

**ACTION TAKEN MEMORANDUM
ON THE FIRST REPORT OF
THE NATIONAL COMMISSION
FOR
THE SCHEDULED TRIBES
FOR
THE YEARS
2004-2005 AND 2005-2006**



सत्यमेव जयते

**Government of India
Ministry of Tribal Affairs**

INDEX

S L. No.	Chapter No.	<u>Page No.</u>	
		<u>From</u>	<u>To</u>
1	<u>Chapter -1</u> Organizational Set up and Functioning of the Commission	1	2
2	<u>Chapter-2</u> Constitutional Provisions for Protection and Development of Scheduled Tribes	3	4
3	<u>Chapter-3</u> Socio-economic Development Of Scheduled Tribes	5	42
4	<u>Chapter-4</u> Resettlement and Rehabilitation of Displaced Tribals	43	47
5	<u>Chapter-5</u> Educational Development of Scheduled Tribes	48	70
6	<u>Chapter-6</u> Service Safeguards	71	89
7	<u>Chapter-7</u> Issuance and Verification of Scheduled Tribe Certificates	90	99
8	<u>Chapter-8</u> Crime and Atrocity on the Scheduled Tribes	100	102

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Chapter-1

Chapter-1: Organizational Set up and Functioning of the Commission

Recommendation Nos. 1 to 4

Page 337

1. The Commission has been experiencing severe functional problems on account of a large number of vacant posts. The Ministry of Social Justice & Empowerment and the National Commission for Scheduled Castes who are the cadre controlling authority with respect to Joint Cadre posts and cadre authority with respect to Secretariat posts are advised to make concerted efforts to fill up these vacant posts to enable the Commission to discharge its constitutional obligations in an effective manner. The Commission also requests the Ministry of Tribal Affairs to take necessary steps to provide additional staff to enable the Commission to effectively deal with the expanded terms of reference of the Commission. **[Para:1.9.4]**

Page No. 337

2. There is an urgent need to upgrade the level of Heads of Offices of the four Regional Offices of the Commission at Bhubaneswar, Raipur, Ranchi and Shillong to the level of Director by creating four additional posts of Director. **[Para:1.13.1(i)]**

Page No. 337

3. There is also an urgent need to augment the existing strength of the supporting staff (other than the Heads of Offices) in the six Regional Offices of the Commission as given in **column 4 of the Table below [Para:1.13.1(ii)]**

Page No.337

4. The existing jurisdiction of the five Regional Offices (out of six) of the Commission is so large that the Commission has been finding it impossible to properly monitor the implementation of various programmes for socio-economic and educational development of Scheduled Tribes, the reservation policy of the Government and making spot visits for enquiring into atrocity cases on Scheduled Tribes, in the States falling within their jurisdiction. There is, therefore, urgent and genuine need for creation of four additional Regional Offices of the Commission, one each at Hyderabad (Andhra Pradesh), Nagpur (Maharashtra), Shimla (Himachal Pradesh) and Ahmedabad (Gujarat) with a view to ensure the presence of the Commission in the Fifth Schedule Area States with the minimum complement of staff as given below **[Para 1.13.1 (iii)]**

Action Taken on Nos. 1 to 4

The cadres of various posts in the National Commission for Scheduled Tribes (NCST) and its Regional Offices are controlled by the Department of Personnel & Training (DOP&T), Ministry of Social Justice and Empowerment (M/SJ&E) and the National Commission for Scheduled Castes (NCSC). Since the Ministry of Tribal Affairs (MTA) does not control any cadre of the Commission, the vacancies occurring there cannot be filled by MTA. However, the MTA has taken up the issue for the creation of a separate cadre for the MTA, along with that of NCST, with the DOP&T. The DOP&T has called for comments on certain issues. The clarifications/comments have already been conveyed to the DOP&T for further consideration of the case. The DOP&T has been reminded on 17.09.2010, 29.10.2010, 10.01.2011, 07.02.2011, 19.04.2011, 17.11.2011 and on 30.01.2012 with a request to issue necessary orders regarding separate cadre for the MTA, along with that of the NCST. The NCST has also taken up the matter for filling up of vacancies in the Joint Cadre with National Commission for SCs/ Ministry of Social Justice & Empowerment from time to time.

Regarding additional manpower and setting up of additional Regional Offices for the NCST, by strengthening of the Commission in pursuance of the recommendations contained in the thirty-third Report (14th Lok Sabha) of the Committee on the welfare of SCs, a proposal was forwarded to IFD of this Ministry for creation of 481 posts and infrastructure thereof in the NCST and a subsequent meeting was held in the Ministry with the officers of the NCST and IFD of this Ministry about the funding pattern and modalities in April, 2011. Subsequently, NCST had proposed the expenditure to be made from non-plan and with that proposal, the issue was referred to IFD. Thereafter, IFD made certain observations including funding pattern under non-plan and accordingly the file was sent to NCST on 29.11.2011 for taking necessary decision. The response from NCST is still awaited. NCST has been reminded on 27.01.2012 for resubmitting the proposal.

Chapter-2

Chapter-2 Constitutional Provisions for Protection and Development Scheduled Tribes

Recommendation No.1

Page No.337

Proviso to Article 164 (1) of the Constitution may be suitably amended to make its provisions applicable for newly formed States of Jharkhand and Chhatisgarh and all other States, which have the fifth Schedule Areas to provide that each of these States shall also have a Minister in charge of tribal welfare who may, in addition, be in charge of the welfare of the Scheduled Castes and backward classes or any other such work. **[Para 2.2.4 (i)]**

Action Taken

The provision contained in Article 164(1) of the Constitution has been extended to the newly formed States of Jharkhand and Chhattisgarh under the Constitution (94th Amendment) Act, 2006, dated 13/06/2006.

Recommendation No. 2 (a) to 2 (b)

Page No.338

2 (a): Clauses (6) of Article 338A of the Constitution should be amended to provide that the Report (s) submitted by the Commission shall be laid before each House of Parliament within three months of such submission and a memorandum explaining the action taken or proposed to be taken on the recommendations relating to the Union and the reasons for the non- acceptance, if any, of any of such recommendations shall be placed before each House of the Parliament within six months of such submission. **[Column 3 of the Table below para 2.3.2 against Sl.No.1]**

Page No.338

2(b): Clause (7) of Article 338A of the Constitution should also be amended to provide that where any such report, or any part thereof, relates to any matter with which any State Government is concerned, a copy of such report shall be forwarded to the Governor of the State who shall cause it to be laid before the Legislature of the State within three months and a memorandum explaining the action taken or proposed to be taken on the recommendations relating to the State and the reasons for the non-acceptance, if any, of any of such recommendations shall be laid before the Legislature within six months of such submission. **[Column 3 of the Table below para 2.3.2 against Sl.No.2]**

Action Taken on Nos. 2(a) and 2(b):

Effort is being made by MTA to lay the Report(s) in Parliament as promptly as possible. Action required to be taken involves many agencies. Meanwhile, steps have been taken in the Ministry to streamline the procedure for laying the Reports of the Commission in each House of the Parliament. Hence, it is not considered necessary to go in for amendment of the Clauses 6 & 7 of Article 338 A of the Constitution. The States have already been advised to take prompt action in respect of clause 7 of Article 338 A of the Constitution.

Chapter-3

Chapter-3: Socio-economic Development of Scheduled Tribes

Recommendation No.1

Page No.338

The Ministry of Home Affairs should advise the Registrar General and the Census Commissioner of India to commission a special study to find out the reasons for steep increase in the population of Scheduled Tribes in respect of the State of Karnataka (80.82%) and Nagaland (67.23%) during the decade from 1991 to 2001. **[Para: 3.2.1]**

Action Taken

The views of the Office of the Registrar General and Census Commissioner, India, are as under :-

A. Karnataka :

In Karnataka, Scheduled Tribes Population has increased in absolute number from 19.16 lakhs at 1991 Census to 34.64 lakhs at 2001 Census. In percentage terms, decadal growth has been 80.8% during 1991-2001. It has been observed at the macro level that 'Naikda, Nayaka, Cholivala Nayaka....' (Sl. No. 38) are the largest STs in the State and constitute 84.3 percent of the total ST population, as per the 2001 Census. The steep increase in the population of Naikda etc. and overall ST population of the State, is likely due to the inclusion of 'Naik, Nayak, Beda, Bedar and Valmiki' as sub-groups of Naikda after 1991 Census. They have been enumerated for the first time at 2001 Census. These inclusions thus appear to be the reason for the population of Naikda to increase from 1,370,455 at 1991 Census to 2,918,649 at 2001 Census.

The steep growth of ST population in Karnataka is also due to inclusion of the sub-groups of Naikda in the list of STs in the State. That being the case, no study is proposed to be commissioned to ascertain the reason for increase in population of STs in the State.

B. Nagaland

One study project Viz, "Vital Rate Survey, Nagaland (VRS)" to find out reasons for steep increase of ST population in Nagaland was Commissioned and entrusted to the International Institute of Population Studies (IIPS), Mumbai. The office of the RGI has informed that the study has been completed.

Recommendation No.2

Page No.338

Now when the Govt. of NCT of Delhi have decided to restore the benefits of reservation to ST candidates irrespective of their nativity in civil posts under them, the Ministry of Home Affairs should advise the Registrar General and Census Commissioner of India to enumerate in the next Census of 2011 the migrant population of Scheduled Tribes residing in the National Capital Territory of Delhi and other UTs. **[Para: 3.2.3]**

Action Taken

The Office of the Registrar General and Census Commissioner, India, has observed that Indian Census follows the extended de-facto method of canvassing. As per this, all persons are counted at the place of their normal residence irrespective of their place of origin and constitutional status.

The recording of ST status is done strictly on the basis of the list of Scheduled Tribes notified as per provision of Article 342 of the Constitution of India. The State/UT restrictions as well as the intra- State/UT restrictions are as per the Constitutional Orders. The Census organization only faithfully implements the policy of the Government of India. Hence it is duty bound to follow the Presidential Order in force for each State/UT.

In the case of NCT of Delhi, there is no Presidential Notification of Scheduled Tribes under Article 342 of the Constitution.

Regarding benefits to migrant STs in NCT of Delhi and other places the matter is, at present, sub-judice.

Recommendation No. 3 (a) to (d)

Page Nos. 338-339

3 (a): The Ministry of Tribal Affairs should prescribe a uniform format for preparation and submission of the reports by the Governors in respect of 5th Schedule States with particular reference to its contents. The Ministry of Tribal Affairs should also issue the following instructions to the State Governments to the effect that: **[Para:3.3.5(i)]**

3 (a) (i): The reports should reach the Govt. of India (Ministry of Tribal Affairs) within a period of six months of closing of the financial year and.

3 (a) (ii): The States, which have TACs, should ensure that TACs are constituted/reconstituted timely and that their meetings are held regularly as per Constitutional provisions.

3 (a) (iii): The reports should contain a detailed note on the implementation of the constitutional safeguards for promotion of educational

and socio-economic development of the Scheduled Tribes. These reports should also contain a brief on problems relating to law and order, naxal movements and tribal unrest. The reports should also make a mention about Central and State laws enacted in the State during the report period and extension/applicability of those laws to Scheduled Areas in the light of the powers of the Governor under Fifth Schedule. Working of PESA Act in the State should also be integral part of the Governor's report.

Page No.339

3 (b): In case the reports do not contain the observations of TAC, they may be sent back to the State Governments advising them to apprise the Central Government of the observations of the TACs and action taken on the observations of TAC. **[Para:3.3.5(ii)]**

Page No.339

3 (c): The reports should be thoroughly examined in the Ministry of Tribal Affairs on the basis of the material contained in them and the State Governments should be apprised of the assessment to enable them to take necessary follow-up action. **[Para:3.3.5 (iii)]**

Page No.339

3 (d): A copy of the Governor's Report should be made available to the National Commission for Scheduled Tribes immediately after receipt of the Report in the Ministry to enable the Commission to examine the same and offer its comments thereon. **[Para:3.3.5 (iv)]**

Action Taken

3(a): There is already a set of format/ guidelines for preparation and submission of the Governor's Report on the Administration of the Scheduled Areas. The same is being revised.

3 (a) (i): The State Governments have been advised to take appropriate action in the light of the recommendations of NCST and ensure that the Tribes Advisory council (TAC) meetings are held regularly.

3 (a) (ii): The existing guidelines inter-alia stipulate that the Governor's Report should be submitted within a period of six months of closing of the financial year. i.e. 30th September of each year.

3 (a) (iii): As per the existing Guidelines, the contents of the Governor's report should be such as to lead to specific action both by the State and the Union

Government with the avowed objective of improving the level of administration and development of Scheduled Area.

As regards inclusion of the working of PESA Act in the Governor's Report, the Ministry of Panchayati Raj has been requested to take up the matter with the State Governments concerned.

3 (b): The Ministry is in touch with the States on this issue. As per the guidelines, the report of the Governor should be placed before TAC and the observation made by the TAC should be dealt within the report indicating steps taken in accordance with the recommendation of TAC.

3 (c): The Ministry of Tribal Affairs (MTA) examines the report and sends it, along with the observations of the MTA, to the President's Secretariat for kind perusal of the Hon'ble President. The observations are also sent to the State Governments concerned for appropriate action.

3 (d): A copy of the Reports will be sent to the NCST after the same have been submitted to the Hon'ble President.

Recommendation No. 4 (a) to (c)

Page No.339

4 (a): All the areas covered under Integrated Tribal Development Projects (ITDPs), Modified Area Development Approach (MADA) Pockets and Clusters included in Tribal-Sub-Plan of the States should be made co-terminus with the Scheduled Areas of the respective State. **[Para:3.3.6(i)]**

Page No.339

4 (b): It has been brought to the notice of the Commission that in certain cases ITDP was functioning in one single district and subsequently a new district was created out of the that district. It may be ensured that the ITDP areas covering these two districts do not face any problem in the matter of release of funds.

Page No.339

4 (c): All such revenue villages having 50% or more tribal population as per 2001 Census but presently not included in Scheduled Areas of the State concerned, may be included in Scheduled Areas or MADA or Clusters, as the case may be, of the respective State. **[Para:3.3.6(ii)]**

Action Taken

4 (a): The ITDPs/ITDAs in the States having scheduled areas have already been made co-terminus with the Scheduled Areas except in the State of Andhra Pradesh. All the States having Scheduled Areas have also been requested to submit their comments/ views on the issue of rationalization of Scheduled Areas to include MADA Pockets and left out ITDP/ITDA/TSP Areas.

4(b) and 4(c): The ITDP/MADA Pockets and Clusters are declared on the basis of proposals received from the State Governments. Hence, the State Governments need to submit their proposals keeping in view the recommendation of the Commission.

Recommendation No. 5

Page No.339

The State Govts. may be advised to take necessary action in terms of Section 4(n) of the PESA Act, 1996 to equip Panchayats with requisite powers and authority to enable them to function as institution of self-government. **[Para:3.5.4]**

Action Taken

The Ministry of Panchayati Raj had constituted a Sub-committee under the Chairmanship of Dr. B.D. Sharma to draft Model Guidelines to vest Gram Sabha with powers. The recommendations of the committee were forwarded to all 9 PESA States for appropriate action.

Recommendation No.6

Page No.339

6. There is a need to devise a mechanism, which would enable the field formations to receive funds directly instead of being routed through State Hqrs. by enforcing on them a system of accountability for proper utilization of those funds. **[Para:3.5.6]**

Action Taken

The prevailing system of releasing funds by the MTA to the State Governments is considered to be the best option. This also ensures accountability of the State Governments for funds released.

Recommendation No.7 (a) to (b)

Page No. 339

7 (a): The Ministry of Rural Development may be advised to make suitable amendments in the Land Acquisition Act, 1894 to make it conform to the provisions of PESA Act, 1996 in respect of endowing the Panchayats at the appropriate level and the Gram Sabhas with necessary powers for making any acquisition of land for resettlement and rehabilitation of displaced persons **[Para:3.5.7 (i)]**

Page No. 339-340

7 (b): The Ministry of Environment & Forests may be advised to make suitable amendments in the Indian Forest Act, 1927 to make its provision consistent with the provisions of PESA Act, 1996 in respect of endowing Panchayats at the appropriate level and the Gram Sabhas with necessary powers with respect to conferring ownership of minor forest produce. **[Para:3.5.7 (ii)]**

Action Taken

7 (a) and (b): The Department of Land Resources has formulated the National Rehabilitation & Resettlement Policy- 2007 (NRRP-2007), which came into force with its publication in the Gazette of India on 31st October, 2007. It has been circulated to all the Ministries/Departments of the Government of India and also to the States/UTs concerned for implementation.

2. In order to give statutory backing to the provisions of the NRRP-2007 and to align the provisions of the Land Acquisition Act, 1894, with the aims and objectives of the Policy, a Bill has been introduced in Parliament.

3. **Section 3(1)(c) of the "Scheduled Tribes and other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006" stipulates "the right of ownership, access to collect, use, and dispose of minor forest produce which has been traditionally collected within or outside village boundaries."** Thus the issue of Minor Forest Produce (MFPs) with respect to local forest communities has been adequately addressed by this Act. For this purpose, Gram Sabha has been empowered under Section (6) of the Act to initiate the process of determining the nature and extent of individual or community forest rights.

4. In view of the above provisions which adequately address the issue of strengthening of Gram Panchayats at the appropriate level and MFP usufructory rights for local communities, there is no need of making amendments in the Indian Forest Act, 1927, as it is not in contravention of the FRA provision.

Recommendation No.8

Page No.340

There is a need to advise the State Govts. to ensure that the State legislations on Panchayats should conform with the customary law, social and religious practices and traditional management practices of community resources and where the State Govts. have enacted legislations which do not conform with the customary law, social religious practices and traditional management practices, they should initiate corrective action to make suitable amendments in the State legislations. **[Para:3.5.8 (i)]**

Action Taken

The Ministry of Panchayati Raj had entrusted to the Indian Law Institute (ILI) the task of Identifying the amendments to be made in the State Laws of each of 9 PESA States. The Report received from the ILI was forwarded to all 9 PESA States to guide them to incorporate appropriate amendments in the relevant State Laws to achieve conformity with the Provisions of PESA, 1996.

Recommendation No.9

Page No.340

The Ministry of Tribal Affairs should make all possible efforts to expedite the passing of the Scheduled Tribes (Recognition of Forest Rights) Bill, 2005 which has already been introduced in Parliament and referred to the Joint Parliamentary Committee (JPC) for further examination which, inter alia, addresses the problems of the tribals relating to grant of pattas in respect of the forest land on which they have been cultivating/living for generations. **[Para:3.5.8(ii)]**

Action Taken

The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, was published in the Gazette of India, Extraordinary, Part II – Section – I on 02/01/2007. The Act was notified for operation with effect from 31/12/2007.

Recommendation No.10 (a) to (b)

Page No.340

10 (a): The Commission has observed that necessary steps are not being taken by the State Govts. to preserve the tribal heritage particularly their art and crafts, places of worship, historical museums, historical monuments etc. The State Govts., therefore, may be advised:

Page No. 340

10 (a) (i): To take necessary steps to preserve the cultural heritage of the tribal people with particular reference to (i) places of worship, (ii) historical museums, (iii) historical monuments and (iv) tribal art and crafts. **[Para:3.5.9(i)]**

Page No. 340

10 (a) (ii): To create a Tribal Cell within the Tribal Welfare Department of each State to monitor the activities being taken by the State Govts. with respect to item No.(i) and to advise the State Govts. regarding additional measures to be taken to maintain and preserve the tribal culture and heritage. **[Para:3.5.9(ii)]**

Page No. 340

10 (b): The Archeological Survey of India, (Govt. of India) and its counterparts in the States should also be advised to pay special attention to preserve the rich tribal culture and heritage. **[Para:3.5.10]**

Action Taken

10 (a) and (b): The State Govts., all subordinate/ autonomous organization, and also the director, ASI, Janpath, New Delhi, have been advised by the Ministry of Culture to take appropriate action with a view to implement the Recommendations of the Commission.

