserved for the particular EBC occurs and a suitably qualified eligible candidate is simultaneously available. The National Commission for Scheduled Tribes, therefore, opined that separate schemes may be launched for development of persons belonging to economically backward classes empowering them to avail their share out of UR category instead of providing separate reservation for them treating them as sub-category within UR category.

Action taken status

7.4.2.3 The views of the Commission on the proposal were communicated to the NEBCC vide the Commission's letter dated 16/07/2009⁶ alongwith the request that the action taken by the NEBCC w.r.t its views/recommendations may be communicated to this Commission. The NEBCC vide letter dated 17/12/2009 informed that the EBCC has noted the valuable views expressed by the National Commission for Scheduled Tribes (NCST) and the same were under consideration.

7.4.3 Review of OM No. 36012/2/96- Estt.(Res.) dated 02.07.1997 issued by DoPT following Supreme Court decision dated 10.02.1995 in the case of R. K. Sabharwal, in the light of the judgment of the Supreme Court dated 16.09.1999 in the case of Ajit Singh-II and the comments of Attorney General of India thereon. (13th Meeting 3rd july) [DoPT]

Proposal in brief

7.4.3.1 The Department of Personnel and Training sought⁷ the comments of this Commission with regard to review of the DoPT OM No. 36012/2/96-Estt.(Res.) dated 02.07.1997 in the light of the judgment of the Supreme Court dated 16.09.1999 in the case of Ajit Singh-II and the comments of Attorney General of India on the judgment obtained by the DoPT.

7.4.3.2. The DoPT stated that on the basis of the Supreme Court judgment held on 10.02.1995 in the case of R. K. Sabharwal and others vs. State of Punjab and others regarding implementation of reservation policy in posts and services, the DoPT introduced post-based reservation rosters (PBR) vide OM NO. 36012/2/96-Estt.(Res.) dated 02.07.1997 and made them operative with effect from the date of issue of the OM i.e. 02.07.1997.

7.4.3.3. The issue relating to prospective effect of the orders of the Supreme Court in the R. K. Sabharwal case came before the Supreme Court in the Ajit Singh-II and the Hon'ble Court delivered the judgment that the reservation roster should be operative from the date of the Supreme Court

⁶ NCST Letter No. MBS/Service/SJ&E/EBC Reservation/2009/RU-II dt. 16/7/2009. Copy available on Commission's website i.e. <http://ncst.nic.in>

⁷ DoP&T Letter No. 36012/2/96-Estt(Res.) Part-V dated 22/11/2007

judgment (10.02.1995). In this regard, the views of the Attorney General of India were also solicited by the Department of Personnel and Training, which are as under:

- a) The Law of the land laid down in Ajit Singh-II warrants modification of DoPT's OM dated 02.07.1997 to provide that DoPT's said OM should be given effect from 10.02.1995 instead of 02.07.1997.
- b) Law of land laid down in Ajit Singh-II warrants modification of DoPT's OM dated 02.07.1997 to provide that any promotions made before 10.02.1995 in excess of any quota as per roster are to be treated as ad hoc.
- c) The direction given in Ajit Singh-II, if not complied with, would tantamount to contempt.
- d) Making post-based reservation rosters effective from a date earlier than 10.02.1995 on the ground that vacancy based reservation rosters could not determine as to whether reserved category officials were promoted as per their quota or in excess of quota, is not advised because that will disturb vested rights of various persons and lead to needless litigation.

7.4.3.4 The DoPT highlighted that in view of the judgment of the Supreme Court in Ajit Singh-II, and the opinion of the Learned Attorney General, DoPT's O.M. dated 02.07.1997 would have to be made effective from 10.02.1995. Promotion of employees belonging to SC/ST made before 10.02.1995 by way of reservation, in excess of quota determined by application of PBR would be treated as ad hoc and would be regularized against future vacancies reserved for them or on own merit, whichever is earlier. Persons promoted in excess of the vacancies determined by PBR, after 10.02.1995 will have to be reverted. It will have adverse impact on some employees belonging to SC/ST, but as advised by Attorney General, the judgement of Supreme Court would have to be implemented lest it should result into contempt of the court.

7.4.3.5 In view of the position brought out above, the DoPT proposed, for consideration as under:

- i) Implementation of DoPT OM dated 02.07.1997 regarding post-based rosters w.e.f. the date of Supreme Court Judgment in the case of R.K. Sabharwal, i.e. 10.02.1995.
- ii) Promotion of SCs/STs in excess of the vacancies as worked out based on PBR prior to the 10.02.1995 to be treated as ad hoc, and to be regularized against future vacancies in that category.
- iii) SCs/STs Candidates promoted after 10.02.1995 in excess of the vacancies as worked out based on PBR after 10.02.1995 to be reverted.

Views of the Commission

7.4.3.6 The proposal was discussed in the meeting of the Commission held on 03/07/2009. The Commission noted that as per DoPT proposal, the

preponement of implementation of PBR from 02.07.1997 to 10.02.1995 will have following implications:

- a) SC/ST candidates promoted in excess of the vacancies determined as per roster prior to 10.02.1995 will lose their seniority.
- b) SC/ST candidates promoted in excess of the vacancies determined as per PBR after 10.02.1995 will be reverted

7.4.3.7 The Commission noted that these issues have arisen as a result of shifting from Vacancy Based Roster (VBR), which has been in use since inception of reservation policy, to a new system of reservation as per guidelines laid down by the Supreme Court of India which culminated in PBR. As the Govt. functioning could not be halted till the new system was developed, the appointments and promotions continued to be made as per the prevalent system of VBR. Although the period by which preponement is sought is only two years, and only a few appointments /promotions might have been made, yet it will not be advisable to consider reverting the promotees or terminating the services of those appointed as DR against backlog vacancies on the basis of then existing VBR. Moreover, the provision regarding the seniority of SCs and STs in matter of promotion made in Article 16(4A) of the Constitution vide the Constitution (85th Amendment) Act 2001, having retrospective effect after the Supreme Court judgment dated 10.02.1995, and the same having been upheld by the Supreme Court of India, has also to be kept in view.

7.4.3.8 In view of the above, Commission **recommended** that:

a) Cases of promotions of SC/ST candidates effected prior to 10.02.1995.

- (i) In the case of R. K. Sabharwal, Supreme Court had clearly stated in its judgment:

"We, however, direct that the interpretation given by us to the working of the roster and our findings in this point shall be operative prospectively".

- (ii) It is mentioned that as Post-Based Roster is operative only after 10.02.1995, the excess promotions as determined by PBR can't be worked out prior to 10.02.1995, or considered *ad hoc* since these were made as per guidelines then in vogue. Therefore, it will not be feasible to disturb the promotions effected before 10.02.1995. Excess therein, if any, may be adjusted against future vacancies in that category.

b) Cases of promotions of SC/ST candidates effected between 10.02.1995 and 02.07.1997.

In view of the Supreme Court judgment in the case of R. K. Sabharwal, and in absence of any instructions/guidelines from DOPT thereon, the persons belonging to SC/ST category promoted in excess of the vacancies determined by PBR between 10.02.1995 and 02.07.1997 may not be reverted, as proposed by DOPT, and should be considered on *ad hoc* basis,

till their regularization against the vacancies arising in future in that category, or on merit, whichever is earlier.

Action taken status

7.4.3.9 The views of the Commission on the proposal were communicated to the Department of Personnel and Training vide this Commission's letter dated 16/07/2009⁸ alongwith the request to intimate the outcome of the proposal in view of the recommendations made by the Commission. The Department of Personnel and Training vide their letter dated 29/12/2009 informed the Commission that the matter was still under examination. As the NCST is not aware about the final views of the Govt. in the matter, the Hon'ble Minister for State. Ministry of Personnel, Public Grievances and Pension has been requested vide letter dated 08/10/2010 to direct the Ministry to furnish the requisite information to the Commission.

7.4.4 Inclusion of 'MEDARA' community as a synonym of MEDA' community in the ST list of Karnataka (14th meeting) 02.09.2009 {MTA}

Proposal in brief

7.4.4.1 The Meda community was included in the list of Scheduled Tribes in respect of Karnataka State vide the Scheduled Caste and Scheduled Tribes Orders (Amendment) Act, 1976. During the year 1995, the State Government wrote to the Government of India for inclusion of four synonyms of Meda, Namely, Medara, Medari, Gauriga and Burud in the State list of Scheduled Tribes. The matter was processed by the Government of India and vide the SCs & STs Orders (Amendment) Act, 2002, Medari, Gauriga and Burud were included in the list of STs as synonyms of Meda but Medara was left out. In March, 2003, the Government of Karnataka raised the issue with the Government of India requesting that if the non-inclusion of Medara in the ST list was through an oversight, action may be taken to include Medara also. The matter was examined by the Ministry of Tribal Affairs in consultation with the erstwhile NCSCST and it was found that the recommendations of the RGI were not specific in regard to the proposal for inclusion of Medara in the ST list as a synonym of Meda. In June, 2007, the Ministry of Tribal Affairs informed the Commission that RGI had, vide their letter, dated 27/12/2006, recommended the inclusion of Medara community as synonyms/equivalent of Meda in the ST list of Karnataka. The Ministry requested⁹ the views of this Commission in the matter.

Views of the Commission

7.4.4.2 In order to study the current status prevailing in the State, Sh. T. Samphel, Member, NCST, visited the Districts of Dharwad, Belgaum, Haveri and the Uttar Kannada from 04/01/2008 to 11/01/2008. In his report dated 05-

⁸ NCST Letter No. Policy-06/Service/2008/RU-I dated 16/7/2009

⁹ MTA Letter No. 8/1/92-SS (Karnataka) dated 27/12/2006

03-2008, he inter-alia, stated that some of the members of 'MEDARA' community, as in the case of any other Scheduled Tribe community, had shifted to urban areas due to educational needs and in search of source of livelihood, but their original family members continued to live in the original tribal habitats, mostly in hills; and, therefore, the fact that some of the MEDARA community members were inhabiting urban areas and to that extent were not geographically isolated, could not be a valid reason to deny them their due rights as Scheduled Tribes.

7.4.4.3 The proposal of the State Govt. of Karnataka for inclusion of 'Medara' community as a synonym of 'Meda' community in the ST list of Karnataka came up for discussion in the Commission's meeting on 12.05.2008 when it was decided to call for certain additional information from the Govt. of Karnataka and the Ministry of Tribal Affairs. On receipt of the requisite information, the issue was again discussed in the meeting of the Commission on 22.01.2009 when it was decided that the case need further consideration. .

7.4.4.4 The proposal was discussed at length in the Commission's meeting held on 02.09.2009. Apart from the State Government's above mentioned letter, the Commission took into consideration the following documents/inputs in support regarding social customs, dialects, way of living, occupation, religious practices and practice of inter-marriage among the people belonging to MEDA and MEDARA communities:

- (i) Letter dated 27-12-2006 from the office of Registrar General of India, New Delhi specifically recommending inclusion of MEDARA as synonym of MEDA in the ST list of Karnataka.
- (ii) Additional inputs provided by the State Government vide their letter dated 05-06-2008 in reply to the Commission's letter dated 21-09-2007
- (iii) Additional inputs provided by the report of the Hon'ble Member of the Commission (Shri Tsering Samphel) dated 05-03-2008 after his visit to the districts of Dharwar, Belgaum, Haveri and Uttara Kannada regarding the social customs, dialects and educational & economic status of the people belonging to MEDA, MEDARA and MEDARI communities.

7.4.4.5 The Commission thereafter expressed its agreement with the proposal for inclusion of 'MEDARA' community as a synonym of 'MEDA' community in the ST list of Karnataka.

Action taken status

7.4.4.6 The comments/views of the Commission in the matter were communicated to the Ministry of Tribal Affairs vide letter dated 11/09/2009¹⁰. In response, the MTA vide letter dated 12016/12/01-TA(RL)/C&LM-I(Part) dated 30.11.2009 stated that the criteria for considering any community/tribe for

¹⁰ NCST Letter No. RU-IV/Service/Karnataka-2/2007 dated 11/09/2009. Copy available on the Commission's website i.e. <http://ncst.nic.in>

inclusion in the list of Scheduled Tribes of any State/UT is (a) Indications of primitive traits (b) Distinctive Culture (c) Geographical isolation (d) Shyness of contact with the community at large and (e) Backwardness. On the basis of the aforesaid criteria, the MTA expressed the view that the statement of the Commission contained in the last para of the minutes (reproduced above) was contradictory and needed to be clarified.

7.4.4.7 The Commission clarified to the Ministry vide letter dated 14.12.2009 that the views of the Commission were finalized after taking into account all relevant aspects. The copies of the Agenda Note circulated for the meeting held on 02.09.2009, alongwith the tour report of the Member(TS), and other relevant papers were also sent to the MTA for information in this regard.

7.4.4.8 The MTA, vide their letter, dated 15.03.2010 further informed the Commission that the papers sent by the Commission would not help the Ministry for consideration of the recommendations of the Commission. The MTA re-iterated their stand that the statement of the Commission, as contained in its recommendation, was contradictory and requested for the specific views/comments of the Commission on the proposal of inclusion of **Medara** as synonym of **Meda** in the ST list of Karnataka.

7.4.4.9 Subsequently, the Commission informed the MTA vide letter dated 19/07/10¹¹ that the issue was again considered by the Commission in its meeting held on 11/06/10 and the Commission had re-iterated its earlier decision to recommend inclusion of 'MEDARA' community as synonym of 'MEDA' in the ST list of Karnataka. As details of the action taken by the MTA on the advice/views tendered by the Commission on the subject matter are still awaited, the Hon'ble Minister for Tribal Affairs has been requested vide letter dated 08/10/2010 to direct the Ministry to furnish the requisite information to this Commission..

7.4.5 Draft policy for Shompens, a Particularly Vulnerable Tribal Group (PTG) of A&N Islands [MTA]

Proposal in brief

7.4.5.1 Ministry of Tribal Affairs sought¹² the views of the Commission on the draft policy for the Shom Pen- a Particularly Vulnerable Tribal Group (PTG) of A&N Islands vide their letter dated 12/08/2009.

7.4.5.2 In the draft policy, MTA suggested following significant measures for protection of interests, natural habitat, culture and health status of Shom Pen PTGs and effective administrative of their areas:

- (i) To build up a non-inclusive data base on each family on a format designed in consultation with experts from the Anthropological Survey of India (AnSI), the Indian Council of Medical Research (ICMR) and other prominent national institutes/universities.

¹¹ NCST Letter No. RU-IV/Service/Karnataka-2/2007 dated 19/07/10

¹² MTA letter No. 17014/5/08-C & LM-I dated 12/08/2009

- (ii) The boundary condition for any external intervention has to be the willingness of the Shom Pens to participate or to be left alone.
- (iii) The Members of the AAJVS should be empowered and trained to perform the functions relating to interaction with Shom Pens in consultation with the national institutes.
- (iv) The Shom Pen should, like the Jarawas, be allowed to live in their own way and only when they seek outside interference/assistance, should these be sensitively provided.
- (v) The East-West Road inside the Shom Pen reserve should not be completed or repaired and the surrounding jungle should be allowed to encroach upon it. In the context of the easy manner in which the Shom Pen go to Campbell Bay there is no point in re-establishing the Shom Pen hut complex on that road, 27 kms. From Campbell Bay.
- (vi) Tourist Operator should be made aware of Govt. policy of forbidding contact of the tourists with the Shom Pens and violations in this regard should be strictly punished.
- (vii) Encroachment, even if by the much better off Nicobarese, should be firmly dealt with.
- (viii) The protection of higher grounds, where Shom Pens are moving at more than one location due to their sensitivity to apprehend potentially destructive behaviour of the seas, from encroachments must be ensured.
- (ix) Their territory, should be protected and if protected, should offer sufficient gathering and hunting opportunities for their survival.
- (x) Inexperienced doctors do not treat these vulnerable groups in the same way they treat others.
- (xi) Investigation of their health status through invasive techniques should be rarely done unless situations strongly warrant. e.g. epidemics
- (xii) On the policy analogy of Jarwas, a sea route along the south of the island, along the coast should be the only option in place of the linkage of the eastern part of the island with the western through the East-West Road.
- (xiii) Upgrading the standard of the AAJVS should be a legitimate charge on any development funding.
- (xiv) Administration and visiting (authorized dignitaries) should not distribute clothes, especially synthetic ones.
- (xv) Full isolation is not feasible. Tubes of Pepsodent toothpaste have been found in remote coastal habitats (Laful) indicating that either the local fishermen or the AAJVS staff have shared such products with them. For the present, it would appear sufficient if tourists are discouraged to visit the Shom Pen area and all activities on the East-West Road stopped.

- (xvi) The Shom Pen shall be considered and treated as a unique human heritage of our country.
- (xvii) Communities around the Shom Pen inhabited areas, and personnel working for the protection and preservation of the Shom Pen have to be repeatedly sensitized about the need to preserve this ancient community and to value their unique culture and life style.
- (xviii) No intervention should create in the Shom Pen any dependency syndrome. (Isolated Jarwas, introduced to "outsider" food are now frequently raiding peripheral houses, resulting in avoidable tensions. Food of the type they consume can continue to be provided at Campbell Bay).
- (xix) The Shom Pen, when admitted to the designated hospital at Campbell Bay, shall gradually be weaned away from any free food. Easy barter should be introduced. In any case, they shall not be provided food which is alien to their normal dietary habits.
- (xx) No exploitation of natural resources within the Shom Pen Reserve area will be permitted by any non-tribal or Govt. agency. National Strategic needs will be fulfilled from beyond the Shom Pen reserve.
- (xxi) Provisions of A&N Islands (Protection of Aboriginal Tribes) Regulation, 1956 will be strengthened and enforced effectively. Entry restrictions on the liens of Lakshadweep and North-East should be legally introduced and enforce.
- (xxii) The notified Shom Pen territory should be fully and visibly demarcated and no curtailment, reduction or acquisition shall be made for any purpose. The possibility of recognizing their territory under the Constitution should be explored.
- (xxiii) A 5 Km radius buffer zone on land and sea around the reserve area would be notified to prevent any commercial and tourism activity. Indeed, no major commercial activity should be encouraged or permitted in the entire Island as the potential of harming the eco-system and the tribals who live in such areas can potentially be very dangerous.
- (xxiv) All encroachments in the Shom Pen territory shall be removed within a specified time. Arrangements will be made to ensure that such encroachments do not take place in future.
- (xxv) No permanent residence for Govt. employee/ non-tribals/ AAJVS in the Shom Pen reserve area will be allowed. They can be temporarily accommodated, in camps, if their services are needed for any research or welfare intervention.
- (xxvi) Cross infection from non Shom Pen during treatment of Shom Pen patients in hospital will be avoided through isolation
- (xxvii) A plan/ guide covering the action to be taken in the event of any medical emergency, like an epidemic, should be prepared by the

A&N Islands Administration involving doctors who have worked for long in the Islands, doctors who have experience of doing such work in other areas of the country an national level institutions like the ICMR.

- (xxviii) Officials/ workers engaged in the protection and welfare of Shom Pen, as well as for research will be regularly screened to ensure that they are absolutely free from any communicable diseases.
- (xxix) Therefore, regular sensitization of the Nicobarese, on the need to protect the Shom Pen and their way of life has to be carried out by the island administration, as per the protocol to be designed by AnSI, ICMR and other qualified Institutions.
- (xxx) Operation of the Policy may be reviewed after ten years in order to delete or incorporate provisions in the interests of the Shom Pen and in the context of time.
- (xxxi) The functioning of AAJVS should come up for a detailed review, every two years, according to a set of well designed anthropological parameters, in a special meeting of the Governing Body of the AAJVS, to which the Ministry of Tribal Affairs and the Planning Commission must be associated.
- (xxxii) The primary responsibility for the protection of Shom Pen shall lie with the A&N Islands Administration.

Views of the Commission

7.4.5.3 The Commission noted that there were 5 Primitive Tribal Groups (now called Particularly Vulnerable Tribal Groups) in A&N Islands, namely; (i) Great Andamanese (ii) Jarawas (iii) Onges (iv) Sentinelese and (v) Shompens and that the population of these communities had been diminishing at a fast pace over the years. As per 2001 Census, the population of these communities was 44, 240, 96, 39 and 398 respectively.

7.4.5.4 The Commission noted that the Ministry of Tribal Affairs had set up an Expert Committee in May, 2007 under the Chairmanship of Secretary, Ministry of Tribal Affairs to monitor and review the implementation of the Jarawa Policy, 2004, and to prepare separate policies for (a) the Shompens, (b) the Onges, (c) the Andamanese and (d) the Sentinelese to save them from total extinction or the danger of losing their identity or culture. The Commission further noted that on the basis of discussions held by the Expert Committee (which consists, inter-alia, of well known experts in the field of anthropology), the Ministry of Tribal Affairs had prepared the draft policy for Shompens.

7.4.5.5 The Commission considered the draft policy for Shompens in its meeting held on 02/09/2009. After detailed deliberations, the Commission made the following observations for consideration by the MTA:

- (i) *The number (population) of Shom Pens has been estimated to have decreased from 398 in 2001 Census to 297 as per recent survey conducted by UT Administration. The reason for reduction in*

population has to be studied.

- (ii) The policy should aim at the development of the PTGs including Shompens PTG while protecting them from cross infection and exploitation by the outside world. They should be regularly provided with food items and health services beside special schools for education of their children. The following measures may also be suitably incorporated in the draft policy :*
 - (a) The number of regulated contact points may be increased suitably.*
 - (b) Instead of keeping Shompens entirely dependent on forest for livelihood, they may also be introduced to settled agriculture (by supplying them improved seeds, agricultural kits, plough bullocks, bullock carts etc.), horticulture and animal husbandry (by supplying them crossbreed cows, she buffaloes, sheep/piggery units etc.) and providing suitable training therefor.*
 - (c) Efforts may also be made to provide education and play way/ sports activities to children of Shompens community in special residential schools for which the staff and officers of AAJVS may have to make special efforts to make sporting contacts with them and persuade them to send their children to the special schools where every need of the children should be fulfilled free of cost. This may also help in checking the trend of diminishing population. This would certainly need careful selection of the staff and giving them suitable training for enabling them to have peaceful and fruitful relations with the PTGs. As and when possible, local eligible and suitably trained youth/women should be appointed as Teacher in the special schools.*
 - (d) The Primary Health Centres (PHCs) are generally located far away from the inhabitations of sparse PTG population and, therefore, they are not in a position to avail of medical facilities in the time of emergency. In order to provide emergency and regular treatment facilities, one Medical Mobile Van equipped with primary treatment facilities and medicines along with minor surgical equipments should be arranged at each contact point for the PTGs.*
 - (e) The local administration may be advised to arrange free distribution of food and consumer items available under PDS to needy persons.*

7.4.5.6 The Commission noted that Ministry of Tribal Affairs provides Special Central Assistance for development of PTGs (including Shompens) and felt that there was an imperative need to treat the five PTGs of A&N Islands on a special footing and to make special provisions under that scheme for development of these PTGs having regard to their diminishing population. The Commission further felt that the operation of the proposed policy may be reviewed after every 5 years instead of 10 years as proposed.

7.4.5.7 The population of other PTGs of A&N Islands is also very small and there is urgent need to take suitable and effective measures to achieve the desirable growth of their population. Therefore, the proposed draft policy in respect of Shompens as amended after incorporating above suggestions may also be made applicable in respect to other PTGs of A&N Islands.

Action taken status

7.4.5.8 The views of the Commission on the draft policy were communicated to the Ministry of Tribal Affairs vide letter dated 18/09/2009¹³. Subsequently, MTA vide letter dated 20/05/2010 intimated that the views of the Commission had been considered and the Draft Note for the Cabinet for publication of the Shom Pens Policy in the Gazette of India was under preparation. As further progress/ status on the subject matter is still awaited from the MTA, the Hon'ble Minister for Tribal Affairs has been requested vide letter dated 07/10/2010 to direct the Ministry to furnish the requisite information urgently.

7.4.6 Revised Bill - "The Delhi Educational Institutions (Reservation in Admission) Bill 2009"- to provide for the reservation in admission of the students belonging to the Scheduled Castes, Scheduled Tribes and Other Backward Classes (15th meeting, 6/11/2009) {Govt of NCT]

Proposal in brief

7.4.6.1 Directorate of Higher Education, Govt. of NCT of Delhi sought the comments of the Commission vide letter no DHE.6(79)/2007-08/Part File-I/4346 dated 16.10.2009¹⁴ on the revised draft of 'The Delhi Educational Institutions (Reservation in Admission) Bill 2009. The draft Bill was aimed to make statutory provisions relating to reservation in admission of the students belonging to the Scheduled Castes, Scheduled Tribes and Other Backward Classes of citizens, to certain educational institutions established, maintained or aided by the Govt. of National Capital Territory of Delhi.

7.4.6.2 The draft bill aimed at providing reservation for STs for the purpose of their admission in the educational institutions controlled by Delhi Govt. in respect of only those Scheduled Tribes who are 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. {Section 2(l)}. Further, in accordance with the Section 3(1)(ii) of the Bill, 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.

¹³ NCST Letter No. 15/1/2009/STGAN/DEOTH/RU-III dated 18.09.2009. Copy available on the Commission's website i.e. <http://ncst.nic.in>

¹⁴ Directorate of Higher Education, Govt. of NCT Letter No. DHE.6(79)/2007-08/Part File-I/4346 dated 16/10/2009

Views of the Commission

7.4.6.3 The proposal was discussed in the meeting of the Commission held on 06.11.2009. The Commission noted that beside elegance of drafting, the definition of the Scheduled Tribes mentioned in Section 2 of the Bill and the percentage of reservation for STs according to Section 3(1) (ii), which only mentioned upper limit of reservation for Scheduled Tribes; anything ranging from 0 to 7.5%, needed re-consideration.

7.4.6.4 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.

7.4.6.5 The Commission further observed that Section 3(ii) of the Central Educational Institutions (Reservation in Admission) Act, 2006 provided 7.5% reservation for STs. The Supreme Court (Civil Appeal No. 6-7 of 1998) 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. The Commission 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 provision 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 or 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(1) of the draft Bill was not in order.

7.4.6.6 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 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%.

7.4.6.7 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.

7.4.6.8 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 as stated in the Bill) and that all the STs irrespective of their nativity (on the lines 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(1) 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 benefits 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.*

Action taken status

7.4.6.9 The views/comments of the Commission of the draft Bill were communicated to the Directorate of Higher Education, Govt. of NCT, of Delhi vide letter dated 13/11/2009¹⁵. Subsequently, Govt. of NCT of Delhi, vide letter dated 12/07/2010, intimated the decision of the Govt. of NCT of Delhi in the matter that the *"The existing quota of 7.5% for ST candidates may be continued till appropriate decision is taken in respect of revised draft bill titled "The Delhi Educational Institutions (Reservation in Admission) Bill, 2010"*.

7.4.7 Draft Bill to regulate the issue of Community Certificate to persons belonging to SCs / STs / OBCs as per the directions of the Supreme Court of India in CA No. 4545 of 1994 (in the matter of Director of Tribal Welfare, Govt. of Andhra Pradesh V/s Lavette Giri and Anothers). (13th Meeting 3rd July) [MTA]

Proposal in Brief

7.4.7.1 Ministry of Tribal Affairs, vide letter dated 19/02/2009¹⁶, forwarded a proposal of the Ministry of Social Justice & Empowerment alongwith the Draft Bill to regulate the issue of community certificate to persons

¹⁵ NCST Letter No. 17/5/2009/STGDH/DEEDUC/ RU-I dt. 13/11/2009

¹⁶ MTA letter No. 12014/1/08-C&LM-I dated 19/02/2009

belonging to SCs/STs/OBCs as per the direction of the Hon'ble Supreme Court in C.A. No. 4545 of 1994 for comments/views of the Commission.

7.4.7.2 The salient features of the proposed Draft Bill were as under:

- (i) Each State or UT shall constitute a Scrutiny Committee in every District to be headed by an officer to be decided by the State Govt; (Section – 8(A))
- (ii) The Scrutiny Committee may, either suo-moto or on a written complaint by any person, enquire into the correctness of such certificate; (Section – 9(1))
- (iii) The burden of proof that the applicant belongs to such caste/tribe/class or not shall be on applicant or complainant as the case may be; (Section – 7)
- (iv) Whoever obtains a community certificate by any fraudulent means be punishable, on conviction, with rigorous imprisonment for a term from two to five years and with fine of five thousand to ten thousand rupees; (Section – 10)
- (v) After cancellation of a false community certificate by the competent authority, the benefits obtained based on the community certificate stands withdrawn such as Degree/Diploma, appointment in any Govt. post, any payment in terms of scholarship, grant etc., election to elective offices, any assets created with Govt. assistance shall be forfeited; (Section – 11,12)
- (vi) The Committee may stay the execution of any such decision or order, which were made to satisfy themselves, pending exercise of their powers to enquire / examine; (Section – 9(2))

Views of the Commission

7.4.7.3 The draft Bill was discussed in the meeting of the Commission held on 17/11/2009. The Commission noted that though the title of the draft Bill included regulation of issue of community certificates, the Clauses of the Bill largely dealt with verification of certificates and the action to be taken in the cases of fraud against those involved. Some clarificatory drafting also seems to be required. After discussion, the Commission recommended that:

- (i) *Eligibility criteria for issue of Community Certificate should also be included in the Bill so that the same is not dependent on understanding of instructions issued from time to time/ legal pronouncements (Section-4);*
- (ii) *In the interest of transparency and to facilitate verification of genuineness of certificates issued, a proper registration mechanism should also be conceived in collaboration with Unique ID/ other identity – verification systems for citizens (Section – 4);*
- (iii) *In some of the States, like Maharashtra, all the caste certificates have to be compulsorily verified and validated by the Scrutiny Committee before*

any benefit can be claimed by the Certificate holder. It is, however, practically not possible for any body/ committee to verify and validate all issued certificates without inflicting harassment on the certificate holders besides causing undue delays; and, therefore, no general revision exercise should be contemplated.

- (iv) The power to grant stay should not be conferred to the Committee as it often leads to arbitrary actions and delay in disposal of cases, besides diluting the accountability of the concerned authorities to take timely and reasoned decision [Section – 9(2)]. On the contrary, a time limit of 3 months should be stipulated for disposal of cases.*
- (v) In some of the Clauses in the Bill, the word ‘Government’ is used, which possibly refers to the State Government since the Bill does not contemplate Central authorities for issue/ verification of certificates. To avoid ambiguity the appropriate Government should be clearly specified.*
- (vi) Ordering of Sections of the Bill should be systematic. For instance functions & powers of the Scrutiny Committee are mentioned in Sections 6 & 7 before its composition is explained in Section 8(A). The authorities subordinate to it have also not been defined [Section 9(1)].*

Action taken status

7.4.7.4 The views of the Commission on the draft Bill were communicated to the Ministry of Tribal Affairs vide the Commission's letter dated 01/12/2009¹⁷ with the request to communicate the final outcome of the draft Bill with reference to the recommendations of the Commission. MTA vide letter dt. 20/05/2010 communicated that the comments of the Commission were under examination and the consolidated comments (Ministry of Tribal Affairs and NCST) would be sent to the M/o SJ&E for appropriate action. As further progress/ status on the subject matter is still awaited from the MTA, the Hon'ble Minister, MTA has been requested vide letter dated 7/10/2010 to direct the Ministry to furnish the requisite information urgently.

7.4.8 Summary Report of the Committee on draft Policy on Criminal Justice along with the copy of the Chapter 8.4 titled “Criminal Justice involving Dalits and Tribals” (16th meeting held on 17/11/2009)

Proposal in brief

7.4.8.1 The Ministry of Tribal Affairs vide letter dated 12/09/2007¹⁸ sought the comments of the Commission on the draft Policy on Criminal Justice while forwarding a copy of the summary of the Report of the Committee with the copy of the Chapter 8.4 “Criminal Justice involving Dalits and Tribals”. The Committee was appointed in May 2006 to draft a National Policy Paper on Criminal Justice, keeping in mind the prevailing law and practices, socio-

¹⁷ Letter No. NKG/2/2009/MTAF1/SEOTH/RU-II dt. 01/12/2009

¹⁸ MTA letter No. 12025/03/2007-C&LM II dated 12/09/2007

cultural values and the changing nature of crime, with a view to making the justice delivery system faster, fairer, uncomplicated and inexpensive.

7.4.8.2 Chapter 8.4 of the Report of the Committee included recommendations relating to criminal justice involving dalits and tribals. The relevant extract of the Chapter is re-produced below:

8.4.1 One of the distinguishing feature of the Indian Constitution is the concern it shows to Dalits and Tribals. The protection of law is needed most by the deprived and under-privileged classes including Dalits and Tribals. The functionaries of the criminal justice system should adopt differential standards when they deal with legislations like the PCR Act and the SC/ST (PoA) Act. There must be time limit for disposal of cases of atrocities and the policy of investigation and prosecution of such cases should be under constant review by the authorities.

8.4.2 It is important for enforcement agencies and the judiciaries to sensitize their personnel, allocate adequate resources and give priority in the matter of cases involving Dalits and Tribals. Legal aid schemes have to adopt imaginative strategies including a public defender system in this regard. Legal Aid personnel should be persons familiar with tribal language and customs..

8.4.3 The National Policy on Criminal Justice should incorporate the demands of special provisions contained in the Fifth and Sixth Schedules to the Constitution to ensure that Scheduled Tribes enjoy the privileges and protections extended to them by the Constitution even where issues of administration of justice are involved. Despite the directive to separate Executive from Judiciary, there is an express reservation in its application to Scheduled Areas. Criminal Justice has to accommodate this Constitutional mandate with understanding and appreciation.

Views of the Commission

7.4.8.3 The Commission discussed the recommendations, contained in the Report in its meeting held on 17/11/2009 and opined that:-

- (i) Recommendation already made by the Commission, regarding amendment of the SC & ST (PoA) Act, 1989 to provide for a time limit of 6 months for disposal of atrocity cases by the Courts and for setting up Exclusive Special Courts for trial of cases under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 may be reiterated as comments on para 8.4.1 of the Report of the Committee.
- (ii) The suggestions in para 8.4.2 is agreed. However, it needs to be examined as to how the “public defender system” will be different in practice from the notification of special panel of Public Prosecutors / engagement of senior Advocates in Special Courts under the provisions of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 and the SC & ST (PoA) Rules, 1995.

- (iii) As regards para 8.4.3 of the Report, the Commission observed that as per Constitutional provisions all laws (affecting Scheduled Tribes) may not apply/ be extended to Scheduled Areas by the Governor or may be extended with certain modifications (Clause 5/ Fifth Schedule, Clause 12/ Sixth Schedule). Under this provision, the Cr.P.C., 1973 does not apply to some Scheduled Areas. This runs counter to the general principle of separation of judiciary / executive since Executive Magistrates still wield judicial authority in these areas (as per the earlier Cr.P.C.). The Committee seems to favour continuation of existing arrangements, though in the prevailing culture of mis-governance, it is difficult to cite advantages. The Commission favours separate Judicial Courts, so that judicial cases receive due attention and proper consideration.

Action taken status

7.4.8.4 The comments/views of the Commission in the matter were communicated¹⁹ to the Ministry of Tribal Affairs vide letter dated 01/12/2009 with the request to intimate the final outcome of the draft policy with reference to the recommendations of the Commission. The MTA vide letter dt. 20/05/2010 communicated that the comments of the Commission were under examination and the consolidated comments (Ministry of Tribal Affairs and NCST) would be sent to the MHA for appropriate action. As further progress/ status on the subject matter is still awaited from the MTA, the Hon'ble Minister for Tribal Affairs has been requested vide letter dated 07/10/2010 to direct the Ministry to furnish the requisite information urgently

7.4.9 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 (15th meeting held on 12/11/2009)

Proposal in brief

7.4.9.1 Ministry of Tribal Affairs vide letter dated 27/10/2009²⁰ sought the comments of the Commission on the proposed Regulation for onward transmission to the Ministry of Home Affairs. The Government of Orissa, in the background Note highlighted that the Orissa Scheduled Areas Transfer of Immovable Property (By Scheduled Tribes) Regulation, 1956 (Orissa Regulation 2 of 1956) was enacted to control and check transfer of immovable property in the Scheduled Areas of the State of Orissa by the Scheduled Tribes.

7.4.9.2 As per the existing provision under Section 3(1) of the Regulation, any transfer of immovable property by a member of a Scheduled Tribes, except by way of mortgage executed in favour of any public financial institution for securing a loan granted by such institution for any agriculture purpose shall be absolutely null and void and of no force or effect whatsoever, unless such

¹⁹ NCST Letter no Policy-1/MTA/Atrocity/2007/RU-II dated 01/12/2009. Copy available on the Commission's website i.e. <http://ncst.nic.in>.

²⁰ MTA Letter No. 4/3/2009-CP&R/C&LM II dated 27.10.2009

transfer is made in favour of another member of a Scheduled Tribes. Proviso (ii) under Section 3(1) of the Regulation further states that “in execution of any decree for realization of the mortgage money, no property mortgaged as aforesaid shall be sold in favour of any person not being a member of a Scheduled Tribe”. The amendment carried out in the year 2000 to the Regulation also refers to restoration of land alienated since 1956 and also provide for punishment to the non-Scheduled Tribes having possession of alienated ST land, for not informing the competent authority about the possession.

7.4.9.3 The Govt. of Orissa indicated that as the existing Regulation imposes total ban on transfer of land i.e. lease, mortgage, etc., the ST persons are unable to get financial assistance from financial institution by mortgaging their land for opening outlets of oil companies, construction of house and higher study of their children, etc. Further, as the existing provisions of the Regulation limit loan from public financial institution only for agriculture purposes by way of mortgage of land with public financial institution, the financial institutions are not entertaining any other loan application to deserving ST persons. This creates discontentment among the young unemployed ST entrepreneurs as well as other ST persons. The Government of Orissa, therefore, vide Orissa Scheduled Areas Transfer of Immovable Property (By Scheduled Tribes) Amendment Regulation, 2009 suggested amendment to the proposed provision under Section 3(1) and 3(1)(ii) of the Orissa Scheduled Areas Transfer of Immovable Property (By Scheduled Tribes) Regulation, 1956 (Orissa Regulation 2 of 1956) as already amended in the year 2000, and also add Explanation III and Explanation IV after Explanation II in Sub-Section (1) of the Regulation. Govt. of Orissa also mentioned that the proposal had been concurred by the Tribes Advisory Council of the State, as provided under Paragraph 5 of the Fifth Schedule of the Constitution.

7.4.9.4 The Govt. of Orissa proposed to amend Section 3(1) and also Proviso (ii) under Section 3(1) for allowing transfer of and from a Scheduled Tribes by way of gift or exchange for public purpose or mortgage executed in favour of any public financial institution for securing a loan granted by such institutions for the purpose of agriculture, construction of residential house, higher studies of children, self employment, business or establishment of small scale industry (with prior permission in writing from the Sub-Collector). The Proviso (ii) was also proposed to be amended to provide that in the event of non-payment of loan obtained from the public financial institution, the immovable property will be put to public auction in execution of any decree for realization of mortgage money. If during such auction, the highest bid amount is offered by any person other than a member of Scheduled Tribes, the highest bid amount so offered by that person shall be given wide publicity in such manner as may be prescribed inviting application from the willing persons belonging to Scheduled Tribes to purchase the property at the said auction price, even though he has not participated in the said public auction. The highest bid amount has to be paid by such ST person within a period of 15 days from the date of the said publicity and the property shall be sold accordingly to such person belonging to Scheduled Tribes, failing which it will be sold to the person who has first offered the highest bid amount. This

amendment further provides that if the Sub-Collector refuses to grant permission under the amended provision, the person aggrieved may, within such period and in such manner as may be prescribed, prefer an appeal to the Collector, whose decision shall be final. The new Explanation III, to be inserted in the Regulation, define the term higher studies of children as education intended to be given to the children after their passing of High School Examination

Views of the Commission

7.4.9.5 The proposal was discussed by the Commission at its meeting held on 17/11/2010. The Commission noted that it was not socially or economically desirable that the tribal rights over land be allowed to be extinguished. After auction and transfer of tribal land to a non-Scheduled Tribe, as provided in the proposed amendment, the tribal will not be left with any source of livelihood and, after becoming landless he will soon be reduced to a pauper/ landless labour. The Commission, in its earlier reports had also opposed alienation of tribal land in whatever garb. The Commission thus opined that the enlargement of purposes of the loan, from existing agriculture purpose only, as proposed by Govt. of Orissa may be acceptable, but alienation of the land to non-Scheduled Tribes through public auction may not be accepted. It should be possible to conceive other solutions to ensure that public financial institutions do not lose their money and the Scheduled Tribes also do not lose their ownership over land. If necessary, the Government should step in as a "purchaser of the last resort" in these cases. On the lines of the Credit Guarantee Fund set up for the comfort of the lenders under the scheme of Ministry of Micro, Small and Medium Enterprises, a scheme may also be considered for the benefit of the tribals. To safeguard the livelihood of tribal farmers, the Government could consider setting up Land Banks comprising lands resumed by the Govt. in cases of mortgage default; and such lands may be leased to the previous ST owners with the opportunity/ right to re-purchase the same at any subsequent stage of time, beside rights to additional potential compensation due to change in land use pattern in future.

Action taken status

7.4.9.6 The views of the Commission on the proposal were communicated to the Ministry of Tribal Affairs vide letter dated 01/12/2009²¹ for information and necessary action. The Ministry of Tribal Affairs vide letter dt. 20/05/2010 informed the Commission that the subject matter pertained to the CP&R Division of the Ministry and all documents including comments of the Commission had been transferred to the CP&R Division for appropriate action. As further progress/ status on the subject matter is still awaited from the MTA, the Hon'ble Minister for Tribal Affairs has been requested vide letter dated 07/10/2010 to direct the Ministry to furnish the requisite information urgently

²¹ Letter No. 14/6/09/DevI./Orissa/Policy/RU-III dated 01.12.2009. Copy available on the Commission's website i.e. <http://ncst.nic.in>

7.4.10 Grant of reservation to migrant SCs/ STs in civil posts under the Government of NCT of Delhi

Proposal in brief

7.4.10.1 The Ministry of Home Affairs vide letter dated 27.11.2009²² forwarded a proposal for inclusion of all Scheduled Caste & Scheduled Tribe communities in the list of Scheduled Castes and Scheduled Tribes respectively in relation to the NCT of Delhi and all other Union Territories, consequent to the judgment dated 04/08/2009 of the Hon'ble Supreme Court of India in Civil Writ Petition No. 507/2006 titled Sarv Rural & Urban Welfare Society vs. Union of India

7.4.10.2 It is mentioned that, even though certain castes are notified as Scheduled Castes in respect of Delhi, the Government of NCT of Delhi has been following the all India pattern for a long time now in respect of reservation to civil posts under that Government and thereby giving reservation to all categories of SCs and STs irrespective of nativity.

7.4.10.3 The Hon'ble Supreme Court of India in its judgment dated 04.08.2009 in SLP No. 24327/2005 titled 'Subhash Chandra & Anr. vs. Delhi Subordinate Service Selection Board & Ors' clubbed with WP (Civil) No. 507 of 2006 titled 'Sarv Rural & Urban Welfare Society vs. Union of India & Ors' in the matter of reservation to migrant Scheduled Castes and Scheduled Tribes in NCT of Delhi had held that reservation in State or UT under Article 15 (relating to education) and Article 16 (relating to employment) can be given only to those Scheduled Castes and Scheduled Tribes who figure in the notified list under Article 341 or 342 for the State or UT, as the case may be.

7.4.10.4 As the implementation of the said Supreme Court judgment involved a major shift in the policy decision, the Ministry of Home Affairs decided to explore the scope for inclusion of migratory SCs and migratory STs in the lists notified under Article 341 and Article 342 in consultation with the NCSC and the NCST and the possibilities for providing a common reservation policy in respect of migratory SCs and STs in respect of all UTs including Delhi, and thereafter, approach the Cabinet posing all options.

Views of the Commission

7.4.10.5 The Commission discussed the proposal in its meeting held on 22/02/2010, The views/comments of the Commission were as under:

- (i) *The Commission noted that the Government of NCT of Delhi had been following the All India pattern in providing reservation in appointments to Civil Posts under them, irrespective of nativity. Separately, the Government of NCT of Delhi had issued instructions for giving reservation of 1% only to the Scheduled Tribes in the matter of admission to Professional Educational Institutions which are under the*

²² MHA Letter No. U-13028/31/2006-Delhi-I dated 27.11.09

control of Government of NCT of Delhi. The National Commission for Scheduled Tribes had taken objection to this step by taking up the matter with the Ministry of Home Affairs. Thereafter, the Government of NCT of Delhi had prepared a draft Bill to provide for reservation for migrated Scheduled Castes, Scheduled Tribes, and OBCs in the matters of admission to Professional Educational Institutions in Delhi, which was discussed in the 15th meeting of the Commission held on 06/11/2009. The Commission had recommended that the reservation for Scheduled Tribes for admission to educational institutions under the control of Govt. of NCT of Delhi should be 7.5% irrespective of the nativity of the Scheduled Tribes in order to provide them due access to the educational facilities of a high order which have been created in the national capital with Central Revenues.

- (ii) The Commission further observed that in the meanwhile, the Hon'ble Supreme Court of India in its judgment dated 04/08/2009 in the WP(C) No. 507 of 2006 has differed with the judgment of the three-Judges Bench in the case of S. Pushpa & Ors. and opined in para 40 of its judgment that the Central/ State Governments "may lay down a policy decision in regard to reservation having regard to provisions under Article 15 & 16 of the Constitution, but such policy cannot violate other Constitutional provisions (Article 341 & 342)." The Hon'ble Court in para 41 of the judgment has observed that "if the members of the SC and ST in other States are to be treated as backward classes for Delhi, intensive studies were required to be made in regard to question whether they would come within the purview of the definition of "Backward Classes" so as to answer the description of socially and educationally backward; and held in para 46 that:

.....we are bound by a Constitution Bench decision. We have referred to Constitution Bench decisions, namely Marri Chandra Shekhar Rao and E.V. Chinnaiah. Marri Chandra Shekhar Rao, had been followed by this Court in a large number of decisions including three Judges Bench decisions. Pushpa, therefore, could not have ignored either Marri Chandra Shekhar RaoFollowing Dayanand (supra), therefore, we are of the opinion that the dicta in Pushpa is an obiter and does not lay down any binding ratio.

- (iii) Keeping in view this judgment, the Ministry of Home Affairs has proposed inclusion of the names of the communities of migratory Scheduled Castes and Scheduled Tribes in the lists of Scheduled Castes and Scheduled Tribes of Delhi and other Union Territories notified under Article 341 and Article 342 of the Constitution. The Ministry is also looking at the possibility of a common reservation policy for all UTs in respect of migratory SCs/ Scheduled Tribes.
- (iv) Delhi is a National Capital Territory and a large number of people had migrated to Delhi after independence in 1947. The huge increase in population from 1951 (17.44 Lakhs) to 2001 (137.83 Lakhs) can't be

attributed to normal growth only, but also combines the effect of continuous migration of people from other regions in search of opportunity or employment. While no STs have been specified in relation to Delhi, the number of ST migrants from other States who have settled in Delhi, is also not available to indicate possible reservation requirements. The ST migrants may unwittingly face discrimination in the matter of reservation vis-à-vis SC migrants whose communities were also included in the list of SCs specified in relation to Delhi and may have been returned as SC of Delhi in various Census enumerations; and also secured Caste certificates mentioning that they were ordinary residents of Delhi, entitling them to the benefits meant only for the original SC communities of Delhi. The position of Delhi is quite unique as being the National Capital Territory, it has facilities and services created/ supported with Central Funds and Revenues. Therefore, it is quite appropriate that the migrant ST population settled in Delhi should not be discriminated against whether it is a matter of service or admission to educational institutions under the Government of NCT of Delhi.

- (v) *Since there are significant differences in the relative backwardness of different tribal communities living in different geographical regions of the country, it will be difficult to prevent marginalization of local tribal communities and monopolization of benefits by more advanced (migrant) communities if a common reservation policy/ order is contemplated for all (disparate) UTs (which are also home to Vulnerable Tribes of Jarawas, Shompens, and Nicobarese etc. in A & N Islands.*

7.4.10.6 In view of above the Commission recommended as follows:-

- (a) While refraining to comment on the merit of the Hon'ble Supreme Court judgment since Commission does not have any legal expertise, a common list of ST communities may not be notified under Article 342 in respect of all UTs including Delhi, as this may lead to marginalization of the original tribal inhabitants of the concerned UT beside compromising the sanctity of Article 342.
- (b) Keeping in view the unique status of NCT of Delhi, being the National Capital of the Country and existence of various offices of the Union Government in Delhi and the fact that the employment opportunities and educational facilities of high order have been created in the NCT of Delhi through the use of central revenues, it is desirable to extend the benefit of reservation, to the STs resident in Delhi irrespective of their nativity and period of residence while retaining the reservation level of 7.5% for Scheduled Tribes as admissible at National level.
- (c) A constitutionally valid scheme of reservation may, however, be evolved to extend benefits of reservation to migratory STs living outside their original place of nativity as indicated in para 41 of the judgment of the Hon'ble Supreme Court of India in SLP (C) 24327 of 2005 (WP (C) No. 507 of 2006).

Action taken status

7.4.10.7 The comments/views of the Commission²³ were communicated to the Ministry of Home affairs vide letter dated 20/07/2010 with the request to communicate the action taken in the matter. MHA was also requested to forward the Bill on the subject, as and when drafted by the MHA as per the provision under Article 338A (9) of the Constitution. As further progress/ status on the subject matter is still awaited from the MHA, the Hon'ble Minister for Home Affairs has been requested vide letter dated 08/10/2010 to direct the Ministry to furnish the requisite information urgently.

7.4.11 Amendment to Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Rules, 1995 [MTA]

Proposal in brief

7.4.11.1 Ministry of Tribal Affairs vide letter dated 04/12/2009²⁴ forwarded a proposal of the Ministry of Social Justice and Empowerment in respect of the following amendments in the SCs and STs (POA) Rules, 1995 :-

- i) Amendment in Rule 7 to insert Rule 7-A.
- ii) Amendment in Schedule to Rule 12(4) at Annexure – I.
- iii) Amendment in Schedule to POA Rules at Annexure-II.
- iv) Amendment in Rule 16 (1) (iv).

i) Amendment in Rule 7 to insert Rule 7-A.

7.4.11.2 The Ministry of Social Justice and Empowerment proposed to insert a new rule 7-A, as under, in order to evolve a formal system to obtain authentic and full details of specific incidents of offences of atrocities, especially heinous offences on continuing basis from the concerned institution to the concerned agency:

“7-A. Submission of Reports to Central Government etc. in case of serious offences.

(1) Whenever a First Information Report is registered for an offence punishable under sub-clause (i), (iv) or (v) of sub section (2) of section 3, the concerned District Magistrate shall submit a preliminary report within four days, in the matter, in such manner as may be prescribed, to the following:

- (i) concerned State Government/Union Territory Administration,*
- (ii) The Central Government in the Ministry of Home Affairs and the Ministry of Social Justice & Empowerment / Tribal Affairs, depending on whether the offence relates to a Schedule Caste*

²³ NCST Letter No. 12/01/10-Coord dated 20.07.2010. Copy available on the Commission's website i.e. <http://ncst.nic.in>

²⁴ MTA letter no. 16/12/2009-CP&R dated 04.12.2009

or a Schedule Tribe, and

(iii) *The National Commission for Scheduled Castes / the National Commission for Scheduled Tribes, depending on whether the offence relates to an SC or an ST*

(2) *Within 45 days of the registration of the FIR relating to an offence mentioned in sub-rule(1), the concerned State Government/Union Territory Administration shall submit to the Ministries of the Central Government and the concerned National Commission, as specified in sub-rule (1) above, a detailed report in the matter in such manner as may be prescribed, in the light of the report submitted under sub-rule (2) of the rule 7.”*

ii) Amendment in Schedule to Rule 12(4) at Annexure-I

7.4.11.3 The Ministry of SJ&E proposed revision of the minimum relief amount as per Schedule to the PoA Rules in pursuance of the recommendations of the Commission in its first Report for the years 2004-05 & 2005-06 to review the amount of financial relief in the context of the increasing cost of living over past one decade. The Ministry of SJ&E proposed increased relief ranging between Rs. 48,000/- to Rs. 4,80,000/- in place of existing provision ranging between Rs. 20,000/- to Rs 2,00,000/-, depending upon the nature of offence. For the proposed increase, Ministry of SJ & E has taken the Consumer Price Index for Industrial Workers (CPIIW) as the benchmark [CPIIW was 293 in March, 1995, when the POA Rules were notified (Base 1982 = 100), while CPIIW for May,2009 was 699, therefore, the factor for working out revised minimum amount of relief at CPI 699 comes out to $699/293 = 2.4$]

iii) Amendment in Annexure-II of Schedule to POA Rules

7.4.11.4 The amendment was proposed with regard to the substitution of the existing Annexure-II, {referred to at Sr.No.19 of the Schedule to Rule 12(4)}, containing the Ministry of Welfare, G.O.I. Notification No.4-2/83-H.W.III, dated 6.8.1986 regarding definition of 'Disability' consequent on its subsequent definition in Section 2 of the PWD Act and guidelines for their assessments issued vide Ministry of SJ & E, G.O.I. Notification No.154, dated 01.06.2001, as amended from time to time .

iv) Amendment in Rule 16(1)(iv)

7.4.11.5 Rule 16 of the POA Rules, provides for constitution of State-level vigilance and Monitoring Committee, including *inter-alia*, Director/Deputy Director of the erstwhile National Commission for the Scheduled Castes and the Scheduled Tribes (NCSCST) as a Member (Rule 16(1), Rule 16(1)(iv)). As the erstwhile NCSCST was bifurcated in February, 2004 into two separate Commissions, namely the National Commission for Scheduled Castes and the National Commission for Scheduled Tribes, the following amendment in Rule 16(1)(iv) was proposed:

Proposed amendment:

"16. CONSTITUTION OF STATE-LEVEL VIGILANCE AND MONITORING COMMITTEE

(1) The State Government shall constitute high power vigilance and monitoring committee of not more than 25 members consisting of the following:

.....

(iv) Chief Secretary, the Home Secretary, the Director General of Police, Representative of the National Commission for Scheduled Castes and/or National Commission for Scheduled Tribes – Members."

Views of the Commission

7.4.11.6 The Commission noted that the amendment No. (i) to insert Rule 7-A has been proposed for obtaining timely information in respect of the cases of atrocities, especially pertaining to heinous offences. At present, there is no definition of heinous offences in the Indian Penal Code. It is also not mandatory under the Criminal Procedure Code to register an FIR immediately when a complaint is made.

7.4.11.7 The Commission further noted that a large number of atrocities against Scheduled Tribes primarily pertain to grabbing of tribal land and crimes against (their) women folk. Therefore, it is advisable to report cases registered under sub-clause (iii), (v), (xi) or (xii) of sub-section (1) of Section 3 too for monitoring purposes. The Commission also felt that there should be prompt reporting of all such complaints made to the police, without awaiting the registration of an FIR. The report should preferably be sent through the Superintendent of Police, keeping in view the varying responsibility for criminal administration in different regions.

7.4.11.8 After detailed deliberations, the Commission recommended that the phrase "whenever FIR was registered under sub-clause (i), (iv) or (v) of sub-section 2 of Section 3, the concerned District Magistrate" of the proposed Rule 7-A should be substituted as "whenever a complaint is made to a police officer regarding an offence punishable under sub-clause (iii), (v), (xi) or (xii) of sub-section (1) of Section 3 or sub-clause (i), (iv) or (v), of sub-section (2) of Section 3, the concerned Superintendent of Police " in amendment at no. (i) relating to insertion of Rule 7A.

The Commission also endorsed the proposed amendments at S.No. (ii), (iii) and (iv) of the proposal with the observation that the added reference in Item 17 pertaining to mischief by fire etc. is probably unnecessary since it is already subsumed (as life imprisonment exceeds 10 years).

Action taken status

7.4.11.9 The views of the Commission on the proposed amendment were communicated to the Ministry of Tribal Affairs vide letter dated 26/03/2010²⁵ with the request to intimate the final outcome of the Draft Bill with reference to

²⁵ NCST letter no Policy-1/ATROCITY/MTA/2010/RU-II dated 26.03.2010

the recommendations of the Commission. As details of the action taken by the MTA on the advice/views tendered by the Commission on the subject matter are still awaited, the Hon'ble Minister for Tribal Affairs has been requested vide letter dated 07/10/2010 to direct the Ministry to furnish the requisite information urgently

7.5 Suo-moto recommendation made by the National Commission for Scheduled Tribes.

7.5.1 The Scheduled Castes and the Scheduled Tribes (Reservation in Posts and Services) Bill 2008 [DoPT]

Proposal in brief

7.5.1.1 The Commission noted from the media reports that the Scheduled Castes and Scheduled Tribes (Reservation in Posts and Services) Bill 2008 (copy available on NCST website: <http://www.ncst.nic.in>) was being processed by the Department of Personnel and Training for presentation in the 14th Lok Sabha after it was passed by the Rajya Sabha on 23/12 /2008. The Commission noted that the Bill in its present form, varied in its contents from the earlier draft Bill viz; the SCs, STs and other Backward Classes (Reservation in Posts and Services) Bill, 2004 received from the DoPT for comments of the Commission, and the comments on which were furnished in December, 2004.

Views of the Commission

7.5.1.2 The Commission deliberated on the draft the SCs and STs (Reservation in Posts and Services) Bill 2008 in its meeting held on 22/02/2010 and noted that the that views of the Commission have not been sought on the draft Bill viz; the SCs and the STs(Reservation in Posts and Services) Bill 2008. The, Commission, therefore, desired that the concern of the Commission in this regard may be communicated to the concerned Ministry/ Department; and it be suggested to them that the updated version of the Bill should be referred to this Commission also for comments before it is introduced in the Lok Sabha.

Action taken status

7.5.1.3 The concern of the Commission regarding the Draft Bill 2008 were communicated²⁶ to the DoPT vide letter dated 26/03/2010 with the request to intimate the final outcome of the Draft Bill with reference to the recommendations of the Commission. The DoPT vide letter dated 12/05/2010 informed that the Bill was passed by the Rajya Sabha on 23.12.2008 and couldn't be discussed in the Lok Sabha and lapsed on the dissolution of the 14th Lok Sabha. The DoPT also informed that the issue of introduction of a fresh Bill regarding reservation for SCs and STs was under examination and whenever, a decision is taken to introduce the Bill, the National Commission for Scheduled Castes and the National Commission for Scheduled Tribes will be consulted before such introduction.

²⁶ NCST Letter no 13/1/NCST/2004-Admn/RU-I dated 26/03/2010

7.5.2 Representation of all Scheduled Tribes in the Sikkim Legislative Assembly in the context of the proposal of the State Govt for increase of Assembly seats in the Sikkim from 32 to 40

Proposal in brief

7.5.2.1 The Commission, while examining a representation dated 31/10/2006, received from the Sikkim Bhutia Lepcha Apex Committee (SBLAC) in regard to amendment to the Representation of People Amendment Act 1980 and the Constitution (Sikkim) Scheduled Tribe Order 1978, for increase of representation of Bhutia and Lepcha from 12 to 16 in case of increase of Assembly seats in the Sikkim from 32 to 40, learnt from the State Govt. (vide their letter dated 08.12.2006) that as per the Representation of People (Amendment) Act, 1980, 12 out of 32 Assembly seats in Sikkim, i.e. 40 % were reserved for the Bhutia-Lepcha (as against around their 21% population in the State of Sikkim). The State Govt. also informed that though the Bhutia and the Lepcha community in the State are declared as tribals, as per the Constitution (Sikkim) Scheduled Tribe Order, 1978, the reservation of seats has been granted on the community basis; and not as per their tribal status, as in other States of the Country. Consequently, Limboos and Tamangs, who have been declared as tribals, are not eligible to contest from the said reserved seats and have demanded suitable reservation of seats for them in the Sikkim Legislative Assembly. The State Govt has, therefore, suggested increase in the strength of the Sikkim Legislative Assembly from the existing 32 to 40 for grant of reservation of seats in the State Assembly for Limboos and Tamangs tribals, while protecting the reserved seats for Bhutia-Lepcha and Sangha.

7.5.2.2 The Chairperson, National Commission for Scheduled Tribes has written a DO letter dated 03.09.2008 to the Hon'ble Home Minister in favour of demand of SBLAC regarding proportionate increase in their quota of 12 Assembly seats to 16. Ministry of Home Affairs intimated the Commission vide their letter dated 23rd Feb, 2009 that the matter was under active consideration. The Commission took up the issue, considering need to ensure fair representation of all Scheduled Tribes in the State Legislative Assembly.

Views of the Commission

7.5.2.3 The Commission, in its meeting held on 17/11/2009, noted the constitutional provisions regarding the number of seats in State legislatures (Art.170), and the special provisions relating to the State of Sikkim in Article 371F of the Constitution (which have been upheld by the Supreme Court as being such as not to negate the fundamental principles of democracy/ not unconstitutional given the situation and permissible latitude) as under;

a) Article 170(1):

The Legislative Assembly of each State shall consist of not more than five hundred, and not less than sixty, members chosen by direct election from territorial constituencies in the State.

(b) Article 371F(a):

The Legislative Assembly of the State of Sikkim shall consist of not less than thirty members.

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Parliament may, for the purpose of protecting the rights and interests of the different sections of the population of Sikkim make provision for the number of seats in the Legislative Assembly of the State of Sikkim which may be filled by candidates belonging to such sections and for the delimitation of the assembly constituencies from which candidates belonging to such sections alone may stand for election to the Legislative Assembly of the State of Sikkim.

(c) Article 332(3) :

The number of seats reserved for the SCs and STs in the Legislative Assembly of any State shall bear, as nearly as may be, the same proportion to the total number of seats in the Assembly as the population of the Scheduled Castes in the State or of the Scheduled Tribes in the State.

(d) The Representation of People Act, 1950 [Act No. 43 of 1950],

Total number of seats in Legislative Assemblies and assembly constituencies in the Legislative Assembly of each State specified in the Second Schedule, to be filled by persons chosen by direct election from assembly constituencies, and the number of seats, if any, to be reserved for the SCs and for STs of the State, shall be as shown in that Schedule: Notwithstanding anything contained in sub-section (1), the total number of seats in the Legislative Assembly of the State of Sikkim, to be constituted at any time after the commencement of the Representation of the People (Amendment) Act, 1980 (8 of 1980), to be filled by persons chosen by direct election from assembly constituencies shall be thirty two of which (a) twelve seats shall be reserved for Sikkimese of Bhutia – Lepcha origin ; (b) two seats shall be reserved for the Scheduled Castes of that State; and (c) one seat shall be reserved for the Sanghas referred to in section 25A. Explanation.- In this sub-section “Bhutia” includes Chumbipa Dophthapa, Dukpa, Kagatey, Sherpa, Tibetan, Tromopa and Yolmo.

7.5.2.4 The Commission was of the view that keeping in mind the provisions of Article 332(3) of the Constitution, it would be appropriate that:-

(i) The number of seats in the State Legislature should be increased from 32 to 40 to provide fair share to all the Scheduled Tribes in the State.

(ii) The increase in seats (8) in the Sikkim Legislative Assembly should firstly be reserved for Scheduled Tribes according to their population, in order to safeguard the political rights of all the Scheduled Tribe Communities, (including Bhutia-Lepcha).

Action taken status

7.5.2.5 The comments/views of the Commission in the matter were communicated to the Ministry of Home Affairs vide letter dated 01/12/2009²⁷ with the request to intimate the final decision taken by the government in the matter with reference to the recommendations of the Commission. As details of the action taken by the MHA on the advice/views tendered by the Commission on the subject matter are still awaited, the Hon'ble Minister for Home Affairs has been requested vide letter dated 08 /10/2010 to direct the Ministry to furnish the requisite information urgently.

7.5.3 Amendment of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 for providing time bound disposal of cases by the Special Courts(13th Meeting held on 3rd July, 2009) [Ministry of Social Justice & Empowerment]

Proposal in brief

7.5.3.1 The Commission noted from the analysis of data relating to disposal of cases of atrocities on Scheduled Tribes by the Courts, which was discussed in the meeting of a Special Committee set up by the Ministry of Social Justice & Empowerment, that a large number of cases registered under the PoA Act, 1989 in different States were pending in Courts. Further, there is a very high rate of acquittal among the cases disposed by the designated courts, possibly due to delay in disposal in such cases. Therefore, the Commission considered the need to propose fixation of a time-frame for disposal of cases registered under the PoA Act, in line with the recommendations contained in the 4th Report of the Commission for the year 2008-09 for providing a time-limit for disposal of the cases under the PoA Act by the Courts.

Views of the Commission

7.5.3.2 The Commission discussed the subject in its meeting held on 03/07/2009. The Commission noted that the Consumer Protection Act, 1986 provided for time bound disposal of the cases by the Consumer Forums (between 3 to 5 months), while the National Commission for Women had recommended that the Courts may dispose the cases relating to rape in a time bound manner (within 6 months). The Commission also noted that while the provision for setting up special courts in the Act was aimed at speedy disposal of cases registered under the Act, experience so far had belied this expectation.

7.5.3.3 The Commission observed that the SCs and STs (PoA) Act, 1989 is also a special Act for protection of the Scheduled Tribes and therefore, recommended an appropriate amendment to the SCs and STs (PoA) Act, 1989, with regard to disposal of the cases registered under the Act by the Special Courts within 6 month, on the lines of the Consumer Protection Act, 1986. The Commission also recommended that to meet this objective, the SCs & STs PoA Act,1989 could also be amended to provide for setting up

²⁷ NCST Letter No Sikkim-2/Inclusion/Service/2006/RU-II dated 01/12/2009. Copy available on the Commission's website i.e. <http://ncst.nic.in>

exclusive Special Courts instead of designating a Session Court as a Special Court for trial of cases under this Act.

Action taken status

7.5.3.4 The views/comments of the Commission on the subject were communicated to the Ministry of Social Justice & Empowerment vide letter dated 16/07/2009²⁸ with the request to intimate the final outcome with regard to the proposed amendment of the SCs & STs, PoA Act, 1989 for fixing a time-frame for disposal of cases, registered under the Act. As details of the action taken by the Ministry of SJ & E on the advice/views tendered by the Commission on the subject matter are still awaited, the Hon'ble Minister, Ministry of SJ & E has been requested vide letter dated 8/10/2010 to direct the Ministry to furnish the requisite information urgently

7.6 Submissions made in Court cases

7.6.1 **Writ Petition (S) No.6337 of 2008 in Chhattisgarh High Court at Bilaspur, filed by Shri M.K. Chaudhary & Others vs. State of Chhattisgarh & 12 Others regarding denial of promotion to SCs and STs Officers of Chhattisgarh State Electricity Board after bifurcation of Madhya Pradesh State Electricity Board, consequent to re-organisation of MP State in the year 2001 (12th Meeting, 24.06.2009)**

Main issue of WP

7.6.1.1 The WP relates to the problems of SCs and STs who have been allotted service under the newly created States after bifurcation of the cadres consequent upon bifurcation of the erstwhile State of Madhya Pradesh into the States of Chhattisgarh and Madhya Pradesh in the year 2001. The petitioners (6-employees of the Chhattisgarh State Electricity Board) represented against the denial of promotion of the SC/ST Officers/ Employees of the then existing Madhya Pradesh State Electricity Board, who were allocated to Chhattisgarh State Electricity Board after re-organisation of the Madhya Pradesh State into MP and Chhattisgarh States in the year 2001, because they were not having caste certificates issued by the Chhattisgarh Govt.

7.6.1.2 The main Respondent in the WP was the State Govt. of Chhattisgarh and the Chhattisgarh State Electricity Board. The National Commission for Scheduled Tribes was the 5th Respondent.

Views of the Commission

7.6.1.3 The comments of the Commission on the WP and the draft material for affidavit prepared on the basis of the comments were discussed in detail in the Commission's meeting held on 24/06/2009. The Commission noted that the issues raised in the WP primarily rest with the Govt. of Chhattisgarh and the Govt. of India in the Ministry of Social Justice & Empowerment in respect of Scheduled Castes and Ministry of Tribal Affairs in respect of

²⁸ NCST Letter No. 6/3/2006/Atrocity/RU-II dated 16.07.2009. Copy available on the Commission's website i.e. <http://ncst.nic.in>

Scheduled Tribes, w.r.t. the provisions contained in Article 341 and 342 respectively, which are reproduced below:

Article 341 Scheduled Castes –

(1) The President may with respect to any State or Union Territory, and where it is a State, after consultation with the Governor thereof, by public notification, specify the castes, races or tribes or parts of or groups within castes, races or tribes which shall for the purpose of this Constitution be deemed to be Scheduled Castes in relation to that State or Union Territory, as the case may be.

(2) Parliament may by law include in or exclude from the list of Scheduled Castes specified in a notification issued under clause (1) any caste, race or tribe or part of or group within any caste, race or tribe but save as aforesaid, a notification issued under the said clause shall not be varied by any subsequent notification.

Article 342 Scheduled Tribes –

(1) The President may with respect to any State or Union Territory, and where it is a State, after consultation with the Governor thereof, by public notification, specify the tribes or tribal communities or parts of or groups within tribes or tribal communities which shall for the purpose of this Constitution be deemed to be Scheduled Tribes in relation to that State or Union Territory, as the case may be.

(2) Parliament may by law include in or exclude from the list of Scheduled Tribes specified in a notification issued under clause (1) any tribe or tribal community or part of or group within any tribe or tribal community but save as aforesaid, a notification issued under the said clause shall not be varied by any subsequent notification.

7.6.1.4 The Commission also noted that in its 2nd Report for the year 2006-07, the Commission had made following recommendations for urgent consideration of the Government to resolve the problems of tribal families on their migration to other States due to their resettlement resulting from their displacement in the State of their origin or due to reorganization of States for urgent consideration of the Government:

Paragraph 3.9.7

There is need to advise the State Governments that:

- (a) they should issue instructions to provide that the families and children of the in-voluntarily migrated ST parents due to the resettlement in another State following displacement from his State of origin will continue to enjoy the same status in the State where they are resettled after displacement in case the community/ communities to which they belong has/ have already*

been notified as Scheduled Tribe/ Scheduled Tribes in that State and avail the benefits admissible to the Scheduled Tribes in that State.

- (b) In case the community/ communities to which the resettled tribals belong has/ have not been notified as Scheduled Tribes in the State of resettlement, they (i.e. the State Govts.) should immediately initiate action to get that/ those community/ communities notified as Scheduled Tribe/ Scheduled Tribes effective from the date of resettlement and also ensure that pending the issue of said notification, the resettled tribals are allowed to avail the benefits admissible to Scheduled Tribes in that State.*
- (c) There is also need to advise the State Govts. that they should issue instructions to provide that in the context of creation of new States or transfer of territories from one State to another State following reorganization of States, the Scheduled Tribes notified for the undivided States will continue to enjoy the same status in the successor States depending upon the place of their residence in the new State on the date of the notification of the State Reorganisation Act.*

7.6.1.5 The Commission approved the comments particularly the comments in regard to the incorporation of the recommendations of the Commission contained in para 3.9.7 of its 2nd Report for the year 2006-07, quoted above, by way of a possible solution to the problem. The Assistant Solicitor General of India at Bilaspur vide letter dated 02/001/2009²⁹ was advised accordingly for preparing the affidavit to be filed on behalf of the National Commission for Scheduled Tribes in the High Court of Chhattisgarh at Bilaspur in the above WP.

7.6.2 Writ Petition (Civil) No. 590 of 2008 of Shri Surmukh Singh vs Union of India and Ors. in the Supreme Court of India regarding rotation of reserved Assembly and Parliamentary Constituencies in the State of Haryana and also in whole of India after each General Assembly/ Parliamentary Election respectively. (13th Meeting held on 3rd July, 2009)

Main issue in WP

7.6.2.1 The main issue raised in the WP relates to rotation of reserved seats for the Scheduled Castes and the Scheduled Tribes in the Assembly and Parliamentary constituencies in the State of Haryana as well as other States in order to give equal opportunity to the SCs and STs belonging to the constituencies which are presently unreserved. Under the present system followed by the Election Commission, the constituencies, in which the shares of SC/ST population are higher, are reserved for the Scheduled Castes and the Scheduled Tribes. The Ministry of Law & Justice and the Delimitation

²⁹ NCST Letter No. 18/2/CG/2008/RU-III dated 02/01/2009

Commission were primarily concerned with the subject matter in WP. The National Commission for Scheduled Tribes was Respondent No. 4 .

Views of the Commission

7.6.2.2 The issue raised in the WP was discussed in the Commission's meeting held on 03/01/2009 and 03/07/2009. The Commission noted that the provisions under the Article 330 and 332 of the Constitution relating to reservation of seats for Scheduled Castes and Scheduled Tribes in elections to Parliamentary and Assembly constituencies did not provide for rotation of constituencies while those under Article 243D relating to reservation of seats in local bodies read with Section 4(g) of the Panchayats (Extension to the Scheduled Areas) Act, 1996 , *inter-alia*, provides that the reservation of seats in the Scheduled Areas at every Panchayat shall be in proportion to the population of the communities in that Panchayat for whom reservation is sought to be given. The Commission deliberated the issue taking into account the above provisions and was of the view that the spirit of the special provisions relating to conduct of Panchayat elections in the Scheduled Areas as provided under the Panchayats (Extension to the Scheduled Areas) Act, 1996 cannot be made applicable while considering the prayer for rotation of seats reserved for Scheduled Tribes and Scheduled Castes in elections to Parliamentary and Assembly constituencies. The Commission, therefore, decided not to support the prayer made in the WP.

7.6.2.3 Based on the above views of the Commission, an affidavit was filed in the Hon'ble Supreme Court.

7.6.3 Writ Petition No. 3528 of 2009 filed by Shri Purushottam Sonkusre vs Delimitation Commission, New Delhi & Ors. in the High Court of Bombay, Nagpur Bench challenging the list of Assembly constituencies reserved for STs in the Maharashtra Legislative Assembly (Meeting held on 22/02/2010)

Main issue in WP

7.6.3.1 The moot issue raised in the WP relates to reservation of the ST constituencies in the Maharashtra Legislative Assembly according to the comparative tribe-wise population rather than the proportion of the ST population to the total population.

7.6.3.2 In the WP, the Delimitation Commission (represented by the Secretary, Election Commission), the Chief Election Commissioner of India, Election Commissioner, Maharashtra and the Registrar General of India, the National Commission for Scheduled Tribes, the Ministry of Law and Justice and the Ministry of Tribal Affairs have been listed as Respondent No.1,2,3, 6,7,8 and 9 respectively (Respondent Nos. 4&5 have been deleted).

7.6.3.3 The Petitioner had, inter-alia, contended that the tribe-wise population in the actual ST population of the constituencies in descending order should form the basis of reserving the constituencies for Scheduled Tribes. In other words the petitioner seems to hold the view that once a particular constituency is treated as reserved for ST on the basis of the proportion of ST population to the total population the constituency it should be reserved for the

ST community having largest population among the STs in that constituency and thereafter, in descending order of tribe-wise population in the constituencies in subsequent elections.

Views of the Commission

7.6.3.4 The Commission discussed the issue in its meeting held on 22/02/2010 and expressed the following views:

The contention of the petitioner in challenging the list of assembly constituencies reserved for STs is not clear. The procedure adopted by the Delimitation Commission seems to be in order because the highest proportion of tribal population as well as its absolute number would tantamount to the same in the case of single-member constituencies when they are of uniform size. Besides, the subject matter of the Writ Petition is primarily the concern of the Delimitation Commission and the Ministry of Law and Justice (The Ministry of Tribal Affairs and the Registrar General of India are also concerned with the issue). The Commission may, therefore, not intervene in the case and leave the matter for decision by the Hon'ble High Court.

Action taken status

7.6.3.5 The above views of the Commission were communicated to the Ministry of Law & Justice and the Ministry of Tribal Affairs vide Commission's letter dated 18.03.2010³⁰.

7.7 A review of the above position reflects that the concerned Ministries/Depts. have not been very forthcoming about the status with regard to acceptance/non-acceptance of recommendations/ the comments/ views /advice of the Commission on various policy related issues. The Commission would like to mention that the feedback from the Government not only enlightens the Commission with the final views of the Govt. on such policy related issues and the wider perspective of the related issues that are considered by the Government while taking final decisions in these matters, but also enables the Commission to report the effectiveness of its recommendations and refine its recommendations in similar cases in future. The Commission, therefore, re-iterates its earlier recommendations contained in para 8.7 of its 4th Report for the Year 2008-09, submitted to the Hon'ble President of India on 27 August 2010, that all the concerned Ministries/Depts. of the Central Govt. and State Governments should communicate action taken on the comments/views/advice rendered by the Commission at the earliest so that the same can be highlighted in the reports submitted by the Commission. To enable meaningful consultation with Standing Commissions, the Cabinet Secretariat should issue instructions to all Central Ministries/Depts. and State Govts. that they should furnish an

³⁰ NCST Letter No. CC/1/2009/STGMH/DEOTH/RU-IV dated 18/03/2010

Action Taken Report in a time-bound manner on the comments/views/ advice received from them on policy matters.

7.8 In its 4th Report the Commission had also highlighted the fact that the Commission had not been consulted while enacting important legislations of vital significance to the wellbeing and existence of tribal people, viz; Reservation Bill the Bill relating to Scheduled Tribes and Other Forest Dwellers (Recognition of Forest Rights) Act, 2006, the Land Acquisition (Amendment) Bill, 2007 the Rehabilitation and Resettlement Bill, 2007 and Wild Life Protection (Amendment) Act, 2006, the Scheduled Castes and the Scheduled Tribes (Reservation in Posts and Services) Bill 2008. Since legislation is the most pristine articulation of the policy of the State and, it being mandatory, under Clause 9 of the Article 338A, to consult the Commission in respect of those legislative proposals which may affect Scheduled Tribes, **the National Commission for Scheduled Tribes re-iterates its earlier recommendations contained in its 4th Report (para 8.3.16.4) that the Cabinet Secretariat and the Ministry of Law and Legal Affairs should be tasked with the responsibility of ensuring meaningful consultations with the National Commission for Scheduled Tribes before such legislative proposals are placed for consideration before the Council of Ministers.**

CHAPTER 8

SUMMARY OF RECOMMENDATIONS

The recommendations of the Commission on various aspects have been highlighted in the respective Chapters to facilitate convenient identification for the purpose of taking up follow up action on them. A summary of these recommendations is given as below:-

CHAPTER-1: ORGANIZATIONAL SET-UP AND FUNCTIONING OF THE COMMISSION.