(i). The Ministry of Tribal Affairs has also commissioned a project for creation of a National Consortium of Indian Tribal Arts and Culture undertaken by Bhasha Research and Publication Centre, Vadodara (Gujarat). The Consortium aims at cultural transmission of all the tribal artifacts of the tribal museums of different Tribal Research Institutes (TRIs) in the country at one place through high-tech digital technology without physically removing the material from the Tribal Research Institutes (TRIs). The objectives of the projects are to update museological skills, build a common inventory of artifacts/events associated with museum and museological publications, create stationary, mobile exhibitions, etc.

(ii). The Ministry also supports construction of tribal museums within the premises of the TRIs to preserve the tribal art, craft and tribal culture. Also, in order to preserve, showcase and promote various facets of tribal life relating to their culture, traditions and customs, grants are provided to States/UTs for organizing tribal festival at the regional level in collaboration with the nodal Ministry/Department.

Recommendation No.11 (a) to (h)

Page no. 340

11(a): The Planning Commission should make the release of Plan funds to the Central Ministries/Departments conditional to the earmarking of requisite 8.2% of these funds to the TSP in proportion to the ST population of the country (which is 8.2% of the total population). Alternatively, the Planning Commission itself while approving the Plan outlays of the various Ministries/Departments should earmark 8.2% of these outlays to be spent exclusively on activities relating to welfare of Scheduled Tribes under TSP. **[Para:3.6.4.5 (i)]**

11 (b): The Planning Commission in consultation with Ministry of Tribal Affairs should also review their decision whether some of the Ministries/Departments can be exempted from apportioning 8.2% of their Plan outlays for being spent on activities relating to tribal development in relation to the subjects being handled by them. **[Para:3.6.4.5 (ii)]**

Page No. 340-341

11 (C): The Ministry of Tribal Affairs should issue instructions to all the Ministries dealing with development programmes that they must indicate in their Annual Reports the specific percentage of their plan budget earmarked for Tribal Sub-Plan and the activities undertaken by them under the TSP budget for tribal development in the country. **[Para:3.6.4.5 (iii)]**

Page No.341

11(d): The funds allocated under TSP which are not spent at the end of the financial year by the States/UTs or Central Ministries should be made non-lapsable as in the case of the grants-in-aid to the State Govts. and UT Administrations under SCA to TSP and Article 275(1) of the Constitution. **[Para:3.6.4.5(iv)]**

Page No.341

11 (e): The Ministry of Tribal Affairs should constitute a Committee consisting of representatives from Ministries/Departments concerned with developmental work etc. and representatives of Planning Commission and National Commission for Scheduled Tribes to consider proposals received from State Govts. both under the scheme of Special Central Assistance (SCA) to Tribal Sub-Plan (TSP), and the scheme of giving grants under First Proviso to Article 275(1). **[Para:3.6.6.2]**

Page No. 341

11 (f): The State Govts./UT Administrations should be advised to make 100% utilization of these grants under SCA to TSP and under First Proviso to Article 275(1) by the end of the concerned financial year and in case the State Govts. fail to utilize these grants by the mid of the next financial year, the Ministry of Tribal Affairs should fix up the responsibility for non-utilization of the grants and advise the concerned State Govts. to make full utilization of the grants on tribal development programmes in the next financial year. **[Para:3.6.6.5(i)]**

Page No. 341

11 (g): The State Govts. should be advised to ensure that the funds available under the grants given under SCA to TSP and First Proviso to Article 275(1) are not diverted under any circumstance to any other area not connected with tribal development. The State Govts. should also be advised to submit to the Ministry of Tribal Affairs a statement of details of actual expenditure of these grants on various tribal development programmes within three months of the close of the concerned financial year with a view to exercise

check both on timely utilization of the money on tribal welfare schemes as well as on non-diversion of these grants to other areas. [Para:3.6.6.5(ii)]

Page No. 341

11 (h): The details of the grants received under SCA to TSP and Article 275 (1) and the expenditure incurred by the State Govts. on various schemes/programmes for socio-economic development of Scheduled Tribes should also form part of the report of the Governor which is required to be annually submitted to the Central Government in terms of para 5 (1) of the Fifth Schedule to the Constitution of India.[Para:3.6.6.5(ii)]

Action Taken

11 (a) to (d): The Tribal Sub Plan (TSP) approach is a two-pronged strategy: (a) earmarking of funds by Central Ministries from their Budget Outlay, and (b) earmarking of funds by the State Governments concerned from State Annual Plan Outlay. Since on both the fronts implementation was not considered satisfactory, the Planning Commission set up the Task Force under the Chairmanship of Dr. Narendra Jadhav, Member, Planning Commission, in June, 2010, to review the operational difficulties in implementation of TSP both at the Central and State levels. The Task Force submitted the 1st report on 26.11.2010, with the following broad recommendations:

- 28 identified Central Ministries / Departments are required to earmark funds as TSP allocation, on differential percentage basis:

- Deptt. of Exprd. would allocate funds under the minor head for TSP '796' from 2011-12.

- unutilized funds of a Ministry during a financial year need not lapse but be transferred to a Central pool of TSP funds and placed at the disposal of Min. of Tribal Affairs.

- approval of Cabinet be taken to ensure better compliance of the revised guidelines.

Based on the above, the Planning Commission has issued directions to all the Central Ministries/Depts. concerned for implementation of the recommendations on differentiated earmarking from Annual Plan 2011-12. The Ministry has also written to the Central Ministries concerned on the matter seeking compliance.

In so far as the implementation of TSP in the State Governments/UTs is concerned, the task force is examining the matter separately and is in the process of finalizing its recommendations.

11 (e): The Ministry has been following the scheme guidelines in respect of proposals received under SCA to TSP and Grant-in-aid under Article 275(1) of the Constitution.

11 (f): The releases of funds under SCA to TSP and Article 275(1) of the Constitution are made to the States based on proposals received from the States along with utilization status of previous releases, physical progress achieved during the previous year, etc, in accordance with the instructions of the Ministry of Finance.

The Ministry has been repeatedly advising the State Govts. to improve the pace of implementation to ensure proper utilization of funds.

11 (g): The Tribal Sub-Plan approach is devised to ensure that State Governments earmark funds at least in proportion to the ST population of the State and also expend the same for tribal development in areas identified. While some of the States follow this approach, some others have been defaulting. The Task Force referred to above is reviewing the extant policy and further action shall be based on the recommendations of the Task Force.

11 (h): The State Govts. have been requested to reflect the details of development programmes undertaken, financial allocation used and physical targets achieved so as to form part of the report of the Governor which is required to be submitted annually to the Hon'ble President in terms of para 3 of the Fifth Schedule to the Constitution.

Recommendation No.12

Page No. 341

12. On the lines of the procedure adopted by the Ministry of Rural Development which makes direct releases to DRDAs, the Ministry of Tribal Affairs as also other Ministries should consider opening direct channels to the implementing agencies at the district levels and ensure direct flow of funds to the ITDPs or the District Panchayats. **[Para:3.6.6.6]**

Action Taken

The matter has been examined in consultation with the Ministry of Finance and the Planning Commission, but direct release of funds under SCA to Tribal sub plan (TSP) has not been agreed to. In the case of release of funds under Article 275 (1) of the Constitution, grants have to be released to State Governments and not to the implementing agencies directly.

Recommendation No. 13(a) to (d)

Page No. 341-342

13 (a): There is a need to review the functioning of the projects undertaken for the development of PTGs under the centrally sponsored scheme, which was

launched seven years ago (i.e. 1998-99). This will also give an opportunity to the Government to find out whether NGOs have given better results than the

Government agencies in the matter of development of PTGs and, if so, such NGOs need to be encouraged by entrusting them projects in respect of other PTGs under the scheme. **[Para:3.7.3]**

Page No. 342

13 (b): The projects/schemes relating to development of PTGs should be given, amongst others, only to such NGOs which have a established reputation of working for PTGs with full involvement and a high sense of commitment for more than 15-20 years. **[Para:3.7.3]**

Page No. 342

13 (c): The Ministry of Tribal Affairs should ensure that the grants are released to the concerned States (having PTGs) in the first quarter of the financial year to allow them maximum time to spend the money on the development of PTGs. The Ministry of Tribal Affairs should also assess the reasons for non-utilization of funds sanctioned by the Ministry for development of PTGs and also fix accountability for non-utilization of these grants. The Ministry of Tribal Affairs should also advise the State Govt:

Page No. 342

13 (c) (i): To make all out efforts to ensure that the grants released by the Central Government is spent on the developmental programmes of PTGs by the end of the relevant financial year. **[Para:3.7.7(i)]**

Page No. 342

13 (c) (ii): To submit to the Ministry of Tribal Affairs a detailed statements of utilization of the grants on various tribal development programmes within two months of the expiry of the concerned financial year. **[Para:3.7.7 (ii)]**

Page No. 342

13 (c) (iii): That the benefits of programmes/schemes for the development of the PTGs should also be made available on similar lines to the PTGs living outside the PTGs project areas. **[Para:3.7.7 (iii)]**

Page No. 342

13 (d): In view of the low level of literacy, extreme economic backwardness, pre-agricultural level of technology, stagnant & diminishing population, and primitive characteristics, Maleru community, already recognized as a Scheduled Tribe should also be included in the list of Primitive Tribal Groups (PTGs). **[Para:3.8.2]**

Action Taken

13 (a): Indian Institute of Public Administration, New Delhi, carried out a Study 'An Assessment of Primitive Tribal Groups and Strategy for Development in Orissa, Jharkhand, Gujarat and Tamil Nadu' in 2006. The recommendations of this Study were also taken into account when the scheme was revised in 2007-08. The revised scheme is being implemented through Conservation-cum-Development (CCD) Plan prepared for a period of five years by each State Government/UT Administration. Earlier, the scheme was being implemented as per the Annual Plans proposed by the State Governments/UT Administrations. In the revised scheme hamlet/habitat development approach has been adopted and monitoring & evaluation has been given due importance. The NGOs are involved as implementing agencies to supplement the efforts of State Governments as per the CCD Plans. Only reputed NGOs have been involved in the implementation of CCD Plans.

13 (b): At present, all NGOs working with the State Governments under the scheme of Development of PTGs are well reputed.

13 (c), (i) & (ii): Ministry is making all efforts to ensure that the recommendation of NCST in regard to timely release of grants is followed in all the States/UTs having PTG population. Already detailed communications have been sent to States/UTs to ensure that complete proposals are received and grants are released in the first quarter of the financial year. Compilation and settlement of accounts and furnishing of requisite details to the Ministry take time. Hence, the States may not be in a position to furnish the details within two months of the expiry of the concerned financial year. Moreover, some components of CCD Plans such as creation of infrastructure takes time for completion. Therefore, the deadline of submitting detailed statements of utilization of the grants within two months of the expiry of the concerned financial year may not be possible to adhere to. All efforts are being made to address these issues during the exercise of the preparation of CCD Plans for the XIIth Plan Period. The main reason for non-utilization of funds is due to the delay in execution of projects at site and compilation of expenditure report, etc. The State Governments have been asked to ensure speedy execution of the project. However, the Ministry ensures prompt release of funds on receipt of UCs and other related documents.

13 (c) (iii): As per the scheme guidelines the entire PTG population is entitled to the benefits of the scheme of Development of PTGs. Already the State Governments have been instructed to prepare CCD Plans taking into consideration the holistic need of each PTG population. The issue of covering entire PTG population of a State shall be adequately addressed to during the XIIth Five Year Plan Period.

13 (d): For identification of PTGs, the recommendation/ justification from the State Government / UT administration concerned is necessary. No proposal has been received from any State Government to identify Maleru community as PTGs.

Recommendation No. 14 (a) to (b)

Page No. 342

14 (a): There is a need to advise the State Govts. for early distribution of the ceiling surplus land to the landless tribals and also for early restoration of the lands which are in litigation in the courts by setting up Fast Track courts at district level and Mobile courts upto Tehsil levels. **[Para:3.9.5 (i)]**

Page No. 342

14 (b): The State Govts. should also be advised to ensure that: -

14 (b) (i): suitable entries about allotment of ceiling surplus lands to the tribals are made in the land records and that the actual possession has been given to the tribal allottees. **[Para:3.9.5 (ii)]**

Page No. 342

14 (b) (ii): The pattas of the land are granted to the tribals who have been assigned lands by the Government or who have been cultivating the lands for years together say, for more than 10 years. **[Para:3.9.6(i)]**

Page No. 342

14 (b) (iii): A copy of Khasra Khatauni along with a map of the holdings should, on demand, be made available to every tribal family without charging any fee. **[Para:3.9.6(ii)]**

Page No. 343

14 (b) (iv): The revenue records of the holdings i.e. the Khasra Khatauni and map etc. along with the details containing the names of the owners and number and area of holdings should be kept in the custody of Gram Panchayats to save the tribals from the exploitation by Patwaris by denying correct information to the tribals. **[Para:3.9.6(iii)]**

Page No. 343

14 (b) (v): Any entry in the Khasra Khatauni by way of mutation of land records should be made by the Patwaris with the approval of the Gram Panchayat, as is being done in the State of Madhya Pradesh. **[Para:3.9.6(iv)]**

Page No. 343

14 (b) (vi): The small holdings of the tribals should be brought at one place on a high priority basis to make them viable and economical for cultivation by making intensive application of various inputs. **[Para:3.9.7]**

Action Taken

14 (a) to (b) (vi): The State Governments have been advised to consider the Recommendations and take necessary action.

Recommendation No. 15 (i) to (ii)

Page No. 343

15 (i): The Ministry of Tribal Affairs may advise the State Govt. of Uttranchal to take necessary action at an early date restore the lands illegally transferred to the non-tribals in 77 villages of the Tehsil Khatima alone and other villages (Udhamsingh Nagar) to the tribals in exercise of the powers conferred by Section 211 of Uttar Pradesh Land Laws (Amendment) Act, 1982 (which was enacted to amend the Uttar Pradesh Jamindari Abolition and Land Reforms Act, 1950) which provides for suo-moto action by the Assistant Collector for forcible eviction for non-accrual of tenurial rights due to adverse possession of tribal land. **[Para:3.10.7]**

Page No. 343

15 (ii): The Ministry of Tribal Affairs may advise the State Govt. of Uttranchal to consider registering suo-moto cases against those non-tribals who are in illegal possession of the tribal land (as referred to above), in terms of Section 3(1) (iv) and (v) of the SCs and the STs (Prevention of Atrocities) Act, 1989 and granting suitable compensation/relief to the tribals as per the scale as in the schedule referred to in Rule 12(4) of the SCs & STs (PAO) Rules, 1995. **[Para:3.10.8]**

Action Taken

15 (i) to (ii): The State Governments have been advised to consider the Recommendations and take necessary action.

Recommendation No. 16

Page No. 343

16. Most of the anti-land alienation laws, have certain loopholes which help the unscrupulous and scheming non-tribals in getting the tribal land transferred to them against the spirit of these laws. All the State Govts. may be advised to undertake a thorough review of these laws with a view to plug the loopholes to ensure that the tribal lands are not transferred to the non-tribals without observing the procedure laid down in the anti-alienation Acts. **[Para:3.10.10 (i)]**

Action Taken

The State Governments have been advised to consider the Recommendations and take necessary action.

Recommendation No. 17

Page No. 343

The State Govts. need to be advised to harmonize the provisions of the State laws in relation to alienation of tribal land with the provisions of the Section 4(m)(iii) of the PESA Act, 1996 under which Gram Sabhas are endowed with the power to prevent alienation of land in the Scheduled Areas and to take appropriate action to restore any unlawfully alienated land of a Scheduled Tribe. **[Para:3.10.10 (ii)]**

Action Taken

The State Governments have been advised to consider the Recommendations and take necessary action.

Recommendation No. 18 (a) to (f)

Page No. 343

18 (a): The State Govts. which have enacted anti-alienation laws in respect of transfer of tribal land may be advised to make suitable amendments in their laws/Acts on the line of the amendments carried out in the Himachal Pradesh (Transfer of Land Regulation) Act, 1968 in January, 2003 making it mandatory to obtain the previous written permission of the respective State Govt. for transferring of any tribal land to a non-tribal. **[Para:3.10.10 (iii)]**

Page No. 343-344

18 (b): Pending suitable amendments in the respective Acts (as stated above), the State Govts. should be further advised to issue suitable instructions to the District Collectors/Deputy Commissioners to ensure that the power of granting permission of transfer of a tribal land to non-tribal (in case it has been vested in them) should in no situation be delegated by them (i.e. District Collectors/Deputy Commissioners) to the lower functionaries of the district. **[Para:3.10.10 (iii)]**

Page No. 344

18 (c): There is also a need to advise the State Govts. to consider extending the special concessions given to members of Scheduled Tribes under PESA Act to the Scheduled Tribes residing outside the Scheduled Areas. **[Para:3.10.10 (iv)]**

Page No. 344

18 (d): The State Govts. should be advised to prescribe a reasonable timeframe within which the land should be handed over to the ST land owner in cases where the court judgments are in favour of STs. **[Para:3.10.10 (v)]**

Page No. 344

18 (e): There should be a bar against suits or applications against any order made by a Deputy Commissioner or a Collector in favour of tribals in respect of alienation of tribal land. The law made by the Govt. of Orissa provides for appeal only to one revenue court. There is a need for incorporation of similar provisions in other State laws if no such provisions already exist. **[Para:3.10.10 (vi)]**

Page No. 344

18 (f): The State Govts. need to be advised to register suo-moto cases against those who are found guilty of alienating the tribal land in their names in an illegal/fraudulent manner in terms of Section 3 (1) (iv) & (v) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 and, thereafter to grant a suitable relief in cash to the tribals (whose land was alienated) in terms of Rule 12 (4) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Rules, 1995. **[Para:3.10.10 (vii)]**

Action Taken

18 (a): The State Governments have been advised to consider the Recommendations and take necessary action.

18 (b): The State Governments have been advised to consider the Recommendations and take necessary action.

18 (c): The concessions given to members of Scheduled Tribes under PESA Act cannot be extended to the Scheduled Tribes residing outside the Scheduled Areas. Hence the recommendation cannot be accepted.

18 (d): The State Governments have been advised to consider the Recommendations and take necessary action.

18 (e): The State Governments have been advised to consider the Recommendations and take necessary action.

18 (f): The State Governments have been advised to consider the Recommendations and take necessary action.

Recommendation No. 21 (a) to (e)

Page No. 344

21 (a): The Ministry of Tribal Affairs is advised to take the under-mentioned steps to rejuvenate the TRIFED concerned with the collection of MFP from the tribals: **[Para: 3.12.3(i-iii)]**

21 (a) (i): TRIFED should purchase MFP through MFP Cooperative Societies and, under no circumstances, from the contractors/middlemen with a view to ensure fair and reasonable price to the tribals.