- 1 This Commission, therefore re-iterates its recommendation made earlier in para 8.4.3.2.4 of its Fourth Report that, in court cases relating to the subject matters allotted to the Commission, where NCST is also a respondent and other authorities of the Central Government may be a petitioner party or a respondent, the Commission should file its reply independently through a separate Central Govt. Counsel, so that views of the Commission reach the Court without modifications or curtailments. To avoid delay, it may also be examined whether there is any real need for routing such requests for legal representation through the Administrative Ministry (MTA), as the Ministry has no oversight role to play regarding recommendations / views of the Commission on matters in relation to other Ministries/ Departments/ Organizations. **[Ref Para 1.4.5]**
- 2 The Commission regrets that despite being a constitutional entity, the Commission is still struggling to get appropriate administrative and financial powers exercisable as Department of the Central Government, proposals for which are still pending with the Ministry of Tribal Affairs. The Commission, therefore, recommends that the NCST, which is a Constitutional successor to the NCSCST, and has been vested with more duties and powers, should immediately be granted with all the powers of the Department of the Central Government so that the Commission can function and perform as per its mandate. **[Ref Para 1.4.7]**
- 3 The Commission observed that there was a justified need to empower the Commission through the following measures:-
 - (i) Clause 5 (b) of Article 338A should be suitably amended to provide that where the enquiry discloses clear violation in complying with the safeguards provided to the Scheduled Tribes in the Constitution or under any other order or law by a public servant, the Commission may advise/ recommend to the concerned organization for taking corrective remedial measures and that it should be mandatory for the concerned organization of the Central Govt. or the State Govt. to accept such advice/ recommendations. **[Ref Para 1.4.11 (i)]**
 - (ii) On the lines of the powers given to the Central Information Commission in the context of the implementation of the various

provisions of the Right to Information Act, 2005, the National Commission for Scheduled Tribes should also be given power to impose fine on a public servant for wilful delay or negligence in the discharge of his duties in implementing the instructions of the Government relating to safeguards available to the members of Scheduled Tribes. **[Ref Para 1.4.11 (ii)]**

Commission re-iterates that the Commission may be empowered through the above-mentioned measures. **[Ref Para 1.4.12]**

- 4 The Commission recommends that whenever matters are referred to this Commission for advice or comments, the views expressed by this Commission should invariably be placed, without any oversight or modification, before the concerned authorities for their consideration, as the final decision on the issue rests with the concerned authority. **[Ref Para 1.4.14]**
- 5 The Commission therefore, recommends that matters for advice under the provision of Article 338A(9) may be referred to the Commission after completion of internal process of drafting and before submission to the Apex Cabinet Committee. The Commission also re-iterates its recommendation that legislation being the most pristine articulation of Government policy, the Cabinet Secretariat and the Ministry of Law, Justice and Legal Affairs should be tasked with the responsibility of ensuring meaningful consultations with the Commission before legislative proposals are placed for consideration by the Council of Ministers. **[Ref Para 1.4.15]**
- 6 Since the term of each Member is three years from the date of assuming the charge, and the Government is fully aware about the date when the vacancy would be caused, the Commission recommends that the Government should initiate timely action for appointment of new Members against the likely vacancies. **[Ref Para 1.5.3]**
- 7 The Commission expresses its unhappiness on such a large number of posts being vacant in the Commission and is pained to observe that the Ministry of Social Justice & Empowerment, Ministry of Tribal Affairs and the National Commission for Scheduled Castes did not fully appreciate the problem and the severe constraints being faced by the Commission and failed to make concerted efforts to fill up these vacant posts to enable the Commission to discharge its constitutional obligations in an effective manner. **[Ref Para 1.5.10]**
- 8 The Commission reiterates its earlier recommendation contained in the third report for the year 2007-08 and fourth Report for 2008-09 that the Ministry of Tribal Affairs as well as Ministry of Social Justice & Empowerment should make coordinated efforts to find a solution, or alternatively, National Commission for Scheduled Tribes may be allowed to have independent cadre control over various posts belonging to the National Commission for Scheduled Tribes so that vacancies in various posts in the Commission do not remain unfilled for a long period at any point of time. **[Ref Para 1.5.14]**

- 9 The Commission, however, remains firmly of the view that it is very important that Reports of the Commission are laid in Parliament and the State Legislatures, as the case may be, within a reasonable period of time i.e. not exceeding three months, and memorandum of action taken/ proposed to be taken on its recommendations by the Ministry of Tribal Affairs/ the respective State Government are separately laid in the Parliament/ State Legislature within six months of such submission of the report. The Commission hopes that the Government will appreciate the concern of the Commission for timely submission of the reports in the Parliament and initiate expeditious action to amend the above-mentioned Clause of Article 338A of the Constitution on the above lines. **[Ref Para 1.9.9]**

CHAPTER-2: PLANNING AND DEVELOPMENT FOR SCHEDULED TRIBES

- 1 The Commission, therefore, recommends that both Planning Commission and Ministry of Tribal Affairs should take immediate steps to ensure timely formulation and implementation of Tribal Sub-Plan by States/ UTs as well as Central Ministries/ Departments. **[Ref Para 2.7.2]**
- 2 The Planning Commission, in its communication to the State Governments, regarding preparation of Annual Plan and Five Year Plan should invariably emphasize that the Plan proposals of the State Government for Annual Plan as well as Five Year Plan will not be considered unless Tribal Sub-Plan document is also received. The communication should also clearly specify that the State Governments will simultaneously sent the copies of State Plan documents and Tribal Sub-Plan documents to the National Commission for Scheduled Tribes. **[Ref Para 2.9.1 (i)]**
- 3 As has been the practice in the past, the draft Tribal Sub-Plan of the State should also be discussed in the first phase by the Ministry of Tribal Affairs and the revised Tribal Sub-Plan document may be discussed for final approval in the Planning Commission, after finalization of the Five Year Plan/ Annual Plan size of the State. The Tribal Sub-Plan outlays approved in the meeting in the Planning Commission should be adhered by the State Government. **[Ref Para 2.9.1 (ii)]**
- 4 In order to ensure non-diversion of Tribal Sub-Plan funds, the Planning Commission and the Ministry of Tribal Affairs should ensure that each State Government budgets the earmarked TSP funds under a single budget demand under the control of the State Tribal Welfare/ Development Department of the State, as envisaged in the Maharashtra Model and advocated by Planning Commission as well as Ministry of Tribal Affairs from time to time. **[Ref Para 2.9.1 (iii)]**
- 5 The funds allocated under Tribal Sub-Plan of the States should be non-divertible and non-lapsable with the objective of bridging the gap in socio-economic development of the Scheduled Tribes and the Scheduled Areas (and other tribal areas) under Tribal Sub-Plan in a time-bound manner. The Ministry of Finance, Ministry of Tribal Affairs and the

Planning Commission may take necessary steps for creation of a non-lapsable Tribal Sub-Plan fund under each State/ UT having Tribal Sub-Plan and formulate guidelines for utilisation of such funds. Infrastructure development aimed at accelerated development of the Tribal Sub-Plan areas should be a priority area for expenditure from the non-lapsable fund. **[Ref Para 2.9.1 (iv)]**

- 6 Allocation from state plan funds in proportion to the ST population of the state may be linked to some incentive in SCA to TSP. **[Ref Para 2.9.1 (v)]**
- 7 The National Commission for Scheduled Tribes, while agreeing with the recommendations of the Standing Committee and the Task Force, strongly recommends that the Planning Commission as well as concerned Ministries strictly follow these recommendations so that smooth operation of the Tribal Sub-Plan of the Central Ministries/ Departments takes place w.e.f. 12th Five Year Plan. **[Ref Para 2.11.2]**
- 8 The Commission, therefore, recommend that appropriate outlays for TSP should also be earmarked in respect of all these Ministries/ Departments, to ensure that TSP areas/ Scheduled Areas don't continue to be hamstrung by poor infrastructure/services. **[Ref Para 2.11.3]**
- 9 The Commission also recommends that the Government of India bear the responsibility for infrastructure development/ upgradation of Administration in Scheduled Areas under Art. 275 of the Constitution. Besides, allocation for Tribal Sub-Plan should not be per population share but according to "problem-share" and "need-based". As regards utilisation of non-lapsable pool funds, the Commission recommends that the unutilized non-lapsed fund should be placed in a non-lapsable development fund administered by the Ministry of Tribal Affairs and the fund should preferably be used for infrastructure development in the TSP areas. It is also necessary to prepare detailed guidelines for expenditure out of this fund, to make optimum use of those funds and to ensure that the desired benefits reach the Scheduled Tribes and the tribal areas. **[Ref Para 2.11.4]**
- 10 The Commission also recommends that Planning Commission should not consider the Five Year Plan/ Annual Plan proposal of any Ministry/ Department which is not accompanied by the Tribal Sub-Plan, which should be finalized after discussion with the representatives of the Ministry of Tribal Affairs. **[Ref Para 2.11.5]**
- 11 The Commission further recommends that each Ministry should set up TSP Cell as in the past. The TSP Cell should be functional throughout the year like the Official Language Section in each Ministry/ Department. The TSP Cell will monitor implementation of TSP schemes of the Ministry and, by using the inputs received through monitoring, prepare the TSP component, of Annual Plan and Five Year Plan of the Ministry/ Department in terms of financial and physical aspects. **[Ref Para 2.11.6]**
- 12 The Commission recommends that the Ministries/ Departments administering the National Missions must ensure that adequate investments/ benefits are earmarked for Scheduled Tribes under Tribal

Sub-Plan of the Ministry/ Department concerned during each plan period so as to provide for their accelerated development and in general each Ministry/ Department should consult the National Commission for Scheduled Tribes in all policy matters affecting Scheduled Tribes, as provided under Article 338A(9) of the Constitution. **[Ref Para 2.11.7]**

CHAPTER-3: EFFECTIVENESS OF MGNREGA FOR SCHEDULED TRIBES

- 1 There is need to incorporate a TSP component in the implementation of the Scheme in order to meet the objective of inclusive growth. The TSP component should not be based merely on the population share, rather on the extent of deprivation or even more than that to make up the backwardness/ negligence experienced over the years. Considering the fragile economic condition of the tribals, primarily as a result of poor agricultural practices including single crop culture, the Commission feels that rather than relying on capricious demand estimates, it was desirable to ensure a minimum 100 days of employment to all tribal families as per the latest census in the tribal areas; and earmark sufficient funds, under the TSP component of the Scheme to ensure adequate livelihood opportunity in these areas. The Scheme should be designed for providing sustainable rural livelihood in respect of STs, strengthening its convergence with use of natural resources, productivity, human development, etc. It should also be ensured that the focus on the unemployed unskilled poor is not diluted by enlarging coverage to other groups or in the guise of promoting skill development graduating to semi-skilled to skilled work, etc. **[Ref Para 3.18.1 (i)]**
- 2 Keeping in view the lack of managerial capacity in the Panchayats, the Scheme should develop a need based approach / plan of implementation based upon pro-active assessment of the demand for work in tribal areas. The demand for the work should be properly anticipated through local surveys in ST areas, taking into account all factors such as limited availability of work on account of industries, agriculture and other seasonal activity, schooling of children, wage level of households, etc. The communication with tribals should also be strengthened to build up their capacity to articulate and demand rights. **[Ref Para 3.18.1 (ii)]**
- 3 Limit of providing maximum 100 days employment to a household in a given financial year should be removed in Scheduled areas, as agriculture labour is available only for a period of 2-3 months during the year in such areas. If need be, the Ministry may bring necessary amendment in the Act to this effect. **[Ref Para 3.18.1 (iii)]**
- 4 The Scheme provides that, in case of inability of the Implementing agency (IA) to provide employment within 15 days of registration of demand for employment, the IA is responsible for payment of unemployment allowance. Such provision is likely to result in erosion of accountability, and reluctance on the part of the IA to acknowledge labour demand that can be invoked against it for payment of unemployment allowance. Therefore, the feasibility of having separate agency for receiving demand applications (other than the IA) should be examined. **[Ref Para 3.18.1 (iv)]**

- 5 Record maintenance at GP level needs to be streamlined. It should be ensured that all applications are dated, and dated receipts of applications are given to the job applicants. **[Ref Para 3.18.1 (v)]**
- 6 State Govts. should be directed to put in place effective grievance redressal mechanisms to ensure that the purpose of NREG Act to provide 100 days employment as a matter of right is not diluted. **[Ref Para 3.18.1 (vi)]**
- 7 MoRD may consider amending the current pattern of funding administrative expenses, and certain specified posts at the Block (e.g. Programme Officer) and GP levels (especially the EGA) may be fully funded in Scheduled Area districts, which suffer from acute poverty and employment demand is high, so that such posts could be manned on a stable, ongoing basis for effective monitoring and implementation of NREGA. **[Ref Para 3.18.1 (vii)]**
- 8 MoRD may consider adding additional categories of works, and also consider empowering State governments/SEGCs to add other region-specific works, especially in the context of STs. **[Ref Para 3.18.1 (viii)]**
- 9 MoRD may consider amending NREGA for partial reimbursement (out of Gol funds) of payment of unemployment allowance in Scheduled Areas, while instituting controls to minimize chances of persons drawing unemployment allowance. This is required to be implemented in the tribal districts on priority as the tribals are generally illiterate and incapable of asserting their rights and hence easily victimized. In the present scenario, since State Govts. have to shell out funds for payment of unemployment allowance, there is an incentive for non-transparent recording of employment demand. **[Ref Para 3.18.1 (ix)]**
- 10 There is a need to strengthen existing mechanism for enforcing accountability in ST dominated areas in respect of the following:
 - Section 25: Fine for failure to perform duty under the Act.
 - Schedule II Section 30: Compensating workers for delays in payment.
 - Section 19: Framing of Grievance and Redressal Rules.
 - Independent Grievance Redressal Mechanism.
 - STs' participation in Social Audit

[Ref Para 3.18.1 (x)]
- 11 The existing provisions regarding imposition of penalty should also be made stricter for habitual defaulters. **[Ref Para 3.18.1 (xi)]**

CHAPTER-4: SERVICE SAFEGUARDS.

- 1 The Commission reiterates that in compliance with the Hon'ble Supreme Court's directions, the DOPT should revise the instructions contained in O.M. No. 36012/27/2000-Estt.(Res.) dated 15.03.2002 at the earliest to provide for a separate zone of consideration for SCs & STs in the matter of

promotion by whatever method and whether on temporary or on regular basis. **[Ref Para 4.5.7]**

- 2 The Commission expresses its concern over this matter and re-iterates its earlier recommendation that the DoPT should take up the matter with all the Central Ministries/Departments, particularly those which are cadre controlling authorities, for appointment to various posts/ services and oblige them to fill up the backlog vacancies reserved for Scheduled Tribes by launching Special Recruitment Drives (SRDs). The Commission is also of the view that Special Recruitment Drive in promotion will not yield the desired result without drawing separate lists of eligible candidates among Scheduled Tribes, as directed by the Supreme Court of India in the Civil Appeal No.4026 of 1988. Commission is further of the view that Department of Personnel and Training OM No.36012/27/2000-Estt.(Res.) dated 15-03-2002, which was issued in part fulfillment of the Supreme Court of India judgement, should be suitably amended since the OM prescribed drawing separate eligibility lists in case of ad-hoc promotions only. Where the Recruitment Rules provide for 100% appointments by promotion, the cadre controlling authorities may also consider amending/relaxing Recruitment Rules to include an element of direct recruitment or a clause "failing which by Direct Recruitment" in each grade of posts in the case of Scheduled Tribes to increase their representation at various levels. **[Ref Para 4.8.2]**
- 3 The Commission re-iterates its earlier recommendation that the Department of Public Enterprises should oblige the Central Public Sector undertakings to make concerted efforts to fill up the backlog vacancies reserved for Scheduled Tribes in Group A and B posts through SRDs to bring their representation to the prescribed level of 7.5%. DOPT and Deptt. of Public Enterprises should formulate a time-bound Action Plan to fill up the vacant positions to meet the target. **[Ref Para 4.8.4]**
- 4 The respective Banks are the recruiting agencies for all the categories since 2001 and, therefore, the Commission fails to understand the low representation of Scheduled Tribes in respect of either Officer Cadre or Clerks Cadre or Sub-staff Cadre or all the three cadres. It appears that the banks have not taken effective steps to fill up the backlog vacancies reserved for Scheduled Tribes. The Commission re-iterates its earlier recommendation that the Department of Economic Affairs (Banking division) should advise the banks to devise a time bound programme to make up the shortfall / backlog of ST vacancies by launching Special Recruitment Drive or by deputing special recruiting teams in the tribal areas or both. **[Ref Para 4.8.7]**
- 5 The Commission also recommends that Department of Financial Services, Ministry of Finance should take special note of the efforts of the Dena Bank for achieving and maintaining the reservation percentage in respect of STs in all categories as a model employer. **[Ref Para 4.8.8]**
- 6 However, it is appreciable that overall representation of STs in Group C & D is satisfactory. The Commission therefore, re-iterates its earlier recommendation that in order to enhance the representation of STs in Group A & B the Ministry of Finance should take special measures like

SRD to achieve the required representation of 7.5 percent in the Insurance companies through a time bound action plan. **[Ref Para 4.8.11]**

- 7 It is observed from the above data that the representation of STs among the teaching staff is negligible in respect of Professors and Readers as against the required percentage of 7.5. Universities like Jamia Millia Islamia, JNU*, Banaras Hindu University, Vishwabharti University, Hyderabad University, AMU having large number of posts in the cadre of Professors, are not having even a single Professor from the ST communities. The same position prevails in the cadre of Reader also, in these Universities. The Commission, therefore, reiterate its recommendation contained in its earlier Reports that the Ministry of Human Resource Development (Department of Higher Education) and the University Grants Commission should issue strict instructions to all the Central Universities to ensure that 7.5% reservation is provided to the Scheduled Tribes in such posts of Professor and Reader, which are filled up, as per recruitment rules, by direct recruitment. These Universities should further be asked to work out the shortfall / backlog vacancies reserved for Scheduled Tribes in such posts of Professor, Reader and Lecturer which are filled up by direct recruitment, and to chalk out a time bound programme to fill up these vacancies. **[Ref Para 4.8.13]**
- 8 The Commission would like to reiterate its recommendation contained in its earlier Reports that the Ministry of Human Resource Development (Department of Higher Education)/ University Grants Commission should issue stringent instructions to all the defaulter Central Universities to identify the backlog vacancies reserved for Scheduled Tribes in the non-teaching posts in respect of Group 'A', 'B', 'C' and 'D' and to launch SRDs to fill them within a specified time limit. **[Ref Para 4.8.16]**

As there was no response from the Aligarh Muslim University and Jamia Millia Islamia as per the recommendations of the Commission in the discussion held on 11.05.2010, the Commission re-iterates its earlier recommendations that:-

- 9 (i) Jamia Millia Islamia should take necessary steps to fill up the backlog ST vacancies both in teaching and non-teaching category within a period of three months. Vacant posts of Professor and Reader identified for STs should also be filled up by adopting the correct procedure as per reservation policy. They should also arrange training of their officials regarding operation of Post Based Rosters. **[Ref Para 4.8.22 (i)]**
- 10 (ii) UGC should amend the guidelines so that ST reserved vacancies are not lapsed as expressed by the Registrar, JMI. **[Ref Para 4.8.22 (ii)]**
- 11 (iii) Aligarh Muslim University, through their Executive Council should take special initiatives to recruit candidates from weaker sections of the society (especially STs) in the teaching and non-teaching category to reflect diversity in representation in these categories. **[Ref Para 4.8.22 (iii)]**

- 12 DoPT's reply is still awaited. The Commission regrets DoPT's indecision despite the matter having been taken up by the Commission time and again and at the highest level; and recommends immediate action to implement the suggestions made in the interests of transparent and effective implementation of Constitutional safeguards for Scheduled Tribes. **[Ref Para 4.9.4]**
- 13 From the perusal of the proposals for de-reservation received in the Commission, it is felt that ban on de-reservation in Direct Recruitment applied in the year 1989 has not been followed in letter and spirit by various Ministries and Departments as non-availability of ST candidates amongst a long seniority list of the feeder grade/initial grades of cadres is the main reason for seeking de-reservation in promotion. On the one hand reservation has not been applied at Direct Recruitment stage in the initial/feeder grade and on the other hand there is no provision for Direct Recruitment or transfer on deputation in the method of promotion to the higher grade. The National Commission for Scheduled Tribes is therefore of the view that de-reservation should be banned totally and each cadre control/ recruiting authority should ensure the following for implementation of policy of reservation for Scheduled Tribes in posts/ services.
- 14 Recruitment Rules for each post must specifically mention about applicability of reservation for Scheduled Tribes, Scheduled Castes and OBCs (where admissible). **[Ref Para 4.13.3 (i)]**
- 15 Recruitment Rules should provide elements of Direct Recruitment as well as deputation/transfer on deputation, beside promotion, instead of 100% by promotion (or, at least provision for relaxation of the same for filling up ST vacancies), so that deficiencies due to non-availability of reserved category candidate(s) in the seniority list of the feeder grade may be made up through Direct Recruitment or deputation/transfer on deputation as the case may be. As per DoPT O.M. No. AB.14017/30/89-Estt.RR dated 10.07.1990, reserved vacancy can be temporarily transferred from one mode of recruitment to other and this relaxation of RRs can be exercised by Ministries/Departments themselves subject to approval of UPSC. **[Ref Para 4.13.3 (ii)]**
- 16 As per instructions of the Supreme Court of India separate list of eligible ST and SC candidates, fulfilling the prescribed conditions relating to educational and experience qualification may be prepared for filling the posts reserved for Scheduled Tribes and Scheduled Castes respectively. **[Ref Para 4.13.3 (iii)]**
- 17 No exchange of vacancies be permitted between ST, SC or OBC or vice-versa. **[Ref Para 4.13.3 (iv)]**
- 18 In case of non-availability of ST/SC candidates in the feeder grade, in the near future, the post may be filled by deputation of ST candidates from other Organisations and the reserved point in promotion to be carried forward as shortfall/ backlog vacancy till such time the eligible ST/SC candidates becomes available for promotion. **[Ref Para 4.13.3 (v)]**
- 19 In case of non-availability of ST/SC candidates, at all, in the feeder grade the post(s) could be filled by Direct Recruitment from the candidates

belonging to the concerned reserved category to the extent of shortfall/backlog. This may be done by resorting to Special Recruitment Drive. **[Ref Para 4.13.3 (vi)]**

- 20 The National Commission for Scheduled Tribes made certain recommendations in its earlier Reports with regard to de-reservation. Since no information is available about action taken on those recommendations, by way of OM's issued by Department of Personnel and Training or any other reference from the DoPT or the Ministry of Tribal Affairs, and in view of the above observations of the Commission, the Commission makes the following recommendation (including re-iteration of its earlier recommendations):-
- 21 There should be total ban on dereservation of posts reserved for Scheduled Tribes to be filled by any method i.e. whether Direct Recruitment or promotion in all Ministries/Depts./ Organisations except those where reservation is exempted. **[Ref Para 4.14.1 (i)]**
- 22 The ban on dereservation in Direct Recruitment should be monitored strictly as many Ministries/Depts./Organisations including DoPT have failed to appoint Scheduled Tribes candidates against Direct Recruitment posts/ grades of general nature, for which there should be no paucity of qualified/ eligible ST candidates. **[Ref Para 4.14.1 (ii)]**
- 23 Recruitment Rules in r/o each post must specifically mention about applicability of reservation for Scheduled Tribes, Scheduled Castes and OBCs (where admissible). **[Ref Para 4.14.1 (iii)]**
- 24 There should be total ban on dereservation in general, excluding certain exceptional categories of posts. The exceptional posts should be decided in consultation with the Ministry of Tribal Affairs as well as National Commission for Scheduled Tribes also. **[Ref Para 4.14.1 (iv)]**
- 25 No exchange of vacancies be permitted between ST, SC or OBC or vice-versa. **[Ref Para 4.14.1 (v)]**
- 26 Instead of seeking dereservation of the post, provisions of the DoPT OM No. 36011/14/83-Estt.(ST) dated 30/04/1983 relating to consideration of cases of ad-hoc promotion of SC/ ST employees should be applied in the matter of promotion of ST candidates against reserved posts. The relaxation in period of ad-hoc appointments upto 3 years agreed in respect of Group 'C' and 'D' posts vide DoPT OM No. 28036/01/2007-Estt(D) dated 14/11/2007 may be allowed, with suitable amendments, in case of ad-hoc promotion of ST candidates appointed against all categories of posts reserved for Scheduled Tribes. **[Ref Para 4.14.1 (vi)]**
- 27 To check various issues and problems connected with de-reservation and to ensure accomplishment of the targets of achieving required percentage of reservation for Scheduled Tribes in all categories of posts, the DoPT OM No. 36011/14/83-Estt.(ST) dated 30/04/1983 may be revised to prescribe drawing of separate lists of eligible ST/ SC candidates in respect of all kinds of promotion on regular as well as ad-hoc basis in all categories of posts. **[Ref Para 4.14.1 (vii)]**

- 28 If no ST candidate is likely to become available for a long time, steps should be taken to fill the reserved post from ST candidates through direct recruitment by amending the RRs if the existing RRs do not provide for the same or relaxing them, instead of seeking de-reservation of the post. **[Ref Para 4.14.1 (viii)]**
- 29 Action should simultaneously be taken to amend the RRs for each post to provide for element of direct recruitment in all cases where appointment is being made 100% by promotion, by incorporation of 'failing which' clause, or, at least provision for relaxation of the same for filling up ST vacancies. **[Ref Para 4.14.1 (ix)]**
- 30 In normal course Recruitment Rules should provide elements of Direct Recruitment as well as deputation/transfer on deputation, beside promotion, instead of 100% by promotion, so that deficiencies due to non-availability of reserved category candidate(s) in the seniority list of the feeder grade may be made up through Direct Recruitment or deputation/transfer on deputation as the case may be. In this connection, DoP&T O.M. No. AB.14017/30/89-Estt.RR dated 10.07.1990 also provide that reserved vacancy can be temporarily transferred from one mode of recruitment to other and this relaxation of RRs can be exercised by Ministries/Departments themselves subject to approval of UPSC. **[Ref Para 4.14.1 (x)]**
- 31 As per instructions of the Supreme Court of India separate list of eligible ST and SC candidates, fulfilling the prescribed conditions relating to educational and experience qualification may be prepared for filling the posts reserved for Scheduled Tribes and Scheduled Castes respectively. **[Ref Para 4.14.1 (xi)]**
- 32 In case of non-availability of ST/SC candidates in the feeder grade, in the near future, the post may be filled by deputation and the reserved point to be carried forward as shortfall/ backlog vacancy till such time the eligible ST/SC candidates becomes available for promotion. **[Ref Para 4.14.1 (xii)]**
- 33 In case of non-availability of ST/SC candidates, at all, in the feeder grade the post(s) could be filled by Direct Recruitment from the candidates belonging to the concerned reserved category to the extent of shortfall/backlog. This may be done by resorting to Special Recruitment Drive. **[Ref Para 4.14.1 (xiii)]**

CHAPTER-5: ATROCITIES ON SCHEDULED TRIBES

- 1 The Commission therefore re-iterates its earlier recommendations contained in 4th Annual Report for the year 2008-09 that the above provision in Rule 7(1) of the PoA Rules should be strictly complied with by the State/UTs and investigation of atrocity cases should be closely monitored by the Supdt. of Police and higher officials. **[Ref Para 5.4.5]**
- 2 The Commission therefore re-iterates its earlier recommendations contained in 4th Annual Report for the year 2008-09 that the State level and District level Vigilance & Monitoring Committees should closely review the implementation of provisions regarding payment of monetary relief to the

victims of atrocities strictly in accordance with the norms laid down under PoA Rules. **[Ref Para 5.4.9]**

- 3 The National Commission for Scheduled Tribes re-iterates that the poor pace of trial of cases calls for setting up Exclusive Special Courts for trial of crimes against Scheduled Tribes instead of designating existing court of Sessions as Special Courts in each State and regular monitoring of the Exclusive Special Courts so that by no reason their efficiency is marred. The number of Special courts setup in various States for trial of crimes against Scheduled Tribes may also be increased, for early disposal of pending cases and timely disposal of future cases in all the States having high incidence of crimes against Scheduled Tribes and also in the States which have high pendency. However, there is a need to ensure that the Exclusive Special Courts set up in various States function effectively and promptly other wise the objective of making of Special provision in the Special Act aimed at curbing Atrocities of Scheduled Tribes will not be fulfilled and consequently Atrocities will continue to be committed on the Scheduled Tribes. **[Ref Para 5.10.3]**
- 4 The Commission re-iterates its earlier recommendations contained in the 4th Annual Report for the year 2008-09 that the above observations of the Department of Legal Affairs should be brought to the notice of all States/ UTs for strict compliance. **[Ref Para 5.11.2]**
- 5 The Commission, therefore, reiterates it earlier recommendations contained in the reports of the NCSCST for the years 1992-93 and 1994-96 and also in 4th Report of this Commission or the year 2008-09, that it should be ensured that the case is investigated by an officer of the rank of Dy. SP and investigation report is submitted by him within 30 days. The Commission also feels that the chargesheet should be filed with due care and with a sense of urgency to ensure that the accused person is not acquitted on technical grounds or on account of delay in filing the chargesheet. **[Ref Para 5.12.1]**
- 6 The delay in the arrest of the accused also leads to delay in investigation of the cases and which, in turn, causes delay in dispensing justice to the victim(s). The Commission, therefore, reiterates earlier recommendations contained in NCSCST reports for the year 1996-98 also in 4th Report of this Commission for the year 2008-09 that all efforts should be made by the police to ensure that the accused is arrested as early as possible particularly in the cases of heinous crimes like murder, arson, rape, etc. **[Ref Para 5.12.2]**
- 7 The Commission, therefore, reiterates earlier recommendations contained in NCSCST reports for the years 1992-93, 1993-94, 1994-96, 1996-98 and 1998-99 and also in 4th Report of this Commission for the year 2008-09 that with a view to create awareness among the masses about various provisions of the Act and Rules including the provisions for relief and compensation, Special Awareness Programmes should be conducted by the Government through the mass media and by organizing seminars and workshops at different places, particularly in rural and remote areas. NGOs working for the cause of combating crimes of atrocities on STs alongwith the local bodies should also be involved in the task by extending adequate

financial help to them. Awareness about the provisions of the Act/Rules may also be spread by installing hoardings at prominent locations. **[Ref Para 5.12.3]**

- 8 In order to ensure effective implementation of the PoA Act, the Commission recommends that the District Level Vigilance and Monitoring Committee should regularly review the implementation of the provisions of the Act, relief and rehabilitation facilities provided to the victims and other matters connected therewith, prosecution of cases under the act, role of different officers/agencies responsible for implementing the provisions of the Act and various reports received by the District Administration, at least once in three months in accordance with Rule 17 of the PoA Rules. **[Ref Para 5.12.4]**
- 9 The Commission, therefore, reiterates earlier recommendations contained in NCSCST reports for the years 1992-93,1993-94,1994-96 and 1996-98 and also in the 4th Report of this Commission for the year 2008-09 that exclusive Special Courts should be set up by all the States/UTs urgently for rendering speedy justice to the victims of atrocities. **[Ref Para 5.12.5]**
- 10 The Commission, therefore, re-iterates its recommendations contained in the 4th Report for the year 2008-09 that the Government may consider for providing a time-limit for disposal of PoA cases by these Courts under the Act, similar to the provisions in the Consumer Protection Act, 1986. **[Ref Para 5.12.6]**
- 11 The Commission also re-iterates earlier recommendations contained in NCSCST reports for the years 1992-93, 1993-94, 1994-96 and 1996-98 and also in 4th Report of this Commission for the year 2008-09 that the police personnel in every State/UT need to be sensitized about the importance of effective implementation of the PoA Act through regular training and refresher programmes by the Police Training Institutes. The training programmes for the police personnel should also include lessons about legal provisions and related procedures to ensure drafting of fool proof chargesheets in atrocity cases. **[Ref Para 5.12.7]**
- 12 The Commission, therefore, reiterates earlier recommendations contained in the reports of the NCSCST for the years 1994-96 and 1998-99 and also in 4th Report of this Commission for the year 2008-09 that Directorate of Prosecution should make all efforts to ensure that adequate number of Special Public Prosecutors are attached with the Special Courts for speedy trial of atrocity cases. The Special Public Prosecutor should possess requisite qualifications and experience and their selection should be made through a well laid down procedure. The fee of the Special PP requires to be suitably enhanced to attract more qualified and dedicated persons. **[Ref Para 5.12.8]**
- 13 The Commission, therefore, recommends that there is an imperative need to formulate a policy to taking effective precautionary measures to check offences of atrocities and ensure effective implementation of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 in such cases. **[Ref Para 5.12.9]**
- 14 The Commission, therefore, re-iterates its earlier recommendations contained in the reports of the NCSCST for the years 1996-98 and 1998-99

that the State level Vigilance and Monitoring Committees should play a proactive role in overseeing the implementations of PoA Act by holding quarterly meetings on regular basis. These Committees should issue necessary guidelines and directions to the District level Committees. Registration of FIRs and the disposal of cases by the Special Courts should be particularly monitored by the State level Committees. **[Ref Para 5.12.10]**

- 15 The Commission, therefore, re-iterates its recommendations contained in the 4th Report for the year 2008-09 all the State Governments/UTs Administration should issue necessary instructions that the Superintendent of Police in all the districts will review at least 5% of the closed cases on a quarterly basis and initiate action against the concerned police officials if the cases were closed due to delay on their part. **[Ref Para 5.12.11]**
- 16 The Commission, therefore, re-iterates its recommendations contained in the 4th Report for the year 2008-09 that the State Governments/UTs should issue instructions to ensure that the victims and witnesses are paid TA/DA which should not be less than minimum wages fixed from time to time. **[Ref Para 5.12.12]**

CHAPTER 7: CONSULTATION ON POLICY RELATED ISSUES

1. The concerned Ministries/Depts. have not been very forthcoming about the status with regard to acceptance/non-acceptance of recommendations/ the comments/ views /advice of the Commission on various policy related issues. The Commission would like to mention that the feedback from the Government not only enlightens the Commission with the final views of the Govt. on such policy related issues and the wider perspective of the related issues that are considered by the Government while taking final decisions in these matters, but also enables the Commission to report the effectiveness of its recommendations and refine its recommendations in similar cases in future. The Commission, therefore, re-iterates its earlier recommendations contained in para 8.7 of its 4th Report for the Year 2008-09, submitted to the Hon'ble President of India on 27 August 2010, that all the concerned Ministries/Depts. of the Central Govt. and State Governments should communicate action taken on the comments/views/advice rendered by the Commission at the earliest so that the same can be highlighted in the reports submitted by the Commission. To enable meaningful consultation with Standing Commissions, the Cabinet Secretariat should issue instructions to all Central Ministries/Depts. and State Govts. that they should furnish an Action Taken Report in a time-bound manner on the comments/views/ advice received from them on policy matters. **[Ref Para 7.7]**
2. The National Commission for Scheduled Tribes re-iterates its earlier recommendations contained in its 4th Report (para 8.3.16.4) that the Cabinet Secretariat and the Ministry of Law and Legal Affairs should be tasked with the responsibility of ensuring meaningful consultations with the National Commission for Scheduled Tribes before such legislative proposals are placed for consideration before the Council of Ministers. **[Ref Para 7.8]**

REGD. NO. D.L.-33004/99

The Gazette of India
EXTRAORDINARY
PART- II – Section 3 – Sub-Section (i)
PUBLISHED BY AUTHORITY

No. 497

NEW DELHI, THURSDAY, SEPTEMBER 11, 2008/ BHADRA 20, 1930

MINISTRY OF TRIBAL AFFAIRS
NOTIFICATION
New Delhi, the 11th September, 2008

G.S.R. 651 (E).—In exercise of the powers conferred by clause (1) of Articles 338A of the Constitution, the President hereby makes the following rules to amend the National Commission for Scheduled Tribes, Chairperson, Vice-Chairperson and Members (Conditions of Service and Tenure) Rules, 2004, namely: -

1. (1) These Rules may be called the National Commission for Scheduled Tribes, Chairperson, Vice-Chairperson and Members. (Conditions of Service and Tenure) Amendment Rules, 2008.

(2) They shall come into force on the date of their publication in the official Gazette.

2. In the National Commission for Scheduled Tribes, Chairperson, Vice-Chairperson and Members. (Conditions of Service and Tenure) Rules, 2004, for sub-rule (2) of Rule 5, the following sub-rule shall be substituted, namely: -

(2) The Chairperson, the Vice-Chairperson and Members of the National Commission for Scheduled Tribes shall be entitled to such salaries, allowances and other facilities as admissible to a Secretary to the Government of India.

Provided that the Chairperson shall also be entitled to a rent free accommodation.”

[F.No 18012/02/2008-C&LM-I]

RUCHIRA PANT, Jt. Secy.

Ministry of Tribal Affairs
Notification
New Delhi, the 23rd August, 2005

S.O. 1175(E) – In exercise of the powers conferred by sub-clause (f) of clause 5 of Article 338A of the Commission, the President hereby makes the following rules to specify the other functions of the National Commission for the Scheduled Tribes, namely:-

1. Short title and commencement:- (1) These rules may be called the National Commission for the Scheduled Tribe (Specification of other functions) Rules, 2005.

2. The Commission shall discharge the following other functions in relation to the protection, welfare and development and advancement of the Scheduled Tribes, namely:-

- (i) Measures that need to be taken over conferring ownership rights in respect of minor forest produce to STs living in forest areas.
- (ii) Measures to be taken to safeguard rights of the tribal communities over mineral resources, water resources etc. as laid down by law.
- (iii) Measures to be taken for the development of tribal to plug loopholes and to work more viable livelihood strategies.
- (iv) Measures to be taken to improve the efficacy of relief and rehabilitation measures for tribal groups displaced by development projects.
- (v) Measures to be taken to prevent alienation of tribal people from land and to effectively rehabilitate such people in whose case alienation has already been taken place.
- (vi) Measures to be taken to elicit maximum cooperation and involvement of tribal communities for protecting forests and undertaking social afforestation.
- (vii) Measures to be taken to ensure full implementation of the provision of Panchayat (Extension to Scheduled Areas) Act, 1996
- (viii) Measures to be taken to reduce and ultimately eliminate the practice of shifting cultivation by tribal that lead to their continuous disempowerment and degradation of land and the environment.

(F.No.17014/3/2004-C&LM-II)

Sd/-
S.Chatterjee, Jt. Secy.

New Delhi, the 5th February, 1996.

ORDER

Sanction of the President is hereby accorded to confer on the Chairpersons of the (a) National Commission for Backward Classes, (b) National Commission for Scheduled Castes & Scheduled Tribes and (c) National Commission for Minorities, the powers of the Ministry/Department of the Central Government relating to the Delegation of Financial Powers Rules, 1978; the General Financial Rules, 1963; the Fundamental and Supplementary Rules; the Central Civil Services (Leave) Rules, 1972; the Central Civil Services (Joining Time) Rules, 1979 and the General Provident Fund (Central Services) Rules, 1960, Contributory Provident Fund Rules and similar other Rules, except in the following matters:-

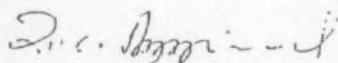
- i) Creation of posts;
- ii) Re-appropriation of funds from one head to another.
- iii) Purchase of vehicles;
- iv) Permitting any officer of the Commission to participate in seminars, conferences or training programmes abroad.

2. The exercise and the re-delegation of powers will be subject to the general restrictions and conditions contained in the Delegation of Financial Power Rules, 1978 and other general rules, orders/instructions issued by the Government of India from time to time.

3. The enhanced powers will be exercised in consultation with the Integrated Finance Division of the Ministry of Welfare.

.....2/-

4. This Issues with the approval of the Deptt. of Expenditure vide U.O. No. 1(6)-E.II(A)/96, dated 1-2-1996.



(N.C. Aggarwal)

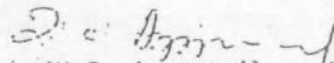
Financial Adviser (Welfare)

Copy to :-

1. The Chairperson,
National Commission for Backward Classes,
Trilokot-I Building, Bhikaji Cama Place,
R.K. Puram, New Delhi.
2. The Chairperson,
National Commission for Scheduled Castes and
Scheduled Tribes, Lok Nayak Bhavan, New Delhi.
3. The Chairperson,
National Commission for Minorities,
Lok Nayak Bhavan, New Delhi.
4. Ministry of Finance, Deptt. of Expenditure with
reference to their U.O. No. 1(6)-E.II(A)/96,
dated 1-2-1996.
5. IF Division, Ministry of Welfare.

Copy also for information to :-

PS to WA/PS to MCS(T) / PS to MOS (PAO&W) / PS to Secy(W)
PS to AS(W), all Joint Secretaries in the Ministry/Estt.
Division/Controller of Accounts/Genl. Section/PAO/B&C Section.



(N.C. Aggarwal)

Financial Adviser (Welfare)

ANNEXURE 1.IV
(Ref. Para 1.4.10 5R)

GOVERNMENT OF INDIA
MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES AND PENSIONS
Department Of Personnel & Training, New Delhi

OFFICE MEMORANDUM

No. 36036/2/97-Estt.(Res)

Dated: 01, January 1998

Sub: Reservation policy for the Scheduled Castes and Scheduled Tribes-
Implementation of

The undersigned is directed to say that, in terms of this Department's O.M. No. 36011/15/79-Estt(SCT) dated January 6, 1981, if other Ministries/ Departments intend to depart from the policies laid down by the Department of Personnel, it is mandatory for them to consult the Department of Personnel, in terms of sub rule 4 of Rule 4 of the Transaction of Business Rules, otherwise the policies laid down by the Department of Personnel are binding on them.

2. The instructions contained in this Department's Office Memorandum dated July 2, July 22, August 13, and August 29, 1997 continue to be in operation and there is no proposal to withhold or to keep in abeyance their implementation.

3. In the All India Indian Overseas Bank Scheduled Castes and Scheduled Tribes Employees Welfare Association and others Vs. Union of India and others (Civil Appeal No. 13700 of 1996) the Supreme Court has held that the National Commission for Scheduled Castes and Scheduled Tribes has no power of granting injunctions, whether temporary or permanent. The Court also held that the powers of the Commission in terms of Article 338(8) of the Constitution are all the procedural powers of a civil court for the purpose of investigating and inquiring into the matters and that too for that limited purpose only.

4. In view of the judgment of the Supreme Court referred to in para-3, the National Commission for Scheduled Castes and Scheduled Tribes has no power to direct withholding of the operation of any orders issued by the Government.

5. Ministry of Agriculture etc. may, therefore, keep in mind the directions contained in this Department's O.M. dated 06.01.1981 and the judgment of the Supreme Court referred to above while dealing with the directions given by the National Commission for Scheduled Castes and Scheduled Tribes. Ministry/ Departments etc. must, however, in all fairness consider the recommendations of the Commissions in the light of policies laid down by the Department of Personnel and Training.

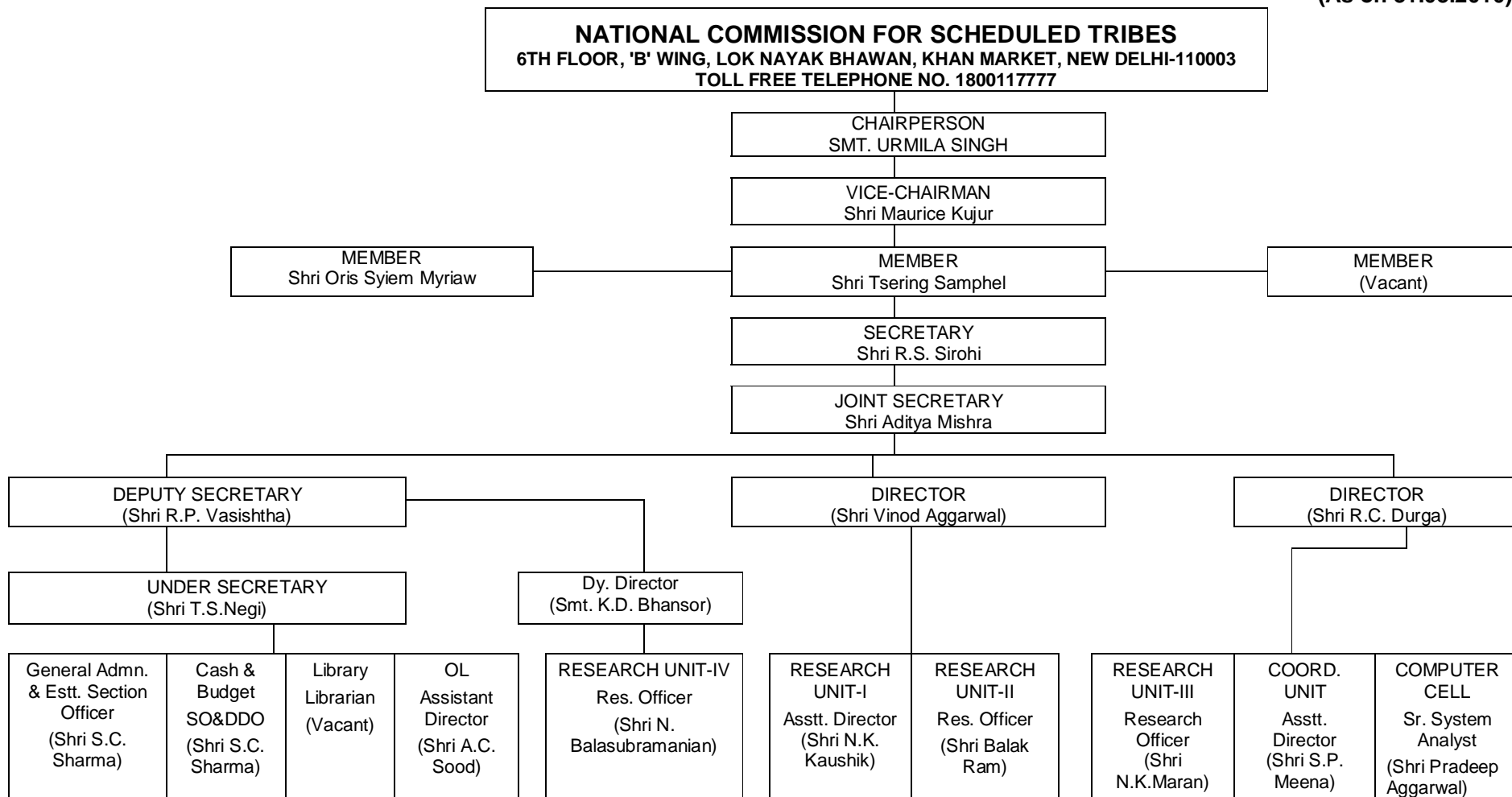
Sd/-
(J. Kumar)

Under Secretary to the Govt. of India

To,

1. All Ministries/ Departments of the Government of India.
2. Department of Economic Affairs (Banking Division), New Delhi
3. Department of Economic Affairs (Insurance Division), New Delhi
4. Department of Public Enterprises, New Delhi
5. Railway Board
6. Union Public Service Commission/ Supreme Court of India/ Election Commission/ Lok Sabha Secretariat/ Rajya Sabha Secretariat/ Cabinet Secretariat/ Central Vigilance Commission/ President's Office/ P.M.O./ Planning Commission.
7. Staff Selection Commission, CGO Complex, Lodhi Load, New Delhi.
8. All Officers/ Sections of the Department of Personnel and Training/ Deptt. of Administrative Reforms & Public Grievances/ Department of Pensioners Welfare.

ANNEXURE 1.V
(Ref: Para 1.5.1_5R)
(As on 31.03.2010)



ANNEXURE 1.VI
(Ref. Para 1.5.1 5R)

No.6/3/2006-C.Cell
Govt. of India
National Commission for Scheduled Tribes

6th Floor, Loknayak Bhavan,
Khan Market,
New Delhi-110003

Dated: 27.11.2007

OFFICE ORDER

The distribution of work among RU-I, RU-II, RU-III and RU-IV in terms of the Ministries/ Departments including the organizations/offices under their administrative control, and States/ UTs will henceforth be as given in the following Table:-

Name of the Research Unit	Ministries/ Depts. including CPSEs and other organizations/offices under their administrative control	States & UTs
RESEARCH UNIT- I [Shri Balak Ram, R.O., Shri Govind Dayal, UDC and Smt. Sunila Kamath, UDC]	1. Ministry of Civil Aviation 2. Ministry of Non-Conventional Energy Source 3. Ministry of Ocean Development 4. Ministry of Panchayati Raj 5. Ministry of Parliamentary Affairs 6. Ministry of Railways 7. Ministry of Urban Emp.& Poverty Alleviation 8. Ministry of Water Resources 9. Ministry of Youth Affairs & Sports 10. Comptroller and Auditor General 11. Election Commission of India 12. Union Public Service Commission	1. Bihar 2. Chandigarh 3. D. & N. Haveli 4. Daman & Diu 5. Gujarat 6. Haryana 7. Himachal Pradesh 8. J & K 9. Punjab 10. Rajasthan 11. Uttaranchal 12. Uttar Pradesh 13. West Bengal
RESEARCH UNIT- II [Shri Balak Ram, R.O. and Shri N.K. Maran, Sr. Investigator]	1. Ministry of Agriculture 2. Ministry of Agro & Rural Industries 3. Ministry of Development of North Eastern Region 4. President Secretariat 5. Ministry of Power 6. Ministry of Road Transport & Highways 7. Ministry of Science & Technology 8. Department of Space 9. Ministry of Small Scale Industries 10. Ministry of Social Justice & Empowerment 11. Ministry of Statistics & Programme Implementation 12. Ministry of Steel 13. Ministry of Textile 14. Ministry of Urban Development	1. Assam 2. Arunachal Pradesh 3. Manipur 4. Meghalaya 5. Mizoram 6. Nagaland 7. Sikkim 8. Tripura
RESEARCH UNIT- III [Shri S.P. Meena, A.D. and Shri Y.K. Bansal, Sr. Investigator]	1. Deptt. of Atomic Energy 2. Ministry of Chemicals & Fertilizers 3. Ministry of Environment & Forests 4. Ministry of Health & Family Welfare 5. Ministry of Heavy Industries & Public Enterprises 6. Ministry of Home Affairs 7. Ministry of Human Resource Development 8. Ministry of Labour & Employment 9. Ministry of Law & Justice 10. Ministry of Mines 11. Ministry of Personal – Public Grievances & Pensions 12. Ministry of Petroleum & Natural Gas 13. Ministry of Rural Development 14. Ministry of Tribal Affairs	1. Chhatisgarh 2. Delhi 3. Jharkhand 4. Madhya Pradesh 5. Orissa 6. A & N Islands

(Signature)

RESEARCH UNIT- IV [Shri N. Balasubramanian, R.O. and Shri H.R. Meena, Sr. Investigator]	1. Ministry of Coal 2. Ministry of Commerce & Industry 3. Ministry of Communications & Information Technology 4. Ministry of Company Affairs 5. Ministry of Consumer Affairs – Food & Public Distribution 6. Ministry of Culture & Tourism 7. Ministry of Defence 8. Ministry of External Affairs 9. Ministry of Finance 10. Ministry of Food Processing Industries 11. Ministry of Information & Broadcasting 12. Ministry of Law & Justice 13. Ministry of Shipping	1. Andhra Pradesh 2. Goa 3. Karnataka 4. Kerala 5. Maharashtra 6. Tamil Nadu 7. Lakshadweep 8. Pondicherry
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2. This Office Order issues with the approval of Secretary, National Commission for Scheduled Tribes in partial modification of the Office Order of even number dated 26.07.2006. Other things stated in that order i.e. dated 26.07.2006 will remain unaltered.

3. Hearings/ discussions in relation to the petitions pertaining to the Ministries/ Departments and States/ UTs falling in RU-IV shall be attended by Director (RCD) in the first two weeks of a month and by Director (VA) in the remaining two weeks of that month for the purposes of drafting of the proceedings of the hearings. (This arrangement is being made having regard to the hearing problem of Shri R.P. Vasishtha, Deputy Secretary who is in charge of RU-IV)


 (K.N. Singh)
 Joint Secretary

Copy to:-

1. APS to Chairperson and PS to Member (TS) of the Commission;
2. APS to Secretary of the Commission;
3. All the officers and staff members of the Commission;
4. All the six Regional Offices of the Commission.

No. 14/1/08-Coord.
Government of India
National Commission for Scheduled Tribes (Ref. Para 1.5.2 5R)
6th Floor, Lok Nayak Bhawan,
Khan Market, New Delhi-110003

ANNEXURE 1.VII

OFFICE ORDER

Dated: 29.04.2008

In exercise of powers vested in her under the Rules of Procedure of the Commission (issued vide Notification dated 17 September, 2004), the Chairperson of the Commission hereby allocates the work concerning Central Ministries/ Departments, and the State/ UTs (in so far as it relates to the mandate of the National Commission for Scheduled Tribes) among the Vice-Chairperson and the Members to assist her in carrying out the functions of the Commission, as given in the Table below:

S.No.	Name and Designation	Central Ministries (including Deptts., PSEs, autonomous bodies etc. under their respective control)	States/ UTs for the purposes of cases and issues related to the Scheduled Tribes.
(1)	(2)	(3)	(4)
1.	Shri Maurice Kujur, Vice-Chairperson	(i) Coal (ii) Commerce & Industries (iii) Environment and Forest (iv) HRD (v) Heavy Industry and Public Enterprises (vi) Labour & Emp. (vii) Law & Justice (viii) Micro, Small and Medium Enterprises (ix) Mines (x) Petroleum and Natural Gas (xi) Planning Commission (xii) Social Justice & Empowerment (xiii) Tribal Affairs (xiv) Women & Child Dev.	(i) Bihar (ii) Chhattisgarh (iii) Goa (iv) Gujarat (v) Jharkhand (vi) Madhya Pradesh (vii) Maharashtra (viii) Orissa (ix) West Bengal (x) Daman & Diu
2.	Shri Tsering Samphel, Member	(i) Atomic Energy (ii) Civil Aviation (iii) Communications & IT (iv) Culture (v) Defence (vi) Earth Sciences (vii) Health & FW (viii) Housing & Urban Poverty Alleviation (ix) Shipping, Road Transport, and Highways (x) Science & Technology (xi) Space (xii) Textiles (xiii) Tourism (xiv) Urban Development	(i) Haryana (ii) Himachal Pradesh (iii) Jammu & Kashmir (iv) Punjab (v) Rajasthan (vi) Uttarakhand (vii) Uttar Pradesh (viii) Chandigarh (ix) Delhi.
3.	Shri Oris Syiem Myriaw, Member	(i) Chemicals & Fertilizers (ii) Corporate Affairs (iii) Dev. of North Eastern Region (iv) Home Affairs (v) Information and Broadcasting (vi) New & Renewable Energy (vii) Ocean Development (viii) Pers., Pub. Griev. and Pensions (ix) Power (x) Panchayati Raj (xi) Railways (xii) Rural Dev. (xiii) Cabinet Secretariat (xiv) President Secretariat	(i) Arunachal Pradesh (ii) Assam (iii) Meghalaya (iv) Manipur (v) Mizoram (vi) Nagaland (vii) Sikkim (viii) Tripura
4.	3rd Member (presently vacant)	(i) Agriculture (ii) Agro & Rural Industries (iii) Consumer Affairs, Food & Public Distribution (iv) Food Processing (v) Finance (vi) External Affairs (vii) Minority Affairs (viii) Overseas Indian Affairs (ix) Parliamentary Affairs (x) Statistics and Programme Implementation (xi) Water Resources (xii) Steel (xiii) Youth Affairs and Sports	(i) Andhra Pradesh (ii) Karnataka (iii) Kerala (iv) Tamil Nadu (v) Andaman & Nicobar Islands (vi) Dadar & Nagar Haveli (vii) Lakshadweep (viii) Pondicherry.

Urmasi Singh

2. Until such time the 3rd Member the office of which is presently vacant, joins the Commission, the work in relation to the Central Ministries/ Deptts. including PSEs and autonomous bodies etc. under their administrative control, as indicated above under column (3) against S.No. 4 shall be additionally looked after by the Vice-Chairperson and similarly the work assigned to the 3rd Member in relation to States/ UTs as indicated under column (4) against S.No. 4 shall be looked after by Member (TS).


Aditya Mishra
Joint Secretary

Copy to:

- 1) PS to Chairperson/ Vice-Chairperson/ Members.
- 2) PPS to Secretary.
- 3) Joint Secretary/ Director (VA)/ Director (RCD)/ Dy. Secretary (RPV)/ US (TSN)
- 4) Assistant Director (SPM)/ Assistant Director (NKK)/ Assistant Director (OL)/ Research Officer (BR)/ Research Officer (NB)/ Research Officer (MKM) Commission Hq., New Delhi.
- 5) All Regional Offices of the NCST.
- 6) PS to Minister for Tribal Affairs, Shastri Bhawan, New Delhi.
- 7) Secretary, Ministry of Tribal Affairs, Shastri Bhawan, New Delhi. (Five Copies)

MOST IMMEDIATE
PARLIAMENTARY COMMITTEE MATTER
BY SPECIAL MESSENGER



No.27/4/NCST/2009-Admn.
Government of India
National Commission for Scheduled Tribes

6th Floor, 'B' Wing,
Loknayak Bhawan, Khan Market,
New Delhi-110003

Dated: 21-10-2009

To

The Secretary,
Ministry of Tribal Affairs,
Shastri Bhawan,
New Delhi-110001

(Kind Attention: Dr. N.K. Ghatak, Joint Director)

Subject: Additional manpower and additional Regional Offices for National Commission for Scheduled Tribes- proposals regarding.

Sir,

I am directed to refer to the subject mentioned above and to say that the NCST had recommended in its first and second reports that additional manpower and four additional Regional Offices should be sanctioned to the Commission for its smooth and effective functioning. The need of additional manpower and additional Regional Offices was also highlighted in the 33rd Report of the Parliamentary Committee on the Welfare of SCs & STs (14th Lok Sabha).

2. In view of the above, detailed proposals for additional manpower and additional Regional Offices for NCST have been prepared and sent herewith for urgent necessary action.

3. This has the approval of Secretary, NCST.

Yours faithfully,

Sd/-

(R.P. Vasishtha)
Deputy Secretary
Tel: 24620638

ANNEXURE 1.IX
(Ref. Para 1.5.7 5R)

रामेश्वर उराँव

राक्ष

पूर्व सांसद-लोकसभा)

(जनजातीय कार्य राज्यमंत्री)



समस्त भारते

RAMESHWAR ORAON

Chairman

(Member Parliament-L.S)

(Former Minister of State for Tribal Affairs)

भारत सरकार

राष्ट्रीय अनुसूचित जनजाति आयोग

छठी मंजिल, लोकनायक भवन,

खान मार्केट, नई दिल्ली - 110003

Government of India

National Commission for Scheduled Tribes

6th Floor, Lok Nayak Bhawan,

Khan Market, New Delhi - 110003

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अधिनियम सं० 27/4/एनसीएसटी/2009-प्रमाण

13 जनवरी, 2011

आरक्षीय मंत्रालय, नई दिल्ली

में राष्ट्रीय अनुसूचित जनजाति आयोग में उसके संवैधानिक दायित्वों को पूरा करने के लिए

2. आयोग में समूह 'क', समूह 'ख', समूह 'ग' और समूह 'घ' के पदों के विभिन्न वर्गों के कर्मचारियों की स्वीकृत संख्या 124 है जिनमें से 52 पद रिक्त हैं। आयोग संवर्ग नियंत्रण प्राधिकारियों अर्थात् सामाजिक न्याय एवं अधिकारिता मंत्रालय और राष्ट्रीय अनुसूचित जाति आयोग से रिक्त पदों को भरने के लिए लगातार अनुरोध कर रहा है। फिर भी, इन पदों, विशेष रूप से संयुक्त संवर्ग के पदों को भरने के लिए आयोग द्वारा सभी प्रयास करने के बावजूद भी इस दिशा में कोई प्रगति नहीं हुई है। इसलिए आयोग का दृष्टिकोण यह है कि जनजातीय कार्य मंत्रालय को राष्ट्रीय अनुसूचित जनजाति आयोग से संबंधित पदों के लिए एक अलग संवर्ग के सृजन पर विचार करना चाहिए (यदि वांछनीय हो, जनजातीय कार्य मंत्रालय के साथ) ताकि आयोग में विभिन्न पदों की स्थितियाँ किसी भी समय लम्बी अवधि तक बिना भरे न रह सकें।

3. मुख्यतः, आयोग में वरिष्ठ अन्वेषकों (6) और अन्वेषकों (9) की अत्यन्त कमी है जिसका संवर्ग नियंत्रण प्राधिकारी राष्ट्रीय अनुसूचित जाति आयोग है। अंतरिम समाधान के रूप में, भर्ती नियमावली को अंतिम रूप दिए जाने का कार्य त्वरित रहने के कारण, जैसा कि राष्ट्रीय अनुसूचित जाति आयोग ने सुझाव दिया है, आयोग ने 2008 में संचित आधार पर वरिष्ठ अन्वेषकों एवं अन्वेषकों को लगाने का प्रस्ताव किया, जिस पर जनजातीय कार्य मंत्रालय द्वारा तत्काल विचारण की आवश्यकता है। इस बारे में राष्ट्रीय अनुसूचित जनजाति आयोग के सचिव के दिनांक 04-01-2011 के अध्यापक संख्या 1/2/एनसीएसटी/2008-प्रशा0 जो सचिव जनजातीय कार्य मंत्रालय को भेजा गया था, का भी संदर्भ लें। वरिष्ठ अन्वेषक, अन्वेषक और रेटाफ कार चालकों के पदों के लिए भर्ती नियमों के प्राकृष पर भी जनजातीय कार्य मंत्रालय का अनुमोदन अपेक्षित है।

4. आयोग ने अनुसूचित जातियों और अनुसूचित जनजातियों के कल्याण संबंधी संसदीय समिति की 33वीं रिपोर्ट (14वीं लोक सभा) में उल्लिखित सिफारिशों के अनुरूप अपनी श्रम शक्ति और क्षेत्रीय कार्यालयों को सुदृढ़ बनाने के लिए एक प्रस्ताव भी भेजा है। जनजातीय कार्य मंत्रालय ने अपने दिनांक 24-05-2010 के पत्र संख्या 48011/1/2010-स्था0 द्वारा कुछ स्पष्टीकरण मांगे थे जिन्हें आयोग के दिनांक 21-06-2010 के समसंख्यक पत्र द्वारा भेज दिया गया था। तथापि, जनजातीय कार्य मंत्रालय का अनुमोदन अपेक्षित है।

5. ऊपर स्पष्ट की गई स्थिति को ध्यान में रखते हुए, मैं आभारी रहूँगा यदि आप लंबित प्रस्तावों पर तत्काल ध्यान दें। मैं आयोग के अन्य सदस्यों के साथ आप से मिलकर मामले पर व्यक्तिगत रूप से यथाशीघ्र चर्चा करना चाहूँगा। कृपया कोई त्रुटि निर्धारित करें।
(सादर)

आपका,
समेश्वर उरांव
(डा० समेश्वर उरांव)

श्री कांती लाल भूरिया,
माननीय जनजातीय कार्य मंत्री,
शास्त्री भवन,
नई दिल्ली

URGENT

PRIME MINISTER'S OFFICE

South Block,
New Delhi – 110101

While forwarding a copy of the 3rd Report of the National Commission for Scheduled Tribes (NCST), vide his letter dated 7th April, 2010 (copy enclosed), Vice Chairman, NCST had mentioned certain issues with regard to the Commission.

2. The Ministry may kindly take action as under:

- a) The vacant post in the Commission, especially that of the Chairperson, may be filled up within May, 2010.
- b) The Reports of the Commission, along with action taken memoranda, as envisaged in the sub-clause (6) of articles 338A of the Constitution, may be placed in Parliament as per the scheduled below:
 - (i) first report in the Monsoon Session
 - (ii) second report in the Winter Session
 - (iii) third report in the next Budget Session
- c) The Commission be given adequate staff to discharge its duties effectively.

(Davinder PS Sandhu)
Director
Tel:

23010838

Secretary, Ministry of Tribal Affairs

PMO U.O. No.560/51/C/12/2010-ES.2
24.5.2010

Dated:

Encl: as above

Visits of Chairperson , VC and Members of NCST during 2009-10

Chairperson Smt. Urmila Singh

S.No.	Date of Visit	Name of States/ UTs/ Orgn./ PSUs visited
(1)	(2)	(3)
	05/06/2009 to 09/06/2009	Madhya Pradesh <ul style="list-style-type: none"> - Meeting with tribal delegates, Bhopal. - Meeting with tribal delegates, Bhopal
	14/06/2009 to 21/06/2009	Assam, Manipur and Arunachal Pradesh <ul style="list-style-type: none"> - Meeting with tribal delegates, Imphal - Review Meeting with Chief Secretary, DGP and other State level officers, Imphal - Meeting with tribal delegates, Guwahati - Meeting with tribal delegates, Itanagar - Meeting with Chief Secretary, Govt. of Arunachal Pradesh, Itanagar - Meeting with Chief Minister, Govt. of Arunachal Pradesh, Itanagar. - Meeting with Governor of Arunachal Pradesh, Itanagar - Meeting with Chief Secretary, Govt. of Assam, Guwahati - Meeting with Chief Minister, Govt. of Assam, Guwahati - Meeting with Governor of Assam, Guwahati -
	23/06/2009 to 29/06/2009	<ul style="list-style-type: none"> - Meeting with Collector and District Magistrate and Supdt. of Police regarding Tribal matters in the Circuit House, Puri. - Meeting with Tribal Delegates. - Meeting with Secretary, Tribal Welfare Department, Govt. of Orissa in the State Guest House. - Meeting with Tribal Delegates. - Attend Tribal Function organised by Tribal Association - Meeting with Tribal Delegates followed by meeting with GM, NTPC, - Meeting with Tribal Delegates, Korba. - Meeting with Tribal Delegates, Raipur.
	12/07/2009 to 18/07/2009	Maharashtra <ul style="list-style-type: none"> - Meeting with District Collector and Supdt. of Police, Nasik - Meeting with Tribal Commission, District Collector, MD, Maharashtra State Tribal Development Corporation, Nasik - Meeting with SC/ST Employees Welfare Association under Dept. of Atomic Energy, Trombay - Meeting with Secretary & Senior Officers of the Dept. of Atomic Energy, Trombay - Meeting with ST Employees Welfare Association of Mumbai Port Trust, Mumbai - Meeting with Chairman, Mumbai Port Trust, Mumbai

		<ul style="list-style-type: none"> - Meeting with CMD, Rashtriya Chemicals & Fertilizers Ltd., Mumbai - Meeting with CMD, Air India, Mumbai - Meeting with Chief Secretary, DGP and other Senior officers of Maharashtra - Meeting with Chief Minister, Govt. of Maharashtra, Mumbai - Meeting with Governor of Maharashtra
	09/08/2009 to 18/08/2009	<p>Madhya Pradesh</p> <ul style="list-style-type: none"> - Meeting with District Collector and other Senior Level Officials, Narsinghpur. - Meeting with Tribal Delegates, Jabalpur. - Meeting with Tribal Employees of MP State Electricity Board and its Subsidiary Organisations. - Meeting with Chairman and Senior Officials of MP State Electricity Board to review the service safeguards of ST Employees in the Board and its subsidiary organizations. - Meeting with Tribal Delegates, Jabalpur. - Meeting with Tribal Delegates, Bhopal. - Meeting with Commissioner, Tribal Welfare, Bhopal.
	26/08/2009 to 27/08/2009	<p>Uttar Pradesh</p> <ul style="list-style-type: none"> - Meeting with Tribal Delegates, Mathura.
	07/10/2009 to 13/10/2009	<p>Kerala and Lakshadweep</p> <ul style="list-style-type: none"> - Meeting with tribal delegates, Kochi - Meeting with tribal delegates, Bangaram - Meeting with tribal delegates, Kavaratti - Meeting with Member of Parliament, Kavaratti - Meeting with Administrator and other Senior Officers, Lakshadweep - Meeting with Tribal Employees of Cochin Port Trust, Kochi - Meeting with Chairman, Chohin Port Trust, Kochi - Meeting with Tribal Employees of Cochin Shipyard Ltd., Kochi - Meeting with CMD, Cochin Shipyard Ltd., Kochi

Vice-Chairperson Shri Maurice Kujur

S.No.	Dates of Visit	Name of States/ UTs/ Orgn. / PSUs visited
(1)	(2)	(3)
	30/05/2009 to 06/06/2009	<p>Orissa</p> <ul style="list-style-type: none"> - Meeting with tribal delegates, Sundargarh - Meeting with tribal people of R.S.P. Resettlement Colony, Rajgangpur - Meeting with tribal farmers of Thopaberna - Discussion with A.D.M., S.P. and P.A.I.T.D.A., Rourkela - Meeting with R.S.P. Tribal Employees, Rourkela - Visit R.S.P. Model Resettlement Colony, Rourkela - Discussion with M.D. & Senior Officers of R.S.P., Rourkela - Discussion with District Collector and S.P. Sundargarh
	14/06/2009 to 21/06/2009	<p>Assam, Manipur and Arunachal Pradesh</p> <ul style="list-style-type: none"> - Meeting with tribal delegates, Imphal

		<ul style="list-style-type: none"> - Review Meeting with Chief Secretary, DGP and other State level officers, Imphal - Meeting with tribal delegates, Guwahati - Meeting with tribal delegates, Itanagar - Meeting with Chief Secretary, Govt. of Arunachal Pradesh, Itanagar - Meeting with Chief Minister, Govt. of Arunachal Pradesh, Itanagar. - Meeting with Governor of Arunachal Pradesh, Itanagar - Meeting with Chief Secretary, Govt. of Assam, Guwahati - Meeting with Chief Minister, Govt. of Assam, Guwahati - Meeting with Governor of Assam, Guwahati
	12/07/2009 to 18/07/2009	<p>Maharashtra</p> <ul style="list-style-type: none"> - Meeting with District Collector and Supdt. of Police, Nasik - Meeting with Tribal Commission, District Collector, MD, Maharashtra State Tribal Development Corporation, Nasik - Meeting with SC/ST Employees Welfare Association under Dept. of Atomic Energy, Trombay - Meeting with Secretary & Senior Officers of the Dept. of Atomic Energy, Trombay - Meeting with ST Employees Welfare Association of Mumbai Port Trust, Mumbai - Meeting with Chairman, Mumbai Port Trust, Mumbai - Meeting with CMD, Rashtriya Chemicals & Fertilizers Ltd., Mumbai - Meeting with CMD, Air India, Mumbai - Meeting with Chief Secretary, DGP and other Senior officers of Maharashtra - Meeting with Chief Minister, Govt. of Maharashtra, Mumbai - Meeting with Governor of Maharashtra
	07/10/2009 to 13/10/2009	<p>Kerala and Lakshadweep</p> <ul style="list-style-type: none"> - Meeting with tribal delegates, Kochi - Meeting with tribal delegates, Bangaram - Meeting with tribal delegates, Kavaratti - Meeting with Member of Parliament, Kavaratti - Meeting with Administrator and other Senior Officers, Lakshadweep - Meeting with Tribal Employees of Cochin Port Trust, Kochi - Meeting with Chairman, Chohin Port Trust, Kochi - Meeting with Tribal Employees of Cochin Shipyard Ltd., Kochi - Meeting with CMD, Cochin Shipyard Ltd., Kochi
	18/03/2010 to 23/03/2010	<p>Meghalaya and Mizoram</p> <ul style="list-style-type: none"> - Meeting with Chief Secretary and Senior Officers of Meghalaya - Meeting with Chief Minister, Meghalaya - Meeting with Governor, Meghalaya - Meeting with Chief Secretary and Senior Officer of Mizoram

		<ul style="list-style-type: none"> - Meeting with Chief Minister, Mizoram - Meeting with Governor, Mizoram
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Shri Tsering Samphel, Member

S.No. (1)	Date of Visit (2)	Name of States/ UTs/ Orgn./ PSUs visited (3)
	08/07/2009 to 15/07/2009	<ul style="list-style-type: none"> - To attend Seminar on "Bhoti" Language. To inspect the NGO working for STs who are availing grants-In-Aid from MTA Field visits to ST populated villages.
	21/08/2009 to 31/08/2009	<ul style="list-style-type: none"> - Meeting with Scheduled Tribes. Visit to Institutes Aided by MTA meeting with local Administration regarding Tribal Sub Plan.

Shri Oris Syiem Myriaw, Member

S.No. (1)	Date of Visit (2)	Name of States/ UTs/ Orgn./ PSUs visited (3)
1	19/05/09 to 24/05/09 Extended 24/05/09 to 28/05/09	Assam and Meghalaya <ul style="list-style-type: none"> - Meeting with Local Tribal Leaders - Field visit to Nongpoh and Ri-Bhoi - Meeting with Tribal Leaders - Field visit to Nongstoin and West Khasi Hills - Attend Local Function - Field Visits
2	17/06/09 to 21/06/09 Extended 21/06/09 to 29/06/09	Assam, Arunachal Pradesh and Meghalaya <ul style="list-style-type: none"> - Field visit to Tribal Areas, Ita Nagar, A.Pradesh. MEETING WITH <ul style="list-style-type: none"> - Tribal Delegates, Arunachal Pradesh - Chief Secy., Govt. of Arunachal Pradesh - State level officers, Arunachal Pradesh - Chief Minister, Govt. of Arunachal Pradesh - H.E. Governor of Arunachal Pradesh - Chief Secy. Govt. of Assam - State level officers, Assam - Chief Minister, Govt. of Assam - H.E. Governor of Assam - Review Reservation policy and other important matters concerning Tribal of Arunachal Pradesh - Review Reservation policy and other important matters concerning Tribal of Assam - Attend Local Function, Shillong, Meghalaya - Meeting with Tribal delegates, Shillong, Meghalaya
3	21/08/09 to 31/08/09	Assam and Meghalaya <ul style="list-style-type: none"> - Meeting with tribal delegation - Briefing at the Regional Office, Shillong - Meeting with S.T. Employees and Management of North East Electric Power Corpn. (NEEPCO) - Meeting with Vice Chancellor North Eastern Hill University (NEHU). - Meeting with S.T. Employees and Management of Meghalaya Rural Bank Ltd., Shillong - Meeting with S.T. Employees and Management of Meghalaya Co-op. Apex Bank Ltd., Shillong - Meeting with local Tribal leaders

4	07/12/09 to 21/12/09 Extended 21/12/09 to 04/01/10	Assam and Meghalaya <ul style="list-style-type: none"> - Meeting with local Tribal leaders - Meeting with Principal, K.V. School, Upper Shillong - Meeting with Director and Officers of NEIGRIMS - Meeting with local Local Headman, Upper Shillong - Meeting with local People, Upper Shillong - Meeting with Secretary, NEC - Attend Local Programme - Meeting with NCST Regional Office Employees
5	06/02/10 to 18/02/10	Assam and Meghalaya <ul style="list-style-type: none"> - Meeting with local Tribal leaders - Visit to NCST, Regional office , Shillong - Inauguration of the workshop on reservation policy at NEC auditorium - Attend workshop at NEC auditorium - Visit to ICAR complex, Barapani - Meeting with tribal leaders at regional office Shillong
6	07/03/10 to 12/03/10	Chhattisgarh <ul style="list-style-type: none"> - Visit to CHHAL OCP project - Discussion with the project Authorities - Visit to Dipka Expn. project
7	18/03/10 to 23/03/10	West Bengal, Mizoram and Meghalaya <ul style="list-style-type: none"> - Review meeting with Chief Secretary and senior officers of Meghalaya Govt. - Meeting with Chief Minister, Meghalaya Govt. - Meeting with H.E Governor, Meghalaya State - Visit to tribal village - Review meeting with Chief Secretary and senior officers of Mizoram Govt. - Meeting with Chief Minister, Mizoram Govt. - Meeting with H.E Governor, Mizoram Govt.

ANNEXURE 1. XII
(Ref. Para 1.9.3 5R)

MAURICE KUJUR
VICE CHAIRMAN
(Rank Union Minister of State)



GOVERNMENT OF INDIA
NATIONAL COMMISSION FOR
SCHEDULED TRIBES

6th floor, 'B' Wing, Loknayak Bhawan,
Khan market, New Delhi-110 003

D.O. No. 27/6/NCST/2009-Admn.

5 March, 2010

Dear Shri Bhuria Ji,

I would like to invite your attention towards the constraints which are hampering the smooth functioning of this Commission. Through its Annual Reports, as well as on specific occasions, the Commission has brought its operational problems to the notice of the Ministry of Tribal Affairs requesting sanction of additional manpower and grant of financial autonomy. The Parliamentary Committee on the Welfare of Scheduled Caste and Scheduled Tribes after extensive study and analysis also recommended the grant of additional manpower and financial autonomy to the Commission. Accordingly, a detailed proposal for sanction of 481 additional posts and setting up of 4 additional Regional Offices for the Commission was sent to the Ministry of Tribal Affairs on 21-10-2009 (copy enclosed). A proposal for grant of financial autonomy to the Commission by notifying it as a Department of the Central Government was also sent to the Ministry of Tribal Affairs by the Commission on 23-03-2009 (copy enclosed). The above proposals are pending with the Ministry, despite several reminders from the Commission.

2. The above problems are being further compounded because a large number of posts in the grades of Under Secretary, Dy. Director, Director and some ministerial post in the Regional Offices of the Commission are not being filled up in time by the concerned authorities, viz., Ministry of personnel, Ministry of Social Justice & Empowerment and National Commission for Scheduled Castes who are the cadre controlling authorities for these posts. The Commission has also sought the Ministry's intervention in this behalf.

3. I shall, therefore, be grateful if you could kindly have the matter looked into to ensure urgent clearance of the pending proposals of the Commission and expeditious filling up of the vacant posts for the smooth functioning of the Commission.

With regards,

Yours sincerely,

sd/-
(Maurice Kujur)

Shri Kanti Lal Bhuria,
Minister for Tribal Affairs,
Shastri Bhawan,
New Delhi – 110 001

NATIONAL COMMISSION FOR SCHEDULED TRIBES
Brief of important Court cases received in the Commission
during the year 2009-10

Sl. Details of the case and Views of the Commission and action taken by it.

No.

1. F.No HJBS/20/3/2009/STG2GT/Courtcase/RU-I

Letters Patent Appeal No. 1334 of 2009 in Special Civil Application No. 1334 of 2009 in the High Court of Gujarat at Ahmedabad-Hansa Jamal Bhai, Sapra V/s Principal KNV Pharmacy College, Metoda Kalavad Road Rajkot, Gujarat, Saurashtra University Rajkot and others including NCST.

Views of the Commission and action taken by it

The matter primarily concerns KNV Pharmacy College Rajkot and Vice-Chancellor Saurashtra University Rajkot and National Commission for Scheduled Tribes is respondent No. 3. The issue in the Petition relates to refusal by Saurashtra University for amendment of marks in the mark-sheet of first year B. Pharma examination in respect of Ms. Hansaben Jamalbhai Sapra. The Petitioner had earlier submitted a representation dated 08/11/2008 to National Commission for Scheduled Tribes.

The matter was taken up with the Vice-Chancellor, Saurashtra University, Rajkot. The Controller of the examination of the University informed the Commission that it was not possible, as per the rules of the University, to make corrections in the internal marks of several students (including the petitioner), as the revised mark-sheets of those students were received after declaration of the results by the university. Since the reply was not satisfactory, a hearing in this case was held on 22/12/2008, in the Commission. The Commission expressed that there was a mistake on the part of the college and students should not be penalized for mistake of the college and recommended that University should act fast and marks of the petitioner should be corrected at the earliest. In case university rules do not permit in the normal course, the petitioner may be permitted to study in the second year B.Pharma and appear in the examinations as per rules applicable in case of ATKT students.