21 (a) (ii): TRIFED should continue to focus its activities on direct procurement of MFP and AP (Agricultural Produce) from the tribals and their sale and the marketing development of the tribal products should be left to the other agencies which are working in this field.

21 (a) (iii): Appropriate steps should be taken to enhance the efficiency of TRIFED by periodic review of its performance, physical as well as financial to strengthen it to perform the basic duties assigned to it.

Page No. 344

21 (b): The State Govts. where the Scheduled Tribes are sizeable in number may be advised to fix the minimum support price of all the MFP items to ensure that the tribals get fair price for those items and are saved from the exploitation by the middlemen. In case the TRIFED suffer losses in the procurement of MFP items on account of their fixed minimum support price, these losses should be compensated by the Central Govt. (Ministry of Tribal Affairs) in the larger interest of the tribals. **[Para: 3.12.4]**

Page No. 345

21 (c): The Fifth Schedule States may be advised to make legal provisions in their respective State Acts relating to Panchayats regarding conferring of ownership of MFP on the tribals in conformity with the provisions, both in letter and in spirit, of Panchayats (Extension to Scheduled Areas) Act, 1996. **[Para: 3.12.6]**

Page No. 345

21 (d): The tribals should be allowed to collect the minor forest produce from such forests also, which have been declared 'protected'.
[Para:3.12.8(i)]

Page No. 345

21 (e): The tribals should also be allowed to collect the fuel wood (i.e. dry wood) from the protected forests/wild life sanctuaries, as has been allowed by the Govt. of Madhya Pradesh. [Para:3.12.8(ii)]

Action Taken on 21 (a) to (e)

21 (a) (i): TRIFED has reoriented its activities and shifted its focus from direct trading activities of procurement & sales of MFP & AP commodities, towards its basic mandate on Marketing Development of tribal products. TRIFED has own guidelines for empanelment of Suppliers for sourcing of tribal products which include individual tribal, SHGs, organizations, agencies etc. The status of individual being a tribal is verified genuineness of group/ organization also verified by TRIFED so that the activity of purchasing by TRIFED would benefit tribal people.

21 (a) (ii): Direct procurement of MFP and agricultural produces from the tribal is being undertaking by the State agencies like State Tribal development cooperative corporation etc. TRIFED extends marketing support (like organizing Tender/ Auction, Buyer-Seller Meet & Quality Standards Development etc.) to such State Agencies for disposal of the stock of MFP procured from tribals.

21 (a) (iii): A road map has been prepared for TRIFED. The Committee Constituted under Dr. T. Haque has recommended strengthening of TRIFED so that it could work as a technical support unit of the proposed Price Fixation Commission for MFPs and the matter is under consideration.

21 (b): The issue of introducing the mechanism of "Minimum Support Price for Minor Forest Produce" (MSP for MFP) on the basis of recommendations of Dr. T. Haque Committee is under the consideration.

21 (c): The Ministry of Environment and Forests has been requested to take necessary action.

21 (d) and (e): The Recommendations of the Commission have been conveyed to the State Govts. for their consideration and for taking necessary action.

Recommendation No. 22 (a) to (c)

Page No. 345

22(a): There is need to issue clear guidelines for giving preference to Scheduled Tribes in the grant of mining concessions in Scheduled Areas. **[Para: 3.13.2]**

Page No. 345

22(b): The Deptt. of Mines should introduce a bill to give effect to the recommendations of the Bhuria Committee 1995 to the effect that in all industrial enterprises set up in the Scheduled Areas (other than small ventures), the community should be deemed to be the owner with 50% shares in its favour by virtue of its allowing the industry to use local resources and getting established. **[Para: 3.13.3]**

Page No. 345

22(c): There is need to issue instructions to the State Govts.: -

Page No. 345

(i) To comply with the judgement of the Hon'ble Supreme Court dated 11.07.1997 in Samatha vs. State of Andhra Pradesh and Others (CA No. 4601-02/1996) not to transfer by way of mining lease etc. the government land in Scheduled Areas to a non-tribal and that all such mining leases should be given to the tribals only. **[Para: 3.13.4(i)]**

Page No. 345

(ii) The tribals should be given vocational training and financial assistance to enable them to be in a position to run the mining operations. **[Para: 3.13.4(ii)]**

Page No. 345

(iii) To make specific legal provisions in their Acts relating to mines and minerals making it mandatory for them to consult Gram Sabhas before grant of any lease about minor minerals. **[Para: 3.13.4(iii)]**

Action Taken

22 (a): The Ministry of Mines have initiated necessary action. The new National Mineral Policy, 2008, in para 7.11 enunciates that "in so far as indigenous (tribal) populations are concerned the framework shall incorporate models of stakeholder interest for them in the mining operation, especially in situations where the weaker sections like the local tribal

populations are likely to be deprived of their means of livelihood as a result of the mining intervention". In para 7.9 of the Policy, it is stated that "in grant of mineral concessions for small deposits in Scheduled Areas, preference shall be given to Scheduled Tribes singly or as cooperatives".

In line with the policy directions in the National Mineral Policy, 2008, the draft MMDR Bill, 2011 to be introduced in the Parliament (approved by the Government on 30.9.2011) provides that:

- (i) In grant of Mineral Concessions in Fifth and Sixth Scheduled Areas requires consultation with Gram Sabha /District Council.
- (ii) In Fifth and Sixth Scheduled Areas, State may give preference in grant of mineral concessions to a cooperative on Scheduled Tribes.

22 (b): This Recommendation is acceptable with slight modifications. The new National Mineral Policy, 2008, in para 7.11, enunciates that "in so far as indigenous (tribal) populations are concerned the Framework shall incorporate models of stakeholder interest for them in the mining operation, especially in situations where the weaker sections like the local tribal populations are likely to be deprived of their means of livelihood as a result of the mining intervention". While the principle of sharing of mining benefits with the local population (including Scheduled Tribes) has been accepted, the Ministry after considering the proposal for allocation of shares per se for enabling benefit sharing, which was observed to be administratively unfeasible considering that mining leases are held by individuals as well as companies, has been modified to allow direct and clear fund flow to the affected persons. This proposal was finalized in consultation with the stakeholders.

Accordingly, the draft MMDR Bill, 2011, to be introduced in the Parliament (approved by the Government on 30.9.2011) provides that:

- (i) For all exploration activities suitable compensation shall be payable to the person or family holding occupation or usufruct or traditional rights on the area of exploration
- (ii) All Mining Lease holders shall pay annually into a District Mineral Foundation (DMF) to be created in every mining district -
 - A sum equivalent to royalty in case of major minerals (other than coal) and a sum equivalent of 26% of profit in case of coal minerals;
 - And in case of minor minerals a sum prescribed by the State Government (since royalty for minor minerals are set by States and vary from State to State) will be payable to DMF.
- (iii) All Mining companies to allot at least one share at par to each person of the family affected by mining so as to give a sense of ownership in the enterprise.

- (iv) All Mining Companies to provide employment or other compensation as stipulated under the existing R&R policy.
- (v) After mining is complete, Mining companies shall be required to pay for damages, if any, to the affected persons as part of the mine closure and restoration process.
- (vi) A portion of the amount paid into the DMF by the leaseholders will be used partly to making recurring payments to people affected by mining related operations.
- (vii) In case a family is not already headed by a woman, half the monetary benefits distributed to the affected family, shall accrue to the eldest woman member of the family
- (viii) For the purpose of identification of persons or families affected by mining operation, 1.1.1997 (year of the SAMATA Judgment) shall be reckoned as the cutoff date.

It is the opinion of the Government that the proposed provisions would give mining companies a "social License" to mine in tribal areas without compromising on scientific mining.

22 (c): SAMATA Judgment by Supreme Court ordered that tribals should not be alienated from traditional land in Scheduled Areas and any development activity including mining should be carried out by PSUs or tribals themselves. Further, wherever mining activity is undertaken profits from the mining should be shared. However, through subsequent Supreme Court judgment in BALCO case, the Apex Court limited the judgment to Andhra Pradesh which had land laws to this effect, there is a general demand for extending the benefits to other tribal areas in the country. It is pointed out that the judgment in the SAMATA case is specific to State of Andhra Pradesh. This position has been upheld in the subsequent BALCO judgment by the Supreme Court.

In respect of PESA provisions for consultation with the Gram Sabhas before granting concessions for minor minerals, it is confirmed that important mineral producing States with Scheduled Areas have made suitable provisions in their Minor Mineral Concession Rules. Further with regard to consultation process, the draft MMDR Bill, 2011, provides that:

- (i) Before notification of an area (public land) for grant of mineral concessions, consultation with Gram Sabha / District Council / District Panchayat is mandatory.
- (ii) In all areas, reporting and disclosure of CSR activities mandatory through Mining Plan.
- (iii) Mining Plan to be prepared in accordance with Sustainable Development Framework (SDF). The Framework will prescribe detailed procedure for consultation.
- (iv) Since minimum area for mining leases is prescribed at 10 hectares for major minerals and 5 hectares for minor minerals, environmental clearance which involves public hearing compulsory, the SDF procedures will dovetail with this process and will not be a separate process.

(v) In case of minor minerals, state Government can reduce the minimum area limit further in consultation with the Ministry of Environment and Forest but in such a case the public hearing process will still continue under SDF.

(vi) SDF compulsory for all mines, and includes consultation process from pre-mining to post closure.

(vii) For grant of PL/ML for minor minerals, concurrence of Panchayat necessary and in view of section 4 (k) and (1) of the PESA Act read with Rules framed by State Government under the MMDR Act.

Recommendation No. 23

Page No. 345

23. There is need to issue the guidelines to all the State Governments about safeguarding the rights of the tribal people over water and other resources in the Scheduled Areas. **[Para:3.13.6]**

Action Taken

The Ministry of Panchayati Raj has issued comprehensive guidelines to the State Govt. of 9 PESA states listed in the 5th Schedule for effective implementations of PESA. **The Gram Sabha under PESA are deemed to be 'competent' to safeguarded** and preserve the traditions of their people, community resources and customary mode of dispute resolution. The Gram Sabha further has:

- a) Mandatory executive functions to approve plans of the Village Panchayats, Identify beneficiaries for schemes, issue certificates of utilization of funds;
- b) Right to mandatory consultation in matters of land acquisition, resettlement and rehabilitation, and prospecting licenses/mining leases for minor minerals;
- c) Power to prevent alienation of land and restore alienated land;
- d) Power to regulate and restrict sale/consumption of liquor;
- e) Power to manage village markets, control money lending to STs;
- f) Ownership of minor forest produce;
- g) Power to control institutions and functionaries in all social sectors;
- h) Power to control local plans and resources for such plans including TSP, etc.

Recommendation No. 24

Page No. 345-346

The population coverage norms for setting up Sub-centres, Primary Health Centres and Community Health Centres may be relaxed in respect of the hilly/tribal areas as follows: **[Para 3.14.5]**

S.No.	Name of the Centre	Existing Population Norms		Relaxed Norms for Plain Tribal Areas	Relaxed Norms for Hilly Tribal Areas
		Hilly Areas	Plain Areas		
1.	Sub-centre/Multipurpose workers	3,000	5,000	3,000	1,000
2.	Primary Health Centre	20,000	30,000	20,000	10,000
3.	Community Health Centre	80,000	1,20,000	80,000	25,000

Action Taken

The Ministry of Health & Family Welfare has informed that there are already relaxed population norms for opening of new SC, PHC and CHCs for hilly and tribal areas. After launch of NRHM, besides population norms, the workload/case load and distance is also taken into consideration before opening a new health centre. The number of centres depends upon the concerned State's priority. They incorporate their requirement in annual PIP which is considered in that Ministry and funds are released to them for actual implementation as per the approval of NPCC.

Recommendation No. 25 (i) to (xiii)

The State Govts. may be advised to take the following steps to ensure availability of proper medical facilities in tribal areas: -

Page No. 346

25 (i): A Health Guide should be made available for each village with a view to educate the tribals to avail of the modern system of medicine for treatment of such diseases for which their traditional system based on herbal medicines is not sufficient. **[Para:3.14.8(i)]**

Page No. 346

25 (ii): Each village should have at least one trained birth attendant (i.e. dai) equipped with a delivery kit, aseptic liquid and scissors for cutting cords. She should be paid a fixed remuneration say Rs.250 per delivery attended by her plus Rs.100 towards the cost of the consumable materials used during the delivery. **[Para:3.14.8(ii)]**

Page No. 346

25 (iii): There is a need to devise a very credible and effective system of giving incentives to the doctors and the paramedical staff in the form of good accommodation, facilities for their children's education, out of turn promotions etc. to overcome their reluctance to work in the tribal areas. **[Para:3.14.8(iii)]**

Page No. 346

25 (iv): Awareness programmes about the benefits of family planning and information about various communicable diseases and genetic disorders should be launched through documentaries, advertisements, posters and lectures at regular intervals. **[Para:3.14.8(iv)]**

Page No. 346

25 (v): All the sub-centres should be located in Government buildings with residential accommodation for female/male health workers. These buildings should also have laboratory facilities for urine, albumin and sugar tests. **[Para:3.14.8(v)]**

Page No. 346

25 (vi): Local ST girls and boys should be trained and given priority in appointment as multi-purpose male/female health workers. **[Para:3.14.8(vi)]**

Page No. 346

25 (vii): All CHCs should have operational theatres well equipped with requisite facilities. **[Para:3.14.8(vii)]**

Page No. 346

25 (viii): Arrangements should also be made to provide one ambulance vehicle in each CHC. **[Para:3.14.8(viii)]**

Page No. 346

25 (ix): The Primary Health Centre and the Community Health Centres should be delegated financial powers to purchase essential medicines in emergency cases. **[Para:3.14.8(ix)]**

Page No. 346

25 (x): On account of superstitious beliefs, ignorance and illiteracy, the tribals do not make use of the campaigns launched by the Government from time to time for polio vaccination of the infants as also of chicken-pox inoculations. There is, therefore, an urgent need to educate the tribals about the vital utilities of the programmes through block and district authorities with the help of the tribal leaders. **[Para:3.14.8(x)]**

Page No. 347

25 (xi): To set up more Medical Colleges and Hospitals in tribal areas in which at least 50% of the seats should be filled from amongst candidates belonging to STs only. **[Para:3.14.8(xi)]**

Page No. 347

25 (xii): To make it mandatory for each doctor in tribal areas (on completion of the course), to serve initially for a minimum period of three years in the tribal areas of the country. **[Para:3.14.8(xii)]**

Page No. 347

25 (xiii): To provide concessions/weightage/ incentives in the matter of promotion to such doctors and para-medical staff who have served in tribal areas for a minimum period of three years. These doctors should also be given monetary incentives. **[Para:3.14.8(xiii)]**

Action Taken

25 (i): The Ministry of Health & Family Welfare has informed that there is an ASHA in every village for a population of 1000 or for large habitations.

In tribal, hilly, desert areas, the norm can be relaxed. There is no programme of a health guide. ASHA is a community health volunteer who works as a community mobiliser and as the interface between community and health system. Currently there are 8.5 lakh ASHAs across the country.

25 (ii): As per the guidelines all deliveries both at institutions (including sub-centres) or domiciliary should be attended by a skilled birth attendant (SBA) who could be doctor, nurse or ANM. At present, the country policy and strategy is towards placing SBAs in Sub-centres and other sub-district level

facilities. All 35 states and UTs have accepted and are implementing this strategy.

The Mission Steering Group (MSG) of the National Rural Health Mission (NRHM) in its meeting held on 15/06/2010 has accorded approval for extending the ASHA package of Rs. 600/- per delivery from a prospective date for facilitating institutional deliveries in respect of tribal women in the rural areas including tribal areas.

25 (iii): States are supported with funds for providing incentives to doctors and paramedics serving in difficult, most difficult and inaccessible areas through State Annual Programme implementation Plan. States are also supported with funds for new construction/renovation of Staff Quarters of PC/CHC/SC as per the needs.

25 (iv): Appropriate awareness programme are being undertaken about the benefits of Family Planning and Information about various communicable diseases **and genetic disorders through "Hamara Ghar"** newsletter and other publications. Funds are provided under NRHM for carrying out Health Melas and other IEC/BCC activities for awareness generation in the communities as well. The Mission Steering Group in its Seventh Meeting held on 21/06/2011 had approved the proposal of utilising the services of ASHAs for distribution of contraceptives at door steps and thus creating awareness among the masses about Family Planning.

25 (v): The Ministry of Health and Family Welfare, GOI is trying that all Sub-Centres should be in government building. As per the RHS 2010, out of 147069 Sub-Centres, 84957 sub centers are functioning in Govt. building.

25 (vi): The appointment etc. is done by concerned State Governments. This Ministry plays no role in appointment except releasing funds under annual PIP for contractual hiring of staff. NRHM promotes local criteria in selection of health workers.

25 (vii): Health being State subject providing such facilities to all CHCs as per their needs is under the purview of State Government. However, NRHM supports the State Governments for building infrastructure facilities at all government healthcare facilities in rural areas through State Programme Implementation Plan which was appraised and approved by National Programme Coordination Committee at Centre level.

25 (viii): Under NRHM, States have been provided with Ambulances based on the requirement projected in the State PIPs. As per the information available, a total of 5527 Emergency Transport system and 6470 ambulances at PHC/CHC/SDH/DH are functioning across the country.

25 (ix): It has already been done through Rogi Kalyan Samitis (RKS). As per the information available, there are a total of 29949 RKSs in the country amongst which 17028 RKS have been formed at PHC level. This Ministry also releases untied funds amounting to Rs. 25000/- per annum for each PHC to be utilized through RKS for emergency purposes.

25 (x): The Pulse polio programme is covering 100% target children including **the tribal's and other classes as well.** In case if there are any refusals on

account of superstitious belief, ignorance and illiteracy, the people involved in the programme implementation plan redresses the issue at the local level with the community by educating them and doing appropriate media activity. In the process if required the block and district authorities are also involved in helping the tribal leaders in accepting the programme.

India's polio irradiation strategy was found successful as only one polio case is detected in the country during the year 2011.

25 (xi): The central government is permitting establishment of new medical college in the country under the provisions of Indian Medical Council Act 1956 and regulations made there under.

As per the section 3 B (b) (ii) in Indian Medical Council Act, 1956, through IMC Act, 2010, it is now for Board of Governors to grant independently permission for establishment of new medical colleges or opening a new or higher course of study under section 10(A) without the prior permission of Central Government including exercise of the power to finally approve or disapprove the same. Any organization can apply to Board of Governors, MCI for establishment of Medical college in accordance to the provision of IMC Act, 1956. It is to mention here that the Central Government has relaxed MCI norms in terms of land requirement, bed occupancy and bed strength for establishment of Medical Colleges in North East States and Tribal areas.

25 (xii) and (xiii): Appointments of doctors in the health centres are done by the State Governments. However, under NRHM the following initiatives have been taken up to ensure availability of health providers in rural areas including tribal areas which are as under: -

- Compulsory rural postings, bond for medical students to work in rural areas.
- Rational deployment of available doctors and specialists
- Reforms in Recruitment Process by States to speed up recruitment – recruitment taken out of purview of the State Public Service Commission.
- Monetary & non-monetary incentives for working in difficult areas.
- Public Private Partnership (PPP) initiatives to meet the deficit.

Recommendation No. 26

Page No. 347

The Ministry of Rural Development is advised to enhance the amount of construction assistance per dwelling unit under Indira Awas Yojana from Rs.25,000/- to Rs.50,000/- per unit for plain areas and from Rs.30,000/- to Rs.75,000/- for hilly/difficult areas to offset the effect of escalation in the cost of construction materials during the last two years. **[Para:3.15.12]**

Action Taken

The Ministry of Rural Development has informed that in so far as enhancement of unit cost under IAY is concerned, the unit cost has already been enhanced w.e.f. 1.4.2010 from Rs. 35,000/- to Rs. 45,000/- per unit in plain areas and Rs. 38,500/- to Rs. 48,500/- in hilly/difficult/60 indentified Integrated Action Plan (IAP) areas. In addition, IAY beneficiaries can avail loan upto Rs. 20,000/- under differential Rate of Interest (DRI) Scheme at 4% rate of interest per annum.

Recommendation No. 27 (i) to (ii)

Page No. 347

The Ministry of Rural Development is advised: -

27 (i): To prepare a detailed data State-wise about the tribal habitations which have not been so far provided with road connectivity and launch a time-bound programme for providing road connectivity in all the tribal areas by the end of the Tenth Plan period i.e. 2007 through intensive involvement of Town Area Committees, Panchayats, Municipalities, NGOs etc. **[Para:3.16.7 (i)]**

27 (ii): To ensure that all approach roads to the tribal areas are converted into metalled roads and the interior Kutcha roads into CC roads and connected with the metalled approach roads by the end of the Tenth Five Year Plan i.e. 2007 to facilitate easy approach in these areas even during the rainy seasons. **[Para:3.16.7(ii)]**

Action Taken

27 (i) and (ii): The Ministry of Rural Development has informed that Rural Road is one of the components of Bharat Nirman. It envisages to provide all-weather connectivity to Tribal (Schedule-V) habitations having a population of 500 or more by the March, 2012. The Pradhan Mantri Gram Sadak Yojana (PMGSY) seeks to provide all weather connectivity to Tribal (Schedule-V) areas having population of 250 or more. Notably, the roads constructed under Bharat Nirman and PMGSY being all weather roads are usable during rainy season. The interior roads of any habitation are, however, outside the ambit of PMGSY.

Recommendation No. 28

Page No. 347

28. There is a need to devise effective ways and means to prevent black marketing of the PDS items of food grains to ensure adequate supply to the poor

families. It would be appropriate if Panchayati Raj Institutions are involved in the supervision of fare price shops and also in identification of persons below the poverty line for entitlement of subsidized grains. **[Para:3.17.8]**

Action Taken

Detailed guidelines have been issued by the Ministry of Consumer Affairs, Food & Public Distribution (Department of Food & Public Distribution) in June, 1999 for greater involvement of Panchayati Raj Institutions (PRIs) in functioning of Targeted Public Distribution System (TPDS) and to bring in a more transparent and accountable system of distribution as a measure of social audit.

2. In order to maintain supplies and securing availability and distribution of essential commodities, Public Distribution System (Control) Order, 2001 has been notified on August 31,2001.

3. In addition to above, with a view to check leakages/diversion of the foodgrains meant for TPDS, Nine Action Points were evolved and sent to all States/UTs to take action accordingly. These Nine Action Points are :

(a) States should undertake a campaign for Review of BPL/AAY lists, to eliminate ghost ration cards.

(b) Strict action should be taken against the guilty to ensure leakage free distribution of foodgrains. In this respect, information asked for under Clauses 8 & 9 of PDS Control Order, are also to be submitted.

(c) For the sake of transparency, involvement of elected PRI members in distribution of foodgrains be ensured. As far as possible, FPS licenses be given to SHGs, gram panchayats, cooperatives, etc.

(d) BPL/AAY lists should be displayed on all FPSs.

(e) District-wise and FPS-wise allocation of foodgrains should be ensured by putting up on website and other prominent places, for public scrutiny.

(f) Wherever possible, door step delivery of food grains should be ensured by States, instead of letting private transporters/wholesalers to transport goods.

(g) Timely availability of foodgrains at FPS level and fixed dates of distribution to ration card holders should be ensured.

(h) Training of members of FPS level Vigilance Committees should be ensured. Proposals for funding training can be sent to the GOI.

(i) Computerisation of TPDS operations be undertaken.

Recommendation No. 29 (a) to (c) (iii)

Page No. 347

29 (a): The Hon'ble Prime Minister in his Independence Day Address on 15.8.2002 had announced three programmes viz. (i) installation of one lakh Hand

Pumps, (ii) providing drinking water facilities to one lakh Primary schools and (iii) revival of one lakh traditional sources of water. The guidelines for implementation of the programmes had been prepared and circulated to all the States. The programmes were to be completed in two years i.e. 2003-2004 and 2004-2005. The Department of Drinking Water Supply is advised to ascertain the status of implementation of these programmes with specific reference to the areas covered by the tribal population. **[Para:3.18.10]**

Page No. 347-348

29 (b): The Department of Drinking Water supply is advised to get a survey conducted through the State Govts. regarding the tribal habitations in respect of the Scheduled Areas States and other States where tribal population in large numbers, which have not yet been provided with drinking water and accordingly chalk out a time-bound programme to provide safe drinking water in all these areas by the end the end of Tenth Plan period. **[Para:3.18.11]**

Page No. 348

29 (c): The Department of Drinking Water Supply may advise the State Govts. to make the following arrangements with respect to supplying safe drinking water to the tribal habitations by the end of 2007: **[Para:3.18.12]**

Page No. 348

29 (c) (i): All the tribal population in the plain areas should be provided the facility of hand pumps. **[Para:3.18.12 (i)]**

Page No. 348

29 (c) (ii): Where it is not possible to install hand pumps for any reason, arrangements for making safe drinking water supply to the tribals living in those areas should be made by providing drinking water wells. **[Para:3.18.12 (ii)]**

Page No. 348

29 (c) (ii): Where it is not possible either to install hand pumps or dig wells, and where the natural sources of water like streams etc. are available, adequate steps should be taken to protect these water sources from pollution. **[Para:3.18.12 (iii)]**

Action Taken

29 (a): The Ministry of Drinking Water and Sanitation has informed that as per information provided by the State Govts. from 2003-04 to 2007-08, 82,402 hand pumps, 43,900 traditional sources of water have been created and 68,339 number of primary schools have been covered with drinking water, respectively.

29 (b): The Ministry of Drinking Water and Sanitation has informed that data on the Status of the habitations is updated by the States on the IMIS every year since 2009 as on the 1st April of the financial year and data on the coverage of the habitations targeted for the financial year is updated on a real time basis. As on 1.4.2011, there were 3,57,727 ST concentrated habitations out of which 96,875 were partially covered, 26748 quality affected and the remaining were fully covered. During 2011-12, 35,520 ST concentrated habitations are targeted and 17917 habitations have been covered so far. To accelerate the assured availability of potable drinking water on a sustainable basis in ST concentrated habitations, the Ministry has earmarked 10% of the NRDWP funds for drinking water supply to the ST concentrated habitations. States earmark funds based on the rural population of ST.

29 (c) (i) to (iii): The Ministry of Drinking Water and Sanitation has informed that the States have been asked to prioritize coverage of ST concentrated habitations in their Annual Action Plan. The NRDWP guidelines also remove the restriction on the minimum number of households in a habitation necessary for a piped water supply to be taken up. This provides the opportunity of 100% coverage of ST dominated habitations.

The norms for providing one hand pump for every 250 people have also been removed. Flexibility has been given to States to adopt better norms.

Recommendation No. 30 (a) to (b)

Page 348

30 (a): The Commission has observed that the programme of constructing of sanitary latrines in the rural areas are not being implemented in a meaningful manner. The latrines which have been constructed are of very poor quality and in most cases are not usable as they are not equipped with the basic minimum facilities and as a result most of them have been abandoned. It is, therefore, necessary that a system of rigorous inspection of the work carried out by the NGOs or other bodies is evolved to ensure that the grants to them are released by the State Govts. on complete satisfaction about the availability of the basic minimum facilities in these latrines like water, doors, etc. at the time of releasing the grants to the NGOs or other bodies entrusted with the work. **[Para:3.20.2]**

Page 348

30 (b): The programme of constructing sanitary latrines in the rural areas should be given higher priority with focused attention on construction of sanitary latrines in the isolated tribal belts/pockets. There is also need for increased financial allocation to complete the programme in a time-bound manner by involving NGOs and local bodies. **[Para:3.20.2]**

Action Taken

30 (a): The Ministry of Drinking Water and Sanitation has informed that Total Sanitation Campaign (TSC) has provision for incentive to the BPL households after construction and usage of sanitation facilities. The construction of household toilet should be undertaken by the BPL household itself. The incentive for construction and usage of individual household latrines has been increased from Rs. 2200/- (2700/- for Hilly and difficult areas) to Rs. 3200/- (3700/- for Hilly and difficult areas) by Ministry of Drinking Water & Sanitation, Govt. of India w.e.f 01.6.2011. The revision of incentive is aimed to sufficiently motivate the households to construct quality household latrines. Basic approach of TSC is to create awareness and behavior change through effective IEC rather than subsidizing construction of toilets.

30 (b): The goal of Total Sanitation Campaign (TSC) is to achieve universal sanitation coverage in the entire rural India by the year 2017. This includes provision of toilets for entire rural population. It is reiterated that provisioning of sanitation facilities for Scheduled Tribes is an integral part of TSC. Adequate priority is given for construction of Individual household latrines for STs. Due attention also being given on agglomeration inhabited by STs neglected in any region. Due attention is also paid for demand generation for construction of community toilets so that STs are able to get necessary benefit from their construction. The progress achieved under TSC for STs is also monitored. As per the guidelines for Total Sanitation Campaign, NGOs have an important role in the implementation of TSC in the rural areas. The financial allocation under the programme has been increased from Rs. 800.00 crore in 2006-07 to Rs. 1500.00 crore in 2011-12. Specific Provision of 10% of the allocation i.e. Rs. 150.00 crore has also been made for STs for the year 2011-12.

Recommendation No. 31

Page No. 348

The Ministry of Rural Development, the nodal Ministry for monitoring the implementation of the Rural Employment Guarantee Scheme (REGS) should advise the State Govts. to maintain separate data regarding the beneficiaries of the Scheme belonging to STs and that Ministry in its Annual Report on the status of implementation of the scheme, as required under the Act/scheme should also make a mention of the data of the ST beneficiaries (State-wise) along with other beneficiaries in the following format.: **[Para:3.21.3.4]**

S. No.	Name of the State	No. of districts covered under the Scheme	Population of STs in these districts	Total no. of beneficiaries under the Scheme in the State	No. & %age of ST beneficiaries under the Scheme	Total no. of mandays put in by ST beneficiaries
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Action Taken

The Implementation of the Mahatma Gandhi National Rural Employment Guarantee Act (MGNREGA) was started in 2006-07. The data is being collected by the reporting system of MGNREGA MIS and is available on the website (<http://nrega.nic.in>) of the Ministry of Rural Development. The data regarding

participation of SC,ST and other categories is also included in the annual report on MGNREAG Act, 2005, prepared every year.

Recommendation No. 32 (a) to (b)

Page No. 349

32 (a): The Govt. of Madhya Pradesh is implementing a scheme for providing financial assistance @ Rs.1,000 in each case to the ST parents for conducting group marriages of their daughters in which at least five pairs should have agreed for marriages. The income limit of the ST parents is Rs.12,000 per annum. A similar scheme is being implemented by the State Govt. for marriages of the daughters of the parents belonging to SCs in which there is no restriction of group marriages and the amount of financial assistance per case is Rs.5,000. Ministry of Tribal Affairs should advise the State Govt. of Madhya Pradesh. **[Para:3.22.3]**

Page No. 349

32 (a) (i): To have only one scheme which should provide for an equal amount of financial assistance both to the parents of SCs as well as STs. The existing quantum of financial assistance which is Rs.1,000 for ST parents and existing quantum of financial assistance which is Rs. 1,000 for ST parents and Rs. 5,000 for SC parents should be increased to a minimum of Rs. 10,000 both for SC and ST parents having regard to the existing cost of living. **[Para:3.22.3 (i)]**

Page No. 349

32 (a) (ii): To do away with the existing restriction of group marriages in the case of Scheduled Tribes and the financial assistance should be made available on case to case basis and not on the basis of group marriages as in the case of Scheduled Castes. **[Para: 3.22.3 (ii)]**

Page No. 349

32 (a) (iii): To increase the income limit under the scheme from Rs.12,000 per annum to double the amount of the annual income under BPL family. **[Para 3.22.3 (iii)]**

Page No. 349

32 (b): The Ministry of Tribals Affairs should advise the States and UTs, (which do not have any such scheme) to introduce a scheme for providing financial assistance of at least Rs. 10, 000 in each individual case to the parents of ST brides, **whose (i.e. parents') annual income is double the amount of the annual income under BPL family.** The States/UTs which have already such schemes schemes in position may be advised to modify the schemes to increase the amount of financial assistance to a minimum of Rs. 10, 000 in each case to the parents of ST brides (in case the existing amount is less than Rs. 10, 000) and also to increase the income limit to double the amount of annual income under BPL family (again in case the existing income limit is less than that). **[3.22.4]**

Action Taken

32 (a) (i) to (iii): The State Government of Madhya Pradesh has been advised to consider the Recommendations of the Commission and take necessary action.

32 (b): The State Governments/UTs. have been advised to consider the Recommendations of the Commission and take necessary action.

Recommendation No. 33 (a) to (c)

Page No. 349

33 (a): Shri Buduru Srinivasulu, Member, National Commission for Scheduled Tribes had a review meeting with the Girijan Cooperative Corporation in the State of Andhra Pradesh at Vishakhapatnam on 12 August, 2005. **The Hon'ble Member was given to understand** that in order to ensure food security to tribals, the Girijan Cooperative Corporation (GCC) had submitted a proposal to the Ministry of Tribal Affairs, Govt. of India for fixing a minimum Support Price for Minor Forest Produce to the tribals on par with agricultural farmers with a view to enable the Corporation to pay better prices to tribals even during adverse market conditions. The Commission feels that there is merit in the proposal and it deserves to be considered favourably to protect the interest of Scheduled Tribes in adverse market conditions. The Ministry of Tribal Affairs may expedite their decision in this regard with respect to GCC in particular as well as other STDCCs in general. **[Para:3.23.4 (i)]**

Page No. 349-350

33 (b): Minor Forest Produce is the only source of income to many tribals and they depend on this activity for their sustenance. However, procurement of MFP is not a continuous activity since the period from July to October is a lean period during which only meagre MFP can be harvested. It is suggested that one of the thrust areas to get some employment for the tribals in the lean period could be value addition to MFP by establishing insitu Processing Centres for conversion of MFP into process products in all the divisional areas wherever MFP for conversion is freely available. The Ministry of Tribal Affairs may advise the concerned State Govts. to consider feasibility of this proposal. **[Para:3.23.4(ii)]**

Page No. 350

33 (c): DR supply points may be set up at more number of places, at least, within a radius of 5 to 6 kms. from the important tribal habitats. The Commission has observed that the DR depots are not adequately equipped. Some of the depot buildings are in thatched sheds without electrification. There is need to strengthen these depots in phased manner by taking up construction of pucca buildings. The State Govts. need to be suitably advised to take necessary action in this regard. **[Para:3.23.4(iii)]**

Action Taken

33 (a): Government of India constituted a Committee under chairmanship of Dr. T. Haque and the Committee in its Report has recommended introduction of Minimum Support Price of important Minor Forest Produces. The matter is under active consideration of the Government.

33 (b): Dr. T. Haque Committee has given its Recommendation on Value Addition of MFPs and this issue is also under consideration along with other recommendations of the Committee. The State Govts. have been advised suitably.

33 (c): Dr. T. Haque Committee has given its Recommendations on storages and infrastructural facilities for MFPs and this issue is also under consideration along with other recommendations of the Committee. The State Govts. have been advised suitably.

Recommendation No. 34 (a) to (d)

Page No. 350

34 (a): The Ministry of Tribal Affairs should advise the State Govts. to ensure that the State Channelizing Agencies (SCAs) under their control should examine the loan proposals to ensure the genuineness and viability of the schemes within reasonable period of time and forward the same to the National Scheduled Tribes Finance Development Corporation (NSTFDC) for timely release of the loan. SCAs should also devise ways and means to find out whether the loans sanctioned and released have been utilized by the beneficiaries for the purpose for which loan was sanctioned. **[Para:3.25.7]**

Page No. 350

34 (b): The NSTFDC should devise suitable ways and means to give adequate publicity in the tribal States about the schemes being implemented by them and also about the procedure to enable them to avail of the benefits under these schemes. **[Para:3.25.9 (i)]**

Page No. 350

34 (c): The NSTFDC should also examine the possibilities of allowing the tribals to obtain the loans directly from the Banks at the rate of interest being charged by NSTFDC and providing interest subsidy to the concerned Banks to meet the gap in the rates of interest between NSTFDC and the Bank. In case the NSTFDC do not have funds to provide the said interest subsidy, the Ministry of Tribal Affairs should provide necessary funds to the NSTFDC. **[Para:3.25.9(ii)]**

Page No. 350

34 (d): The income eligibility criteria for availing of the loans under various schemes with respect to the family of the beneficiary should be raised to Rs. 1.5 lakh per annum for urban areas against the existing income limit of Rs. 54,500/-

and to Rs. 1.00 lakh per annum for rural areas against the existing income ceiling of Rs. 39,500/-. [**Para:3.25.10**]

Action Taken

34(a): The guidelines of National Scheduled Tribes Finance & Development Corporation (NSTFDC) include formats for submission of loan proposals by the applicants. This format also contains methodology for both technical and profitability analysis. This has facilitated the SCAs to ascertain the genuineness and viability of the proposal of the applicant before forwarding proposal to NSTFDC. Further, the proposals are also appraised by Project Clearance Committee (PCC) of NSTFDC to ensure the viability of scheme.

In order to verify the utilization of loans for the purpose it was sanctioned, NSTFDC conducts post - sanction joint inspections with the SCAs.

Notwithstanding the above, the recommendations of the Commission would be placed before the SCAs for devising ways and means to find out if the loans have been utilized by the beneficiaries for the purpose for which it was sanctioned.

34(b): The NSTFDC regularly gives wide publicity about its schemes amongst the ST population through advertisements in major regional newspapers. The Corporation also conducts awareness camps in tribal dominated localities. In these camps, the guidelines of NSTFDC describing various schemes are distributed to the target groups in their respective regional language. The publicity through All India Radio is also resorted to at times.

34(c): The NSTFDC has already initiated action in this regard and have entered into agreements with Syndicate Bank, Dena Bank, UCO Bank, Vijaya Bank and Union Bank of India for providing refinance under Micro Credit Scheme of NSTFDC at concessional interest rate. Continuous efforts are being made to popularize this scheme.

34(d): As per lending norms of NSTFDC, the financial assistance is provided to Scheduled Tribes who are having annual family income upto double the poverty line limit for both urban areas and rural areas. This limit is based on Poverty Line Income limit as fixed by the Planning Commission from time to time.

Recommendation No. 35

Page No. 350

NSTFDC as well as concerned SCA should carefully verify the genuineness of the tribal status of the loanees before sanctioning and releasing the loans to ensure that the benefits of the scheme reaches the real STs only and that the actual user of the scheme is tribal only.