As the university did not accept the recommendation of the National Commission for Scheduled Tribes, the petitioner filed an appeal in the High Court of Gujarat at Ahmedabad. The hearing in the case was scheduled to take place on 13/07/2009, but the information regarding appointment of a Government Counsel for appearing on behalf of National Commission for Scheduled Tribes was received from Ministry of Law & Justice on 22/07/2009, and the Counsel was requested to seek time for filing Counter Affidavit on behalf of the Commission. The Commission noticed on the Web-site of the Gujarat High Court, an order has been passed by the bench of Hon'ble Chief Justice Shri K.S. Radhakrishnan and Hon'ble Justice Shri Akil Kurishi on 27/08/2009. The High Court passed the following order:

Since the college has committed mistake, needless to observe that it is

to be corrected. Under the circumstances, we are inclined to give directions to the respondent University and the Principal of the College to carry out correction in the matter of award of internal marks reckoning best two out of three internal examination results for the first year B.Pharma course.

The above order of the High Court is in consonance with the recommendation of the National Commission for Scheduled Tribes that University should make corrections in the mark-sheet of the first year course and allow the students to study in the Second year course.

2. F.No 18/3/2009/Service/RU-III

Case No. RC6(S)/2005/SIV/ND in Central Bureau of Investigation V/s Chandra Deo Prasad in the Court of Additional Chief Metropolitan Magistrate – I, Karkardooma Courts, Shahdara, Delhi – 110032 regarding obtaining appointment on the basis of false caste certificate.

Views of the Commission and action taken by it

In the course of investigation of cases about employment taken on the basis of fake ST or SC certificates, Central Bureau of Investigation has been seeking information/ Clarifications from the National Commission for Scheduled Tribes regarding specification of Scheduled Tribes and also seeking certified/ authenticated copies of Constitution Orders and Government Orders on the subject. Since National Commission for Scheduled Tribes is not the competent authority to issue certified/ authenticated copies of the documents issued by the Government or any Organisation other than the NCST, the Central Bureau of Investigation was advised seek the requisite information/ documents from the Ministry of Social Justice & Empowerment in respect of Scheduled Castes and the Ministry of Tribal Affairs in respect of Scheduled Tribes. In stead of approaching the concerned Ministry in the matter, Central Bureau of Investigation, on the basis of Commission's letter, got Summons issued in the name of the Officer of the National Commission for Scheduled Tribes as one of the witnesses in the case. The Officer, present before the ACMM was asked to testify about the authenticity of the letter and its contents issued by the Commission. It was noted that the Central Bureau of Investigation had not yet approached the Ministry of Tribal Affairs to collect the requisite genuine information/ authenticated copies of the documents.

3. F.No 18/3/2009/Service/RU-III

Writ Petition (C) 1115/2009 in the High Court of Chattisgarh at Bilaspur regarding inclusion of Saura/ Sanwara in the list of Scheduled Tribes of CG filed by Parmanad Bhoi V/s State of Chhattisgarh and others.

Views of the Commission and action taken by it

The subject matter of the WP concerns primarily the State Government of Chhattisgarh and the Union of India through Ministry of Tribal Affairs. The National Commission for Scheduled Tribes is not a respondent. National Commission for Minorities has been made respondent No. 5. The Chhattisgarh High Court however, sent a copy of the WP and the Notice for admission at the address of the Raipur Regional Office of the Commission. Since Ministry of Tribal Affairs is one of the main respondent the WP along with the notice was

transferred to the Ministry of Tribal Affairs for necessary action on their part. The Commission, vide its letter dated 21/10/2010, requested the Ministry of Tribal Affairs to intimate the latest position of the case and also to furnish a copy of the Affidavit filed by the Ministry in the Bilaspur High Court.

4. File No.CC/1/2009/STGAP/APPHHR/RU-IV

W.P. MP No. 6545 of 2009 in WP No. 4997 of 2009 filed in High Court of AP, Hyderabad regarding ATR by Government of AP in case file No. EM/Atrocity/AP/1009 /2008/RU-IV referred by NCST to the State Government.

Views of the Commission and action taken by it

A representation alleging harassment and filthy abuse by the Civil and Police officials of Shamerpet Mandal, RR district of AP State was received in this Commission. The representation was forwarded to the Government of AP on 24/12/2008 for necessary remedial action and for furnishing action taken report to the Commission. No reply was received from the State Government. In the mean while, petitioner filed the WP in the Court. Commission is 4th respondent in this case. A Counter Affidavit furnishing details of action taken by the Commission on the representation received from the petitioner was sent to the Assistant Solicitor General, Hyderabad, AP on 10/08/2009. It was also mentioned in Counter Affidavit that no report on the action taken by the Government on the representation was received prior to filing of WP in the High Court. There is no information about progress of the case.

5. F.No CC/20/2009/MFIN9/SEPROM/RU-IV

W.P. No. 23788 of 2009 filed by the Insurance Regulatory and Development Authority Officers and Employees Association Hyderabad in the High Court of AP at Hyderabad regarding promotion of Shri T.S. Naik in IRDA, Hyderabad (AP).

Views of the Commission and action taken by it

A representation, dated 24/09/2009 from Shri T.S. Naik, Convener, SC/ST Cell, IRDA Officers & Employees Association, Hyderabad (Petitioner in the above WP) was received in this Commission on 30/09/2009 alleging denial of constitutional rights and safeguards to the reserved category persons by improper implementation of the Government instructions relating to preparation of reservation rosters, age relaxation, deputation, filling up of backlog vacancies for Scheduled Castes/Scheduled Tribes, etc. by IRDA. The representation of the Petitioner was forwarded to the Chairman, Insurance Regulatory and Development Authority (IRDA), Hyderabad, AP vide NCST letter dated 09/01/2009 requesting for comments alongwith action taken report within 30 days. IRDA, vide their letter No. IRDA/Legal/AP/HC/C-16 dated 18/11/2009, informed the Commission that pending the processing of the Commission's letter IRDA received a notice, on 04/11/2009, about the filling of Writ Petition W.P. No. 23788 of 2009 before the High Court of Judicature of AP at Hyderabad, by the IRDA Officers and Employees Association, represented by Shri T.S. Naik, on the same subject matter as raised in the representation addressed to the Commission. The case was listed for admission before the Hon'ble High Court on 5th November, 2009 and upon the case being called, there was no representation on behalf of the petitioner. However, IRDA brought the facts of the case to the notice of the Hon'ble High Court and sought its

permission to place the same on record. The Hon'ble High Court was pleased to issue notice to the parties and posted the case for hearing on November 19, 2009. In view of the fact that the Hon'ble High Court has already taken cognizance of the subject matter, IRDA requested the NCST to keep the proceedings in the Commission in abeyance pending the outcome of proceedings in the Hon'ble High Court. A copy of the letter, dated 18/11/2009 received from IRDA was sent to Shri Naik for information.

Thereafter, Shri T.S. Naik has not made any correspondence with the National Commission for Scheduled Tribes in the matter. National Commission for Scheduled Tribes is respondent No. 3 in this WP. On reference from the Central Government Standing Counsel in the High Court, para- wise comments were sent to the Counsel for drafting the Counter Affidavit, if necessary. As per advice of the CGSC, detailed Counter Affidavit, highlighting the above facts was sent to the Central Government Counsel Hyderabad on 07/10/2010 for filling the CA in the High Court. In the Counter Affidavit filed by the Commission, it has prayed that taking into account the fact that IRDA is under obligation to properly implement the instructions of the Central Government in the matter of reservation for SCs/ STs in services, the Hon'ble High Court may consider the prayer of the Petitioner and pass appropriate order as deemed fit in the interests of justice.

6. F.No CC/1/2010/MPNT/2/SEOTH/RU-IV

O.S. No. 16 of 2010 in the Court of Principal Civil Judge, Patiala House, New Delhi in the matter of Shri B.R. Jakhatia Vs. the Chairman cum Managing Director, BSNL, New Delhi & others regarding recognition and grant of facilities to ST Employees Welfare Association of BSNL.

Views of the Commission and action taken by it

NCST listed as Respondent No.2 in the Civil suit. The NCST received representation 16.02.2009 from BSNL SC/ST Emp. Wel. Association dated 13.02.2009 regarding holding of All India Conference of "SC/ST Employees Welfare Association of BSNL at Hardwar and hearing was conducted in the matter on 30.09.2009. Vide letter dated 21.10.2009 proceeding was issued with conclusion that the Management agreed to facilitate the Committee members in conducting the elections, which should be completed before the end of December, 2009. It was also agreed that the Committee and other matters relating to the elections. It was unanimously agreed by both the groups that the first meeting of the Committee may be held on 21.10.2009 and the out come of this hearing may be communicated to the Committee members officially by the Chief Liaison Officer (SCT) of BSNL so that the Committee starts functioning without delay. Since the matter relates to Association of SC as well as ST employees, the Committee will ensure that there will be proportionate representation of SCs and STs in the Governing Body of the Association at all levels. Where, the number of a particular post in the Governing Body (for example President/ Vice-President/ General Secretary/ Treasurer) is 1, election to the post may be held from SCs & STs in rotation in consecutive elections.

One of the factions has challenged the election notice issued by the BSNL Hqrs. The case is listed for hearing on 27.01.2010. As no relief has been

sought form the Commission and there being no policy issue in the civil suit, the Commission did not file any reply in this case.

7. F.No CC/5/2010/MPNT2/SEOTH/RU-IV

W.P. (MD) No. 1973/2010 in the High Court of Judicature, Madras at Madurai Bench – Shri M. Arumairaj and another Vs. BSNL through its Managing Director and others. Writ Petition has been filed for a direction for enquiry through an independent agency regarding the conduct of election held for SC/ST Employees Welfare Association of BSNL at Bhopal on 30.01.2010.

Views of the Commission and action taken by it

The NCST received High Court Notice dated 23.02.2010 being respondent No. 2. The NCST vide letter dated 27.04.2010 requested the Bharat Sanchar Nigam Ltd. that since the WP relates to an internal matter of BSNL and the petitioner has not sought any relief from NCST, a reply may be filed by BSNL in the High Court in this case. A copy of the reply filed by BSNL may also be furnished to this Commission for future reference. The BSNL informed vide letter dated 03.05.2010 that the case has already been referred to Tamil Nadu for defending the case vide this office letter of even number dated 08.03.2010 with instructions to report Corporate Office from time to time about the status of the case.

ANNEXURE 1.XIV
(Ref: Para 1.12.6 5R)

Status of Files registered up to 31st March 2010 (As per FTS)

category of File	Closed	Current	Grand Total
Annual Plan/TSP	1	1	2
Annual Report		7	7
Budget	3		3
Commission Meeting		7	7
Consultation		2	2
Court Cases	10	2	12
De-reservation	65	14	79
General	44	100	144
Grievance	173	618	791
Meetings (SED)		2	2
Parliament question		1	1
Policy	10	1	11
Review/ Monitoring	11	59	70
RTI	90	14	104
VIP Reference	4	4	8
Visits/Tours	2	5	7
Grand Total	413	837	1250

ANNEXURE 1.XV
(Ref: Para 1.12.6 5R)

Inflow/Outflow Details of Receipts (From: 01/04/2009 To: 31/03/2010)

Section	Opening Balance (a)	Receipts Added & (b)	Total (a+b)	Disposed (c)	Balance (a+b-c)
CHAIRPERSON	1	1023	1024	1018	6
VICE CHAIRMAN	0	194	194	192	2
MEMBER(TS)	0	94	94	80	14
MEMBER(OSM)	0	87	87	87	0
MEMBER(V)	0	0	0	0	0
SECRETARY	0	166	166	166	0
JOINT SECRETARY	0	1129	1129	1121	8
DIR(RU-I & RU-II)	0	935	935	935	0
RESEARCH UNIT - I	28	1446	1474	1472	2
RESEARCH UNIT -II	13	955	968	963	5
DIR(RU-III & Coord.)	1	1182	1183	1177	6
RESEARCH UNIT - III	28	1612	1640	1622	18
COORDINATION UNIT	2	289	291	285	6
DS(RU-IV & Admn.)	0	555	555	553	2
RESEARCH UNIT - IV	18	2324	2342	2333	9
ADMINISTRATION	2	253	255	255	0
GEN ADMIN*	2	3239	3241	3241	0
DD(KDB)	0	470	470	439	31
NICNCST	0	2	2	2	0
HINDI	6	16	22	22	0
DESPATCH	3	2	5	0	5

& Receipt Added under Column (b) indicates receipts received/created upto 31/03/2009

* GEN ADMIN is a Central Registry and Receipts received are marked to various officers and Units/ Sections as per work distribution. Receipts are also received directly by officers and Units/ Section and diarized in the concerned Personal Section of Officers/ Section/ Unit.

Annexure-2.I
(Ref. Para 2.2.1_ 5R)

Demographic Statistics: 2001 Census

Sl.No	India/State	Total Population 1991	Total Population 2001	Decadal Growth (%)	ST population 1991	ST population 2001	Decadal Growth (%)	% age of STs in the State to total population 2001	% age of STs in the State to country's total ST population 2001
1	2	3	4	5	6	7	8	9	10
	India	838,583,988	1,028,610,328	22.66	67,758,380	84,326,240	24.45	8.2	100.00
1.	Andhra Pradesh	66,508,008	76,210,007	14.59	4,199,481	5,020,104	19.64	6.6	5.96
2.	Arunachal Pradesh	864,558	1,097,968	27.00	550,351	705,158	28.13	64.2	0.84
3.	Assam	22,414,322	26,655,582	18.92	2,874,441	3,308,570	15.10	12.4	3.92
4.	Bihar	86,374,465 *	82,998,509	-	6,616,914 *	758,351	-	0.9	0.90
5.	Chhattisgarh	@ @	20,833,803	-	@ @	6,616,596	-	31.8	7.85
6.	Goa	1,69,793	13,47,668	55.21	376	566	50.53	-	0.07
7.	Gujarat	41,309,582	50,671,017	22.66	6,161,775	7,481,160	21.41	14.8	8.87
8.	Harayana	16,463,648	21,144,564	28.43	-	-	-	-	-
9.	H P	5,170,877	6,077,900	17.54	218,349	244,587	12.02	4.0	0.29
10.	Jharkhand	**	26,945,829	-	**	7,087,068	-	26.3	8.40
11.	Karnataka	44,977,201	52,850,562	17.51	1,915,691	3,463,986	80.82	6.6	4.11
12.	Kerala	29,098,518	31,841,374	9.43	320,967	364,189	13.47	1.1	0.43
13.	Madhya Pradesh	66,181,170@	60,348,023	-	15,399,034@	12,233,474	-	20.3	14.51
14.	Maharashtra	78,937,187	96,878,627	22.73	7,318,281	8,577,276	17.20	8.9	10.17
15.	Manipur	1,837,149	2,166,788	17.94	632,173	741,141	17.24	34.2	0.88
16.	Meghalaya	1,774,778	2,318,822	30.65	1,517,927	1,992,862	31.29	85.9	2.36

ANNEXURE 2.II
(Ref: Para 2.5.10 5R)

Integrated Tribal Development Projects/ Agency (ITDPs/ ITDAs), Modified Area Development Approach (MADA) pockets, Cluster and Particularly Vulnerable Tribal Groups (PTGs) in Tribal Sub-Plan area and States having Scheduled Areas and Tribes Advisory Council

S.No	State/ UT	Number of			
		ITDPs/ ITDAs	MADA Pockets	Clusters	PTGs
(1)	(2)	(3)	(4)	(5)	(6)
1	Andhra Pradesh#	8	41	17	12
2	Assam	19	-	-	-
3	Bihar	-	7	-	9**
4	Chhattisgarh#	19	9	2	**
5	Gujarat#	9	1	-	5
6	Himachal Pradesh#	5	2	-	-
7	J&K	-	-	-	-
8	Jharkhand#	14	34	7	**
9	Karnataka	5	-	-	2
10	Kerala	7	-	-	5
11	Madhya Pradesh#	31	30	6	7**
12	Maharashtra#	16	44	24	3
13	Manipur	5	-	-	1
14	Orissa#	21	46	14	13
15	Rajasthan #	5	44	11	1
16	Sikkim	4	-	-	-
17	Tamil Nadu\$	9	-	-	6
18	Tripura*	-	-	-	1
19	Uttar Pradesh	1	1	-	2**
20	Uttarakhand	-	-	-	**
21	West Bengal\$	12	-	1	3
22	A&N Islands	1	-	-	5
23	Daman & Diu	1	-	-	-
	Total	192	259	82	75

Source: Annual Report 2009-10 of the Ministry of Tribal Affairs.

* There are no ITDPs in Tripura. Tripura has Tribal Autonomous District Council (TTAADC). The provisions of Sixth Schedule were extended to Tripura w.e.f. 1985 by 49th Amendment of the Constitution.

** The PTGs for Bihar & Jharkhand, MP & Chhattisgarh and UP & Uttarakhand are common

States having Scheduled Areas and Tribes Advisory Councils (TACs)

\$ States having TACs also

17.	Mizoram	689,756	888,573	28.82	653,565	839,310	28.42	94.5	1.00
18.	Nagaland	1,209,546	1,990,036	64.53	1,060,822	1,774,026	67.23	89.1	2.10
19.	Orissa	31,659,736	36,804,660	16.25	7,032,214	8,145,081	15.83	22.1	9.66
20.	Punjab	20,281,969	24,358,999	20.10	-	-	-	-	-
21.	Rajasthan	44,005,990	56,507,188	28.41	5,474,881	7,097,706	29.64	12.6	8.42
22.	Sikkim	406,457	540,851	33.06	90,901	111,405	22.56	20.6	0.13
23.	Tamil Nadu	55,858,946	62,405,679	11.7	574,194	651,321	13.43	1.0	0.77
24.	Tripura	2,757,205	3,199,203	16.03	853,345	993,426	16.42	31.1	1.18
25.	Uttaranchal	\$ \$	8,489,349	-	\$ \$	256,129	-	3.0	0.30
26.	Uttar Pradesh	139,112,287 \$	166,197,921	-	287,901 \$	107,963	-	0.1	0.13
27.	West Bengal	68,077,965	80,176,197	17.77	3,808,760	4,406,794	15.70	5.5	5.23
28.	A & N Islands	280,661	356,152	26.19	26,770	29,469	10.08	8.3	3.03
29.	Chandigarh	642,015	900,635	40.28	0	-	-	-	-
30.	D & N Haveli	138,477	220,490	59.22	109,380	137,225	2.46	62.2	0.16
31.	Daman & Diu	101,586	158,204	55.73	11,724	13,997	19.39	8.8	10.20
32.	Delhi	9,420,644	13,850,507	47.02	-	-	-	-	-
33.	Lakshadweep	51,707	60,650	17.30	48,163	57,321	19.01	94.5	0.07
34.	Pondicherry	807,785	974,345	20.62	-	-	-	-	-
35.	J&K	-	10,143,700	-	-	1,105,979	-	-	-
	Total	838,583,988	1,028,610,328	-	67,758,380	84,326,240	-	-	-

Source: Census of India 2001

* Indicate population of undivided Bihar @ Indicate population of undivided M.P. \$ Indicate the population of undivided Uttar Pradesh

** Population figures of Jharkhand included Bihar @ @ Population figures of Chhattisgarh included in M.P.

\$ \$ Population figures of Uttaranchal included in Uttar Pradesh

Note: Chhattisgarh, Jharkhand and Uttaranchal States were created in the year 2000 after reorganization of the States of Madhya Pradesh, Bihar and Uttar Pradesh respectively.

ANNEXURE

(Ref. para 2.5.14 & para 2.8.1

(Rs. in crore)

TSP Outlay/ Expenditure during Eleventh Five Year Plan 2007-08, 2008-09, and 2009-10

Sl. No.	State/ U.T	% of ST Population (2001 census)	Annual Plan 2007-08				Annual Plan 2008-09				Annual Plan 2009-10				% age to Col.15 to 14	
			Total State Plan Outlay	TSP Allocation	TSP Expenditure	% age to Col.5 to 4	% age to Col.6 to 5	Total State Plan Outlay	TSP Allocation	TSP Expenditure	% age to Col.10 to 9	% age to Col.11 to 10	Total State Plan Outlay	TSP Allocation		TSP Expenditure
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17
1	Andra Pradesh	6.6	30500	2454.83	2357.59	8	96	44000	3331.96	2051.21	7.6	61.6	33496.75	2370.86	1008.24	7.1
2	Assam	12.4	3800	650	636.14	17.1	97.9	5011.51	760	130.62	15.2	17.2	6000	55.28	211.59	0.9
3	Bihar	0.9	10200	93.94		0.9	0	13500	203.99		1.5	0	16000	163.38		1
4	Chhatisgarh	31.8	7413.72	2722.31	2240.31	36.7	82.3	9600	3221.23	2880.17	33.6	89.4	10947.76	3663.1	3491.34	33.5
5	Goa	0	1430	92.51	59.44	6.5	64.3	1737.65	101.58	77.23	5.8	76	2240	136.99	97.94	6.1
6	Gujarat	14.8	16000	2361.6	2305.21	14.8	97.6	21000	2862.73	2703.51	13.6	94.4	23500	3616.03		15.4
7	Himachal Pradesh	4	2100	189	188.19	9	99.6	2400	216	207.96	9	96.3	2700	243	230.24	9
8	Jammu & Kashmir	10.9	4850	11.97		0.2	0	4500			0	0	5500	559.97		10.2
9	Jharkhand	26.3	6676	729.96		10.9	0	8015	4111.84	3849.5	51.3	93.6	8200	5760.46	8200	70.2
10	Karnataka	6.6	17782.58	1160.82	717.57	6.5	61.8	26188.83	1263.9	988.76	4.8	78.2	29500	1144.05	1144.05	3.9
11	Kerala	1.1	6950	139	128.43	20	92.4	7700	154.1	149.37	2	96.9	8920	180.86	180.86	2
12	Madhya Pradesh	20.3	12011	2745.88		22.9	0	14182.61	3137.06		22.1	0	16174.17	3714.43	3213.31	23
13	Maharashtra	8.9	20200	1798	440.44	8.9	24.5	25000	1941.5		7.8	0				0
14	Manipur	34.2	1374.31	592.61	499.6	43.1	84.3	1660	731.73	597.83	44.1	81.7	2000	741.15	736.88	37.1
15	Orissa	22.1	5105	1257	1759.78	24.6	140	7500	1699.73	1792.58	22.7	105.5	9500	2171.48	2159.46	22.9
16	Rajasthan	12.6	11638.86	1431.17	1453.05	12.3	101.5	14000	1706.6	1666.27	12.2	97.6	17322	2115.35	2115.35	12.2
17	Sikkim	20.6	691.14	135.18	6.48	19.6	4.8	852	83.62	6.45	9.8	7.7	1045	7.64	7.64	0.7
18	Tamil Nadu	1	14000	3185.05	240.89	22.8	7.6	16000	32.11	206.99	0.2	644.6	17500	36.36	360.08	0.2
19	Tripura	31.1	1220	408.5	325.01	33.5	79.6	1450	501.34	468.49	34.6	98.4	1680	575.91	587.9	34.3
20	Uttar Pradesh	0.1	25000	20	11.19	0.1	56	35000	27	25.74	0.1	95.3	39000	28.45	5.08	0.1
21	Uttarakhand	3	4378.63	134	101.59	3.1	75.8	4775	143.25	90.53	3	63.2	4502.2	174.02	81.67	3.9
22	West Bengal	5.5	9150	721.07	721	7.9	100	11602.38	763.98	655.56	6.6	85.8	14195.26	963.55	963.55	6.8
23	A & N Islands	8.3	1154.83	86.34	43.1	7.5	49.9	604.83	66.72	49.24	11	73.8	833.18	68.95	66.34	8.3
24	Daman & Diu	8.8	71.67	6.31	1.48	8.8	23.5	150	2.54	2.09	1.7	82.3	154.34	13.66	2.19	8.9
	ALL INDIA	8.2	213697.74	23127.05	14236.49	10.8	61.6	276429.81	27064.51	18600.1	9.8	68.7	270910.66	28504.93	24863.71	10.5

Source : State Plan Approval letters and Tribal Sub-Plan documents of the State Governments

2.III
5R)
s)

% age to Col.16 to 15
18
42.5
382.8
0
95.3
71.5
0
94.7
0
142.3
100
100
86.5
0
99.4
99.4
100
100
990.3
102.1
17.9
46.9
100
96.2
16
87.2

**R. Sridharan
Joint Secretary (SP)**

**Government of India
Planning Commission Yojana Bhawan New Delhi – 110001**

D.O. No. M-13011/3/2005-SP-Co

October 31, 2005

Dear Planning Secretary,

With reference to para 8 of the Deputy Chairman's letter dated 6th September, 2005 addressed to your Chief Minister, I am directed to enclose herewith a note consolidating the guidelines already issued by the Government of India for the formulation, implementation and monitoring of Special Component Plan for Scheduled Caste and Tribal Sub-Plan for Scheduled Tribes.

I would request you to kindly ensure that the Special component Plan and Tribal Sub-Plan are drawn up accordingly in Annual Plan 2006-07.

With regards,

Yours sincerely,

(R. Sridharan)

**Planning Secretaries of All States/UTs
(Except Arunachal Pradesh, Meghalaya, Mizoram and Nagaland)**

A Note consolidating the existing Guidelines for formulation implementation and monitoring of special component plan for the Scheduled Caste and Tribal Sub-Plan for Scheduled Tribes.

Detailed guidelines relating to the Special Component Plan for the Scheduled Caste and the Tribal Sub-Plan for the Scheduled Tribes have been issued by the concerned departments of the Central Government from time to time.

The Basic objective of both these Sub –Plan is to channelise the flow of outlays and benefits from the general sectors in the Plan of States for the development of Scheduled Caste and Scheduled Tribes at least in proportion to their population, both in physical and financial terms. The Mid Term Appraisal of the Tenth Plan has noted that several State Government have not earmarked adequate funds to SCP and TSP, proportionate to the share of SCs and STs in the population.

The importance of the SCP and TSP has been again underlined by the Hon'ble Prime Minister while addressing the 51th meeting of the National Development Council held on 27th June, 2005. The Prime Minister had taken then stated that “in the mid-1970s, the Special Component Plan and the Tribal Sub-Plan were initiated. Tribal Sub-Plan and Special Component Plans should be and integral part of Annual Plans as well as Five Year Plans, making provisions therein non-divertible and non-lapsable, with the clear objective of bridging the gap in socio-economic development of the SCs and STs within a period of 10 years”.

In this context, the following guidelines with respect to SCP and TSP are once again reiterated so that the same may be followed strictly in the preparation of the Annual Plans for 2006-07.

Objectives: The following should be the broad objectives of the SCP and TSP.

Substantial reduction in poverty and un-employment.

Creation of productive assets in favour of Scheduled Castes and Scheduled Tribes to sustain the growth likely to accrue through development efforts.

Human resource development of the Scheduled Castes and Scheduled Tribes by providing adequate educational and health services, and

Provision of physical and financial security against all types of exploitation and oppression.

Action Plan: To fulfill the above objective the following points may be taken into account for formulating SCP and TSP.

1. Earning of funds for SCP/TSP from total State Plan outlay at least in the proportion of SC/ST population to the total population of the State/untouchability.

2. Special Component Plan and Tribal Sub-Plan funds should be non-divertible and non-lapsable.
3. Making the Social Welfare Department/ the Department concerned with the welfare and development of SCs/ STs as nodal department for formulation and implementation of SCP/ TSP.
4. Placing the funds earmarked for SCP/ TSP at the disposal of the nodal department concerned which in turn will reallocate the funds to the sectoral departments for implementing schemes directly relevant to SC/ ST development.
5. Placing the funds earmarked for SCP/ TSP under separate budget head/ sub-head for each development department implementing SCP and TSP. In this connection it may be noted that the list of Major and Minor Heads of Accounts of Union and States as issued by the Controller General of Accounts provides that Tribal Sub Plan (code 796) and Special component Plan (789) may be opened as Minor Head below the functional Major Head/ Sub Major Head wherever necessary.
6. Special Central Assistance (SCA) both for the SCP and for the TSP is being extended by the centre to the States as a 100% grant meant to fill critical gaps and missing inputs for family-oriented income-generating schemes and supporting infrastructure development with a special focus on BPL families. Guidelines issued in this connection should be strictly followed.

Components of SCP and TSP

1. Only those schemes should be included under SCP/ TSP that ensure direct benefits to individuals or families belonging to Scheduled Caste or Scheduled Tribes.
2. Outlay for area oriented schemes directly benefiting Scheduled Caste hamlets/ villages having a majority of Scheduled Caste population/ tribal hamlets and villages may be included in SCP and TSP.
3. Wage component, especially under rural employment schemes, should not be included under SCP/ TSP.
4. Schemes to develop agriculture and allied activities like animal husbandry, dairy etc. that provide a source of livelihood to the SC and ST population should be included.
5. Innovative projects that draw upon institutional finance to supplement plan allocations may be drawn up.

Creation of general awareness of SCP/ TSP schemes

State Governments should take initiative to generate awareness among the schemes to be implemented/ being implemented for the development of SCs and STs by the different departments of the State Governments through electronic and print media.

Monitoring of SCP and TSP.

1. State and District/ Block level Monitoring Committee should be constituted to monitor the implementation of various schemes under SCP and TSP of various development departments. The District/ Block level committees may review the progress of implementation of schemes and utilization of funds on monthly basis and the State level committees may review the progress on quarterly basis.
2. District and Block level committees may be constituted on the pattern of District and Block level committee constituted by the Ministry of Rural Development by involving elected members. (MPs, MLAs and Panchayat members, and other prominent leaders in the districts) or the same committees may be entrusted with the responsibilities for monitoring of these programmes.
3. The nodal department should ensure timely release of funds to the concerned development departments who in turn should ensure immediate release of funds soon after the receipts of funds from nodal departments to their field level implementing agencies. Any lapse on the part of field level implementing agencies in timely utilization of funds and proper implementation of the schemes may be viewed seriously.
4. Non-earmarking of funds under SCP and TSP may result in non-approval of Plans of the States/ UTs.
5. Ministries of Social Justice & Empowerment and Tribal Affairs will be actively involved in the process of finalization of Annual plans of the States/ UTs.
6. Evaluation to assess the impact of economic development schemes implemented under SCP, on the socio-economic conditions of SCs may be get conducted by the nodal department on regular basis. Dissemination of information to SCs all over the State/ UT about the schemes/ programmes available for their development may be the responsibility of the nodal department. The nodal department may also ensure the follow up of the Schemes implemented and maintenance of proper records on assets created under SCP in District/ Block etc.

Dr. Chandrapal
Principal Adviser
(SCSP&TSP/MLP/SP-E/LEM) &

26.12.2006

Secretary,

Strategies of the Scheduled Caste Sub Plan for the Scheduled Castes (SCs) and Tribal Sub-Plan for the Scheduled Tribes (STs) were introduced in the Sixth Plan and Fifth Plan for channelising to these categories of people their due share of plan benefits and outlays. The strategies of Scheduled Caste Sub Plan (SCSP) and Tribal Sub Plan (TSP) envisage to channelise the flow of outlays and benefits from all the sectors of development in the Annual Plan of States/UTs and Central Ministries at least in proportion to their population both in physical and financial terms. Implementation of SCSP and TSP was not being done uniformly in all States/UTs and Central Ministries/Departments. Different States have adopted different mechanisms without exploring effective mechanism for the planning, implementation and monitoring of SCSP and TSP. The State Governments/Ministries exercise their quantification as 'Divisible' and 'Non-Divisible' components. Quantification is made only from the 'Divisible' component scheme wise. As a result of this, the actual earmarking of SCSP and TSP from the total State Plan becomes much lesser than what should have been as per the percentage of the population of SCs and STs to the total population of the State. Some Ministries/Departments are allegedly regulatory and are being non-divisible in nature, SCSP and TSP was not earmarked as such.

Despite the fact that the strategies of SCSP and TSP have been in operation for more than 20 years, they could not influence all the concerned in its right perspective. Further, lack of effective monitoring to ensure that all the Ministries/Departments both at Central and State levels earmark funds under SCP and TSP and the funds received under SCA are utilized effectively and purposefully, is another area of concern. In view of this, the model being adopted by the Uttar Pradesh State Government when I was the Planning Secretary for the implementation of the SCSP need to be adopted by other States/U.Ts and Central Ministries/Depts.. These issues were discussed in the Internal Planning Commission's meeting and it was resolved to establish a dedicated SCSP and TSP Division under my charge. Due to the continuous efforts put in by the division's endeavour, guidelines for implementing the SCSP and TSP by the States/U.Ts were issued by the Planning Commission by way of reiterating the existing guidelines. Later on for the first time, guidelines for Central Ministries/Departments have also been issued. The guidelines issued has resulted in giving a new thrust to implement the new strategies of SCSP and TSP by the States/U.Ts for the first time in the Annual Plan 2006-07.

The guidelines issued for the implementation of SCSP and TSP by the Planning Commission for the States/U.Ts and also for the Central Ministries/Departments are appended in this book-let. I hope this book-let which gives a brief overview of the Scheduled Castes development over a period of

time, their socio-economic status, SCSP strategy adopted so far and the new strategy envisaged for the forthcoming years will help the planners, bureaucrats, academicians and the social activists. I take this opportunity to express my gratitude to the immense support extended by Dr. B.L. Mungekar, Hon'ble Member, Planning Commission and the help rendered by Dr. S.M. Sirajudding, Deputy Adviser, Smt. Roohi Siddiqui, SRO, Shri C.A. Tirkey, SRO of SCSP and TSP Division in giving shape to this book-let.

Dr. Chandrapal

Planning Commission

Guideline for formulation, implementation and monitoring of Scheduled Caste sub Plan (SCSP) for Scheduled Caste and Tribal Sub-Plan (TSP) for Scheduled Tribes.

Detailed guideline relating to the Scheduled Caste Sub Plan (SCSP) for Scheduled Caste (SCs) and the Tribal Sub-Plan (TSP) for the Scheduled Tribes (STs) have been issued by the concerned departments of the Central Government from time to time.

The basic objective of both these Sub-Plan is to channelise the flow of outlays and benefits from the general sectors in the Central Ministries/ Departments for the development of Scheduled Caste and Scheduled Tribes at least in proportion to their population, both in physical and financial terms. The Mid Term Appraisal of the Tenth Plan has noted that several Central funds to SCSP and TSP, proportionate to the share of SCs and STs in the population.

The importance of the SCP and TSP has been emphasized by the Hon'ble Prime Minister while addressing the 51th meeting of the National Development Council held on 27th June, 2005 and on subsequent occasions. In this context, the following guidelines with respect to SCSP and TSP are once again reiterated so that the same may be followed strictly in the preparation of the Annual Plan for 2007-08.

Objectives: The following should be the broad objectives of the SCP and TSP.

Ensuring that the share of resources spent for the benefit of the SCs and STs is at least in proportion to their share in population of the country.

Substantial reduction in poverty and un-employment among the SCs and STs.

Creation of productive assets in favour of Scheduled Caste and Scheduled Tribes.

Human resource development of the Scheduled Caste and Scheduled Tribes through specifically providing adequate educational and health services, and

Provision of physical and financial security against all types of exploitation and oppression.

Action Plan: To fulfill the above objective the following points may be taken into account while formulating SCSP and TSP.

Earmarking of funds for SCSP/TSP from the Central Ministry/ Department Plan outlay at least in the proportion of SC and ST population to the total population of the country. Non –earmarking of funds under SCSP and TSP may result in non-approval of Plans of the Central Ministries/ Departments.

Scheduled Caste Sub Plan and Tribal Sub-Plan funds should be non-divertible.

A dedicated unit may be constituted in every Central Ministry / Department for the welfare and development of SCs and Scheduled Tribes as nodal unit for formulation and implementation of SCSP and TSP.

The nodal dedicated unit should be responsible for ensuring that the funds will be allocated to the sectoral units in the departments to implement schemes directly relevant to SC and ST development.

Placing the funds earmarked for SCSP/ TSP under separate budget head/ sub-head for each Central Ministry/ development for implementing SCSP and TSP. In this connection it may be noted that the list of Major and Minor Heads of Accounts of Union and States as issued by the Controller General of Accounts provides that Tribal Sub Plan (code 796) and Scheduled Caste Sub Plan (789) may be opened as Minor Head below the functional Major Head/ Sub Major Head wherever necessary.

Components of SCP and TSP

Only those schemes should be included under SCSP/ TSP that ensure direct benefits to individuals or families belonging to Scheduled Caste or Scheduled Tribes.

Outlay for area oriented schemes directly benefiting Scheduled Caste hamlets/ villages having a majority of Scheduled Caste population/ tribal hamlets and villages may be included in SCSP and TSP.

Among the various programmes for the benefit of the SCs and STs , priority should be given for providing basic minimum services like primary education, health, drinking water, nutrition, rural housing, rural electrification and rural link road.

Schemes to develop agriculture and allied activities like irrigation, animal husbandry, dairy development, vocational training, etc. that provide a source of livelihood to the SC and ST population should be included.

Innovative projects that draw upon institutional finance to supplement plan allocations may be drawn up.

Creation of general awareness of SCSP/ TSP schemes

Central Ministries/ Departments should take initiative to generate awareness among the general public about the schemes to be implemented/

being implemented for the development of SCs and STs by the different Central Ministries/ departments through electronic and print media.

Monitoring of SCSP and TSP.

Central Ministries/ Departments will be responsible for monitoring compliance with SCSP/TSP component of Centrally Sponsored Schemes. Appropriate arrangements should be made with State Governments to ensure accurate and timely flow of information.

The Planning Commission shall monitor the progress of SCSP and TSP at the time of the half yearly and annual performance reviews of the Ministries/ Deptts.

The nodal dedicated unit should ensure that funds are released to the concerned implementing agency in a timely fashion and should ensure immediate release of funds to their field level implementing agencies in timely utilization of funds and proper implementation of the schemes may be viewed seriously.

Ministries of Social Justice & Empowerment and Tribal Affairs may be involved in the process of finalization of Annual plans of the Central Ministries/ Departments.

Evaluation of the impact of various development schemes implemented under SCSP and TSP, on the socio-economic conditions of SCs and STs should be conducted by the Central Ministries/ Departments on regular basis. Dissemination of information to SCs and STs in the country about the schemes/ programmes available for their development will be the responsibility of the nodal dedicated unit of SC and ST may also ensure the follow up of the schemes implemented and maintenance of proper records on assets created under SCSP and TSP in the Ministry.

ANNEXURE 2.VI
(Ref. Para 2.10.4__5R)

Government of India
Planning Commission
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New Delhi-110001
Tel:23096574 Fax: 23096575
E-mail: secypc@nic.in
26th October, 2009

SUDHA PILLAI, I.A.S
Secretary, Planning Commission
D.O. No. N-11016/12(1)/2009-PC

As you are aware that we need to initiate the proceedings for preparation of Annual Plan 2010-11, which happens to be the fourth year of the Eleventh Five year plan. Discussions on the Annual Plan 2010-11 are proposed to be held in the month(s) of December, 2009 January 2010 and would be presided over by the Member concerned. It is, therefore, requested that the Annual Plan proposals pertaining to your Ministry/Department may please be forwarded to the Planning Commission not later than 15th November, 2009.

2. You appreciate that Eleventh Five Year Plan aims not only at accelerated growth process but also to make it socially and regionally more inclusive and equitable. The commitment of the Plan towards inclusiveness is reflected in the 26 other monitorable targets adopted at the national level relating to (i) Income and poverty (ii) Education (iii) Health (iv) Women and children (v) Infrastructure and (vi) Environment. A list of monitorable targets is enclosed at Appendix-I.

3. There is an urgent need to use the available resources in most judicious and efficient manner by prioritizing various plan schemes/ programmes. This necessitates outlining the "Core Plan" of the Ministry/ Department clearly projecting sectoral priorities and programme for public action. Planning Commission has been vigorously pursuing ZBB exercise for convergence/ weeding out and transfer of Central Sector/ Centrally Sponsored Schemes. However, it is important that the decisions of the Planning Commission emerging from ZBB exercise, communicated earlier, are incorporated in Annual Plan 2010-11 proposals, if not already done in earlier plans.