[**Para:3.25.11**]

Recommendation No. 36

Page No. 350

The Ministry of Tribal Affairs should evolve a monitoring mechanism to ensure proper utilization of the money given to the various State Tribal Development Cooperative Corporations for economic advancement of Scheduled Tribes. **[Para: 3.26.8]**

Action Taken

(35) and (36): The NSTFDC guidelines provide for ascertaining the eligibility criteria including genuineness of tribal status of the applicant before forwarding proposals to NSTFDC. Further, while submitting proposals to NSTFDC for sanction or seeking funds from NSTFDC or at the time of submission of utilization report, the SCAs certify that all the applicants are STs and that their income limits as per norms of the NSTFDC.

Recommendation No. 37

Page No. 350-351

The Ministry of Tribal Affairs should initiate action at an early date to draft a suitable bill for introduction in Parliament for making an enabling provision in the Delimitation Act, 2002 for taking into account for the purpose of delimitation of the constituencies with respect to Lok Sabha, State Assemblies and Panchayats such tribal communities which were recognized as Scheduled Tribes after 2001 Census and such other tribes which might be recognized in future subsequent to the submission of Census report(s) by the Registrar General and Census Commissioner of India. **[Para:3.27.2]**

Action Taken

The Ministry of Law & Justice, the nodal Ministry for Delimitation Commission, had got the matter examined by a High Level Group of Secretaries on Delimitation of Constituencies. Its Report was presented to the Hon'ble Prime Minister on 27.08.2007 by the Ministry Law & Justice.

Chapter-4

Chapter-4 Resettlement and Rehabilitation of Displaced Tribals

Recommendation No. 19 (a) to (d)

Page No. 351

19 (a): There is a need to formulate a suitable central legislation on resettlement and rehabilitation of the persons likely to be displaced due to acquisition of their lands for various development projects, either separately or as a part of the Land Acquisition Act, 1894 and to advise the State Govts. to enact similar legislations to ensure adoption of a uniform resettlement and rehabilitation packages by all of them. **[Para: 4.1.2]**

Page No. 351

19 (b): Pending enactment of the central legislation and similar legislations by the State Govts., there is need to advise the State Govts. to the effect that the resettlement and the rehabilitation packages should, inter alia, provide that **[Para:4.1.3]**

(i) The displaced persons are given land for land, which is of the similar quality and of equal legal status as that of the land previously occupied by them with a view to enable them to take care of their present needs and future development, and in case the affected persons express desire for compensation in cash or kind, they should be so compensated under appropriate guarantees.

(ii) To ensure stable livelihood to all members of displaced tribal families, each adult person of that family should be allotted 5 acres of irrigated land in the new place of settlement, while also ensuring that all allottees from one family are given land at one place.

Page No. 351

19 (c): The State Govts. should also be advised to ensure that:

19 (c) (i): The resettlement and rehabilitation of the tribals likely to be displaced from their lands should be finalized to their satisfaction before the process of acquisition of their lands is initiated. **[Para: 4.1.4 (i)]**

Page No. 351

19 (c) (iii): The rate of compensation for the land to acquire should be determined on the basis of the market value of the land prevailing at the

time of acquisition and not on the basis of transaction rates of the old registries of the lands in the area, which may have occurred several years ago. Another component which should go into the determination of rates of compensation is the fact that the agricultural land was being acquired for setting up industrial projects and therefore, the cost of the land will be much more and therefore, this increased value of the land should also be taken into account to determine the rates of compensation. **[Para: 4.1.4(ii)]**

Page No. 351-352

19 (c) (iii): While acquiring the tribal lands for industrial purposes, steps should be taken to ensure that the likely displacement of the tribal families is minimal and where such displacement is unavoidable, the State Governments should also ensure while framing the resettlement and rehabilitation policies that the displaced tribal families are resettled in tribal belts where other tribal communities are residing with view to protect their cultural heritage. **[Para: 4.1.4(iii)]**

Page No. 352

19 (c) (iv): To issue suitable instructions to the effect that the owners of the industries shall give preference to the members of the affected tribal families (i.e. whose lands were acquired) for running tea shops, snack bars, giving licenses for operating canteens in the premises of the industrial plants etc. **[Para: 4.1.4(iv)]**

Page No. 352

19 (c) (v): To make it mandatory for the upcoming industries in newly acquired areas to ensure that, over and above the compensation and the allotment of replacement land, at least one person of each displaced tribal family is given a suitable job in the industrial/mining etc. project within a reasonable period of time. **[Para: 4.1.4(v)]**

Page No. 352

19 (c) (vi): In case the displaced tribal family had land in more than one village before acquisition, suitable job should be given to one person each against acquisition of their land in each village. **[Para: 4.1.4(vi)]**

Page No. 352

19 (d): The State Govts. may also be advised to ensure that the tribal families which have been assigned lands by the Government and which is being cultivated by them for the past many years say, for 10 years or more and for which those tribal families have not been granted pattas should also be treated on par with the holders of pattas or those who are having ancestral landed properties for the purposes of payment of compensation for their lands proposed to be acquired for development purposes. **[Para: 4.1.5]**

Action Taken

19 (a): The recommendation has been conveyed to the State Govts. for consideration and for taking necessary action.

The National Rehabilitation and Resettlement Policy, 2007, has been formulated by the Department of Land Resources (DLR). One of its aim is to minimize large-scale displacement, as far as possible. Only the minimum area of land Commensurate with the purpose of the project may be acquired. Also as far as possible, projects may be set up on wastelands, degraded or un-irrigated land. Acquisition of agriculture land for non-agriculture use in the project may be kept to the minimum, multi cropped land may be avoided to the extent possible for such purposes, and acquisition of irrigated land if un-avoidable, may be kept to the minimum. The policy also provides comprehensive rehabilitation & resettlement benefits to the displaced families.

Further, the Department of Land Resources (DLR) had drafted the Land Acquisition, Rehabilitation and Resettlement Bill, 2011, which was put in the public domain for inviting suggestions/comments from the all stakeholders and public at large on 29th July, 2011. Comments were invited up-to 31st August, 2011. The aforesaid Bill has been introduced in the Lok Sabha on 7th September, 2011. The Bill has been referred to the Parliamentary **standing Committee on Rural Development by the Hon'ble Speaker**, Lok Sabha for examination and Report to the Parliament.

The Bill is available on web-site (WWW.dolr.nic.in) of the Department of Land Resources.

19 (b): The recommendations have been conveyed to the State Govts. for consideration and for taking necessary action.

The Department of Land Reforms has informed that the **Second Schedule of the LARR Bill, 2011 has provisions of 'land for land', along** with other provisions to ensure stable livelihood to displaced families.

19 (c): The recommendations at 19 (c)(i) to (vi) have also been conveyed to the State Govts. for consideration and for taking necessary action.

(i) The Department of Land Reforms has informed that the provisions of consent in the LARR Bill along with stipulation that full payment of compensation will be made before displacement takes care of this concern.

(ii) The Department of Land Reforms has informed that the First schedule of the LARR Bill, 2011 provides for comprehensive package for the lands being acquired.

(iii) The Department of Land Reforms has informed that the Chief Secretary Committee proposed in the LARR Bill, 2011, will ensure that only minimum displacement takes place. Further, Second Schedule of the bill has special provisions for Schedule Tribes.

(iv) The Department of Land Reforms has informed that the Second Schedule of the LARR Bill, 2011, provides for jobs, petty shops cost, etc., along with other rehabilitation & resettlement entitlements.

(v) The Department of Land Reforms has informed that the Second Schedule of the LARR Bill, 2011, has provision for jobs to at least one member of the affected family.

(vi) The Department of Land Reforms has informed that the Second Schedule of the LARR Bill, 2011, provides for job to at least one member of the affected family. This provision appears to be adequate as it may be difficult to provide jobs to more members from a family.

19 (d): The recommendation has been conveyed to the State Govts. for consideration and for taking necessary action.

The Department of Land Reforms has informed that the Clause 3 (c) (v) of the LARR Bill, includes such assignees in the definition of the 'affected family'.

Recommendation No. 20(a) to (b)

Page No. 352

20 (a): The Ministry of Water Resources have informed that out of a total of 51,447 Project Affected Families in respect of the three States (i.e. Madhya Pradesh, Gujarat and Maharashtra) 33,153 families have already been resettled and 18,294 families are yet to be settled (As on 31.1.2006). The Commission cannot but concern over the slow process of resettlement of the Project Affected Families having regard to the fact that 75% of the Project Affected Families are Scheduled Tribes. The Commission, therefore, notes with grave concern that 18,294 Project Affected Families are yet to be resettled. It is, therefore, necessary that the entire matter relating to the resettlement and rehabilitation of the tribals displaced by Sardar Sarovar Project in respect of the State of Madhya Pradesh is placed before the Tribal Advisory Council and the Commission apprised of the Council's views as also the action taken thereon. **[Paras:4.3.6 & 4.3.8]**

20 (b): The State Govts. of Gujarat, Madhya Pradesh and Maharashtra may be advised:

Page No. 352

20 (b) (i): To take urgent action on the early resettlement of the balance of 18,294 (as informed by the Ministry of Water Resources) Project Affected Families of the Sardar Sarovar (Narmada) Project. They may be also advised to prepare a time bound programme for their resettlement and rehabilitation. **[Para: 4.3.9]**

Page No. 352

20 (b) (ii): To identify the number of tribal families out of the balance families of 18,294 (i.e.the Project Affected Families of Sardar Sarovar Project) which are yet to be resettled and rehabilitated and also about the action taken by the respective State Govts. for their (i.e. tribals) early settlement in realization of the hard fact that the Scheduled Tribes belong to the most vulnerable section of the society and any further delay to resettle the displaced/ affected tribal families will aggravate their livelihood problems. **[Para: 4.3.9]**

Action Taken

20 (a): The State Governments of Madhya Pradesh, Gujarat and Maharashtra have been requested to consider the Recommendations of the Commission and take necessary action.

20 (b) (i) to (ii): The State Governments of Madhya Pradesh, Gujarat and Maharashtra have been requested to consider the Recommendations of the Commission and take necessary action.

Chapter-5

Chapter- 5: Educational Development of Scheduled Tribes

Recommendation No. 1 (a) to (f)

Page No. 353

1 (a): The State Govts. may be advised to launch awareness programmes in the tribal areas, through NGOs and social activists, to inform the tribal parents about the importance of education and the benefits which flows out of it to induce them to send their children to schools. **[Para: 5.2.3 (ii)]**

Page No. 353

1 (b): Most of primary schools in tribal areas are run by a single teacher. In case he/ she takes leave due to illness or for any other domestic reason, there is no teacher left in the school with the result the education of the children suffers. There is therefore, an urgent need to post one more teacher in all the single teacher schools in tribal areas. **[Para: 5.2.3 (iii)]**

Page No. 353

1 (c): It has been observed that the major part of the funds relating to educational development of Scheduled Tribes, as also other areas are not released or utilized to the implementing agencies by the State Govts. There is also a tendency on the part of the State Govts. to divert the funds to other areas. It is, therefore, necessary that the State Govts. are advised to ensure the release of funds to the implementing agencies for activities identified for socio-economic development of Scheduled Tribes including the imparting of education to tribal children and also to avoid diversion of funds meant for education to other areas. **[Para: 5.2.4(i)]**

Page No. 353

1 (d): The State Govts. may be advised:

1 (d) (i): To open more and more primary schools in tribal areas with a view to arrest the dropout among ST children and also to open more girls hostels in low female literacy pockets. **[Para: 5.2.4 (ii)]**

Page No. 353

1 (d) (ii): To open atleast one school of excellence such as Kendriya Vidyalaya or Navodya Vidyalaya or Eklavya Model Residential School etc. in each block of a district. **[Para:5.2.4(iii)]**

Page No. 353

1 (d) (iii): To appoint teachers in schools in tribal areas from the tribal communities itself having knowledge of local dialect or to create a separate cadre of teachers for tribal areas with some incentives. As there is already shortage of teachers in the schools in tribal areas, the teachers in these schools should be exempted not only from the enumeration duties at the time of Census operations but also from other survey duties. **[Para:5.2.4(iv)]**

Page No. 353

1 (e): To ensure that the residential schools and hostels for ST students are properly maintained and the basic minimum facilities like drinking water, sanitation, toilets and bathrooms are made available and also further to improve the quality of food as also its quantity being served to the children in the residential schools and hostels. **[Para: 5.2.4(v)]**

Page No. 353-354

1 (f): There is a need to provide attractive incentives to the parents of the girls for sending them to the schools, apart from the existing incentives which are being given to the ST children in the form of free textbooks, uniforms, stationery, school bags, cooked food through mid-day-meal Scheme etc. **[Para: 5.2.4(vi)]**

Action Taken

1 (a): Sarva Shiksha Abhiyan (SSA) is implemented as India's main programme for universalizing elementary education with the overall objective of universalizing access and retention, bridging gender and social category gaps in education, and enhancing learning levels.

People's participation is fundamental to the success of SSA. The objective of equitable quality for all children can be attained only with active participation of all stakeholders including parents, teachers, community, civil society and children. SSA strives to enhance participation of general public by awareness generation, interventions for community mobilization and by promoting voluntarism. While providing enough support to NGOs, SSA also helps harness full potential of grassroots institution like, Mahila Samoohs, Sangathans, SHGs, Mahila Samakhya federations, youth groups, groups working for people's rights, etc. as well as support formation of children's collectives and support formation of children's collectives and support groups for children without adult protection to address deficit of community support and ownership in respect of these children.

Empowered and technically equipped SMCs are also considered crucial for anchoring community awareness and participation efforts. State will have to invest in capacity building of SMC members to address this enormous challenge.

Participation of civil society is a crucial aspect of SSA. SSA would encourage participation of voluntary agencies and NGOs in different capacities ranging from advocates to partners in need assessment and implementation and watchdogs. The partnership would be mutual, and not in the nature of subcontracting. In the next two years, SSA would strive for ensuring that civil society organizations are included in every institutional mechanism being planned at the State as well as the district levels. A year long '**Siksha Ka Haq' Abhiyan has been launched from 11.11.2011** for mobilizing the community and the State will partner with civil society for visiting schools & building awareness for Right of Children to Free and Compulsory Education. The RTE mandates age appropriate admission of every out - of - school- child, special training for each child to enable her to cope in school, promoting child-friendly child centered activity based learning processes, which is free of anxiety, trauma and fear sets the agenda for proactive community participation.

1 (b): The National Policy on Education, 1986/92 provides that at least two teachers should work in every school. The Schedule to the Right of Children to Free and Compulsory Education (RTE) Act lays down the norms and standards for teacher availability in schools.

The SSA norms provide:

- (a) Additional teachers will be provided as per the RTE norms to all Government and Local Body schools; however SSA assistance will not be available for filling up State sector vacancies that have arisen on account of attrition and retirement vacancies.
- (b) The practice of recruiting 50% female teachers under SSA will continue.
- (c) The States shall rationalize the deployment of existing teachers to ensure that there is no urban-rural imbalance in teacher deployment. This will also address the issue of single teacher schools.
- (d) The States shall maintain the prescribed PTR for each School.
- (e) Vacancy of teachers in a school shall not exceed 10% of the total sanctioned strength.
- (f) States shall appoint teachers with minimum qualifications as notified by NCTE under Section 23 of RTE Act.
- (g) In case the State does not have trained persons in adequate numbers, it will seek relaxation from the Central Government under the relevant provisions of the RTE Act. While seeking such relaxation the State shall make a commitment with a detailed time bound programme for training of untrained teachers within the time frame prescribed under the RTE Act.

The availability of teachers as per revised SSA norms for primary and upper primary sections is as under: -

(a) For Classes I to V:

- (i) Two teachers for up to sixty children
- (ii) Three teachers for 61-90 children
- (iii) Four Teachers for 91-120 children
- (iv) Five teachers for 121-200 children
- (v) One Head Teacher, other than the five teachers, if the number of children exceeds 150
- (vi) If the number of children exceeds two hundred the PTR (excluding Head Teacher) shall not exceed forty

(b) For Classes VI to VIII:

- 1) At least one teacher per class so that there shall be at least one teacher each for (i) Science and Mathematics; (ii) Social Studies, (iii) Languages.
- 2) At least one teacher for every thirty-five children.
- 3) Where admission of children is above one hundred, there will be:
 - i) A full time Head Teacher,
 - ii) Part time instructors for
 - a. Art Education,
 - b. Health and Physical Education; and
 - c. Work Education

(b) Teachers will be recruited as per the terms and conditions of the respective States/UTs.

So far, under SSA 19.14 lakh teachers have been sanctioned including 4.58 lakh and 1.73 lakh additional teachers during 2010-11 and 2011-12 respectively after the coming into force of RTE Act.

1 (c): Para 69 of the SSA Manual on Financial Management and Procurement provides-

"Any grant or portion thereof given by the Government of India or the State Government to the Society for a specific purpose shall not be appropriated, without the previous sanction of the granting authority to a purpose other than that for which it was originally approved."

1 (d) (i): The Ministry of Tribal Affairs is in touch with the State Tribal Department as well as State Education Departments and Department of School Education & Literacy, Government of India on this. The dropout rate for ST is declining, yet there is a gap of 6.33 percentage points at primary level and 16.01 percentage points at elementary level between the national average and ST dropout.

Primary (%)								
	2001-02	2002-03	2003-04	2004-05	2005-06	2006-07	2007-08	2008-09
Boys	51	50.8	49.1	42.6	40.3	30.64	32.0` 4	32.17
Girls	54.1	52.1	48.7	42	39.3	35.88	32.45	30.23
Total ST	52.3	51.4	48.9	42.3	39.8	33.15	32.23	31.26
All	39.03	34.89	31.36	29	25.47	25.43	25.55	24.93

(Source: SES 2008-09)

Elementary (%)								
	2001-02	2002-03	2003-04	2004-05	2005-06	2006-07	2007-08	2008-09
Boys	67.3	66.9	69	65	62.76	62.78	63.54	57.66
Girls	72.7	71.2	71.4	67.1	63.2	62.22	63.13	58.99
Total ST	69.5	68.7	70.1	65.9	62.95	62.54	63.36	58.26
All	54.6	52.79	52.32	50.84	48.71	46.03	43.03	42.25

(Source: SES 2008-09)

1 (d) (ii): The Ministry Human Resource Development has decided to set up 6,000 high quality pace setting Model Schools at block level, at the rate of one school per block, as benchmark of excellence. These schools will have classes either from VI to XII or from IX to XII. Out of these, 3,500 schools are to be set up in educationally backward blocks (EBBs) through State/UT Governments and the remaining 2,500 schools are proposed to be set up under Public-Private Partnership (PPP) mode in blocks, which are not educationally backward.

1 (d) (iii): National Council of Teacher Education (NCTE) which has been notified as the academic authority under Section 23(i) of the RTE Act has

laid down the teachers qualifications. The terms and conditions for appointment of teachers are in the State domain.

Further, Section 27 of the Right of Children to Free and Compulsory Education Act prohibits deployment of teachers for non-educational purposes, other than decennial population census, disaster relief duties and elections to local authority, State legislatures and Parliament.

1 (e): SSA norms provide for residential schools to cover sparsely populated or hilly and densely forested areas with difficult geographical terrains and also to cover urban deprived children, homeless and street children in difficult circumstances without adult protection. The norm further provides: -

- a) Priority to redeploying unused public building and refurbishing, underutilized school buildings through provision of adequate toilets, bathing spaces, kitchens, etc.
- b) If such facilities are not available in the vicinity, then construction of residential schools as per KGBV norms will be supported.