4. The detailed guidelines for the classification of the Plan and Non-Plan expenditure (Appendix-2) and the formats for presenting the proposals (Appendix-3) are enclosed. Keeping in mind the emphasis of the Government on prudent fiscal management, it would be necessary to classify the Plan expenditure into the revenue and the capital component as stipulated in the enclosed formats.

5. For improving the efficiency of the budgetary allocations, it is necessary to have well defined quarterly measurable and monitorable tasks reflected in Outcome budgets which Ministries/ Departments have been preparing since

2005-06. Further, by now you would be having the details of actual performance of Annual Plan 2008-09 and a part of 2009-10. The comparison between the actual achievements and the quantifiable deliverables, as laid down in the respective Outcome Budgets for the Annual Plans 2008-09 and 2009-10, may please be provided in the formats at Appendix 4. Similarly, a statement of outlays and outcomes/ targets for the Annual Plan 2010-11 may be provided as per the format enclosed at Appendix 5.

6. There has been a steady increase in the outlays for the Centrally Sponsored Schemes (CSS) and scheme-based ACAs. States have to make appropriate provision in their budgets and sectoral outlays as per their share of funding in these schemes. Accordingly, it would be desirable to indicate these amounts to the States well before the finalization of their budgets. The format for indicating state-wise allocation of proposed CSS/ACA outlays is enclosed at Appendix 6. The criteria and the calculation/ formula for allocation among the States may also be provided. It is also to be indicated as to whether any unallocated provision is meant for the Centre or for allocation to the States at a later date. The SBEs will not be approved and countersigned by Planning Commission without the details of State wise allocations.

7. It is necessary that we adhere to the deadline (indicated at para 1) for meaningful plan discussions that reflect your plan priorities for the Annual Plan 2010-11 and its approval prior to the Union Budget 2010-11. Your Nodal Advisor in the Planning Commission would shortly be in touch with you on this issue. Kindly appreciate that Member/ Advisor-level meetings/ discussions on Annual Plan (2010-11) proposals can be scheduled by the Planning Commission only on receipt of complete details from you in good time.

8. In view of the Prime Minister's initiative, I would request you to earmark at least 10 percent of the gross budgetary support for the North-Eastern States (except those Ministries/ Departments which are specifically exempted as listed at (Appendix 7.). E-governance and IT applications should also be given the necessary importance and 2-3 per cent of the budget be earmarked for this purpose.

9. Gender Budgeting has become an integral part of the Union Budget since 2005-06. Accordingly, women's interest should be kept in mind during design as well as the implementation phase of the programmes pertaining to your Ministry/ Department. Further, the Guidelines for formulation, implementation and monitoring of Scheduled Caste Sub Plan (SCSP) for Scheduled Caste and Tribal Sub Plan for Scheduled Tribes (Appendix 8.) need to be followed and ensured that these are used for attaining the desired outcomes. To facilitate proper monitoring of expenditure under SCSP and TSP, necessary information may be provided in formats at Appendix 9.

10. Planning Commission has set up a web based facility for enabling direct uploading of the information required in Appendix 1 to 9. This can be accessed at <http://pcserver.nic.in/cplan>. All Ministries/ Department are requested to use the facility to provide the information required for Annual Plan 2010-11. Hard copies may also be sent as a back up; however, web based data entry have to be

compulsorily followed. Shri A.K Chanana, Sr. Technical Director, NIC, Planning Commission may please be contacted at telephone no. 011-23096556 and e-mail address- chanana.ak@nic.in

Tentative Size of Annual Plan 2010-11

11. A clearer picture on the gross budgetary support available to the Central Plan and the Central Assistance to the State Plans is expected to be available in due course. In the meantime, you may like to initiate the formulation of your Ministry's/ Department's proposals for the Annual Plan 2010-11 in the following three scenarios:

- (i) Based on 5% increase (at current prices) over the approved allocation for your Ministry/ Department for Annual Plan 2009-10;
- (ii) Based on 10% increase, similarly computed;
- (iii) Based on 15% increase, similarly computed.

It may please be noted that all critical components including flagship schemes should have priority in all the three scenarios to realize the commitment of consolidation of these programmes made in the President's Address to the Parliament.

12. Any proposal for higher level of allocation for a particular scheme or programme, and especially flagship programmes, may be proposed only with full justification giving complete details of the status of preparedness and the trend of expenditure in the first three years of the Eleventh Five Year Plan.

13. While taking up Annual Plan proposal for 2010-11, we would like to have a clear idea about progress made in operationalising schemes and projects included in the approved Eleventh Five Year Plan of the Ministries/ Departments. The status of approval of the competent authority at the level of SFC/EFC/CCEA, issue of the guidelines, availability of comprehensive MIS for the programme and progress during the first three years will be taken into account. Steps taken for the approval of the other remaining schemes may be indicated and expected date of operationalisation of such schemes with all the necessary approvals and guidelines etc may also be indicated, if any fund allocation is proposed for such new schemes for the year 2010-11. It may be noted that this aspect will be reviewed in detail for final GBS allocation for 2010-11.

14. You may send five copies of Plan proposals to your subject (Nodal) Division in Planning Commission and another two copies to the Plan Coordination Division. You may also add any further information in your proposals that you feel are required to facilitate discussions. The subject Division Adviser in Planning Commission may also contact you for further information/ clarifications.

15. Smt. Sunita Sanghi, Advisor (Plan Coordination) Telephone No. 011-23096541 would be the Coordinating Officer in the Planning Commission. The

name and telephone number of the Coordinating Officer in respect of your Ministry/ Department may be intimated for facilitating liaison.

16. I look forward to your cooperation in completing this exercise meaningfully and as per the schedule. This letter may please be acknowledged.

With warm regards,

Yours sincerely

**sd/-
(Sudha Pillai)**

Secretaries of Ministries/ Departments (as per list)

ANNEXURE 2.VII
(Ref. Para 2.10.20 5R)

**Detailed Criteria for Classification of Plan Expenditure under SCSP & TSP, With
reference to some Major Schemes:**

Sl. No.	Category of Expenditure	Extent to which Expenditure may be classified under SCSP	
I.	Expenditure on Poverty Alleviation and Individual Beneficiary-oriented Schemes (e.g. MNREGA, IAY, NRDWP, NRLM, SGSRY, PMEGP, etc.).	To the extent the beneficiaries are SCs & STs: • As per data of last 3 years, in case of ongoing Schemes. or • As determined by a Committee* in case of newly introduced Schemes.	
II.	Expenditure on Schemes which are not beneficiary oriented.		
	II.1 In SC & ST Concentration Areas		
	Expenditure on all Plan Schemes to the extent it is incurred in areas with > 40% SC/ST population	All expenditure incurred in such areas, except on institutions and infrastructure projects which may be located in such areas but benefit population of a much larger area (e.g. a large infrastructure project or an institution like an IIT, NIT, etc.), in which case, II.2 (ii), (iii) or (iv) below, as the case may be, would apply.	
	II.2 In Other Areas		
	(i)	Expenditure on Social Sector Programmes (e.g. SSA, MDM, RMSA, ICDS, NRHM, SDIS).	In proportion to the % of SCs/STs among their Beneficiaries.
	(ii)	Expenditure on Institutions providing Services like Health, Education, Training, etc. (e.g. KVs, NVs, IITs, NITs, IIMs, ITIs, Hospitals, etc.).	i) In case there is reservation for SCs/STs in admission to such Institutions (e.g. in IITs, NITs, IIMs, KVs, NVs, ITIs, etc.) To the extent of the provision included for the reservation for SCs/STs or actual %age of seats utilized by them,
			ii) In case of other institutions (e.g. Hospitals etc.) The extent* to which such institutions are Demonstrated (based on past data) or

	(iv)	Expenditure on Institutions engaged in R&D.	Only to the extent* the expenditure directly benefits SCs/STs.
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*Appropriate extent for each such category of project/institution/scheme to be determined by a Central Tripartite Committee already constituted by the Planning Commission under Member, In-charge of BC and SW Division.

Note: Relevant provisions of Planning Commission's existing SCSP Guidelines are given on the reverse.

ANNEXURE 2.VIII
(Ref. Para 2.10.20__5R)

Ministry/ Schemes-wise Proposed Earmarking of Plan Outlays under TSP for 2011-12		
S.No	Ministries/ Department	Earning of Funds under TSP Recommended for the Ministry (In Per cent)
1	2	3
Category I	Ministries/ Departments with no obligation for Earning Funds under TSP	0.0
Category II	Ministries/ Departments required to do partial Earning (less than 7.5% of their Plan Outlays)	
1	Department of Telecommunications	0.25
2	Ministry of Textiles	1.20
3	Ministry of Water Resources	1.30
4	Department of Food and public Distribution	1.40
5	Ministry of Culture	2.00
6	Department of AYUSH	2.00
7	Ministry of HUPA	2.40
8	Ministry of Tourism	2.50
9	Department of Science & Technology	2.50
10	Ministry of Road Transport & Highways	3.50
11	Department of Agriculture Research & Education	3.60
12	Ministry of Mines	4.00
13	Department of Information Technology	6.70
Category III	Ministries/ Departments which will be required to Earmark between 7.5 to 8.2% of their Plan Outlays	
1	Department of Higher Education	7.50
2	Department of Agriculture & Cooperation	8.00
3	Ministry of MSME	8.20
4	Ministry of Coal	8.20
5	Department of Youth Affairs	8.20
6	Ministry of Labor and Employment	8.20
7	Ministry of Panchayati Raj	8.20
8	Department of Sports	8.20
9	Ministry of Women & Child Development	8.20
10	Department of Health & family welfare	8.20

Category IV	Ministries/ Departments which will be required to Earmark more than 8.2% of their Plan Outlays under TSP	
1	Department of Land Resources	10.00
2	Department of Drinking water and Sanitation	10.00
3	Department of School Education & Literacy	10.70
4	Department of Rural Development	17.50
5	Ministry of Tribal Affairs	100.00
	Applying these percentages to respective Ministries/ Departments' BE-2010-11, the average BE in percentage terms expected to be earmarked under TSP	8.26#
# Exclusive of SCA to TSP and Grants under Proviso to Article 275(1) of the constitution, as the outlays under these Heads are shown in Statement 16 of Expenditure Budget (Volume I), which provides Central Assistance to State Plans. Including SCA to TSP (Rs 960 crore), this figures increases to 8.6%		

Name of State	District	Name of Blocks	Name of GPs	Reg. HH	Mandays Protected	Mandays Generated	Ex/HH demand work	Ex/HH Provided work	Average Mandays Generated per H/E demanding work	Average Mandays Generated per Reg. HH	Ex/E Mandays Generated	Total Works as per annual plan	Works under taken
Rajasthan	Dungarpur	Aspur	Ganadi	980	98800	42213	339	498	43	45	0	16	12
			Indora	138	113500	29272	181	103	93	92	0	37	33
			Parda Diver	876	87500	24482	588	388	42	42	0	9	7
			Pindawal	863	86500	39382	697	697	57	58	0	15	12
			Badrana	745	74500	68121	680	680	100	100	0	29	15
			Rasdiya	730	73000	51172	686	686	73	75	0	30	9
			Simalwara	1249	124900	57508	788	788	73	73	0	45	7
			Gadharwad	1193	119300	105114	1153	1153	91	91	0	42	21
			Bhojpur	1173	117300	46704	657	657	71	71	430	32	8
			Chandiya	851	85100	35661	480	480	74	80	251	19	7
Uttar Pradesh	Deeriyawad	Lala Kaleva	Chandiya	935	93500	22670	480	480	47	47	282	22	8
			Lohagath	819	81900	47240	767	767	61	61	238	9	6
			Beroinbhuag	704	70400	38015	652	652	54	53	312	40	10
			Chhida	564	56400	32875	331	331	62	62	245	58	6
			Kaurvas	803	80300	40822	722	722	56	56	488	44	9
			Kackawar	1666	166600	49632	860	860	58	57	424	54	11

Name of State	District	Name of Blocks	Name of GPs	Reg. H/H	Mandays Projected	Mandays Generated	H/H demanded work	H/H Provided work	Average Mandays Generated per H/H demanding work	Average Mandays Generated per H/H per Reg. H/H	H/H with 100 Mandays Generated	Loss: Work as per annual plan	Work: under-taken
Orissa	Bolangir	Loisinga	Taluda	585	57000	5000	154	132	32	9	0	59	2
			Kusmel	1053	70000	13000	245	242	53	12	13	91	5
			Badimunda	409	25000	5000	168	159	30	12	4	45	5
			Sarwad	429	60000	8000	208	203	38	19	0	35	12
			Ghasian	272	60000	8000	88	85	91	29	0	44	5
		Paramagarh	Bhainsa	592	78000	6000	185	179	32	10	0	116	3
			Jogimunda	1161	94000	13000	311	494	25	11	0	187	4
			Mundomahul	592	63000	13000	259	250	50	22	0	200	7
		Gajapati	Kirama	855	77000	37000	173	175	154	41	0	56	18
			Tabarada	842	89000	27000	272	222	99	32	0	29	20
			Parimal	777	91000	21000	177	177	119	27	0	24	14
			Putrucada	750	75000	21000	223	106	94	28	0	25	14
		Mohana	Gurdama	700	45000	13000	350	550	24	19	0	20	8
			Karchabadi	1273	140000	16000	664	599	24	13	0	75	12
			Dhenagunda	485	49000	5000	253	213	20	10	0	12	5
			Chandiput	909	117000	21000	710	577	30	23	0	51	17
	Kandhamal	Phiringia	Pabingia	876	101000	10000	494	449	20	11	3	28	8
			Sadingia	960	96000	12000	547	423	22	13	2	26	15
			Nusagar	744	84000	18000	150	147	120	24	6	20	11
			Jalespanga	954	102000	23000	644	621	36	24	48	28	12
		Raikia	Suzudabadi	897	92000	11000	355	348	31	12	23	22	8
			Manikeswar	988	125000	36000	305	240	118	36	12	36	15
			Guramaha	1265	183000	27000	548	537	49	31	20	37	11
			Ranaba	860	156000	16000	344	262	47	19	9	34	9
	Keonjhar	Jhumpura	Khuntaopada	927	114000	7000	212	212	33	8	3	20	10
			Nahabada	1439	111000	6000	135	134	44	4	5	20	5
			Jhumpura	1056	50000	3000	132	131	23	3	1	13	4
			Baria	1382	91000	6000	163	163	37	4	1	16	6
		Keonjhar	Raikia	713	90000	11000	232	229	47	15	22	15	4
			Rachunathpur	986	78000	11000	241	235	46	11	34	16	6
			Kaunrikala	368	37000	3000	29	29	103	8	0	9	1
			Raisuan	407	46000	2000	50	50	40	5	3	9	4
	Sambalpur	Jujomura	Kesanali	567	432000	8000	273	216	29	14	6	83	8
			Nuabarangamal	882	429000	21000	495	465	42	24	22	57	9
			Kavakud	682	119000	18000	458	454	39	26	16	23	8
			Godloisingh	609	298000	11000	236	228	47	18	19	44	5
		Rairakhol	Tribanpur	1046	63000	13000	415	398	31	12	4	16	7
			Rengali	517	65000	7000	142	137	49	14	13	17	6
			Charmal	672	52000	9000	198	208	45	13	9	12	3
			Badabahal	891	88000	14000	233	223	60	16	32	21	6
	Kalahandi	Shawanipatna	Chancker	433	69000	20000	286	286	70				
			Duarsani	853	90000	39000	534	534	73	46	147	22	22
			Gurians	980	32000	44000	593	661	74	45	164	19	19
			Talbelason	419	42000	9000	127	127	71	21	32	24	12
		Naria	Badgharapur	873	70000	18000	428	413	42	21	43	26	11
			Ghanonai	561	53000	28000	472	472	39	50	56	16	13
			Palsan	687	56000	16000	368	368	43	23	13	17	7
			Santpur	652	68000	10000	244	233	41	15	9	22	7

Name of state	District	Name of Block	Name of GP	Reg.H/H	Mandays Projected	Mandays Generated	H/H Demand ed Work	H/H Provided Work	Average Mandays Generated per H/H demanding work	Average Mandays Generated per H/H per reg. H/H	H/H with 100 mandays generated	Total work as per annual plan	works undertaken
1	2	3	4	5	6	7	8	9	10	11	12	13	14
Chhattisgarh	Dhamtari	Kurud	Bhendra	250	21250	13708	184	184	74.5	76	36	5	4
			Karga	456	38760	28373	385	385	73.7	62	25	7	5
			Darba	260	22100	18203	220	220	445	70	108	6	3
			Gatapara	379	32215	28642	307	307	485	76	91	4	4
		Magarlod	Nawagaon	353	22943	24744	122	122	64	70	21	5	4
			Shuklabhata	329	21385	18537	113	113	164	56	21	4	4
			Magarlod	411	26715	18953	167	167	113	46	25	4	4
			Bhaismundi	372	24180	8023	112	112	71	22	22	2	3
	Surguja	Pratappur	Kewara	466	3395	3385	57	57	59	7	0	4	1
			Korma	267	9410	9404	110	110	85	35	0	2	2
			Khajuri	286	9525	9500	118	118	81	33	0	2	2
			Devri	176	16000	15168	107	107	142	86	0	3	3
		Lakhanpur	Adhala	526	15673	13061	266	266	50	25	0	2	2
			Lahpatra	293	1859	1549	81	81	21	5	0	1	1
			Latori	449	5594	4662	77	77	91	10	0	2	1
			Parsodikala	259	18490	15408	157	157	137	59	0	2	2
	Raigarh	Kharsiya	Gorpar	290	9895	9570	75	75	127	33	1100	3	3
			Chaple	281	19498	18283	90	90	203	63	500	5	3
			Parkanara	222	19950	19562	120	120	163	88	1000	6	6
			Rajghatta	320	7820	6227	60	60	103	19	1300	5	4
		Sarangarh	Chhind	456	1595	1545	50	50	31	3	18	4	2
			Ranisagar	575	26885	25934	91	91	284	45	63	5	5
			Suloni	395	26215	25451	79	79	245	64	47	19	5
			Kotri	422	6845	6674	135	135	49	16	39	5	2

Performance Audit Report (2006-2007)

Name of State	District	Name of Blocks	Name of GPs	Reg H/H	Mandays Projected	Mandays Generated	H/H demanded work	H/H provided work	Average Mandays Generated per H/H demanding work	Average Mandays Generated per H/H per reg H/H	H/H with 100 mandays generated	Total works as per annual plan	works under taken
Madhya Pradesh	Barwani	Rajpur	Mandil	430	43000	5382	115	115	37.62	13	2	12	12
			Moyda	364	36400	11273	351	351	38.33	34	3	13	13
			Rangaon Road	382	38200	11780	365	365	28.76	36	2	7	7
			Takli	1400	140000	15903	339	339	26.89	51	5	10	10
	Barwani	Thikri	Fatyapur	325	32500	9400	296	296	35.10	29	19	12	12
			Billwaroad	420	42000	5200	255	255	11.59	12	0	2	2
			Uchawad	314	31400	2090	291	291	22.83	7	4	3	3
			Bhamori	200	20000	6790	355	355	70.68	34	11	3	3
	Jhabhua	Kathiwara	Havelli Kheda	284	21212	9808	185	185	53	35	21	67	51
			Bokadia	705	42300	21455	363	363	59	30	65	78	37
			Kabrisel	375	22500	15214	241	241	63	41	45	80	63
			Karellmaudi	413	30125	21441	378	378	57	52	75	91	30
		Rama	Sad	423	19820	7722	375	375	21	18	13	44	20
			Dokarwani	637	21910	16583	478	478	35	26	9	31	22
			Kalidevi	379	6125	5421	87	87	62	14	4	34	12
			Chhapri	303	11090	6531	163	163	40	22	5	48	20
	Dindori	Bajag	Angal	433	43300	14940	360	360	41.50	34.50	6	73	73
			Bhursimal	372	37200	18814	357	357	52.70	50.58	60	137	137
			Karaopani	435	43500	14412	357	357	40.37	33.13	19	72	72
			Mazyakhar	568	56800	12815	471	471	27.21	22.56	17	92	92
		Samnapur	Dewalpur	474	47400	11467	427	427	26.85	24.19	0	66	66
			Khami	454	45400	14325	433	433	33.08	31.55	1	65	65
			Ladwani	405	40500	12049	379	379	31.79	29.75	8	53	53
			Samnapur	1058	105800	5136	408	408	12.59	4.85	0	52	52
	Dhar	Badnawar	Datraya	612	61200	14158	299	299	47	47	65	45	25
			Kanwan	981	98100	6375	290	290	22	22	0	28	7
			Chhowkhurd	384	38400	5772	147	147	39	39	9	24	9
			Sakarali	257	25700	42131	34	34	357	357	8	21	5

Name of State	District	Name of Blocks	Name of GPs	Reg H/H	Mandays Projected	Mandays Generated	H/H demanded work	H/H provided work	Average Mandays Generated per H/H demanding work	Average Mandays Generated per H/H per reg H/H	H/H with 100 mandays generated	Total works as per annual plan	works under taken
		Nalchha	Bagdi	916	91600	7813	294	294	28	28	14	13	10
			Lunhera	364	36400	10214	257	257	40	40	1	19	19
			Nalcha	1111	111100	8145	206	206	39	39	3	15	15
			Sulibardi	289	28900	8545	193	193	44	44	1	32	28
	Sidhi	Chitrangi	Badarkala	568	56800	29430	469	466	63	62	38	1650	43
			Darbari	440	44000	23402	408	408	57	53	60	1348	69
			Gadwani	997	99700	37009	729	723	51	37	98	1546	138
			Noudi hawa	379	37900	14874	313	312	48	39	2	956	25
		Devsar	Dhanha	610	61000	17255	282	372	61	28	21	45	31
			Itar	714	71400	18279	371	278	49	26	54	108	61
			Khadora	413	41300	1958	73	73	27	5	4	11	9
			Ujjani	586	58600	55674	553	552	101	65	186	114	72

Performance Audit Report No. 11 of 2008

Name of State : GUJARAT

Name of District : SABARKANTHA

Sr. No.	Name of Taluka	Name of GPs	Reg. H/H	Mandays Projected	Mandays Generated	H/H Demand work	H/H Provided work	Average Mandays Generated per H/H demanding work	Average Mandays Generated per H/H per Reg. H/H	H/H with 100 Mandays Generated	Total works as per annual plan	Works under taken	Remark
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)	(14)
1	Khedbrahma	Hingajia Khalsa	1251	0	13611	170	170	80.06	11	17	0	7	Labour Budget was not prepared for year : 2008-07. Hence Mandays Projected can not be shown.
		Zinzava Parsi	1495	0	19490	208	208	93.70	13	21	0	7	
		Navamota	373	0	14284	201	201	71.11	38	6	0	4	
		Lambadiya	1738	0	29400	398	398	73.87	17	19	0	3	
2	Meghraj	Panchal	1116	0	43782	626	626	70.05	40	20	0	5	
		Valuna	298	0	14208	158	158	89.92	48	7	0	4	
		Tumbadiya	965	0	6369	113	113	58.36	7	14	0	1	
		Vaghpur	205	0	9492	142	142	66.85	46	4	0	10	

Addl. Dist. Prog. Co-ordinator
MGNREGA
and
Director
DRDA
Sabarkantha-Himmatnagar

Taluka Panchayat Limkheda Performance Audit Riport No 11 of 2007

Name of State	District	Name of Bloks	Name of GP	Reg H/H	mandays Projected	mandays Ganreted	H/H Demanded Work	H/H Provided Work	Aevrege Mandayas Ganreted Per H/H Dimanding Work	Aevrege mandayas Ganreted Per H/H per Reg H/H	H/H Whit 100 mandays Ganreted	Total Worksas Per annual Plan	Works Under Taken
1	2	3	4	5	6	7	8	9	10	11	12	13	14
GUJARAT	DAHOD	LIMAKHEDA	Ambava	133	9000	8500	116	87.22	73.27	55.09	0.0	20	10
GUJARAT	DAHOD	LIMAKHEDA	Machhelai	483	27150	26300	400	82.81	65.73	13.6	0.0	48	32
GUJARAT	DAHOD	LIMAKHEDA	Matana Pall	130	9000	8700	125	96.15	69.6	73.96	0.0	18	6
GUJARAT	DAHOD	LIMAKHEDA	Dhdhela	169	7700	7450	120	71	62.08	36.73	0.0	15	5

Taluka Panchayat Limkheda Performance Audit Report No 11 of 2007

Name of State	District	Name of Bloks	Name of GP	Reg H/H	mandays Projected	mandays Generated	H/H Demanded Work	H/H Provided Work	Average Mandayas Generated Per H/H Demanded Work	Average mandayas Generated Per H/H per Reg H/H	H/H With 100 mandays Generated	Total Works as Per annual Plan	Works Under Taken
1	2	3	4	5	6	7	8	9	10	11	12	13	14
GUJARAT	DAHOD	FATEPURA	KARODIYA (FATEPURA)	374	9000	9856	318	190	43	55.09	16.0	20	10
GUJARAT	DAHOD	FATEPURA	DUNGAR	896	27150	9637	672	364	26	13.6	14.0	46	32
GUJARAT	DAHOD	FATEPURA	SALARA	800	9000	4942	666	280	34	73.96	11.0	18	6
GUJARAT	DAHOD	FATEPURA	NAVAGAM	413	7700	13511	372	195	25	36.73	17.0	15	5

No. 36020/2/2007-Estt(Res)
Government of India
Ministry of Personnel, P.G. & Pensions
Department of Personnel & Training

New Delhi, Dated the 7th December, 2009

OFFICE MEMORANDUM

Subject :- Revision of the proforma for sending dereservation proposals.

The undersigned is directed to invite attention to this Department's O.M. No. 36011/20/79-Estt(SCT) dated 2.11.1979 whereby proformae for sending proposals for dereservation of reserved vacancies were prescribed. In view of the fact that a number of developments like creation of separate National Commissions for the Scheduled Castes and the Scheduled Tribes, replacement of vacancy based rosters by post based rosters, ban on exchange of reservation between SCs and STs have taken place, it has become necessary to modify the said proformae.

2. There is a general ban on dereservation of reserved vacancies in case of direct recruitment. However, in rare and exceptional cases when a vacancy in a Group 'A' service cannot be allowed to remain vacant in public interest, the administrative Ministry/Department may prepare a proposal for dereservation of the vacancy giving following information:

- (i) Designation of the post;
- (ii) Pay scale of the post;
- (iii) Name of the service to which the post belongs;
- (iv) Duties and responsibilities attached to the post;
- (v) Educational and other qualifications prescribed for the post;
- (vi) Efforts made to fill up the post;
- (vii) Reasons why it cannot be allowed to remain vacant;
- (viii) Justification for dereservation; and
- (ix) Any other relevant information.

3. The administrative Ministry shall consult the National Commission for Scheduled Castes in respect of vacancy reserved for SCs, the National Commission for Scheduled Tribes in respect of vacancy reserved for STs and the National Commission for Backward Classes in respect of vacancy reserved for OBCs. After obtaining the comments of the concerned Commission, the administrative Ministry/Department shall place the proposal alongwith the Commission's comments before a Committee comprising of the Secretaries in the Department of Personnel and Training, the Ministry of Social Justice and Empowerment, and the Ministry/Department under which the recruitment is to be made for consideration and recommendation. The recommendation of the Committee shall be placed before the Minister in charge of the Department of Personnel and Training for taking a final decision. If dereservation of the vacancy is approved, it can be filled as an unreserved vacancy.

4. In case of promotion, if sufficient number of SC/ST candidates fit for promotion against reserved vacancies are not available, such vacancies may be dereserved and filled by the candidates of other communities. The power to accord approval to dereservation of the reserved vacancies in such cases is delegated to the administrative Ministries and Departments subject to the following conditions:

- (i) no candidate belonging to the category for which the vacancy is reserved is available within the zone of consideration or extended zone of consideration or eligible for promotion in the feeder cadre(s) specified in the relevant service / recruitment rules / orders;
- (ii) the proposal for dereservation has been seen and concurred in by the Liaison Officer of the Ministry / Department;
- (iii) the proposal for dereservation is agreed to at a level not lower than that of Joint Secretary to the Government of India, in the administrative Ministry / Department (proper) concerned; and
- (iv) in the event of disagreement between the appointing authority and the Liaison Officer, the advice of the Department of Personnel & Training is obtained.

5. Before taking a decision to dereserve a vacancy under the delegated powers, the administrative Ministry / Department shall prepare a proposal in the proforma given in the **Annexure** and send one copy thereof each to the Department of Personnel & Training and the National Commission for Scheduled Castes in respect of vacancies reserved for SCs and to the National Commission for Scheduled Tribes in respect of vacancies reserved for STs. After sending the proposal, the Ministry / Department shall wait for a period of atleast two weeks for the comments of the Department of Personnel & Training and the concerned National Commission. If no comments are received from this Department or the concerned Commission within two weeks, the administrative Ministry / Department may presume that this Department or the concerned National Commission, as the case may be, do not have any comments to offer and may take a decision regarding dereservation of the vacancy. In case the Ministry / Department receives comments from this Department or the concerned Commission within two weeks, the comments so received shall be considered while taking a decision in the matter.

6. Following points should be kept in view while sending the copy of the proposal to the Commissions / Department of Personnel & Training:

- (i) 'cadre strength' with reference to reservation means the number of posts in the grade which are to be filled by a particular mode of recruitment in terms of the recruitment rules. If in a grade having 200 posts, 40 per cent posts are filled by promotion by selection, cadre strength for promotion by selection in that grade will be 80;
- (ii) 'backlog reserved vacancy' means a vacancy which was earmarked reserved in a previous recruitment year and an effort was made to fill up the same but could not be filled and is still vacant; and

- (iii) the proposal / proforma duly filled in should be signed by an officer of the rank of Under Secretary or above in the administrative Ministry / Department.

7. The Attached / Subordinate Offices etc. should not send the proposal direct to the Department of Personnel and Training or to the concerned National Commission. They should send the proposal to the administrative Ministry/ Department who will examine the proposal and send it to the Department of Personnel and Training and to the concerned National Commission.

8. All the Ministries / Departments etc. are requested to bring these instructions to the notice of all concerned.

9. Hindi version will follow.



(K.G.Verma)
Director

Tel. No.23092158

To

1. Secretaries of all the Ministries/Departments.
2. Liaison Officers for SCs / STs in all the Ministries / Departments.
3. All Officers and Sections in the Ministry of Personnel, Public Grievances and Pensions and all attached/subordinate offices of this Ministry.
4. Department of Economic Affairs, New Delhi.
5. Department of Financial Services, New Delhi.
6. Department of Public Enterprises, New Delhi.
7. Railway Board.
8. Union Public Service Commission/Supreme Court of India/Election Commission/Lok Sabha Secretariat/Rajya Sabha Secretariat/Cabinet Secretariat/Central Vigilance Commission/President's Secretariat/Prime Minister's Office/Planning Commission/Staff Selection Commission
9. Information Centre, DOPT, New Delhi

Reference No.
Name of the Ministry / Department

Dated.....

**PROPOSAL FOR DERESERVATION OF VACANCIES RESERVED FOR
SCHEDULED CASTES AND SCHEDULED TRIBES IN POSTS FILLED BY
PROMOTION.**

1. Name of the Office/Organisation to which the post (s) relate	
2. Particulars of the post in which vacancies are proposed to be dereserved (a) Name of the post (b) Group (Class) (c) Scale of Pay	
3. Information about posts in the promotion quota (a) Mode of promotion viz by Selection or Non-Selection or by Departmental Examination etc. (b) No. of posts already filled by the given mode of promotion (c) Number of backlog reserved vacancies in respect of the given mode of promotion (d) Number of current vacancies to be filled by the given mode of promotion (e) Total number of vacancies to be filled (current vacancies + backlog vacancies) by the given mode of promotion (f) Total number of posts in the given mode of promotion (b+e)	SCs..... STs.....Total.....

<p>4. No. of posts already held by the candidates appointed by reservation in the cadre</p>	<p>SCs..... STs.....</p>
<p>5. If cadre strength is less than 14 and reservation is given by rotation, cycle no. and point no. of the roster on which the vacancy falls</p>	<p>Cycle No.....Point No.....</p>
<p>6. Number of vacancies earmarked reserved</p> <p>(a) Out of the current vacancies</p> <p>(b) Backlog reserved vacancies</p> <p>(c) Total reserved vacancies (a+b)</p>	<p>SCs..... STs.....</p> <p>SCs..... STs.....</p> <p>SCs..... STs.....</p>
<p>7. Number of vacancies proposed to be dereserved</p>	<p>SCs..... STs.....</p>
<p>8. <u>If promotion is by non-selection</u></p> <p>(a) Whether the SC/ST candidates who are eligible for promotion including those holding lower positions in the general seniority list were considered for promotion</p> <p>(b) Total number of SC/ST candidates in the feeder grade</p> <p>(c) No. of eligible SC/ST candidates in the feeder grade</p> <p>(d) Number of SC/ST candidates considered fit for promotion</p> <p>(e) Number of SC/ST candidates considered not fit for promotion</p>	<p>SCs..... STs.....</p> <p>SCs.....STs.....</p> <p>SCs.....STs.....</p> <p>SCs.....STs.....</p>

<p>(f) If sufficient number of SC/ST candidates are not eligible for promotion on the crucial date, the date on which the senior most SC/ST candidate in the grade will become eligible for promotion</p>	<p>SCs.....STs.....</p>
<p>9. <u>If promotion is by selection</u></p> <p>(a) Size of the normal zone of consideration</p> <p>(b) Size of the extended zone of consideration for SCs/STs (5 times the total number of vacancies)</p> <p>(c) Number of eligible SC/ST candidates in the extended zone of consideration</p> <p>(d) Number of SC/ST candidates found fit for promotion</p> <p>(e) Number of SC/ST candidates considered not fit for promotion</p> <p>(f) If sufficient number of SC/ST candidates are not eligible for promotion on the crucial date, the date on which the senior-most SC/ST candidate will become eligible for promotion and his place in the seniority list</p>	<p>SCs.....STs.....</p> <p>SCs.....STs.....</p> <p>SCs.....STs.....</p> <p>SCs.....STs.....</p>

<p>10. If promotion is through Departmental Qualifying or Departmental Competitive Examination, the number of SC/ST candidates who qualified the examination</p>	<p>SCs.....STs.....</p>
<p>11. Whether other category candidates are available in the Select List for appointment to the vacancies sought to be dereserved</p>	
<p>12(a) Whether SC/ST candidates considered unfit had any adverse entries in their C.R.s considered by the DPC</p> <p>(b) If yes, whether such adverse entries were communicated in time to the SC/ST officer (s) concerned</p> <p>(c) Whether the cases of the eligible SC/ST candidates not found fit for promotion were submitted / reported to the Minister / Minister of State / Deputy Minister / Secretary / Head of the Department, as the case may be</p>	
<p>13. Where interviews are prescribed, whether SC/ST candidates were interviewed on a day or sitting of the Selection Committee other than the day / sitting on / in which general candidates were interviewed</p>	
<p>14(a) If ex-post-facto approval is sought to the dereservation of vacancies, the reasons why proposal for prior dereservation was not made, and what steps have been taken to prevent its recurrence</p>	

(b)The level at which it was decided to fill the reserved vacancies by other category candidate (s) without prior dereservation	
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It is certified

- (1) that the proposal for dereservation is agreed to at the level of Joint Secretary to the Government of India in the administrative Ministry / Department.
- (2) that the proposal has been seen and concurred in by the Liaison Officer of the Ministry / Department.
- (3) that copies of this proposal are simultaneously being sent to the National Commission for Scheduled Castes / National Commission for Scheduled Tribes and the Department of Personnel & Training.

Signature.....

Name of the Signing Officer.....

Designation.....

Tele. No.....

To

- (1) Department of Personnel & Training, New Delhi.
- (2) National Commission for Scheduled Castes / National Commission for Scheduled Tribes.

ANNEXURE 4.II
(Para 4.13.1 5R)

NATIONAL COMMISSION FOR SCHEDULED TRIBES
LIST OF DE-RESERVATION CASES RECEIVED DURING 2009 TO10

S. No.	FILE NUMBER	SUBJECT	STATUS
01.	15/31/2010/ MPPPG /DERES/RU-I	01 Post - Dy. Registrar, CAT, DoPT	Not agreed vide NCST letter dated 29/03/2010. Action taken status not received as requested vide NCST letter dated 14/09/2010. DoPT, vide letter dated 21/10/2010, intimated that post filled by UR candidate and point carried forward
02.	15/30/2010/ MPPPG1/ DERES/RU-I	01 Post – PPS, CAT, DoPT	Not agreed vide NCST letter dated 29/03/2010. Action taken status not received as requested vide NCST letter dated 13/09/2010. DoPT has re-submitted the proposal vide letter dated 24/09/2010.
03.	15/1/2009/ MPPPG/ DERES/RU-I	01 Post – Superintendent, LBSNAA, Mussoorie, DoPT	Proposal not agreed vide letter dt. 05/10/2009. Revised proposal along with reusite information received from Department of Personnel and Training. NCST vide letter dated 11/10/2010, advised the DoPT for amendment of RRs, by incorporating provision for direct recruitment with the approval of the competent authority. DoPT vide letter dated 15/10/2010 had advised LBSNAA to take necessary action as per recommendation of NCST for amending the RRs to incorporate the clause of induction by DR in case of non-availability of reserved category candidates in addition to deputation clause.
04	De-reservation- 2/Services/Pre.Se ctt./2009/RU-II	01 Post - Under Secretary, The President Secretariat, New Delhi	Commission vide letter dated 20/04/2009 advised to fill-up the post of Under Secretary from UR category till such time ST candidate in feeder cadre becomes eligible. Action taken status . requested vide NCST letter dated 15/09/2010 not received

05.	NS/1/2009/ORCA G/DERES/RU-II	01 Post – Daftry, The Principal Accountant General (Civil Audit), Hyderabad.	Not agreed vide NCST letter dated 23/06/2009. Action taken status requested vide NCST letter dated 16/09/2010 not received
06.	15/3/2009/ORCA G/DERES/RU-II	03 Posts - Senior Accountant, The Accountant General (A&E) I, Allahabad.	Not agreed vide NCST letter dated 18/05/2010. Action taken status requested vide NCST letter dated 16/09/2010 not received
07.	15/4/2009/ORCA G/DERES/RU-II	01 Post - Steno Grapher Grade (II), The Principal Director of Commercial 06Audit and Ex Offices (MAB – IV),	Not agreed vide NCST letter dated 17/07/2009. Action taken status requested vide NCST letter dated 16/09/2010 not received
08.	15/CAG/5/2009/O RCAG/DERES/R U-II	01 Post - Supervisor (Group – B), The Accountant General (A&E), Shimla.	Not agreed vide NCST letter dated 26/06/2009 & 06/10/2009. Action taken status requested vide NCST letter dated 16/09/2010 not received
09.	15/CAG/6/2009/O RCAG/DERES/R U-II	02 Posts - Account Officer, The Accountant General (A&E) I, Gwalior.	Not agreed vide NCST letter dated 03/08/2009. Action taken status requested vide NCST letter dated 16/09/2010 not received
10.	NS/15/2009/ORC AG/DERES/81/R U-II	01 Post - Senior Auditor, The Principal Director of Audit South Western, Railway, Hubli.	Not agreed vide NCST letter dated 29/12/2009. Action taken status requested vide NCST letter dated 16/09/2010 not received.
11.	15/SR/82/2009/O RCAG/DERES/R U-II	01 Post - Accounts Officer, Accountant General (A&E) – I, Allahabad.	Not agreed vide NCST letter dated 29/12/2009. Action taken status requested vide NCST letter dated 15/09/2010 not received
12.	15/SR/83/2009/O RCAG/DERES/R U-II	02 Posts - Senior Divisional Accounts Officer, The Principal Accountant General (A&E), West Bengal.	Not agreed vide NCST letter dated 29/12/2009. Action taken status requested vide NCST letter dated 16/09/2010 not received.
13.	De-reservation- 1/Services/CAG/2 010/RU-II	01 Post – Supervisor, The DGA, New Delhi.	Not agreed vide NCST letter dated 30/07/2010. Action taken status requested vide NCST letter dated 15/09/2010 not received.
14.	15/1/2010/ORCA G/DERES/RU-II	02 Posts - Account Officer, The Principal Accountant General (A&E), Karnataka.	Not agreed vide NCST letter dated 18/01/2010. Action taken status requested vide NCST letter dated 15/09/2010 not received.
15.	15/2/2010/ORCA G/DERES/RU-II	02 Posts - Assistant Accounts Officer, Principal Accountant General (A&E), Karnataka.	Not agreed vide NCST letter dated 18/01/2010. Action taken status not received requested vide NCST letter dated 15/09/2010 not received.