1 (f): The Right of Children to Free and Compulsory Education (RTE) Act has come into force from April, 2010, as a consequential legislation to the 86th Constitutional Amendment inserting Art 21-A in the Fundamental Rights. In different sections the RTE Act makes reference to education of SC children, as children belonging to disadvantaged groups, both explicitly and implicitly. Section 2(d) of the Act explicitly clarified that **“child belonging to disadvantaged groups” means, inter alia, a child belonging to Scheduled Caste.** Sections 8 (c) and 9 (c) of the Act provide that the appropriate Government and local authority shall ensure that the child belonging to weaker section and disadvantaged group shall not be discriminated against and prevented from pursuing and completing elementary education on any grounds. Section 12 (1) spells out the extent of the responsibility of the school to provide free and compulsory education: Government and local body schools are mandated to provide free and compulsory education to all children admitted therein; Aided schools are required to provide free education to such proportion of children as is equal to the recurring aid they receive from Government; Unaided private schools and specified category schools (Kendriya Vidyalayas, Navodaya Vidyalayas, etc), are required to admit in class I, to the extent of at least twenty-five per cent of the strength of that class, children belonging to weaker sections and disadvantaged groups in the neighbourhood, and provide them free and compulsory elementary education till its completion.

Bridging gender and social category gaps in elementary education is one of the goals of SSA. Therefore, special emphasis has been given for providing support to children belonging to disadvantaged groups. SSA makes provision for distribution of text books and two sets of uniforms for SC children as also girls and ST, BPL children, wherever such provisions have not already been made in the State budgets. In addition, there are specific interventions under the Kasturba Gandhi Balika Vidyalaya (KGBV) and National Programme of Education for Girls at Elementary Level (NPEGEL), which includes SC girls. **SSA's innovation component also provides for interventions for SC children.**

Recommendation No. 2

Page No. 354

Keeping in view the successful functioning of the Shiksha Karmi Project in Rajasthan, other educationally backward States where the education level among the ST is still poor may be advised to start similar Project for benefit of children belonging Scheduled Tribes. **[Para: 5.5.3]**

Action Taken

States with concentration of ST population are already running State specific projects as per their requirements.

Recommendation No. 3

Page No. 354

The Commissions has observed that the National Policy on Education 1986, as amended in 1992, inter alia, provides for opening of a primary school within 1 k.m. walking distance from the SC/ST habitations up to 200 population . No norms have been fixed for opening of middle and higher secondary schools. The Commission recommends that there should be at least one middle school in tribal areas within a radius of three kilometers and at least one higher secondary school within a radius of five kilometers in tribal areas. **[Para: 5.7.6]**

Action Taken

Regarding opening of new primary and upper primary schools, SSA norms provide as under: -

Opening of new primary schools:

A neighborhood school is a school located within the defined limits or area of neighborhood, which has been notified by the State Government under the State RTE Rules.

Opening of upper primary schools/sections:

- a) Opening of new upper primary schools within the area of the limits of the neighbourhood as notified by the State Government under the State RTE Rules.
- b) With a view to facilitating States to move towards composite elementary schools, the revised SSA norms provide that new upper primary schools/sections will be opened in the campuses of existing primary schools. Upper primary schools shall be provided through upgradation of existing primary schools so that school becomes an integrated elementary school from classes I to VIII. The building and infrastructure will therefore, be constructed in existing primary school campuses.

The vision for secondary education is to make good quality education available, accessible and affordable to all young persons including the marginalized categories. Rashtriya Madhyamik Shiksha Abhiyan (RMSA) provides for a secondary school within a reasonable distance of 5 kilometre of any habitation.

Recommendation No. 4

Page No. 354

The objective of SSA is to make all the children educated throughout the country. However, the existing two tier system of education in the country through CBSE and through State Boards of Education is not aimed at giving them uniform quality of education. Each State Board has its own syllabus, books, course contents educational infrastructure and standard of examination. Most of the ST students do not have access to schools affiliated to CBSE. Students pursuing CBSE pattern are in advantage for taking admissions in institutes of higher studies and for joining organized services. Therefore, the Commission is of the view that educational pattern and pattern of examination should be same throughout the country so that ST students who generally join Govt. schools in the local areas are not put to disadvantage and are able to compete for admissions in institutes for higher studies. **[Para: 5.7.7]**

Action Taken

The National Curriculum Framework (NCF) 2005 States that "India is a multicultural, society made up of numerous regional and local cultures and the education system needs to respond to the cultural pluralism in our society."

It further states that the term National Curriculum Framework is often wrongly construed to mean that an element of uniformity is being proposed. The National Framework for curriculum is a means of evolving a national system of education capable of **responding to India's diversity of geographical and cultural milieus**, while ensuring a common core of values along with academic components.

Recommendation No. 5 (i) to (ii)

Page No. 354

The Ministry of Human Resource Development should advise the Govt. NCT of Delhi and Delhi University to modify their existing policy/ instructions to provide for: **[Para: 5.9.2]**

Page No. 354

5 (i): To fill up the vacant seats in B Pharma/ D Pharma courses or other course reserved for ST candidates for the Delhi region from amongst the ST candidates belonging to non-Delhi region in the event of sufficient number of ST candidates in Delhi region being not available. **[Para: 5.9.2(i)]**

5 (ii): The existing arrangement of filling the vacant seat reserved for ST candidates from SC candidates from Delhi region should be stopped forthwith. **[Para: 5.9.2(ii)]**

Action Taken

5 (i) to (ii): The Government of NCT of Delhi has been requested to take appropriate action on the recommendation.

The University of Delhi has adopted the policy of Central Government for reservation of seats for Scheduled Caste/Scheduled Tribes candidates for admission to under-graduate courses, wherein 22.1/2% of the total number of seats are reserved for candidates belonging to Scheduled Caste / Scheduled Tribes (15% for Scheduled Castes and 7.1/2% for Scheduled Tribes, interchangeable, if necessary). The University Grants **Commission's guidelines** for strict implementation of the reservation policy of the Government in Universities, Deemed to be Universities, Colleges and other grant-in-aid institutions and Centers- 2006 state that rules of interchangeability among SCs and STs are applicable, wherever necessary to fill up the number of vacant seats.

As per Bulletin of information - 2011, the relaxation to the extent of 5% in the minimum marks will be given to the candidates belonging to Scheduled Castes and Scheduled tribes to determine their eligibility and merit for admission to the course concerned. In case, after giving 5% relaxation, the reserved seats still remain vacant, further relaxation would be given to the extent required in order to fill up all the reserved seats.

Recommendation No. 6 (a) to (i) (e)

Page No. 354

The conditions of the ST hostels in various States have not been found to be satisfactory. It has been noticed that even the basic facilities like drinking water, sanitation, light, cooking gas etc. are not available in adequate quantities. It is,

therefore, necessary that the Ministry of Tribal Affairs should advise the State Govts. to take up corrective steps to provide the basic facilities in the ST hostels to ensure retention of students at the Middle and Higher Secondary levels of school education. **[Para: 5.10.4 (i)]**

Page No. 354-355

6 (b): It has been observed that a considerable number of hostels are functioning in the rented buildings, which do not have basic facilities. The Commission has also noticed during the field visits in tribal areas that the seat capacity of hostels for ST girls as also of boys is much less than the demand. The Commission, therefore, is of the opinion that the Ministry of Tribal Affairs should advise the State Govts. to frame a time- bound programme to construct more hostel buildings with all the requisite facilities of light, water, electricity, kitchen, library etc. under the Centrally Sponsored Scheme for Construction of Hostels for ST Girls and Boys to attract students belonging to ST communities and to ensure their retention in the schools. **[Para: 5.10.4 (ii)]**

Page No. 355

6 (c): There is need to make the learning a joyous experience and in order to do this, it is essential to take help of the Distance Education System through visual media i.e. T.V. films etc. specially in the schools in rural far flung tribal areas. **[Para: 5.10.4 (iii)]**

Page No. 355

6 (d): The basic reason behind the drop out of ST students can be attributed to the poor economic condition of the family and this situation compels the tribals to utilize their children as an economic unit to bring some income to the family. It is also necessary that some economic incentives are given to such parents of the children whose income is below the poverty line with a view to wean them away from the compulsion of using their children as economic units instead of sending them to schools. **[Para: 5.10.4 (iv)]**

Page No. 355

6 (e): There is a need to launch awareness programme to inform the ST parents, particularly the mothers about the importance of education in making their children self-dependent and also in improving their economic condition. These programme can be undertaken in tribal areas through NGOs etc. **[Para: 5.10.4 (v)]**

Page No. 355

6 (f): The Ministry of Tribal Affairs should advise all the concerned State Govts./UT Administrations to fill up the vacancies of teachers by evolving schemes of giving various incentives such as descent accommodation, medical facilities etc. to teachers and also by ensuring that the posts of teachers in schools in tribal areas are filled, as far as possible, by appointing teachers from amongst local tribal candidates. **[Para: 5.10.4 (vi)]**

Page No. 355

6 (g): In most of the cases one of the reasons for dropouts is the repeated failure of tribal children in a class. This can be cured by identifying weak and below average tribal students and making arrangements for providing them extra coaching at no cost to them either on the holidays or at night. The Ministry of Tribal Affairs may be advised to write to concerned State Govts. to make the necessary arrangements in this regard by providing some cash incentives to the teachers. **[Para: 5.10.4 (vii)]**

Page No. 355-356

6 (h): One of the major constraints in the dissemination of education among STs is that their parents resort to seasonal migration to other places in search of livelihood during the period from April to middle of June and this is the period for the examination of the children. When the parents move out of their habitations to other places, they have to take their studying children **along with them as they can't leave them back** . This necessitates the dropout of the children. This seasonal migration problem is particularly prevalent of the States of Orissa, Madhya Pradesh, Rajasthan, Andhra Pradesh and Chhattisgarh which have sizeable number of ST population (all these States being the Scheduled Area States). The respective State Govts. may be advised to formulate suitable schemes for board and lodging of the studying children of those ST families who decide to temporarily migrate to other places in search of their livelihood and who agree to leave their children back to enable them to continue their studies and complete their examinations. Alternatively, these State Govts. may be advised to make special arrangements for conducting special examinations of the ST children when they return to their original habitations from the places of their temporary migration. This will help the successful ST children to be promoted to the next higher classes. **[Para: 5.10.4 (viii)]**

Page No. 356

6 (i): The dropout among the tribal boys is particularly high at middle and secondary level of education. The enrolment and retention of ST girls upto secondary level is very essential for uplifting the economic status of tribal families, but due to poverty, parents are reluctant to send their children, particularly girls, to schools. The following measures are suggested to increase enrolment and retention of ST boys and girls in schools: **[Para: 5.10.4 (ix)]**

6 (i) (a): Financial assistance should be provided right at the time of the admission itself towards admission fees, books, copies and stationery material, school dress and washing expenses/ material for the dress. For this purpose, State Govts. should make necessary arrangements much before the start of academic session.

6 (i) (b): Pre-matric stipend should be disbursed regularly, keeping in view the daily requirement of the students- day scholars or hostellers, as the case may be, so that the children feel encouraged to attend school on regular basis.

6 (i) (c): Additional incentives in the form of cash award should also be granted to each student having more than 75% attendance plus the work done in the school note books. Besides, those students who secure 60% or above marks in the examinations should also be given cash awards.

6 (i) (d): Scheme of Mid -day meals should be extended up to matric level for at least ST girl students. This will provide huge relief to the family of the ST girl students and it will improve enrolment of ST girl students and also reduce their dropouts.

6 (i) (e): Special coaching in English, Math, Physics, Chemistry, Biology, Commerce and Economics should also be imparted to students in XI and XII classes. This will help them in taking admission in the colleges of general as well as professional courses.

Action Taken

6 (a) & (b): The maintenance of hostels and Ashram Schools is a responsibility of State Govts./ UTs concerned who have been requested to provide the basic amenities like drinking water, sanitation, electricity, kitchen, library, good quality food, etc., in the Hostels for STs. Further, as regards framing of a time -bound program to construct more hostel buildings, the State Govts. were requested to make a plan for construction and send a Report to the Ministry on the number of hostels required to be constructed.

6 (c): Government have already introduced four Education Channels namely Gyandarshan-I, Gyandarshan-II, Vyas Channel and Eklavya Channels under the aegis of Ministry of Information & Broadcasting. Out of these, Gyandarshan-I & Gyandarshan-II and Vyas Channels are being **telecast through Doordarshan's DTH Platform.** In addition to this, Doordarshan is telecasting educational and school TV programmes on DD-I National and the Regional channels. Central Institute of Educational Technology (CIET), a unit in NCERT, has been producing audio and video programmes for students and teachers since 1980. These programmes cover all areas of the curriculum.

6 (d): Efforts to promote elementary education among ST children are a mix of general and specific. General efforts include, expansion of infrastructure for physical access, teaching incentives like uniforms, textbooks and mid-day meals. In addition there are context specific interventions, to address the problem of ST children, including -

- Provision of MLE text books
- Workshops for the cultural programmes for the tribal children cultural/traditional events
- Providing bicycles to children of class VII & VIII
- Providing Educational & Sports kits
- Conducting of enrolment drives
- Organizing community mobilization programs
- Excursion visits
- Guidance and counseling of parents/students

6 (e): People's participation is fundamental to the success of SSA. The objective of equitable quality for all children can be attained only with active participation of all stakeholders including, parents, teachers, community, civil society and children. SSA strives to enhance participation of general public by awareness generation, interventions for community mobilization and by promoting voluntarism. While providing enough support to NGOs, SSA also helps harness full potential of grassroots institutions like, Mahila Samoohs, Sangathans, SHGs, Mahila Samakhya federations, youth groups, groups **working for people's rights, etc., as well as support formation of children's collectives and support groups for children without adult protection to address deficit of community support and ownership in respect of these children.**

6 (f): The State Governments/ UTs have been advised accordingly.

6 (g): The State Governments/ UTs have been advised accordingly.

6 (h): To address the issue of seasonal migration for varying periods for work in brick kilns, agriculture, sugarcane harvesting, construction, stone quarrying, salt pans etc. and its adverse effect on education of children who migrate with or without other members of the family, SSA encourages identification of districts, blocks and villages/cities or towns from where or to which there is a high incidence of migration. The RTE Act mandates bringing such children to regular schools both in districts where they stay or in districts where they seasonally migrate. This would require innovative and effective strategies for special training to develop age appropriate **competences to facilitate children's enrolment and retention in age-appropriate classes, and to coordinate between the education providing agencies at both the locations mentioned above.**

6 (i): The share of Scheduled Tribes in the population is 8.2%. The maximum population of tribals is in Madhya Pradesh, Maharashtra, Orissa, Jharkhand, Rajasthan and Chhattisgarh. North Eastern States have also substantial tribal population.

- State-wise share of ST population, Enrollment in more than 15 % ST Population states (as per census 2001) is given below:

Sl.No	State	% ST Population	% ST Enrolment
1.	Arunachal Pradesh	64.2	76.15
2.	Chhattisgarh	31.8	32.21
3.	Dadra & Nagar Haveli	62.2	69.72
4.	Gujarat	14.8	18.13
5.	Jharkhand	26.3	29.80
6.	Madhya Pradesh	20.3	23.48
7.	Manipur	34.2	45.35
8.	Meghalaya	85.9	91.90
9.	Mizoram	94.5	99.25
10.	Nagaland	89.1	91.54
11.	Orissa	22.1	28.01
12.	Sikkim	20.6	35.80
13.	Tripura	31.1	39.62
	National Total	8.2	10.94

(Source: Census 2001 & DISE 2009-10)

The DISE data, 2009-10 shows that at the national level enrolment share of ST children is more than their share in the population. State – wise trend is also satisfactory, however, there is one UT namely the Andaman & Nicobar Islands which shows a gap of only 0.92 ppt in the enrolment of ST children as compared to their share in the population.

6 (i) (a): The Right of Children to Free and Compulsory Education (RTE) Act has come into force from April, 2010, as a consequential legislation to the 86th Constitutional Amendment inserting Article 21-A in the Fundamental Rights. Different sections of the RTE Act make reference to education of SC children, as children belonging to disadvantaged groups, both explicitly and implicitly. Section 2(d) of the Act explicitly clarified that “child belonging to disadvantaged groups” means, inter alia, a child belonging to Scheduled Caste. Section 8 (c) and 9 (c) of the Act provides that the appropriate Government and local authority shall ensure that the child belonging to weaker section and disadvantaged group shall not be discriminated against and prevented from pursuing and completing elementary education on any grounds. Section 12 (1) spells out the extent of the responsibility of the school to provide free and compulsory education. Government and local body schools are mandated to provide free and compulsory education to all children admitted therein; Aided schools are required to provide free education to such proportion of children as is equal to the recurring aid they receive from Government; Unaided private schools and specified category school (Kendriya

Vidyalayas, Navodaya Vidyalayas, etc), are required to admit in class I, to the extent of at least twenty-five per cent of the strength of that class, children belonging to weaker sections and disadvantaged groups in the neighbourhood, and provide them free and compulsory elementary education till its completion.

6 (i) (b): The Ministry of Tribal Affairs is proposing to launch a new scheme of Pre Matric Scholarship for ST students.

The State Governments/UTs have also been requested to take appropriate action on the Recommendation of the Commission.

6 (i) (c): The State Governments/UTs have been requested to take appropriate action on the Recommendation of the Commission.

6 (i) (d): The State Governments/UTs have been requested to take appropriate action on the Recommendation of the Commission.

6 (i) (e): The Ministry of Tribal Affairs is already implementing a Central Sector Scheme of "Upgradation of Merit of ST students". This scheme which was operating as a separate scheme earlier, has been merged into the scheme of Post-matric Scholarship (PMS) from the 10th five year plan. Since then it has been functioning as a sub-scheme of the PMS. The scheme has been revised from 2008-09. The objective of the scheme is to upgrade the merit of ST students, including PTG students, in classes IX to XII by providing them with facilities for all round development through education in residential schools so that they can compete with other students for admission to higher education courses and for senior administrative and technical occupations.

Recommendation No. 7 (a) to (e)

Page No. 356

7 (a): The income ceiling in respect of the parents of the students for the purpose of grant of the Post-Matric Scholarship may be raised from Rs.1 lakh to 2.5 lakh per annum and the amount of scholarship may be upgraded from Rs.235 to Rs.500 and from Rs.740 to Rs.1000 in respect of students residing in hostels and from Rs.140 to Rs.500 and from Rs.330 to Rs.750 in respect of day scholars. **[Para:5.11.1.2(i)]**

Page No. 356

7 (b): The tribal students who are day scholars but who reside in rented accommodation should be treated on par with hostellers and the amount of scholarship in their case also should be equal to that of hostellers. **[Para:5.11.1.2(ii)]**

Page No. 356-357

7 (c): The Commission has observed that the State Govts. have also schemes for providing scholarships to tribal students at pre-matric levels and that some of the State Govts. (such as the State Govt. of Uttranchal) have kept an income ceiling of Rs. 2,500/- per month in respect of the parents of the tribal children studying in

Class IX and X. The Ministry of Tribal Affairs should, therefore, advise all the State Govts./ UT Administrations which are operating such schemes to abolish the income ceiling in respect of the parents of all the tribal children studying in Classes from I to X. **[Para:5.11.1.3]**

Page No. 357

7 (d): The Commission has observed that most of the tribal parents are not aware of this Scheme and therefore, there is a need to give wide publicity about this Scheme in the tribal areas of the country to ensure that more and more ST students will come forward to pursue higher and technical courses. Ministry of Tribal Affairs may also advise all the States which have sizeable number of tribals that each Tribal Welfare Deptt. of these States should develop their own website to disseminate information about various schemes for tribal development including the Post-Matric Scholarship Scheme. These websites should also provide link with the website of the Ministry of Tribal Affairs. **[Para: 5.11.1.7]**

Page No. 357

7 (e): It has been brought to the notice of the Commission that the disbursement of Post-Matric Scholarship in most of the States is being delayed due to non release of funds both from the Govt. of India (i.e. over and above the committed liability of the State Govts.) and the State Govts. The Commission, therefore, recommends that the Ministry of Tribal Affairs should ensure the timely **release of the funds to the State Govts. over and above States' committed liability.** The Ministry should also issue instructions to the State Govts. that requisite funds to the district authorities up to the committed liability is released in time to ensure timely disbursement of these scholarships to the ST students. The State Govts. may be also advised to explore the possibilities of disbursing the scholarship money to the students through their Bank Accounts. **[Para: 5.11.1.8]**

Action Taken

7 (a): The income-ceiling under the scheme of Post Matric Scholarship (PMS) for ST students is linked with Consumer Price Index number for Industrial Workers and revised once in every two years. The maintenance allowance is provided in addition of all non-refundable compulsory fees. With effect from 1.7.2010, the Ministry has revised the maintenance allowance from Rs. 235/- to Rs. 380/- and from Rs.740 /- to Rs. 1200/- in respect of Hostellers and from Rs.330/- to Rs. 530/- and from Rs 140/- to Rs.230/- in respect of day scholar students .The rates of scholarship for SC students are also the same. The income ceiling has also been revised from Rs. 1.45 lakh to Rs. 2.00 lakh per annum.

7 (b): This aspect is already covered under the scheme of PMS. As per the provisions contained **in the scheme document at Note 3,** "in case the college authorities are unable to provide accommodation in the college hostel, an approved place of residence can also be treated as hostel for the purpose of this scheme. The place will be approved by the Head of the institution after due inspection and keeping in view the rules and regulation laid down by the University, if any. In such

a case, a certificate to the effect that the student is residing in an approved place of residence, as he is unable to get accommodation in the college hostel, should be furnished by **the Head of Institution.**”

7 (c) and (d): The State Governments/UTs have been requested to take appropriate action on the Recommendations of the Commission.

7 (e): The Ministry releases 50% of the grant-in-aid over and above the committed liability to States/UTs on adhoc basis without waiting for formal proposal from the States/UTs so that the scholarship may be disbursed to ST students without delay. The State Govts. have already been advised to disburse the scholarship money to students through their bank accounts and wherever possible the payment is made by this method by State Govts.

Recommendation No. 8

Page No. 357

On the lines of the Scheme for providing free coaching facilities to ST students to enable them to compete in various civil service examinations, the Ministry of Tribal Affairs should also consider providing financial assistance to ST students for providing pre-admission coaching in various disciplines relating to Management and Technical courses. On similar lines, the State Govts. may be advised to provide pre-admission coaching to tribal students for taking admission in various professional courses. **[Para: 5.11.1.9]**

Action Taken

The State Governments/UTs have been requested to take appropriate action on the Recommendation of the Commission.

Recommendation No. 9

Page No. 357

The scheme of Book Banks in its present form permits giving one set of books for two students in all degree level professional courses and one set per student in case of Post- Graduate Courses in Medical, Engineering, Business Management, Law and Bio-Sciences and Chartered Accountancy. The former position inhibits carrying on of independent studies by the students. This handicap needs to be addressed to and removed. Each student in respect of Post-Graduate professional courses also should be provided one set of books as in the case of Degree Courses. **[Para: 5.11.1.13]**

Action Taken

The Scheme has already been approved for the 11th Five Year Plan. The scheme is being implemented satisfactorily; none of the State Govt. has brought to the notice of the Ministry any difficulty being faced by student.

Recommendation No. 10 (a) to (b)

Page No. 357-358

10 (a): In the Annual Reports of the Ministry of Tribal Affairs, no information is available about the total number of hostels for girls ever since the inception of this Scheme in the Third Plan period (which was later on merged with the Scheme for construction of hostels for ST boys). Similarly, no information is available about the total number of hostels constructed for ST boys since 1989-90 when the Scheme was started. The Ministry of Tribal Affairs is accordingly advised to furnish in their next Annual Reports State-wise information about the total number of hostels constructed under the Scheme separately for boys and girls alongwith sanctioned seat capacity of each hostel. The Commission further recommends that the norms for admission into the hostels should be suitably relaxed in case all the seats are not utilized with reference to the normal eligibility requirements.

[Para:5.11.1.19]

Page No. 358

10 (b): The Commission has observed during its field visits in tribal areas that the seats capacity of hostels particularly for ST girls is much less than the requirement and this is one of the major reasons for less enrolment and increased dropout of girl students, finally leading to low female literacy among STs. The Commission, therefore, recommends that there is an urgent need of construction of more hostels for ST girls. **[Para: 5.11.1.20]**

Action Taken

10 (a): The Ministry of Tribal Affairs has come into existence in 1999-2000 and information about the total number of the hostels sanctioned for ST boys are available in the Ministry's website (www.tribal.nic.in). The records on the number of hostels constructed from 3rd Plan are not available with the Ministry. Each hostel is constructed based on the demand of the specific institution and fully caters to the requirements of that institution. No instance of any hostel seat constructed under the scheme, but remained unoccupied has been brought to the notice of the Ministry of Tribal Affairs.

10 (b): The Centrally Sponsored Scheme of Hostels for ST boys and ST girls is need-based and demand-driven. The States/UTs/Universities reflect the requirement of hostels for ST girls or boys. With effect from 1.4.2008 in case of ST

girls' hostels, 100% central grant is provided. The State Governments/Universities are free from any burden of matching share for girls' hostels. The step taken by the Ministry is aimed at augmentation of ST girls' education. The Ministry has received a positive response from State Govts. During 2010-11, out of a total of 160 hostels sanctioned, 147 hostels were for ST girl students.

Recommendation No. 11 (a) to (b)

Page No. 358

11 (a): The Ministry of Tribal Affairs is advised to furnish information about the total number of Ashram schools (State-wise) in the next Annual Reports (2006-07 onwards) functioning in the 21 TSP States and 2 Union Territories. **[Para: 5.11.1.24]**

Page No. 358

11 (b): As on date, no information is available about the functioning of the Ashram schools, the facilities available in them and the quality of the teaching, mess facilities etc. The Ministry of Tribal Affairs should, therefore, get a suitable evaluation study conducted regarding the functioning of the Ashram schools in the 21 TSP States and 2 Union Territories through the Tribal Research Institutes. **[Para: 5.11.1.24]**

Action Taken

11 (a) to (b): The information regarding State-wise Ashram School has since been reflected in the Annual Reports of the Ministry.

2. The Ministry provides financial assistance to State Governments/UTs only for construction of ashram school buildings. The running and maintenance of such Ashram Schools is the responsibility of the States/UTs. All arrangements like teaching staff and mess arrangements, etc., are made by the State Governments concerned. The Ministry has been advising the State Govts. on quality and other aspects.

3. An evaluation study of four different schemes of Education including "Ashram Schools", in Orissa, Madhya Pradesh, Chhattisgarh and Jharkhand was conducted by the Indian Institute of Public Administration (IIPA), New Delhi, during the year 2006-07. In the said evaluation Report, it was recommended that number of Ashram Schools needs to be increased especially for girls. The Ministry had revised the scheme on 1.4.2008 and the under revised norms, a provision for release of 100% central assistance for Ashram Schools meant for ST girl students has been made. The State Govts. have been regularly advised.

Recommendation No. 12

Page No. 358

The existing income ceiling of Rs. 44, 500/- per annum from all sources in respect of the candidates (if in employment) or their parents income is not realistic having regard to the increase in the cost of living over the last couple of years and, therefore, the Ministry of Tribal Affairs to raise this income ceiling at least to Rs.1.00 lakh per annum. **[Para: 5.11.2.6]**

Action Taken

The present income ceiling for family from all sources is Rs. 2.00 lakh per annum in both the Schemes of Post Matric Scholarship (PMS) and Top Class Education Scholarship.

Recommendation No. 13 (i) to (iii)

Page No. 358

13 (i): Only such NGOs which have considerable experience and good reputation should be given grants for running the pre-examination centres in the tribal areas for providing free coaching facilities to ST candidates to help them compete in various competitive examinations for recruitment to various posts held by UPSC, State Public Service Commissions, SSC etc.(wherever such Centres are being run by NGOs). **[para: 5.11.2.8(i)]**

Page No. 358

13 (ii): As far as possible, these NGOs (referred to above) which are given grants for running the pre-examination coaching centres should be located in the tribal areas. **[Para: 5.11.2.8 (ii)]**

Page No. 358

13 (iii): It has been brought to the notice of the Commission that an NGO is given grant under the scheme and with the help of the grant, the concerned NGO creates an infrastructure for running the pre-examination centres and the next year that NGO is not given grant. This results in the total wastage of the grants given in the previous year. It has also come to the notice of the Commission that such infrastructure/buildings are utilized by these NGOs for residential purposes. The Ministry of Tribal Affairs, therefore, should ensure that the selection of NGOs at the initial stage itself is made very carefully and judicially and once an NGO with established reputation is selected, further grants should not be stopped to that NGO unless non-satisfactory performance or any other complaint is received by the Ministry about that NGO. The Ministry of Tribal Affairs should also take steps to take over the infrastructure/building created by an NGO with the help of grants

given by the Ministry in case the grant to that NGO is stopped by the Ministry in the subsequent year/years on account of bad performance or any other complaint. **[Para: 5.11.2.8 (iii)]**

Action Taken

13 (i): The selection of the institutes is done on the basis of proposals received by this Ministry in response to advertisements in National Newspapers. The State Governments are asked to send Genuineness Certificate, in respect of institutes. The Certificates include the past record of the institutes.

13 (ii): The pre-examination Centres should have enough students (with requisite qualification) and qualified faculty members. In remote areas, it may not be possible to get qualified teachers and the required number of students. However, preference is given to remote areas if proposals fulfilling the requirements are received.

13 (iii): The Selection of Coaching Institutes is done carefully to ensure that only genuine Institutes receive grant under the scheme. It is further clarified that grant includes coaching fee, advertisement cost and stipend for students. There is no provision in the scheme to provide grants for infrastructure.

Recommendation No. 14

Page No. 359

Against an allocation of Rs. 30.25 crore in the Ninth Plan, Rs.18.45 crore were released by the Ministry of Tribal Affairs to the State Governments and NGOs implementing the scheme. Similarly, out of the allocation of Rs. 5.40 crore for the year 2005-06, an amount of Rs.2.47 crore was released to State Governments. The Commission fails to understand the reasons for release of only 40-50 percent of the actual allocations to the State Govts. This scenario, in the opinion of the Commission, might be due to lack of adequate awareness about this scheme among the ST population. The Ministry of Tribal Affairs should, therefore, advise the State Govts. and the NGOs to make intensive and wide publicity of this Scheme through mass media and other channels to inform the tribal people throughout the country about the benefits under the scheme so that the tribals living in the remote and isolated pockets could also avail of the benefits of the scheme. **[Para: 5.11.2.16]**

Action Taken

For adequate awareness about the schemes among the ST population, the Ministry of Tribal Affairs gives wide publicity by releasing advertisements in leading National newspapers on important occasions highlighting the various programmes implemented and the achievements thereof. The advertisements are also released in the regional newspapers especially in the tribal belt to inform the tribal people about the benefits under the scheme so that the tribals living in the remote and isolated pocket could also avail of the benefits of the scheme.

In the case of NGOs, which are getting grants, also publish the advertisement as per norms of the scheme. The programmes and schemes of the Ministry of Tribal Affairs are also available in the website (www.tribal.nic.in).

Recommendation No. 15 (a) to (c)

Page No. 359

15 (a): The Commission has observed that one of the major constraints in successful implementation of this Scheme is that the State Govts. often do not release the funds in time to the implementing agencies. The Ministry of Tribal Affairs should take up the matter with the respective State Govts. and impress upon them the need to release the funds to the implementing agencies in time to ensure that the various components of scheme do not suffer in any way on account of delay in release of funds. **[Para: 5.13.5]**

Page No. 359

15 (b): There is a genuine need to increase the number of Eklavya Modal Residential Schools in States/UTs which have sizeable number of ST population and that the 32 Residential Schools under the Scheme (out of the total of 100 sanctioned for various States) which are not yet functional, should be made functional at an early date. **[Para: 5.13.6]**

Page No. 359

15 (c): There is a need to open more and more Govt. Schools of Excellence and Central Schools in tribal areas to ensure that all meritorious ST students are accommodated/ admitted in these schools. **[Para: 5.13.7]**

Action Taken

15 (a): The Ministry of Tribal Affairs has been impressing upon the States for timely release of funds to implementing agencies. In the case of grants under Special Central Assistance (SCA) to Tribal Sub Plan (TSP) and Article 275 (I) of the Constitution, it is clearly stipulated in the sanction letters that the funds are to be released to the implementing agencies within one month.

But in the case of NGOs, grants are released to the implementing agencies directly as per norms of the scheme.

15 (b): In order to provide quality education to the ST Children from class VI to XII, the Ministry of Tribal Affairs provides funds for setting up of Eklavya Model Residential School (EMRS) after taking into account the requirements of respective States, availability of land and various other related factors. Out of 100 EMRS sanctioned in different parts of the country, 92 schools are reported to be

functional. After the revision of guidelines on EMRS in June, 2010, the Ministry has sanctioned 37 EMRS during 2010-11 and 13 more in 2011-12 based on proposals received from the State Governments upto 31.10.2011.

15 (c): The State Education Secretaries as well as Secretaries of State Tribal Departments have been advised to take necessary action on these Recommendations.

Recommendation No. 16

Page No. 359

The scope of reservation should also be extended to such public schools and other schools, and institutions such as hospitals etc. which though not funded by the Government had received/continue to receive concessions from the Government in respect of acquisition of lands, buildings or other concessions respecting recognition/affiliation in regard to running of those institutions like electricity, water, provision of public transport etc.

[Para: 5.14.2(i)]

Action Taken

The State Education Secretaries as well as Secretaries of State Tribal Departments have been advised to take necessary action on these Recommendations.

Recommendation No. 17 & 18

Page No. 359

There should be 8.2% (i.e. in proportion to the population of STs to the total population of the country as per 2001 Census) reservation for Scheduled Tribes in awarding fellowships and/or in granting scholarships in the schools, colleges, Universities, Educational and Technical Institutions etc. **[Para: 5.14.2(ii)]**

Page No. 359

8.2% of seats in the hostels attached to schools, colleges, educational and technical institutions should be reserved in favour of Scheduled Tribes. **[Para: 5.10.2(iii)]**

Action Taken on Nos. 17 and 18

The instruction issued by the DOPT on reservation for SCs, STs and OBCs, etc. are followed by the Ministry of HRD in Central Educational Institutions. At present the percentage of reservation for STs is 7.5%. The percentage of reservation in State Educational Institutions is decided by the respective State Governments.

Chapter-6

Chapter-6: Service Safeguards

Recommendation No. 1

Page No. 360

There should be upward revision of the reservation percentage in services and posts for Scheduled Tribes from the existing 7.5% to 8.2% having regard to the increase in the total population of the Scheduled Tribes to the total population of the country on the basis of 2001 Census (i.e. 8.2%)
[Para 6.2.5]

Action Taken

It has been informed by the Department of Personnel & Training that a Nine-Judge Constitution Bench of the Supreme Court in the case of Indra Sawhney Vs. Union of India has observed that clause (4) of Article 16 of the Constitution (which empowers the State to provide reservation for the Scheduled Castes, the Scheduled Tribes and the Other Backward Classes) speaks of adequate representation and not proportionate representation. The Apex Court observed that it is not possible to accept the theory of proportionate representation though the proportion of population of Backward Classes to the total population would certainly be relevant and held that the power conferred by clause (4) of Article 16 of the Constitution should be exercised in a fair manner and within reasonable limits so that reservation does not exceed 50%. Total reservation for SCs, STs and OBCs is, at present, 49.5%, and in some cases 50%. The DOP&T has therefore, informed that it may not be possible to increase the quantum of reservation for any category.

Recommendation No. 2

Page No. 360

The rule of reservation should be extended in promotion by selection **within Group 'A' posts in terms of the Constitution (77th Amendment) Act, 1995 and the Constitution (85th Amendment) Act, 2001, which amended Article 16 (4) to provide inter alia for making reservation in matters of promotion, with consequential seniority, to any class or classes of posts in services under the State in favour of SCs and STs. [Para 6.2.9]**

Action Taken

The Supreme Court in its decision dated 16.11.1992 in Indra Sawhney's case had declared reservation in promotion is ultra vires but had permitted to continue it for 5 years from the date of the judgement i.e. upto 15.11.1997. In order to continue reservation in promotion beyond 15.11.1997, the 77th Amendment was made to the Constitution incorporating clause (4A) in Article 16 of the Constitution. Statement of Objects and Reasons of the Constitution (Eighty-Sixth Amendment) Bill which became the Constitution (77th Amendment) Act, stated that the object was to continue the then existing dispensation. As per dispensation **existing at that time, reservation in promotion by selection within Group 'A' posts was not available. Therefore, the Department of Personnel and Training's O.M. dated August 13, 1997 issued in pursuance of the 77th amendment to the Constitution, does not provide for reservation in promotion by selection within Group 'A' posts. However, in case of promotion by selection from a Group 'A' post to another Group 'A' post having a maximum salary of Rs.18,300/- or less (pre-revised), the Scheduled Caste/Scheduled Tribe 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 is to be drawn up, are included in that list provided they are not considered unfit for promotion. Thus sufficient care is taken to ensure that the SC/ST officers get promotion to such higher posts even if they do not meet the criterion laid down for general category candidates.**

Recommendation No. 3

Page No. 360

The matter regarding whether there should be reservation in promotion by selection within Group A in favour of Scheduled Castes and Scheduled Tribes on the basis of the amendments made in Article 16(4) of the Constitution by adding a new Article 16 (4A) is presently sub judice **before the Constitution bench of the Hon'ble Supreme Court. The Government should engage an eminent jurist well- conversant with the subject matter to ensure that the case was effectively presented and argued well before the Constitution bench with a view to protect the interests of Scheduled Tribes as also of Scheduled Castes. [Para:6.3.2]**

Action Taken

The Supreme Court had passed orders in the matter of Indra Sawhney v/s. UOI, and some other cases which adversely affected the interests of backward classes. In order to safeguard their interests, 77th, 81st, 82nd and 85th amendments were made to the Constitution. These amendments were challenged through various writ petitions including WP(C) No.61/2002 [M. Nagaraj & Ors v/s. Union of India & Ors.] before the Supreme Court basically on the ground that these amendments destroyed the basic structure of the Constitution. The Government

took conscious decision to defend these amendments before the Apex Court by engaging Shri K. Parasaran, an eminent lawyer. The Supreme Court has upheld the Constitutional validity of the 77th, 81st, 82nd and 85th amendments.