16.	15/3/2010/ORCA G/DERES/RU-II	01 Post - Senior Divisional Accounts Officer, Accountant General (A&E), Haryana, Chandigarh.	Not agreed vide NCST letter dated 18/01/2010. Action taken status requested vide NCST letter dated 15/09/2010 not received.
17.	15/4/2010/ORCA G/DERES/RU-II	02 Posts - Senior Accounts Officer, The Accountant General (A&E), Patna.	Not agreed vide NCST letter dated 18/01/2010. Action taken status not received as requested vide NCST letter dated 15/09/2010.
18.	15/5/2010/ORCA G/DERES/RU-II	01 Post - Senior Divisional Account Officer, The Accountant General (A&E), Patna.	Not agreed vide NCST letter dated 18/01/2010. Action taken status not received as requested vide NCST letter dated 15/09/2010.
19.	15/6/2010/ORCA G/DERES/RU-II	01 Post - Account Officer, The Accountant General (A&E), Punjab, Chandigarh.	Not agreed vide NCST letter dated 18/01/2010. Action taken status not received as requested vide NCST letter dated 15/09/2010.
20.	15/7/2010/ORCA G/DERES/RU-II	01 Post - Senior Divisional Account Officer, The Accountant General (A&E), Punjab, Chandigarh.	Not agreed vide NCST letter dated 18/01/2010. Action taken status not received as requested vide NCST letter dated 15/09/2010.
21.	15/8/2010/ORCA G/DERES/RU-II	01 Post - Divisional Accountant Officer, Grade – I, The Accountant General (A&E), Punjab, Chandigarh.	Not agreed vide NCST letter dated 18/01/2010. Action taken status not received as requested vide NCST letter dated 15/09/2010.
22.	15/9/2010/ORCA G/DERES/RU-II	02 Posts - Divisional Accounts Officer, Grade – I, The Accountant General (A&E), Patna.	Not agreed vide NCST letter dated 18/01/2010. Action taken status not received as requested vide NCST letter dated 15/09/2010.
23.	15/10/2010/ORCA G/DERES/RU-II	01 Post - Sr.Divisional Accounts Officer, Accountant General (A&E), Itananagar.	Not agreed vide NCST letter dated 18/01/2010. Action taken status not received as requested vide NCST letter dated 15/09/2010.
24.	15/11/2010/ORCA G/DERES/RU-II	01 Post - Senior Divisional Account Officer, The Accountant General (A&E), Nagpur.	Not agreed vide NCST letter dated 18/01/2010. Action taken status not received as requested vide NCST letter dated 15/09/2010.
25.	15/12/2010/ORCA G/DERES/RU-II	03 Posts - Senior Account Officer, The Accountant General (A&E), Thiruvananthpuram.	Not agreed vide NCST letter dated 18/01/2010. Action taken status not received as requested vide NCST letter dated 15/09/2010.

26.	15/13/2010/ORCA G/DERES/RU-II	02 Posts - Senior Account Officer, The Accountant General (A&E), Tamilnadu.	Not agreed vide NCST letter dated 18/01/2010. Action taken status not received as requested vide NCST letter dated 15/09/2010.
27.	15/14/2010/ORCA G/DERES/RU-II	02 Posts - Senior Audit Officer, The Director General of Audit, Central Expenditure, New Delhi.	Not agreed vide NCST letter dated 18/01/2010. Action taken status not received as requested vide NCST letter dated 15/09/2010.
28.	15/15/2010/ORCA G/DERES/RU-II	01 Post - Accounts Officer, The Accountant General (A&E)-I, Gwalior.	Not agreed vide NCST letter dated 18/01/2010 Action taken status not received as requested vide NCST letter dated 15/09/2010.
29.	15/18/2010/ORCA G/DERES/RU-II	08 Posts - Senior Audit Officer, Principal Accountant General (CA), Allahabad.	Not agreed vide NCST letter dated 18/01/2010. Action taken status not received as requested vide NCST letter dated 15/09/2010.
30.	15/19/2010/ORCA G/DERES/RU-II	04 Posts - Audit Officer, The Principal Accountant General (Audit), Thiruvananthpuram.	Not agreed vide NCST letter dated 18/01/2010. Action taken status not received as requested vide NCST letter dated 15/09/2010.
31.	15/20/2010/ORCA G/DERES/RU-II	02 Posts - Assistant Audit Officer, The Accountant General (Audit), Bihar, Patna.	Not agreed vide NCST letter dated 18/01/2010. Action taken status not received as requested vide NCST letter dated 15/09/2010.
32.	15/21/2010/ORCA G/DERES/RU-II	05 Posts - Senior Audit Officer, The Principal Accountant General (Audit), Thiruvananthpuram.	Not agreed vide NCST letter dated 18/01/2010. Action taken status not received as requested vide NCST letter dated 15/09/2010.
33.	15/22/2010/ORCA G/DERES/RU-II	02 Posts - Senior Audit Officer, The Principal Accountant General (Audit), Karnataka.	Not agreed vide NCST letter dated 18/01/2010. Action taken status not received as requested vide NCST letter dated 15/09/2010.
34.	15/23/2010/ORCA G/DERES/RU-II	01 Post - Audit Officer, The Principal Accountant General (Audit), Srinagar.	Not agreed vide NCST letter dated 18/01/2010. Action taken status not received as requested vide NCST letter dated 15/09/2010.
35.	15/25/2010/ORCA G/DERES/RU-II	06 Posts - Senior Audit Officer, The Commercial Audit Wing of the IA&AD, Delhi.	Not agreed vide NCST letter dated 18/01/2010. Action taken status not received as requested vide NCST letter dated 15/09/2010.

36.	15/26/2010/ORCA G/DERES/RU-II	01 Post - Senior Audit Officer, The Director General of Audit, Defence Service, New Delhi.	Not agreed vide NCST letter dated 18/01/2010. Action taken status not received as requested vide NCST letter dated 15/09/2010.
37.	15/29/2010/ORCA G/DERES/RU-II	03 Posts - Audit Officer, The Principal Accountant General (Audit), Punjab, Chandigarh.	Not agreed vide NCST letter dated 18/01/2010. Action taken status not received as requested vide NCST letter dated 15/09/2010.
38.	15/16/2010/ORCA G/DERES/RU-II	03 Posts - Sr. Audit Officer, The Principal Accountant General (Audit), Haryana, Chandigarh.	Not agreed vide NCST letter dated 18/01/2010. Action taken status not received as requested vide NCST letter dated 15/09/2010.
39.	13/4/Service/2009 /RU-III	01 post – Assistant legal Adviser (Grade-iv) M/o Law & Justice	Not agreed vide letter dated 5/5/2009 Action taken status enquired vide letter dated 24/11/2009.
40.	13/1/2009/MENV1 /SEOTH/RU-III	01 post – Research Assistant (Grade-II) , Forest Genetics and Tree Breeding, Coimbatore (ICFRE)	Proposal returned vide letter dated 9/5/2009 for submission through Administrative Ministry.
41.	13/1/2009/MCAB1 /DERES/RU-III	04 posts – Field Officer (Tech.) Aviation Research Centre, Cabinet Secretariat	Agreed vide letter dated 26/11/2009 with the following conditions. 1. The reserved point was to be carried forward and in the next recruitment year for promotion of eligible ST candidates. 2. If no ST candidate was available in the feeder grade, the post of Field Officer was to be filled by promoting from amongst the eligible candidates. 3. The backlog/ shortfall in each category of posts may be filled by launching Special Recruitment Drive. Action taken status enquired vide letter dated 20/9/2010.
42.	13/13/2009/MHR D/SEOTH/RU-III	01 post – Senior Assistant, Banaras Hindu University Varanasi	Proposal returned vide letter dated 13/8/2009 to submit through the Administrative Ministry.
43.	13/3/2009/Service /RU-III	01 post – Private Secretary, University Grants Commission	Action taken status enquired vide letter dated 14/9/2010

44.	13/5/2009/Service /RU-III	06 posts – Inspector (Fire), M/o Home Affairs	Action taken status enquired vide letter dated 14/9/2010
45.	13/1/Service/2010 /RU-III	01 post – Supervisor (Group-C, Not Gazetted) Reception Organization of Secretariat Security Organization (MHA)	Not agreed vide letter dated 30/3/2009. Advised amendment of RRs for making element of direct recruitment to the post of JRO & SRO for availability of ST candidate .
46.	13/3/Service/2010 /RU-III	01 post – Peon M/o Home Affairs	Vide letter dated 20/5/2010 document requisitioned which were not received within the stipulated time from. Proposal rejected. Action taken status enquired on 14/9/2010
47.	13/2/Service/2010 /2010/RU-III	01 post – Private Secretary (Group-B, Gazetted Post) M/o Tourism	Vide letter dated 22/3/2010 documents requisitioned which were not received within the stipulated time from. Proposal rejected. The Action taken status enquired vide letter dated 20/9/2010.
48.	13/15/MHA/2008/ RU-III	01 Post – Inspector (PA) in Sashastra Seema Bal (MHA)	<p>Proposal returned vide letter dated 24/12/2008 for submission through the Administrative Ministry.</p> <p>Proposal re-submitted through MHA vide letter dated 5/5/2009. Agreed with the following conditions.</p> <ol style="list-style-type: none"> 1. RRs in respect of all categories of the posts to be amended to incorporate a saving clause of direct recruitment for availability of ST candidates. 2. To take advance action to fill one post of Inspector (PA) through direct recruitment through Special Recruitment Drive 3. Fill up available one vacant post of SL (Steno) by direct recruitment launching Special Recruitment Drive. <p>MHA vide letter dated 30/6/2009 intimated that the case for making necessary amendment in Recruitment Rules has been</p>

			initiated as advised by the Commission. Present status enquired vide letter dated 14/8/2010
49.	<u>US/4/2009/MDEF 2/ DERES/RU-IV</u>	01 post - Senior System Security Officer Grade-II Deptt. of Defence Research & Development, M/o Defence,	Not agreed vide letter dt. 19.05.2009. Advised to take action (in accordance with DoPT OM No. 36012/27/2000- Estt.(Res) 15.03.2002) to fill up the post on ad-hoc basis or consider (i) the eligibility criterion or (ii) in case no ST candidate available, on ad-hoc basis by promoting the eligible senior most candidates. Status enquired vide letter dt. 09.09.2010.
50.	<u>US/5/2009/MDEF 2/ DERES/RU-IV</u>	01 post - Personal Assistant 'B' DLRL, Hyderabad. M/o Defence	Not agreed vide letter dt. 16.07.2009. The requisite information was not received within the time-frame laid down vide DoPT OM No. 36011/5/81/Estt(SCT) dt. 07.04.1981. Status enquired vide letter dt. 09.09.2010.
51.	<u>US/1/2009/MENV 1/ DERES/RU-IV</u>	01 post - Driver Grade-II M/o Environment & Forests	Not agreed vide letters dt. 16.07.2009. Advised to make amendment in RRs for availability of Scheduled Tribe Candidates. Status enquired vide letter dt. 09.09.2010.
52.	<u>US/6/2009/MDEF 2/ DERES/RU-IV</u>	01 - UDC 01 - Supervisor(NT/OTS) 01 - Assistant Machine Tools Prototype Factory, Ambarnath. Deptt. of Defence Production M/o Defence	Not agreed vide letter dt. 25.03.2010 . Advised to make amendment in RRs for availability of Scheduled Tribe candidates. Status enquired vide letter dt. 09.09.2010.
53.	<u>CAO/7/2009/MDEF2/DERES/RU-IV</u> <u>CAO/2/2009/MDEF2/DERES/RU-IV</u>	06 Posts - Asst. Civilian Staff Officer (now SO). M/o Defence	Proposal agreed vide letter dt. 21.07.2009 subject to the condition that (i) before the DPC for the year 2009-10 was convened, a complete stock taking should be undertaken and (ii) the MoD will consider empanelment of all eligible ST candidates against the shortfall, if any and the reservation for STs will not be allowed to lapse. Status enquired vide letter dated 09.09.2010.

54.	<u>AD/7/2009/MFIN9</u> <u>/ DERES/RU-IV</u>	01 Post - Assistant Directorate of Income Tax (Admn.)	Proposal returned in original vide letter dt. 04.12.09 for submission through the Administrative Ministry.
55.	<u>US/1/2010/MCOM</u> <u>5/ DERES/RU-IV</u>	01 post - Superintendent of Salt (Gp - 'B' Gazetted) Salt Commissioner, Jaipur. M/o Commerce & Industry.	Not agreed vide letter dt. 18.05.2010. Advised to fill up the post by eligible ST candidate on ad-hoc basis (in accordance with the DoPT OM No. 36012/27/2000-Estt. dt. 15.03.2002). Status enquired vide letter dt. 09.09.2010.

National Commission for Scheduled Tribes

**Summary of select proposals for de-reservation received during
the Year 2009-10**

(1) DoP&T (CAT) 15/31/2010/MPPPG/DERES/RU-I

A proposal dated 19/02/2010 was received in the Commission from the Department of Personnel & Training regarding dereservation of one post of Dy. Registrar in the CAT.

The Commission sought certain details/documents relating to (i) RRs (ii) Post Based Roster and (iii) Seniority list for the post of Dy. Registrar alongwith other related information for examination of the proposal vide letter dated 24/02/2010

The information was received from the DoP&T vide letter dated 12/03/2010. It was observed that out of 27 posts of the Dy. Registrar, there was no ST candidate and 14th point was filled up by an unreserved candidate on earlier occasion also by de-reserving the point. There were only two ST candidates available in the seniority list of the feeder cadre of 114, who were to be eligible for promotion in 2012 as per the RRs. It was further noted that the Department has not taken any corrective measure to ensure proper representation of STs in the cadre, even after de-reservation on an earlier occasion. Moreover, representation of the STs in the feeder cadre was also far beyond the prescribed percentage. Considering the above position, the Commission did not agree to the proposal of dereservation of one post of Dy. Registrar vide letter dated 29/03/2010.

The DoP&T was requested vide Commission's letter dated 14/09/2010 to intimate the present status of the ST reserved vacancy. DoPT vide letter dated 21/10/2010 intimated that post has been filled by UR candidate and point carried forward

(2) DoP&T(CAT), 15/30/2010/MPPP1/DERES/RU-I

A proposal dated 19/02/2010 was received in the Commission from the Department of Personnel & Training regarding dereservation of one post of Principal Private Secretary in the CAT.

The Commission sought certain details/documents relating to (i) RRs (ii) Post Based Roster and (iii) Seniority list for the post of PPS alongwith other related information for examination of the proposal vide letter dated 24/02/2010

The information was received from the DoP&T vide letter dated 12/03/2010. It was observed that out of 16 posts of the Principal Private Secretary, there was no ST candidate and 14th point was filled up by an

unreserved candidate on earlier occasion by de-reserving the ST reserved point. There were only two ST candidates available in the seniority list of the feeder cadre of 114, who were to be eligible for promotion in 2012 as per the RRs. It was further noted that the Department has not taken any corrective measure to ensure proper representation of STs in the cadre, even after de-reservation on an earlier occasion. Moreover, representation of the STs in the feeder cadre was also far beyond the prescribed percentage.

Considering the above position, the Commission did not agree the proposal of dereservation of one post of Principal Private Secretary vide letter dated 29/03/2010.

The DoP&T was requested vide Commission's letter dated 23/09/2010 to intimate the present status of the ST reserved vacancy. The DoPT has re-submitted the proposal vide their letter dated 24/09/2010

(3) DoP&T (LBSNAA) 15/1/2009/MPPPG/DERS/RU-I

A proposal dated 01/09/2009 was received in the Commission on 08/09/2009 from the Department of Personnel & Training regarding dereservation of one post of Superintendent in the Lal Bahadur Shastri National Academy of Administration (LBSNAA), Mussoorie.

On examination of the documents, it was noted that the proposal was for dereservation of 14th point in the 14 point rotational roster for the cadre strength of 4 for the post of Superintendent. The Commission advised the DoPT to furnish the relevant documents/information vide letter dated 14/09/2009 relating to (i) RRs for the post of Superintendent (ii) RRs for the feeder cadre i.e. Assistant, (iii) Seniority list of the feeder cadre, etc.

As the requisite information was not received from the Department within the stipulated period, the proposal could not be examined. Based on the available information, the proposal was not agreed. Accordingly, the DoPT was informed regarding rejection of the proposal vide letter dated 05/10/2009.

Subsequently, the information received from the DoP&T was examined. It was noted that as per the RRs there was no possibility of availability of ST candidate in the feeder cadre in future also. The Commission, therefore, suggested the DoPT vide letter dated 11/10/2010 to amend the Recruitment Rules (RRs), with the approval of the competent authority, with regard to a provision for induction by direct recruitment (DR) in addition to the existing stipulation through deputation in the event of non-availability of reserved candidate(s).

DoPT intimated that it had advised LBSNAA vide letter dated 15/10/2010 to take necessary action as per recommendation of NCST to amend the RRs to incorporate the clause of induction by DR in case of non-availability of reserved category candidates in addition to deputation clause.

(4) Ministry of Home Affairs (SSO) 13/1/Service/2010/RU-III

A proposal dated 19/01/2010 for dereservation of 01 post of Supervisor, Group C (Non gazetted) Non Ministerial post, Reception Organisation of secretariat Security Organisation, Ministry of Home Affairs was received in the Commission. The Commission vide letter dated 01/02/2010 observed that proposal was not clear and pointed out to MHA that the forwarding letter indicated that the post of Supervisor to be dereserved while the statement received alongwith the letter indicated the post as Sr. Reception Officer. Ministry of Home Affairs was according required to send the correct proposal alongwith the following information to the Commission for further examination:

- (i) Up to date and latest Recruitment Rules for (a) the post to be dereserved and of (b) the feeder grade post.
- (ii) Certified copy of Post Based Reservation Roster for the post to be dereserved and also the feeder grade.
- (iii) Copy of latest seniority list of the post which is feeder grade for the post to be de-reserved.
- (iv) Reasons for non availability of ST incumbents in the feeder grade and efforts made for filling up of ST vacancy so far in the feeder grade.

The Ministry of Home Affairs submitted the requisite information vide letter dated 05/03/2010. On examination of the proposal the Commission noted that Recruitment Rules of the post of Junior Reception Officer had a provision for appointment on deputation only and not on transfer or Direct Recruitment basis. Reservation is not applicable in deputation mode. Since there was no provision for appointment on regular basis, there could be no seniority list of Jr. Reception Officers and consequently no promotion from the post of Jr. Reception Officer to Sr. Reception Officer could be permissible. Notwithstanding these provisions, Ministry of Home Affairs had been absorbing the deputationists to the posts Jr. Reception Officer on regular basis and also granting them promotion to the post of Sr. Reception Officer. By resorting to this method Ministry of Home Affairs was flouting the reservation policy in the matter of appointment to Jr. Reception Officer and then to higher level posts in the Cadre. Vide letter 30/03/2010 advised that the Recruitment Rules for the post of Sr. Reception Officer may be amended to provide for appointment by Direct Recruitment also. Similarly, for appointment in the post of Jr. Reception Officer, provision for transfer basis as well as Direct Recruitment bases² may also be included in the Recruitment Rules so that proper reservation may be given to Scheduled Tribes as well as other reserved category candidates while making appointments to the post of JRO and SRO. The Ministry of Home Affairs was requested to report action taken status vide letter dated.

(5) Ministry of Tourism No. 13/2/Service/2010/RU-III

A dereservation proposal was received from Ministry of Tourism vide letter dated 17/03/2010 in the grade of Private Secretary, Group B (Gazetted) carrying the pay scale of PB-2 Rs. 9300-34800+ GP Rs. 4600. It was mentioned that as per the Recruitment Rules, the post of Private Secretary was to be filled up by promotion and Sr. Stenographer pay scale P-2 Rs. 9300 – 34800+GP Rs.

4200 having 8 year experience in the grade are eligible for promotion in the grade of Private Secretary. It was also stated that Roster for promotion cadre strength up to 13 posts (14th point Lshaped roster for promotion), 14th point was reserved for ST candidates and no ST candidate was available in the grade of Sr. Stenographer (feeder grade for promotion of Private Secretary). Commission vide letter dated 22/03/2010 requisitioned the following information for examination of the proposal by 29/03/2010. Otherwise the proposal would stand rejected.

1. Up-to-date and latest Recruitment Rules for (a) the post to be dereserved (Private Secretary) and of (b) the feeder grade post (Stenographer).
2. Certified copy of post Based Reservation Roster for the post to be dereserved (Private Secretary) and also the feeder grade (Stenographer).
3. Copy of latest seniority list in the post which is feeder grade (Stenographer) for the post to be dereserved.
4. Reasons for non availability of ST incumbents in the feeder grade and efforts made for filling up of ST vacancy so far in the feeder grade.

However, the required information was not received within stipulated time. The Ministry of Tourism later furnished the required documents / clarifications vide letter dated 28/05/2010 and 14/07/2010.

The Commission vide letter dated 13/9/2010 communicated the observations that there was no representation of ST category candidate against the reserved points for STs in the feeder grade posts i.e. PS (Senior PA), Senior Stenographer as well as Junior Stenographer, Hence, there was no possibility of availability of ST candidates in feeder grades in near future. Keeping in view this position the proposal for de-reservation of the post of PS reserved for STs was not agreed to. The ministry was advised to fill the post of PS from ST candidates by either transfer basis or by direct recruitment. Since, there was no ST in any feeder grade posts of Senior Stenographer as well as Junior Stenographer, similar steps may also be taken to induct ST candidate against the posts reserved for ST in those grades. Action taken status was requested vide letter dated 13/09/2010.

(6) Ministry of Commerce US/1/2010/MCOM5/DERES/RU-IV

Ministry of Commerce & Industry vide letter dated 17/03/2010 submitted a proposal for dereservation of 1 post in the grade of Superintendent of Salt (Gp – 'B' Gazetted) in the office of the Salt Commissioner, Jaipur. It was stated that there were 3 vacant posts in the grade of Superintendent of Salt during the recruitment year 2009-10. These three vacancies existed w.e.f. 01/04/2009, 01/06/2009 and 01/03/2010 respectively. Out of these three posts, one was reserved for ST quota and two were for unreserved. It was mentioned that the zone of consideration for 3 vacancies was normally 10. Since, there was no ST candidate available in the normal zone of consideration, it could be extended upto 15 i.e. 5 times of the number of vacancies. But in the present case, the ST candidate was available at number 20 i.e. beyond the extended zone of consideration.

The Ministry of Commerce & Industry mentioned that the DoPT was requested to clarify whether the zone of consideration in the instant case could be extended to 20 against the normal extended zone of consideration of 15. However, the DoPT did not agree to the proposed extension of the zone of consideration.

The Commission noted that no Scheduled Tribe candidate was covered within the extended zone of consideration of 15 but an eligible ST Officer was available at Sl. No 20. The eligibility condition for promotion from the post of Deputy Superintendent to the post of Superintendent is three years only. The eligible ST candidate had rendered about 16 years of service as Dy. Superintendent. Commission noted from the enclosure to the proposal that the organisation of the Salt Commissioner was small and the promotional avenues were very bleak and the Zone of Consideration, which was 15 at this time may be very small when single post of superintendent, reserved for ST, is processed for filling in the future. This is a factual position which generally recurs in most of the organisations when a post reserved for ST is dereserved due to non-availability of eligible ST candidate within Zone of Consideration or even extended Zone of Consideration and therefore each time organisation has to seek de-reservation repeatedly. Attention of the Ministry of Commerce & Industry was drawn towards the provisions of DoPT OM No. 36012/27/2000-Estt. (Res) dated 15/03/2002, which provide for ad-hoc promotions to the eligible ST incumbents. Moreover, as per Government of India instructions a post reserved for ST has to be filled from amongst ST candidates only. Accordingly, vide letter dated 18/05/2010, the M/o Commerce & Industry was advised to promote the ST candidate on ad-hoc basis in the light of the instructions contained in the DoPT's aforesaid OM dated 15/03/2002.

Information about action taken in the matter sought vide Commission's letter dated 09/09/2010 is not available.

(7) Ministry of Environment Forest US/1/2009/MENV1/DERES/RU-IV

A proposal for dereservation of 1 post of Driver Grade-II in the pay scale of Rs. 4000-6000 reserved for ST candidate in Forest Survey of India was received from the Ministry of Environment & Forests vide letter dated 01/07/2009.

The Commission advised the Ministry of Environment & Forests to furnish the following information of the documents for examination of the proposal by letter dated 08/07/2009:

- (i) Copy of the Seniority List of Driver Gr. II and feeder grade
- (ii) Copy of the Reservation Roster
- (iii) Copy of the Recruitment Rules and reasons for non-availability of ST incumbent in the feeder grade; and
- (iv) Efforts made by the Ministry of Environment & Forests to fill up the ST posts so far.

The Commission vide letter dated 16/07/2009 intimated the Ministry that the requisite information had not been received within the stipulated time and

therefore, the proposal could not be examined by the Commission in the time frame laid down vide DoPT OM No. 36011/5/81-Estt(SCT) dated 07/04/1981. Hence, the proposal was rejected.

Subsequently, the Forest Survey of India furnished the requisite details/documents vide letter dated 18/12/2009. On detailed examination of the information, the Commission noted that there was no ST candidate in the feeder grade from where the post could be filled up. The method of recruitment was 100% by promotion. It was further noted that in near future too, no ST candidate would be available and posts would continue to remain unfilled by ST in future. Therefore, the proposal was found not feasible in the interest of STs and accordingly, the Ministry was advised by the Commission vide letter dated 25/03/10 that the Ministry should consider necessary amendment in the RRs for availability of adequate number of eligible Scheduled Tribes by DR.

The Ministry of Environment & Forests vide letter dated 04/06/2010 sought clarification with regard to the rejection of the proposal for dereservation and suggestions for making necessary amendments in the RRs to fill up the reserve posts for STs. The Ministry stated that the provisions for reservations for various categories in Civilian Central Government jobs was inherently provided for, as per the established percentages and, there was no provision in the Recruitment Rules to suggest the mode of recruitment only through reservation. Even in the event of a special drive to fill backlog vacancies of SC/ST, only the roster points are filled, therefore, the Commission was requested to elaborate as to how the Recruitment Rules (which are required to be in conformity with model RRs framed by the DoPT) can be amended to ensure the availability of for Scheduled Tribes by DR.

The Commission vide letter dated 09/07/2010 re-iterated that the Recruitment Rules prescribed for the post of Driver Grade-II is 100% by promotion and in the feeder grade there is no ST candidate to be considered for promotion to the post of Grade-II. Therefore it was felt appropriate for amendment of Recruitment Rules for the post under consideration and accordingly The Commission suggested for making provision of Clause 'Failing by which DR' in the RR of Driver Grade-II so that the point reserved for Scheduled Tribes are filled amongst ST candidates.

The M/o Environment & Forests was requested vide Commission's letter dated 09/09/2010 to communicate follow up on the advice given by the Commission in the matter. The Forest Survey of India vide letter dated 23.09.2010 intimated that the post has not been dereserved and as advised by the Commission steps are being taken to amend the Recruitment Rules for the post of Driver Grade II by inserting following provision in the R/Rules as per the model guidelines of Recruitment Rules issued by the DoPT :- 'by promotion failing which by Direct recruitment'.

(8) Ministry of Defence US/6/2009/MDEF2/DERES/RU-IV

A proposal for dereservation of (i) 01 post of UDC (ii) 01 post of Supervisor (NT/OTS) and (iii) 01 post of Assistant in the Machine Tools

Prototype Factory, Ambarnath was received from the Ministry of Defence vide letter dated 26/10/2009.

The Commission vide letter dated 04/11/2009 sought the following information for examination.

1. Attested Copies of up-to-date Seniority List for the post of UDC and the Supervisor (NT/OTS) and Assistant respectively.
2. Certified copies of Reservation Roster for the post of UDC Supervisor and the Assistant.
3. Attested copies of the up-to-date and latest Recruitment Rules for the posts of UDC, Supervisor and Assistant.
4. Reasons for non-availability of ST incumbents in the feeder grade of each post proposed for de-reservation, and efforts made for filling up of ST vacancy so far.

The Ministry of Defence requested 3 weeks time to submit additional information vide their letter dated 17/11/2009 and 26/11/2009. On examination of the details, the following points were noticed in respect of each proposal

1) UDC (Gp.'C')- 1 Post (PB-1 Rs. 5200-20200 GP Rs. 2400)

According to the Recruitment Rules, the post was required to be filled up 100% by promotion from the feeder grade. The selection was through (i) promotion from LDC and allied grades with 8 years regular service in the grade or (ii) by transfer on passing the trade test.

On examination of the records pertaining to UDC Gp. 'C' it was observed that both the ST candidates i.e. Shri Hemant Chugala/7750 and Ms. Jayshree A Thakre/7757 were in regular grade w.e.f. 31/01/06 and 06/03/06 respectively. The officials had not completed the required service of 8 years. Even if separate select list (Panel) was drawn as per instructions of DoPT OM No. 1/12/67-Estt(C) dated 11.07.68 and 24/12/1980, both the candidates were not fulfilling the prescribed criteria.

2. Supervisor/(NT/OTS) (Gp-'C')- 1 post (PB-1 Rs. 5200-20200 GP Rs. 2400)

On examination of proposal, the Commission observed that the mode of promotion was through selection cum-seniority and the criteria for determining eligibility for promotion, as prescribed in the Recruitment Rules, was 100% by promotion from LDC or photographer or Telephone operator Grade-II with three years of regular service in the grade or Subedar Durban with eight years regular service in the grade and possessing certain specified qualifications.

(ii) It was noted both the ST candidates were in regular service in LDC grade from 30/01/2006 and 06/03/2006 and didn't not fulfill the required service of eligibility. It was also noted that in the Sub-Darban grade as on 27/07/2009, only one incumbent was in the Seniority List. Further, in the grade of Telephone Operator II as on 27/07/2009 two incumbents were in the seniority List. No ST candidate was available for filling up the post.

3. Assistant (Gp –‘B’) – 1 post (PB-2 Rs. 9300-34800 GP Rs. 4200/-

On perusal of proposal, the Commission noted that the Recruitment Rules enclosed with the proposal were pertaining to the Office Superintendent grade-II and not for the Assistant - Gp-‘B’ in respect of which dereservation of the post was sought. The RRs for the post of Assistant were not received despite reminder.

The Commission vide letter dated 25/03/2010 rejected the proposals and advised the Ministry of Defence to make necessary amendments in the Recruitment Rules in respect of each of the above post and the feeder grade posts by including “Failing which by DR” clause in the RRs for ensuring adequate number of eligible STs to fill the posts reserved for STs or consider relaxation of qualifying services in respect of ST candidates as a special case.

The M/o Defence was requested vide Commission’s letter dated 09/09/2010 to communicate action taken report on the advice given by the Commission in the matter.

ANNEXURE 5.I
(Ref para 5.4.3 5R)

ANALYSIS of cases of Atrocities dealt in NCST during 2009-10

I.

Unit/RO	Unit	Cases in which reply received within 30 days	1 to 3 months	More than 3 months	More than a year	
Hqrs						
RU-I	21	7	8	3	3	
RU-II	17	5	4	8		
RU-III	8	4				In respect of 4 cases, no reply received
RU-IV	9	2	3	1	3	
Total	55	18	15			
RO, Bhopal	67	32	20	14		In respect of 1 reply not received
RO, Rajasthan	42	1	14	26		In respect of 1 reply not received
RO, Raipur	49	9	16	10	13	In respect of 1 reply not received
RO, Ranchi	11	5		1		In respect of 5 reply not received
RO, Bhub.						
Total	224	65	65	63	19	

II.

Unit/ RO	Unit	FIR registered before receipt of complaint in the Commission	FIR registered after receipt of complaint in the Commission	PoA invoked in FIR as well as in charge sheet	PoA act invoked in FIR but not in charge sheet	Cases where charge sheet not filed	Cases where date of filling of charge sheet not indicated	Charge sheet filed
Hqrs								
RU-I	21	7	8 (6: No FIR)	2	1	14		Charge sheet filed: 6
RU-II	17	7	4	1	4	14 (in 3 cases filed)		About 6 cases position reg. FIR not known
RU-III	8	5	NA	2	3	NA	3	Charge sheet filed:
RU-IV	9	8		8	3			5
Total	55	27						
RO, Bhopal	67	26	6	16	16	22	Not available	Charge sheet filed: 10
RO, Rajasthan	42	20	2	18	4	15		Information not available: 7
RO, Raipur	49	10	3	NA	NA	NA	NA	
RO, Ranchi	11	2	1	2	1	2	1	Details not available 2
Total	224							

[B] Position of Filing of Charge Sheet after FIR

		With one month	1-3 month	3-6 month	6 to 1 year	More than 1 year	Cases where date of filing of charge sheet not filed	Details not available
Hqrs	60							
RU-I	21	3	2	1				
RU-II	17	2	1					
RU-III	8	1	1					3
RU-IV	9	1	1	1	2			
RO, Bhopal	67	5	2	2		1		
RO, Rajasthan	42	2	1	3	1			Details not available: 75
RO, Raipur	49	NA	NA	NA	NA	NA	NA	NA
RO, Ranchi	11	Nil	Nil	1				Details not available: 10
Total	224							

[C] Position on payment of relief

		No information about relief	No relief	Relief at FIR stage paid	Relief paid after filing of charge sheet	Date of payment of relief not available	Cases where date of filing of charge sheet not filed	Details not available
Hqrs	60							
RU-I	21				1			Further details not available
RU-II								
RU-III	8	6				2		
RU-IV	9	8	1					
RO, Bhopal	67	54		1	12	NA	NA	NA
RO, Rajasthan	42	38	Inf not	1	3			Details not available: 75
RO, Raipur	49				1			
RO, Ranchi	11							Information not available: 11
Total	224							

TABLE-7.9
Incidence & Rate Of Crime Committed Against Scheduled Tribes During 2008

Sl. No.	State/UT	Incidence	Percentage Contribution To All-India Total	Estimated Mid Year Population (In Lakhs)#	Rate Of Total Cognizable Crimes	Rank as per Rate of Total Cognizable Crimes	Rank as per Percentage Share
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
STATES:							
1	ANDHRA PRADESH	750	13.4	824.61	0.9	8	3
2	ARUNACHAL PRADESH	63	1.1	12.04	5.2	1	13
3	ASSAM	130	2.3	300.79	0.4	12	10
4	BIHAR	99	1.8	943.06	0.1	17	12
5	CHHATTISGARH	614	11.0	237.74	2.6	3	4
6	GOA	1	0.0	16.44	0.1	18	22
7	GUJARAT	223	4.0	566.65	0.4	14	9
8	HARYANA	0	0.0	238.90	0.0	-	-
9	HIMACHAL PRADESH	0	0.0	65.71	0.0	-	-
10	JAMMU & KASHMIR	0	0.0	125.02	0.0	-	-
11	JHARKHAND	231	4.1	301.44	0.8	9	8
12	KARNATAKA	400	7.2	576.02	0.7	11	6
13	KERALA	106	1.9	343.40	0.3	15	11
14	MADHYA PRADESH	1071	19.2	696.83	1.5	6	1
15	MAHARASHTRA	268	4.8	1073.47	0.2	16	7
16	MANIPUR	1	0.0	26.37	0.0	19	21
17	MEGHALAYA	0	0.0	25.47	0.0	-	-
18	MIZORAM	0	0.0	9.84	0.0	-	-
19	NAGALAND	0	0.0	21.96	0.0	-	-
20	ORISSA	508	9.1	400.33	1.3	7	5
21	PUNJAB	0	0.0	266.89	0.0	-	-
22	RAJASTHAN	1038	18.6	649.94	1.6	5	2
23	SIKKIM	12	0.2	5.96	2.0	4	17
24	TAMIL NADU	14	0.3	665.76	0.0	20	16
25	TRIPURA	14	0.3	35.24	0.4	13	15
26	UTTAR PRADESH	9	0.2	1920.49	0.0	22	19
27	UTTARAKHAND	0	0.0	95.43	0.0	-	-
28	WEST BENGAL	17	0.3	882.07	0.0	21	14
	TOTAL (STATES)	5569	99.8	11327.87	0.5		
UNION TERRITORIES:							
29	A & N ISLANDS	3	0.1	4.15	0.7	10	20
30	CHANDIGARH	0	0.0	10.71	0.0	-	-
31	D & N HAVELI	10	0.2	2.65	3.8	2	18
32	DAMAN & DIU	0	0.0	1.89	0.0	-	-
33	DELHI	0	0.0	172.50	0.0	-	-
34	LAKSHADWEEP	0	0.0	0.69	0.0	-	-
35	PUDUCHERRY	0	0.0	10.80	0.0	-	-
	TOTAL (UTs)	13	0.2	203.39	0.1		
	TOTAL (ALL-INDIA)	5582	100.0	11531.30	0.5		

Total population including Scheduled Tribes

TABLE-7.11
Disposal Of Cases By Police For Crimes Committed Against Scheduled Tribes During 2008

Sl. No.	Crime Head	Total No. Of Cases For Investigation Including Pending Cases from previous year	Cases Withdrawn By Govt.	No. Of Cases In Which					No. Of Cases Pending Investigation at the end of the year
				Investigation Refused	Investigation Completed				
					Charge Found False / Mistake Of Fact Or Law Etc.	Final Report True Submitted	Charge Sheets Submitted	Total {(6) + (7) + (8)}	
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
1	MURDER (Sec. 302,303 IPC)	170	0	0	5	2	106	113	57
2	RAPE (Sec.376 IPC)	743	0	3	36	15	521	572	168
3	KIDNAPPING & ABDUCTION (Sec. 363-369, 371-373 IPC)	136	0	0	11	5	61	77	59
4	DACQITY (Sec.395-398 IPC)	22	0	0	3	2	11	16	6
5	ROBBERY (392-394, 397,398 IPC)	27	0	0	2	2	10	14	13
6	ARSON (Sec.435, 436, 438 IPC)	59	0	0	10	4	36	50	9
7	HURT (Sec.323-333, 335-338 IPC)	1097	0	3	97	30	721	848	246
8	PCR ACT, 1955 FOR STs	17	0	1	0	9	2	11	5
9	SC/ST PREV. OF ATROCITIES ACT, 1989 FOR STs	1615	0	6	207	48	709	964	645
10	OTHER CRIMES AGAINST STs	3317	6	9	657	56	1927	2640	662
11	TOTAL	7203	6	22	1028	173	4184	5305	1870

TABLE-7.12
Disposal Of Cases By Police For Crimes Committed Against Scheduled Tribes During 2008
(State & UT Wise)

Sl. No.	State/UT	Total No. Of Cases For Investigation Including Pending Cases from previous year	Cases With-drawn By Govt.	No. Of Cases In Which					No. Of Cases Pending Investigation at the end of the year	Pendency Percentage	Percentage Of Pendency To All India Total	Charge Sheetting Rate ((Col.8) / Col(7+8) × 100)
				Investigation Refused	Charge Found False / Mistake Of Fact Or Law Etc.	Final Report True Submitted	Charge Sheets Submitted	Total ((6) + (7) + (8))				
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)
STATES:												
1	ANDHRA PRADESH	1013	0	3	242	22	410	674	336	33.2	18.0	94.9
2	ARUNACHAL PRADESH	64	0	0	0	8	50	58	6	9.4	0.3	86.2
3	ASSAM	224	0	0	19	12	35	66	158	70.5	8.4	74.5
4	BIHAR	237	0	0	16	15	53	84	153	64.6	8.2	77.9
5	CHHATTISGARH	703	6	6	10	15	587	612	79	11.2	4.2	97.5
6	GOA	1	0	0	0	0	0	0	1	100.0	0.1	@
7	GUJARAT	238	0	1	4	3	215	222	15	6.3	0.8	98.6
8	HARYANA	0	0	0	0	0	0	0	0	@	0.0	@
9	HIMACHAL PRADESH	1	0	0	0	0	1	1	0	0.0	0.0	100.0
10	JAMMU & KASHMIR	0	0	0	0	0	0	0	0	@	0.0	@
11	JHARKHAND	465	0	0	25	31	159	215	250	53.8	13.4	83.7
12	KARNATAKA	444	0	8	54	23	246	323	113	25.5	6.0	91.4
13	KERALA	159	0	0	13	16	72	101	58	36.5	3.1	81.8
14	MADHYA PRADESH	1177	0	0	15	9	1106	1130	47	4.0	2.5	99.2
15	MAHARASHTRA	362	0	1	20	2	230	252	109	30.1	5.8	99.1
16	MANIPUR	30	0	0	0	1	0	1	29	96.7	1.6	0.0
17	MEGHALAYA	1	0	0	0	0	0	0	1	100.0	0.1	@
18	MIZORAM	0	0	0	0	0	0	0	0	@	0.0	@
19	NAGALAND	0	0	0	0	0	0	0	0	@	0.0	@
20	ORISSA	829	0	3	45	8	422	475	351	42.3	18.8	98.1
21	PUNJAB	0	0	0	0	0	0	0	0	@	0.0	@
22	RAJASTHAN	1143	0	0	557	6	462	1025	118	10.3	6.3	98.7
23	SIKKIM	16	0	0	0	1	6	7	9	56.3	0.5	85.7
24	TAMIL NADU	20	0	0	3	1	14	18	2	10.0	0.1	93.3
25	TRIPURA	15	0	0	0	0	10	10	5	33.3	0.3	100.0
26	UTTAR PRADESH	9	0	0	2	0	7	9	0	0.0	0.0	100.0
27	UTTARAKHAND	0	0	0	0	0	0	0	0	@	0.0	@
28	WEST BENGAL	33	0	0	1	0	10	11	22	66.7	1.2	100.0
	TOTAL (STATES)	7184	6	22	1026	173	4095	5294	1862	25.9	99.6	95.9
UNION TERRITORIES:												
29	A & N ISLANDS	5	0	0	0	0	2	2	3	60.0	0.2	100.0
30	CHANDIGARH	0	0	0	0	0	0	0	0	@	0.0	@
31	D & N HAVELI	12	0	0	2	0	7	9	3	25.0	0.2	100.0
32	DAMAN & DIU	2	0	0	0	0	0	0	2	100.0	0.1	@
33	DELHI	0	0	0	0	0	0	0	0	@	0.0	@
34	LAKSHADWEEP	0	0	0	0	0	0	0	0	@	0.0	@
35	PUDUCHERRY	0	0	0	0	0	0	0	0	@	0.0	@
	TOTAL (UTs)	19	0	0	2	0	9	11	8	42.1	0.4	100.0
	TOTAL (ALL-INDIA)	7203	6	22	1028	173	4104	5305	1870	26.0	100.0	96.0

@ Indicates infinite percentage / rate because of division by zero

TABLE-7.14
Disposal Of Cases By Courts For Crimes Committed Against Scheduled Tribes During 2008

Sl. No.	Crime Head	Total No. For Cases For Trial Including Pending Cases from previous year	Cases Withdrawn By Govt.	No. Of Cases				
				Compounded Or Withdrawn	In Which Trials Completed		Pending Trial at the end of the year	
(1)	(2)	(3)	(4)	(5)	Convicted	Acquitted Or Discharged	Total ((6) + (7))	(9)
1	MURDER (Sec. 302,303 IPC)	617	0	0	35	57	92	525
2	RAPE (Sec.376 IPC)	2109	0	5	116	319	435	1669
3	KIDNAPPING & ABDUCTION (Sec. 363-369, 371-373 IPC)	278	0	3	3	35	38	237
4	DACOTTY (Sec.395-398 IPC)	33	0	0	0	3	3	30
5	ROBBERY (Sec. 392-394, 397,398 IPC)	62	0	0	2	13	15	47
6	ARSON (Sec.435, 436, 438 IPC)	163	0	0	9	17	26	137
7	HURT (Sec.323-333, 335-338 IPC)	2816	0	73	154	448	602	2141
8	PCR ACT, 1955 FOR STs	111	0	4	0	62	62	45
9	SC/ST PREV. OF ATROCITIES ACT, 1989 FOR STs	4992	0	65	191	649	840	4087
10	OTHER CRIMES AGAINST STs	8375	5	139	508	1121	1629	6607
11	TOTAL	19556	5	289	1018	2724	3742	15525

TABLE-7.15
Disposal Of Cases By Courts For Crimes Committed Against Scheduled Tribes During 2008

Sl. No.	Crime Head	Total No. Of Cases For Trial Including Pending Cases from previous year	Cases With-drawn By Govt.	No. Of Cases				Pending Trial at the end of the year	Pendency Percentage	Percentage Of Pendency To All India Total	Conviction Rate ((Col 6) / (Col 8) × 100)
				Compounded Or Withdrawn	In Which Trials Completed		Total [(6) + (7)]				
					Convicted	Acquitted Or Discharged					
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)
STATES:											
1	ANDHRA PRADESH	1333	0	14	40	360	400	919	68.9	5.9	10.0
2	ARUNACHAL PRADESH	216	0	0	0	0	0	216	100.0	1.4	@
3	ASSAM	151	0	0	4	16	20	131	86.8	0.8	20.0
4	BIHAR	180	0	4	2	18	20	156	86.7	1.0	10.0
5	CHHATTISGARH	2048	2	60	159	335	494	1494	72.9	9.6	32.2
6	GOA	1	0	0	0	1	1	0	0.0	0.0	0.0
7	GUJARAT	1837	0	6	8	253	261	1570	85.5	10.1	3.1
8	HARYANA	0	0	0	0	0	0	0	@	0.0	@
9	HIMACHAL PRADESH	14	0	0	1	2	3	11	78.6	0.1	33.3
10	JAMMU & KASHMIR	0	0	0	0	0	0	0	@	0.0	@
11	JHARKHAND	650	0	41	16	80	96	513	78.9	3.3	16.7
12	KARNATAKA	864	2	1	5	184	189	674	78.0	4.3	2.6
13	KERALA	254	0	1	4	37	41	212	83.5	1.4	9.8
14	MADHYA PRADESH	4967	1	142	504	753	1257	3568	71.8	23.0	40.1
15	MAHARASHTRA	2050	0	1	26	199	225	1824	89.0	11.7	11.6
16	MANIPUR	0	0	0	0	0	0	0	@	0.0	@
17	MEGHALAYA	1	0	0	0	0	0	1	100.0	0.0	@
18	MIZORAM	0	0	0	0	0	0	0	@	0.0	@
19	NAGALAND	0	0	0	0	0	0	0	@	0.0	@
20	ORISSA	2450	0	0	37	199	236	2214	90.4	14.3	15.7
21	PUNJAB	0	0	0	0	0	0	0	@	0.0	@
22	RAJASTHAN	2239	0	19	192	252	444	1776	79.3	11.4	43.2
23	SIKKIM	15	0	0	5	3	8	7	46.7	0.0	62.5
24	TAMIL NADU	64	0	0	0	8	8	56	87.5	0.4	0.0
25	TRIPURA	29	0	0	3	13	16	13	44.8	0.1	18.8
26	UTTAR PRADESH	103	0	0	9	5	14	89	86.4	0.6	64.3
27	UTTARAKHAND	14	0	0	3	0	3	11	78.6	0.1	100.0
28	WEST BENGAL	28	0	0	0	2	2	26	92.9	0.2	0.0
	TOTAL (STATES)	19508	5	289	1018	2720	3738	15481	79.4	99.7	27.2
UNION TERRITORIES:											
29	A & N ISLANDS	23	0	0	0	0	0	23	100.0	0.1	@
30	CHANDIGARH	0	0	0	0	0	0	0	@	0.0	@
31	D & N HAVELI	21	0	0	0	4	4	17	81.0	0.1	0.0
32	DAMAN & DIU	2	0	0	0	0	0	2	100.0	0.0	@
33	DELHI	1	0	0	0	0	0	1	100.0	0.0	@
34	LAKSHADWEEP	1	0	0	0	0	0	1	100.0	0.0	@
35	PUDUCHERRY	0	0	0	0	0	0	0	@	0.0	@
	TOTAL (UTs)	48	0	0	0	4	4	44	91.7	0.3	0.0
	TOTAL (ALL-INDIA)	19556	5	289	1018	2724	3742	15525	79.4	100.0	27.2

@ Indicates infinite percentage / rate because of division by zero

INFORMATION ON EXCLUSIVE SPECIAL COURTS SET UP BY STATE GOVERNMENTS UNDER THE SCHEDULED CASTES AND THE SCHEDULED TRIBES (PREVENTION OF ATROCITIES) ACT, 1989.

List of Districts / Jurisdictions of the Courts in different states.

S.No.	Name of State	Name of Districts / Jurisdictions of the Courts
1	Andhra Pradesh	1. Mahabubnagar 2. Nellore 3. Kurnool 4. Medak 5. Prakasham (Ongole) 6. Chittoor 7. Guntur 8. Secunderabad 9. Cuddapah 10. Karimnagar 11. Krishna 12. Nizamabad
2	Bihar	9 Divisional places and also at East Champaran and Bhojpur districts.
3.	Chhattisgarh	1. Raipur 2. Durg 3. Rajnandgaon 4. Bilaspur 5. Raigarh 6. Surguja 7. Jagdalpur.
4.	Gujarat	1. Banaskantha (Palanpur) 2. Ahmedabad (Rural) 3. Katch (Bhuj) 4. Amreli 5. Vadodara 6. Junagadh 7. Panchmahal 8. Rajkot 9. Surat 10. Surendranagar
5.	Karnataka	1. Bijapur 2. Gulbarga 3. Kolar 4. Raichur 5. Mysore 6. Belgaum 7. Tumkur
6.	Madhya Pradesh	1. Dhar 2. Shahajpur 3. Morena 4. Shahdol 5. Damoh 6. Raisen 7. Mandla 8. Sehore 9. Bhind 10. Tikamgarh 11. Mandaleshwar 12. Dewas 13. Mandaur 14. Indore 15. Hoshangabad 16. Jabalpur 17. Vidisha 18. Panna 19. Chhatarpur 20. Ujjain 21. Guna 22. Satna 23. Rewa 24. Narsinghpur 25. Sagar 26. Gwalior 27. Rajgarh 28. Bhopal 29. Jhabua.
7.	Rajasthan	1. Alwar 2. Pali 3. Pratapgarh 4. Jaipur 5. Ajmer 6. Udaipur 7. Jodhpur 8. Kota 9. Bikaner 10. Medta 11. Tonk 12. Ganganagar 13. Baran 14. Sawaimodhopur 15. Dausa 16. Jhalawar 17. Bilwara
8.	Tamil Nadu	1. Trichy 2. Madurai 3. Thanjavur 4. Tirunelveli
9.	Uttar Pradesh	1. Farrukabad 2. Unnao 3. Basti 4. Banda 5. Etawah 6. Hamirpur 7. Gonda 8. Kanpur city 9. Badaun 10. Sultanpur 11. Barabanki 12. Bulandshar 13. Gorakhpur 14. Varanasi 15. Pilibhit 16. Etah 17. Deoria 18. Jhansi 19. Faizabad 20. Agra 21. Kanpur Rural 22. Behraich 23. Lucknow 24. Jalaon 25. Merrut 26. Ghaziabad 27. Sidarth Nagar 28. Mirzapur 29. Chandausi 30. Balrampur 31. Fatehpur 32. Ghazipur 33. Mainpuri 34. Kannauj 35. Gautambudhnagar 36. Hardaul 37. Shravasti 38. Bagpat 39. Bareilly 40. Jyotibaphulenagar.

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ANNEXURE 6.I
(Ref. para 6.1.2 5R)

National Commission for Scheduled Tribes

Details of Cases dealt during the Year 2009-10

in which recommendations of the Commission were not implemented or
there is no information about acceptance/ non-acceptance of recommendation

Sr. No.	Date of sitting	Gist of complaint/Issue	Gist of recommendation	Status of implementation of recommendations of the Commission
1.	15.07.2009 Member(OSM)	Separate zone of consideration for promotion by selection of SC and ST candidates. Computerization of reservation rosters.	(i) DOPT to issue instruction as per Supreme Court judgment in CA No. 4026/1988 regarding separate zone of consideration for SC/ST candidates, without any barrier as imposed by the extended zone of consideration. (ii) To issue orders mentioning that the same reservation system is applicable in case of ad-hoc promotions as in case of regular promotions but for roster updating. (iii) DoPT may prescribe the format for maintenance of the PBRs. DoPT may also develop software for implementation of the post based reservation roster.	No reply received.
2.	09.10.2009 Member(TS)	Non-allotment of industrial land since 2001 to Shri F. A. Badhana in Industrial Estate, Chotipora, Handwara, Distt. Kupwara,	All out efforts may be made to ensure the Industrial Estate, Chotipora; Handwara is developed at the earliest. Pending development of the Industrial Estate, Chotipora,	No reply received.

		(J & K)	Handwara, Shri F. A. Badhana may be offered alternate industrial land, subject to his acceptance.	
3.	15.10.2009 Member(OSM)	Promotion of Smt. Mary Major Trikey, Section Officer (Retd.) of the CSS to the grade of Under Secretary on ad-hoc basis.	The promotion of Smt. M. M. Tirkey to Under Secretary on ad-hoc basis w.e.f 20.06.2008 (when her junior was promoted) needs to be considered by DoPT.	A DO letter from MoS, Ministry of Personnel, Public Grievances and Pensions dated 26/07/2010 mentioned that Smt. Tirkey was included in the Select List of Under Secretary of CSS for the year 2005, but the benefits of promotion can't be granted to her, as per the extant instructions that those officers who were in service on crucial date but have since retired without actual promotion, their appointment need not be notified as promotions may take place prospectively and retired persons may not be available to avail the actual promotions from a prospective date.
4.	16.03.2010 Member(OSM)	Non declaration of result for the post of Primary Teachers in MCD in respect of ST candidates by DSSSB.	The result of ST candidates for the post (code 16/2008) of Teacher (Primary) in MCD may be declared latest by 31.03.2010.	The DSSSB vide letter dated 20/05/2010 intimated that in view of the judgment dated 04/08/2009 of Supreme Court of India, the DSSSB is not in a position to declare the result in respect of ST candidates, as it may invite contempt proceedings against the board. The Supreme Court of India in Counter Affidavit No. 4494/2006 passed a judgment on 07/10/2010 that a two- Judge Bench

				<p>in Subhash Chandra & Anr v/s DSSSB & Ors of this Court could not have held the decision rendered by a three-Judge Bench in S. Pushpa case to be <u>obiter and pre-incurian</u>. The Court expressed the view that this case be place before the Hon'ble Chief Justice of India for constituting a Bench of appropriate strength. There is no information about further progress in the case. There is also no evidence on record to show that the Government of National Capital Territory of Delhi have withdrawn the Circular Order dated 30/06/2005 by which reservation to the civil posts under Government of NCT of Delhi, which are reserved for SC/ST candidates was restored to all the SC/ST candidates irrespective of their nativity.</p>
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| 5. | 15.04.2009
(Member TS) | Promotion of ST AEs to EEs in CPWD | To provide benefit of notional seniority to ST AEs & relaxation to seniors where juniors is being promoted. | 5 ST AEs had been promoted, others are yet to be promoted. |
| 6. | 11.05.2009
(Vice Chairperson) | Non payment of compensation/ job to Shri Marashalan Bud, displaced from his land in District Sundergarh, Orissa by RSP, Rourkela | To prepare & provide a list of STs displaced & compensation/job provided. | Reply not received. |
| 7. | 04.09.2009
(Member OSM) | Encroachment of land of ST people by non ST people in District Udham Singh Nagar, Uttarakhand | Long pending land dispute concerning ST people must be settled within a period of three months. | Commissioner, Kumaon Div. and DM, Udham Singh Nagar intimated that a number of cases had been filed by the ST applicants in the court of SDM and legal support is being extended to them. |

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| 8. | 28.10.2009
(Member
OSM) | Promotion of Shri K. R. Meena, Additional Surveyor General, Western Zone, Jaipur to the Post of Surveyor General. | The matter of seniority among Addl S.G. with representation of Shri K. R. Meena to be forwarded to the Do&PT for clarification comments/. On receipt of clarification, the charge of S.G. will be handed over to the Seniormost Addl. S.G. and till that time charge to be retained by Secretary, DST. | DoP&T clarified vide letter dated 06/05/2010 that current charge may be given as per the combined eligibility list as prescribed for promotion. Department of S&T vide letter dated 21/09/2010 intimated that Shri Swarana Subba Rao appointed as SGI with approval of ACC. |
| 9. | 09.11.2009
(Vice
Chairperson) | Shri R. B. Meshram requested to allot him LPG distributorship of Himachal Pradesh at Gadchiroli district of Maharashtra which was earlier allotted to Shri S. B. Dhakate based on the fake ST certificate. | HPCL to expedite the case for termination of dealership of Shri Dhakate in the Court, and to verify ST certificates of empanelled candidates before commissioning of dealership. | HPCL intimated vide letter dated 17/10/2009 that even if the dealership of Shri Dhakate is terminated, the same could not be allotted to Shri Meshram, as the panel was valid only for a year. |
| 10. | 13.01.2010
(Member
OSM) | Representation from Bodo Sahitya Sabha regarding diversion of funds received under 275 (1), non-filling of backlog vacancies, enhancement of scholarship to STs. | Contractual appointment should not be done, backlog reserved vacancies should be filled up through SRD, Post based roster should be maintained properly for all the posts. | No reply received. |
| 11. | 10/12/2008,
(CP)
26/10/2009
(VC) | KLM/1/2009/
MCVL1/SEHRMT/
RU-III | Cancellation of transfer from Delhi to Hyderabad on the basis of domestic circumstances. He also pointed out that he has been transferred | (1) Transfer order was recommended to be canceled with immediate effect and his salary / arrears from (1) Commissions recommendation was not implemented by the department concerned. Ultimately the petitioner joined at his new place |

and subjected to discrimination. the date it has been stopped to be released of posting i.e. at Hyderabad.

(2) Shri Manish Kumar could have been posted at Hyderabad against the post of AD or on promotion to the post of DD. (2) The Commission's recommendation was neither implemented/ nor replied to.

(3) Shri Meena may be promoted as DD(AS) as there is clear vacancy at Delhi also. (3) He has been promoted as DD(AS) in normal course and not on Commission's recommendation.

(4) No information furnished .

(4) Appropriate action against the erring officials be initiated.

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| 12. | 01.10.2009
(Vice
Chairperson) | Shri. D.P.
Meena, Khetri
Nagar,
Jhunjhunu,
Rajasthan.
Reinstatement
for the post of
clerk-cum-
cashier in State
Bank of Bikaner
and Jaipur | Advised the Bank
authorities to
reconsider the
review petition of
Shri Meena for
reinstatement into
service. | Not implemented. (M/o
Finance vide letter dated
07.01.2011 with the
comments/views of SBBJ,
Jaipur vide their letter dated
24.12.2010 that the Bank's
Executive Committee of the
Board taken a decision not
in a position to reinstate). |
| 13. | 06.10.2009
(Jt.
Secretary) | Shri Emmanuel
Lakra, Bhopal

Reinstatement
into service of
ST employee in
UIICL. | National
Commission for
Scheduled Tribes
recommended to
review the case
for proper re-
investigation into
the whole issue
before imposing
penalty of
dismissal from
service of the
petitioner. | Vide letter No.
HO:PER:SC/ST:148:
2009 dated 16.12.2009
UIICL reiterated the stand of
the earlier decision not to
reinstate. |
| 14. | 05.03.2010
Member
(TS) | Shri T. Sadar
Lal, Warangal
Reconsideration | National
Commission for
Scheduled Tribes | Not implemented.
Vide their Affidavit dated
10.05.2010 from the CMD, |

		of the penalty of withholding two increments imposed on ST employee and his promotion to the post of Chief Engineer in the APNPDCL, Warangal.	recommended to examine the appeal submitted by the petitioner for consideration regarding his promotion with retrospective effect.	APNPDCL, Warangal informed that with regard to the irregularities committed by Shri T. Sadar Lal, a fair and reasonable opportunity was given to him to defend his case effectively and after taking into consideration of all the aspects, he was imposed with minor penalty. Thus, the procedure adopted by the APNPDCL may be approved and drop further action in the matter.
15.	18.05.2009 Member (TS)	Shri S. Baa Harassment to ST employee- suspension of services by Central for Cultural Resources and Training,	The Commission recommended for revocation of the suspension order and withdrawing the disciplinary proceedings after the petitioner complies with the transfer order and joins duty at Guwahati. .	The Department implemented partially regarding revocation of suspension order and did not withdraw disciplinary proceedings.

**NATIONAL COMMISSION FOR SCHEDULED TRIBES
LIST OF SELECT CASES DEALT SUCCESSFULLY DURING – 2009-10**

Atrocity Cases

S. No.	File No.	Subject	Compliant/Source
1.	15/1/2010/STGHP/ATRAPE/RU-I	Molestation of Tribal Girls by Hostel In-charge in Kinnaur (H.P.)	Paper Clipping from Hindustan Times dated 10/02/2010
2.	SDV/Atrocity/Rajasthan/122/2009/RU-I	Physical Assault	Ms.Suman Devi Verma Shiv Nagar Murlipura Jaipur , Rajasthan
3.	UCM/9/Delhi/Atrocity/2009/RU-I	Harassment	Shri Uttam Chand Meena Flat no.22 pocket No.9 Sector-25 Delhi -110085
4.	Press Clipping/MP-1/Atrocity/2010/RU-III	Molestation	Press News Hindustan Times dated 21/3/2010
5.	News/1/2009/STGMP/ATPHHR/RU-III	Molestation	Press News Times of India dated 30/7/2009
6.	News/1/2009/Orissa/Atrocity/RU-III	Molestation	Press News Times of India dated 30/7/2009
7.	PM/1/2010/STGOR/ATRAPE/RU-III	Molestation & Harassment	Shri Pradeep Manjhi, Hon'ble Member of Parliament, Lok-Sabha, 38 Meena Bagh, Maulana Ajad Road, New Delhi.
8.	RU-IV/Atrocity/ AP-1/2008	Murder	Shri V. Nand Gopal, Director, Sakshi Human Right Watch, AP (Case of Shri B. Krishna, Khammam Distt., AP)
9.	RU-IV/Atrocity/ Karnataka-2/07	Demolition	Smt. K. Vidya, Mysore
10.	Kerala/ST-2/05/Atrocity/ RU-IV	Murder	Smt. Selvi, Agli, Palghat, Kerala (case of Shri Nanjan, Agli, Palghat, Kerala)

Service Matters

S. No.	File No.	Subject	Compliant/Source
1.	KCO/19/2009/MRLY1/SEHRMT/RU-I	Fixation of pay	Shri Karam Chand Uraon ,Loco ,Assistant Diesel Driver ,aasansol
2.	SPS/5/2009/MRLY1/SETRAN/RU-I	Promotion & Posting	Shri Samir Kumar Das Zonal Secy.A.I.SC & ST RlyEmp.Asso,Kolkata
3.	JSM/4/2009/MRLY1/SETRAN/RU-I	Transfer	Shri Samir Kumar Das Zonal Secy.A.I.SC & ST Rly Emp.Asso,Kolkata
4.	MLM/2/2009/MPPP1/SEOTH/RU-I	Inter cadre deputation	Shri Mohan Lal Meena, Plat. No.A-11 (J.D.A 82, J.P. Colony, Tonk Fatak, Jaipur Rajasthan
5.	HWE/3/2009/MRLY1/SETRAN/RU-I	Transfer	Shri H.Walter Ekka, Chowkidar, O/o the Senior Section Engineer, North Eastern Railway, City Store Varanasi Uttar Pradesh

6.	SM/4/2009/STGDH/ SEOTH/RU-I	Appointment	Ms.Sunita Meena , A-484 Gali No-7 Nangloi ,New Delhi
7.	KLDeuri/07/Rail/05 /Ser/2009RU-I	Harassment	Smt. Kanak Lata Deuri, East Gaushala, Joynagar, Maligaon, Guwahati
8.	ser/1/2009/MRLY1/ SETRAN/RU-I	Transfer	Ms.Maria Goretti Kujur, Norethern Railway Quarter No.122-B, Amritsar, Punjab
9.	Sriti Murmu/ser/hars/ Delhi/331/2009/RU-I	Appointment	Ms. Syiti Murmu, New Delhi
10.	AK/1/2010/STGDH/ SEHRMT/RU-I	Relaxation in Eligibility	Shri Anil Kumar , Flat No.24 , Pocket 1, Sector-7 Dwarka, New Delhi
11.	SRM/1/2010/MRLY1/ SETRAN/RU-I	Mutual Transfer	Shri Siyaram Meena C/o Heera Lal Meena , Kuwar Singh Nagar , Nagloi , Delhi
12	HS/2/2009/MPOW1/ SEOTH/RU-II	Refusal for Study Tour	General Secretary, NEEPCO Tribal Employees Welfare Association, H. O. Shillong, Meghalaya.
13	RMB/2/2009/MPNG1/ SEPROM/RU-II	Promotion	Shri R. M. Bhamre, Bharat Petroleum Corporation Limited, E&F Wing, 12 th Floor, Maker Towers, Cuffe Parade, Mumbai, Maharashtra.
14	PCM/1/2010/MURD2/ SEPROM/RU-II	Promotion	Shri Prakash Chand Meena, Section Officer (CSS-1998), Ministry Urban Development, Nirman Bhavan, New Delhi
15	<u>R-01/Heavy Industries-01/06/ RU-III</u>	Recruitment	Shri R. Bhav Singh President Bharat Dynamics ST Empl. Asso. Bharat Dynamics Ltd.
16	<u>MP-16/2006/ST/ Sevae/RU- III</u>	Pension	Late Kailash Dabar Ex-Sub-Inspector Badwani(MP)
17	<u>T-03/I&B-02/Service/06/RU- III</u>	Grant of ACP	Sh. Tsewang Nurbas Compare Announce Radio Kashmir Leh (J&K)
18	AO/23/2009/MHRD1/ SEOTH/RU-III	NOC	Shri Ajay Oraon, Lecturer BIT Sindhari, Dhanbad (Jharkhand)
19	PLM/Service/HRD/ 947/08/RU-III	Harassment	Sh. P.L. Meena, TGT(Hindi) Jawahar Navodya Vidhyalaya Khedli, District- Dhausa(Rajastan)
20	SRM/2/2009/MHFW1/ SEPROM/RU-III	Promotion	Shri Ram Meena LDC Kalawati Saran Children's Hospital, New Delhi
21	RNM/1/2009/MINB1/ SETRAN/RU-III	Transfer	Shri R.N. Meena, Assistant / UDC Doordarshan Kendra, Jaipur Rajasthan

22	S-31/LIC-25/2003- SSW-III- RU-IV	Reinstatement	Shri. Satya Narayan Meena, ADO, LIC
23	M-24/Tele-29/Commu/ ST/2003-SSW-I-RU-IV	Promotion	Shri. Manmohan Meena & others, MTNL
24	Commu./BSNL/1/ Service/2006/RU-IV	Transfer	Sh. Kanshi Ram, BSNL
25	RU-4/Service/Fin(Bank) - 15/2006	Medical assistance	Shri Clement Toppo, Cashier/Clerk, UBKG Bank, Sonho (Chhapra) Bihar
26	RU-IV/Service/ Maha-3/07	Verification of caste certificate	Ku. R.K. Madhavi, Lakhani post, Dist. Bhandara.
27	RU-IV/Service/ Finance- 64/2007	Appointment	Smt. Usha Rani widow of Shri B.K.Minz, Inspector, Central Excise, Raipur
28	RU-IV/Service/ Commu(BSNL)-6/2008	Wages	Smt. Krishnaveni, W/o Shri Gangadhara Rao, PTS, SDOT, Kothagudem,Khammam Dist. (AP)
29	RU-IV/Service/ Pondicherry/1/2008		Sh. K. Ram Kumar, State President, Pondicherry STs Peoples Federation, Pondicherry
30	KC/SERVICE/Defence/ OTHER/2008/154/RU-IV	Claim.	Smt. K. Chinnammi, Nakkalaputtu(V), Kindangi P.O., Paderu (ML), Vishakhapattanam, A.P.
31	KR/Service/Promotion/ 2008/217/RU-IV	Promotion.	Shri K. Rama Rao, Supdt.(Stores), Dredging Corp. of India Ltd, Visakhapatnam (AP)
32	PH/Service/Food(FCI)/ 648/08/RU-IV	Transfer	Shri P. Heeralal, Dy. General Manager, FCI, Chennai
33	NH/Service/Fin(LIC)/ 803/2008/RU-IV	Promotion	Shri. Nathaniel Hembrom, Assistant, LIC of India, Jalpaiguri.
34	DM/Service/Fin(Bank)/ 849/2008/RU-IV	Harassment.	Shri. Dulla Mardi, Ram Bagh, Purnia, Bihar
35	RM/Service/Fin(LIC)/ 880/2008/RU-IV	Transfer	Shri. Ramachandra Meena, LIC, Jaipur.
36	KS/Service/Commu(BSNL)/ 881/2008/RU-IV		Shri. Shanmugan, BSNL, Salem, Tamilnadu.
37	YCY/Service/Commu(BSNL)/ 882/2008/RU-IV	Promotion	Shri. Yellaiah, BSNL, Kurnool (AP).
38	ARB/Service/Maha/ 888/2008/RU-IV		Shri. Bhodhwar, Maharashtra.
39	JM/Service/Commu&IT(Post)/ 883/2008/RU-IV	Transfer	Shri. J. Majhi, Koraput, (Orissa)
40	MB/Service/Commu(BSNL)/ 1018/2008/RU-IV		Smt. Meera Barfal, BSNL, Dehradun.
41	CMK/Service/Fin(Bank)/ 108/2009/RU-IV	Transfer.	Shri Charles Manoj Kujur, Indian Bank, Ranchi
42	DR/1/2009/MFIN9/ SETRAN/RU-IV	Transfer.	Shri Dhorje Ram, State Bank of Indore, Bhind, Madhya Pradesh
43	SRM/2/2009/MFIN9/ SEFROM/RU-IV	Promotion.	Shri. Sita Ram Meena, NIACL, Jaipur
44	DN/1/2009/STGKN/ SEOTH/RU-IV		Shri Devendra Naik, General Secretary, KPCSC/STE A, Karnataka.

45	EB/1/2009/MCAP1/ SETRAN/RU-IV	Transfer	Shri. E. Balan, Area Manager, FCI, Borivali, Mumbai
46	RST/9/2009/MDEF2/ SEOTH/RU-IV	Training (Foreign)	Shri R.S. Thakur, IOFS, Joint GM, Ordnance Factory, Bhandra
47	JPM/1/2009/MFIN6/ SETRAN/RU-IV	Transfer	Shri J.P. Meena, LIC, Tonk Jaipur regarding
48	RN/2/2009/STGTN/ SEOTH/RU-IV	Subsistence allowance.	Smt. R. Nirnajanadevi, SFS College, Coimbatore, TN

Development matters

S. No.	File No.	Subject	Compliant/Source
1.	KBU/10/2009/ MPNG1/DEOTH/ RU-II	Establishment of Retail Outlet	Smt. Kumud Bala Uike, Qr. No. F-11, Forest Colony, Pandari, Raipur, Chhattisgarh
2.	<u>A-01/HRD- 1/Dev/06/RU-III</u>	Admission	Sh. A.R. Naik President A.P. Scheduled Tribe Welfare Asso. Warangal (A.P.)
3.	RU-IV/Dev/Mah./3/07	Land.	Shri. Devdas Domu Deccam, Maalutola, Sakoli, Bhandara.
4.	RU-IV/Dev./AP-8/2007	widow pension	Smt. B. Sumitra, Ekalavyanagar, Malkajgiri, Hyderanad.
5.	RU-IV/Dev./Mah- 21/2007	Delimitation	Shri. Purushottam U. Sonkusre, Advocate, Nagpur (Mah). seats for STs of Maha
6.	AH/Development/Bank/ 2008/325/RU-IV	Loan	Shri Anuj S. Hemrom, Bokaro Steel City
7.	HM/Development/ Others /2008/364/RU-IV	Cancellation of Membership.	Ms. Hemalata Minz, Kolkata
8.	IK/1/2009/STGKL/ DELAAL/RU-IV	Land.	Shri Irene Koo, Human Rights Section Asian Center for the Progress of People
9.	LG/2/2009/STGKL/ DELAAL/RU-IV	Land	Shri Ludo Goossens, Himeji, Honmachi 68, Japan

ANNEXURE- 7.I
(Ref. para 7.3.1 5R)

**Matters received for advice of National Commission for Scheduled Tribes
from various Ministries/ Deptts.**

S. No	Subject matter	Received from and Reference of communication	Reference of letter furnishing advice/ comments by the Commission
(1)	(2)	(3)	(4)
1	Comments on the Questionnaire received from Commission on Centre-State Relations [MHA]	MHA Letter No. 3-64/2007-CCSR dated 01.03.2008	Letter No. MHA-1/DevI../08/RU-III dated 25/08/2009
2	Reservation to Economically Backward Classes of General Category (unreserved category)	NEBCC, Ministry of Social Justice and Empowerment Letter No. 36/CEBC/2007 dated 15/01/2009	Letter No. MBS/Service/SJ&E/ EBC Reservation/ 2009/RU-II dt. 16/7/2009
3	Review of OM No. 36012/2/96-Estt.(Res.) dated 02.07.1997 issued by DoPT following Supreme Court decision dated 10.02.1995 in the case of R. K. Sabharwal, in the light of the judgment of the Supreme Court dated 16.09.1999 in the case of Ajit Singh-II and the comments of Attorney General of India thereon.	DoP&T Letter No. 36012/2/96-Estt(Res.) Part-V dated 22/11/2007	Letter No. Policy-06/Service/2008/R U-I dated 16/7/2009
4	Inclusion of 'MEDARA' community as a synonym of MEDA' community in the ST list of Karnataka (14 th meeting) 02.09.2009 {MTA}	MTA Letter No. 8/1/92-SS (Karnataka) dated 27/12/2006	Letter No. RU-IV/Service/Karnataka-2/2007 dated 11/09/2009 and 19/07/10
5	Draft policy for Shompens, a Particularly Vulnerable Tribal Group (PTG) of A&N Islands [MTA]	MTA Letter No. 17014/5/08-C& LM-I dated 12.08.2009	Letter No. 15/1/2009/STGAN / DEOTH/RU-III dated 18.09.2009
6	Revised 'The Delhi Educational Institutions (Reservation in Admission) Bill 2009 to provide for the reservation in admission of the students belonging to the Scheduled Castes, Scheduled	Directorate of Higher Education, Govt. of NCT Letter No. DHE.6(79)/2007-08/Part File-I/4346	Letter No. 17/5/2009/STGDH / DEEDUC/ RU-I dt. 13/11/2009

	Tribes and Other Backward Classes	dated 16/10/2009	
7	Draft Bill to regulate the issue of Community Certificate to persons belonging to SCs / STs / OBCs as per the directions of the Supreme Court of India in CA No. 4545 of 1994 (in the matter of Director of Tribal Welfare, Govt. of Andhra Pradesh V/s Lavette Giri and Anothers)	MTA Letter No. 12014/1/08-C&LM-I dated 19/02/2009	Letter No. NKG/2/2009/MTA F1/ SEOTH/RU-II dt. 01/12/2009
8	Summary Report of the Committee on draft Policy on Criminal Justice along with the copy of the Chapter 8.4 titled "Criminal Justice involving Dalits and Tribals".	MTA OM No. 12025/03/2007-C&LM II dated 12/09/2007	Letter No. Policy-1/MTA/Atrocity/2007/ RU-II dt. 01/12/2009
9	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	MTA Letter No. 4/3/2009-CP&R/C&LM II dated 27.10.2009	Letter No. 14/6/09/Devl./Orissa/ Policy/RU-III dated 05.11.2009
10	Grant of reservation to migrant SCs/ STs in civil posts under the Government of NCT of Delhi	MHA Letter No. U-13028/31/2006-Delhi-I dated 27.11.09	Letter No. 12/01/10-Coord dated 20.07.2010
11	Amendment to Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Rules, 1995	MTA Letter No. 16/12/2009-CP&R dated 04.12.2009	Letter No Policy-1/ATROCITY/MTA / 2010/RU-II dated 26.03.2010

Matters considered Suo-moto and Court Cases

(1)	(2)	(3)	(4)
12	The Scheduled Castes and the Scheduled Tribes (Reservation in Posts and Services) Bill 2008	Suo-moto	Letter no 13/1/NCST/2004-Admn/RU-I dated 26/03/2010 to DoP&T
13	Representation of all Scheduled Tribes in the Sikkim Legislative Assembly in the context of the proposal of the State Govt for increase of Assembly seats in the Sikkim	Out of representation from SIBLAC regarding reservation of seats in the	Letter No Sikkim-2/Inclusion/Service/2006/RU-II dated 01/12/2009 to MHA

	from 32 to 40	Assembly dated 31/10/2006	
14	Amendment of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 for providing time bound disposal of cases by the Special Courts	Suo-Moto	Letter No. 6/3/2006/Atrocity/ RU-II dated 16.07.2009 To M/o SJ&E
15	Writ Petition (S) No.6337 of 2008 in Chhattisgarh High Court at Bilaspur, filed by Shri M.K. Chaudhary & Others vs. State of Chhattisgarh & 12 Others regarding denial of promotion to SCs and STs Officers of Chhattisgarh State Electricity Board after bifurcation of Madhya Pradesh State Electricity Board, consequent to re-organisation of MP State in the year 2001 (12th Meeting, 24.06.2009)		The draft affidavit was forwarded to the Assistant Solicitor General of India at Bilaspur vide letter dated 02/01/2009 for preparing the final affidavit to be filed on behalf of the National Commission for Scheduled Tribes in the High Court of Chhattisgarh at Bilaspur in the above WP. Response from the ASG is awaited
16	Writ Petition (Civil) No. 590 of 2008 of Shri Surmukh Singh vs Union of India and Ors. in the Supreme Court of India regarding rotation of reserved Assembly and Parliamentary Constituencies in the State of Haryana and also in whole of India after each General Assembly/ Parliamentary Election respectively. (13th Meeting 3 rd July)	Supreme Court Notice dated 23/12/2008	CA filed in the Supreme Court as confirmed by the GSC on 04/02/2010
17	Writ Petition No. 3528 of 2009 filed by Shri Purushottam Sonkusre vs Delimitation Commission, New Delhi & Ors. in the High Court of Bombay, Nagpur Bench challenging the list of Assembly constituencies reserved for STs in the Maharashtra Legislative Assembly	High Court of Maharashtra, Nagpur Bench	The views of the Commission were communicated to the Ministry of Law & Justice and the Ministry of Tribal Affairs vide Commission's letter dated 18.03.2010