Recommendation No. 4

Page No. 360

The unfilled vacancies reserved for Scheduled Tribes in cadres having 13 or less number of posts should be carried forward indefinitely as in the case of cadres having more than 13 posts with respect to which there is no lapsing of reserved points. **[Para 6.5.1(x)]**

Action Taken

The DOPT has informed that in a cadre having 13 or less number of posts where 14 point L-shaped rosters are applied, if a reserved vacancy is filled by a candidate belonging to other community after dereservation, the reservation is carried forward for subsequent recruitment year. Such carry forward of reservation is permitted for three recruitment years. In the third year of carry forward of reservation, the vacancy is treated reserved for the concerned category, but if it cannot be filled by reservation in the third year of carry forward of reservation by a candidate of the concerned category, reservation is treated as lapsed and the vacancy filled as an unreserved vacancy. The Supreme Court in the case of M. Nagaraj has held that while working out the carry forward rule, two factors are required to be kept in mind, namely, unfilled vacancies and the time factor. These two are alternating factors and therefore if the ceiling limit on the carry-over of unfilled vacancies is removed, the other alternative time factor comes in and in that event, the time limit has to be imposed in the interest of efficiency in administration as mandated by Article 335. If the time limit is not kept then posts would continue to remain vacant for years, which would be detrimental to the administration. Therefore, the backlog reserved vacancies cannot be kept vacant for indefinite period in the interest of efficiency of administration.

Recommendation No. 5

Page No. 360

As per the existing instructions, there is a ban on dereservation of reserved posts in direct recruitment. A similar ban should be imposed on dereservation of posts to be filled by promotion in view of the implementation of the post-based roster, with a view to protect the interests of candidates belonging to Scheduled Tribes in the matter of their promotions. **[Para 6.6.2]**

Action Taken

The DOPT has informed that the circumstances of filling up of vacancies by direct recruitment and promotion are very different. In case sufficient number of suitable reserved candidates do not become available to fill up the vacancies reserved for them in the matter of direct recruitment, a second attempt can be made for recruiting suitable reserved candidates in the same recruitment year or as early as possible. Such attempts can be continued till the candidates become available to fill up such vacancies. However, in the case of promotion if suitable eligible reserved candidates are not available in the feeder grade to fill up the reserved vacancies, no purpose would be served by keeping the post vacant. It would rather create an unhealthy situation of keeping a post vacant when it is known that there is no possibility of any ST candidate being available in the near future. It would not only affect the efficiency of administration as mandated in Article 335 of the Constitution, but also affect the moral of other candidates. It may be pointed out that the Government has prescribed rigorous procedure for dereservation, which, inter-alia, provides for approval of the Liaison Officer and the Joint Secretary of the Ministry/ Department concerned as well as consultation with the National Commission for STs and the Department of Personnel and Training. Moreover, after introduction of Post Based Roster, the reservation does not lapse even after de-reserving the reserved vacancy. When a new vacancy arises in the subsequent recruitment, it is treated as reserved. If any ST candidate becomes available for filling of the vacancy, it is filled by such candidate.

Recommendation No. 6

Page No. 360

Where the existing Recruitment Rules provide for filling up of the vacant posts 100% by promotion, the Recruitment Rules should be suitably amended to provide for the element of direct recruitment to ensure that in case the eligible ST candidates are not available in the feeder grade for promotion to the next higher post, the ST reserved points can be temporarily diverted to DR quota and dereservation avoided. [Para 6.6.3]

Action Taken

Recruitment Rules for a post are framed keeping in view the requirement of the organisation. It may not be practical to have same component of direct recruitment in all the categories of posts.

Recommendation No. 7

Page No. 360

A separate representative belonging to Scheduled Tribes should be associated in all the Departmental Promotion Committees/Boards/Selection Committees to protect the interest of ST candidates. **[Para 6.7.2]**

Action Taken

Instructions contained in Department of Personnel and Training's (DOP&T) OM No.39016/9(S)/89-Estt. (B) dated 16.8.1990 provide that wherever a Selection Committee/ Board exists or has to be constituted for making recruitment to 10 or more vacancies in Group C or D posts/services, it is mandatory to have one member belonging to SC/ST and one member belonging to minority community in such Committees/ Boards. Instructions also provide that efforts should be made in finding a SC/ST Officer where number of vacancies against which selection is to be made is less than 10. In partial modification of the above O.M., the revised instructions have been issued vide DOP&T's OM No.42011/15/95-Estt. (SCT) dated 11.7.1995 that wherever a Selection Committee/ Board exists or has to be constituted for making recruitment to 10 or more vacancies in Group C or D posts/services, the Committee/ Board should have one member belonging to Scheduled Caste/ Scheduled Tribe/ Other Backward Class and one member belonging to minority community. In case of less than 10 vacancies, all efforts should be made for inclusion of such members in the Committee/ Boards. It is expected that a person belonging to a particular community in the Departmental Promotion Committees/Boards/Selection Committees would take care of persons belonging to other communities.

Recommendation No. 8

Page No. 360

The principle of positive discrimination i.e. the rule of reservation should be extended to private sector also to fulfill the constitutional obligations of bringing about social equality. **[Para 6.8.2]**

Action Taken

The Department of Industrial Policy & Promotion has informed that in the first meeting of the Coordination Committee set up in 2006 for Affirmative Action in the Private Sector, it was decided that the best course for achieving progress on the issue of affirmative action is through voluntary action by the industry itself.

Recommendation No. 9

Page No. 360-361

There should be a binding clause at the time of disinvestments of PSEs that the new management shall observe and continue the reservation policy for appointment to various posts. The Govt. should also consider enacting a legislation to that effect. **[Para 6.8.3]**

Action Taken

The Department of Disinvestment has informed that as per the current Disinvestment policy, the Govt. shareholding in Central Public Sector Enterprises (CPSEs) will remain at 51% and that disinvestment will be limited only to the extent of 49%. Also, the Public Sector character of the CPSEs will not undergo any change and that management control will remain with the Govt. In the situation, the existing policy of the Govt. on reservation regarding employment in CPSEs would continue to remain applicable.

Recommendation No. 10

Page No. 361

The scientific and technical posts including those intended for conducting research, or for organizing, guiding and directing research were brought for the first time within the scheme of reservation for SCs and STs up to the lowest rung of Group 'A' vide DP&AR's O.M. dated 23 June 1975. The Commission recommends that the scheme of reservation for SCs and STs in scientific and technical posts should also be extended beyond the lowest rung of Group 'A' posts/ services (i.e. within Group 'A'). **[Para 6.9.6]**

Action Taken

All scientific or technical posts are not excluded from the purview of reservation. It is only very high level posts which are excluded from the purview of reservation and their number is very small. Instructions provide that there would be no reservation in 'Scientific or Technical' posts which are higher than the lowest grade of Group A as these are required for conducting research or for organizing, guiding and directing research. The Supreme Court in the case of Indra Sawhney has held that there are certain services and positions where either on account of the nature of duties attached to them or the level (in the hierarchy) at which they obtain, merit alone counts. In such situations, it may not be advisable to provide for reservation.

Recommendation No. 11

Page No. 361

A separate zone of consideration for eligible ST and SC officers in the feeder grade should be drawn up in replacement of the existing system of drawal of a single zone of consideration for general as well as ST/ SC officers for the purpose of their promotion by selection from Group 'C' to Group 'B', within Grpoup 'B' and from Group 'B' to the lowest rung of Group 'A', in compliance of the directions of the Hon'ble Supreme Court which has inter-alia held that clubbing the STs/SCs with general category in the same zone of consideration would defeat the very purpose of reservation. **[Para 6.13.3]**

Action Taken

The existing guidelines regarding zone of consideration issued vide DoPT OM No.22011/2/2002-Estt(D) dated 6.1.2006 provide that for vacancies exceeding 10 the normal size of zone of consideration will be one & half times the number of vacancies rounded off to next higher integer +3 but shall not be less than the size of zone of consideration of 10 vacancies. For vacancies upto (and including) 10 existing provisions relating to normal size of zone of consideration will continue to be applicable, which is as follows: -

No. of vacancies	Normal zone of consideration
1	5
2	8
3	10
4	12
5 to 10	Twice the number of vacancies +4

2. The instructions further provide that if adequate number of SC/ST candidates are not available within the normal zone of consideration, field of choice may be extended to 5 times the number of vacancies and the SC/ST candidates (not any other candidate) coming within the extended field of choice should also be considered against the vacancy reserved for them. For example, in the event of say 100 vacancies, the normal zone of consideration is 150+3 whereas the extended zone of consideration is 500.

3. The judgments of CAT Jodhpur Bench in OA No.66/2000 in Ram Singh Meena v/s. UOI has been examined in consultation with Department of Legal Affairs and the advice of the Ld. Attorney General of India was sought on the following points:

(i) Whether the extended Zone of consideration to SC/ST officers tantamount to separate zone of consideration for the reason that only the SC/ST candidates falling in the extended zone of consideration are considered for promotion and the general candidates coming in the extended zone are excluded from consideration?

OR

(ii) Whether a separate zone would mean a zone comprising exclusively of the SC/ST candidates as the case may be irrespective of their position in the overall gradation/seniority list?

4. The Ld. Attorney General of India, after examining the two judgments passed by CAT, Jodhpur in Ram Singh Meena and CAT (PB) in Gopal Meena case has opined that the decision of CAT in Gopal Meena's case proceeds on an incorrect interpretation of the Supreme Court orders. The Supreme Court has not categorically laid down that there should be a separate list for SC/ST candidates. In any event, the OM dated 6.1.2006 indicates that if there are lesser SC/ST candidates available in the normal zone of consideration, then the zone of consideration can be extended for SC/ST category candidates alone. In the extended zone, SC/ST category candidates alone are considered. Therefore, even assuming the Supreme Court has required a separate zone of consideration, Attorney General of India has opined that the extended zone of consideration, exclusively for SC/ST category candidates, meets the requirements. The benefit of an extended zone is peculiar to a particular class of candidates namely, SC/ST candidates alone, and that benefit is not shared with the other candidates. Therefore, the extended zone, partakes the character of a separate zone. Thus, the extended zone of consideration can be equated to a separate zone of consideration, as has been held by the Jodhpur Bench of the Tribunal in **Ram Singh Meena's case**. **The Ld. Attorney General of India has further** opined that the limited extension of zone of consideration for SC/ST category candidates would be the most advisable course to follow. The principle has found approval of the Supreme Court in Vinod Kumar Sangal vs. Union of India (1195) 4 SSC 246.

5. In view of the above, the Ld. Attorney General of India has given the following answer with regard to the questions raised by DoPT vide para -3 above:

(i) The extended zone of consideration for SC/ST candidates is substantially equivalent to a separate zone of consideration for SC/ST candidates. This is subject to the rider that in practice the extended zone appears to be more limited than the separate zone.

(ii) Conceptually, an extended zone of consideration would tantamount to a separate zone of consideration for SC/ST candidates as in the extended zone only SC/ST category candidates are considered. However, there has to be a limit how far one can go down in the overall gradation/seniority list.

6. In view of the categorized advice of the Ld. Attorney General of India and with the approval of the competent authority, it has been decided to retain the existing provisions relating to the requirement of extended zone of consideration for filling up reserved vacancies for selection posts as provided in DoPT OM No. 22011/2/2002-Estt (D) dated 6.1.2006.

Recommendation No. 12

Page No. 361

The percentage of reservation for recruitment of Group 'C' and 'D' posts in the Central Govt. offices where recruitment is made on local/regional basis should be increased from the existing 0% to 12% in the State of Goa having regard to marked increase in the ST population after 2001 Census on account of inclusion of certain communities in the list of Scheduled Tribes of the State in the year 2002. **[Para 6.14.5]**

Action Taken

The quantum of percentage of reservation for Scheduled Tribes in case of **direct recruitment to Group 'C' and 'D' posts normally attracting candidates** from a locality or a region of the State of Goa has been fixed at 12% vide this Department O.M. No.36017/1/2007-Estt.(Res) dated 4.7.2007.

Recommendation No. 13

Page No. 361

The Ministry of Home Affairs should issue instructions to all the Union Territories to the effect that the candidates belonging to Scheduled Castes and Scheduled Tribes irrespective of their State of origin will be eligible to apply for and being considered for appointment in civil posts/ services in those Union Territories or in offices/organizations under their administrative control, in compliance with the directions of the Hon'ble Supreme Court in its judgment dated 11.02.2005. **[Para 6.14.7]**

Action Taken

The Ministry of Home Affairs (MHA) has informed this Ministry that reference received from the Ministry of Tribal Affairs as well as the another reference from Government of NCT of Delhi (GNCTD) in the Context of the judgment dated 11.02.2005 **of the Apex Court in S. Pushpa's case, was** examined in that Ministry in consultation with the Ministry of Law and justice. The Ministry of Law had opined on 24.5.2005 that the law declared by the **Supreme Court of India in S. Pushpa's case of 11.02.2005 applies** to the UT of Delhi also. Hence, the MHA issued a letter dated 01.06.2005 to the GNCTD endorsing the advice of the Ministry of Law. The GNCTD, as follow up, issued letter dated 30.06.2005 addressed to the DSSSB, etc., stating that all the SC/ST candidates, irrespective of their nativity, were eligible for reservation in appointment to the civil posts in the Government of NCT of Delhi which are reserved for SC/ST candidates. Subsequently, this letter dated 30.06.2005 of the GNCTD, alongwith other letters of GNCTD and the **instructions of the Union of India were challenged before the Hon'ble SC in CWP No. 507/2006 titled "Sarv Rural and Urban Welfare Society vs. UOI & others"**.

In the above WP (clubbed with SLP No. 24327/2005 titled "Subhash Chandra & Ors vs. DSSSB"), a two member Bench of the Hon'ble SC delivered its Judgement on 04.8.2009 which deprives all categories of STs and migrant SCs from the benefits of reservation in civil Jobs under the NCT of Delhi. Meanwhile, vide the decision dated 07.10.2010 of Supreme Court **in the matter of Uttaranchal vs Sandeep Kumar Singh, the Hon'ble Court** decided to refer the matter to a larger Bench. Therefore this matter is still sub-judice.

Recommendation No. 14

Page No. 361

The Department of Personnel & Training may consider (i) removing the ceiling of 5% of direct recruitment quota for the purpose of compassionate appointments in respect of candidates belonging to Scheduled Tribes.

[Para: 6.17.2]

Action Taken

As a welfare measure of the Government, 5% of direct recruitment vacancies in Group 'C' or 'D' posts can be filled by making compassionate appointments of dependent family members of deceased and also medically retired Central Government employees, to enable them to tide over the emergency. The basic criteria for making compassionate appointment is the penurious condition of the bereaved/ aggrieved family of the Central Government employee, irrespective of the caste to which he/she belongs. The Scheme has been formulated on the basis of a number of Supreme Court judgments.

Recently, the DOPT has reviewed and liberalized the existing policy on compassionate appointment, by allowing a relaxed method of calculation of 5% quota of vacancies. As per provisions contained in the DOPT's O.M. No. 14014/3/2005-Estt. (D) dated 19.1.2007, the compassionate appointment can also be made against technical posts at Group 'C' and 'D' level.

Recommendation No. 15

Page No. 361

Consequent upon the decision of the Govt. of NCT of Delhi to provide reservation to candidates belonging to Scheduled Tribes irrespective of their nativity communicated to Chairman, DSSSB and all Heads of Departments vide their letter dated 30 June, 2005, the Govt. of NCT of Delhi should launch a special time-bound recruitment drive to fill up the backlog vacancies reserved for STs both in direct recruitment and in promotion. The Commission vide its letter dated 14 July 2005 has already requested the Chief Secretary, Govt. of NCT of Delhi to send an action taken report for filling up of back log vacancies reserved for STs. **[Para 6.18.14]**

Action Taken

The Ministry of Home Affairs is the nodal Ministry for the UTs. The reservation in Govt. of NCT Delhi is being handled by the Ministry of Home Affairs. The Ministry of Home Affairs has informed that keeping in view the decision of Apex Court, the Delhi Cabinet on 04.04.2011, decided to continue recruitment of ST candidates only on contract basis till a final decision is conveyed by the Ministry of Home Affairs or the issue is decided by the Hon'ble Supreme Court. Further, all the

vacancies to be filled up on promotion reserved for STs could continue to be kept vacant.

Moreover, the Judgment dated 07.10.2010 of the Hon'ble Supreme Court in the matter of Uttaranchal V/s Sandeep Kumar Singh is not a final judgment. The case will now be placed before an appropriate (larger) bench and therefore, this matter is still sub-judice.

Recommendation No. 16

Page No. 361

The SCs, STs and OBCs (Reservation in Posts and Services) Bill, 2004 should be included in the Ninth Schedule of the Constitution after it is passed by the Parliament and becomes an Act. **[Para:6.19.2 (i)]**

Action Taken

The SCs, STs and OBCs (Reservation in Posts and Services) Bill, 2004 has since been withdrawn from the Rajya Sabha and another Bill, namely, the Scheduled Castes and the Scheduled Tribes (Reservation in Posts and Services) Bill, 2008 has since lapsed.

Recommendation No. 17

Page No. 362

Judiciary, Lok Sabha/Rajya Sabha Secretariat and Armed Forces should also be brought within the purview of reservation for Scheduled Castes and Scheduled Tribes as per recommendations of the erstwhile National Commission for Scheduled Castes and Scheduled Tribes as contained in para 4.75 and 4.77 of its Seventh Annual Report for the year 2001-02. **[Para:6.19.2 (ii)]**

Action Taken

As regards reservation in judiciary it is stated that as per articles 233, 234 and 235 of the Constitution of India, the matters relating to appointment, promotion and posting of persons in District and Subordinate Judiciary are within the purview of the respective State Governments and High Courts. No provision exists in the Constitution of India for reservation in respect of any class or category of persons for appointment as Judges of High Courts and Supreme Court.

Regarding reservation in the armed forces it is stated that the Ministry of Defence had expressed the view that **Nation's** Armed Forces must be provided with the best available material from the youth of the country. The DOP&T has,

therefore, expressed the view to the effect that, recruitment to the Defence Services has been kept open to all, on common standards irrespective of caste, creed, or religion.

Reservation in the establishments of Lok Sabha and Rajya Sabha has already been provided.

Recommendation No. 18

Page No. 362

There should be reservation in appointments for work-charged posts as well as for appointments for a period of less than 45 days duration. **[Para 6.19.2 (iii)]**

Action Taken

Only such work charged posts are excluded from the purview of reservation which are needed for emergency relief of accident restoration relief work, etc., where it would not be practical to apply reservation provisions. Likewise, when appointments are made for very short period, it may not be practical to look into the caste or the community of the person to be appointed/ engaged.

Recommendation No. 19

Page No. 362

The scope of reservation for SC/ST candidates should be extended above the lowest rung of Group 'A' in respect of scientific and technical posts which are required for conducting research or for organizing, guiding and directing research. [As per the existing instructions, the reservation for SC/ST candidates in such posts is available only upto the lowest rung of Group 'A' posts.] **[Para 6.19.2 (iv)]**

Action Taken

Instructions provide that there would be no reservation in 'Scientific or Technical' posts which are higher than the lowest grade of Group A as these are required for conducting research or for organizing, guiding and directing research. The Supreme Court in the case of Indra Sawhney has held that there are certain services and positions where either on account of the nature of duties attached to them or the level (in the hierarchy) at which they obtain, merit alone counts. In such situations, it may not be advisable to provide for reservation.

Recommendation No. 20

Page No. 362

The minimum experience required for promotion to a post may be relaxed in the case of members of Scheduled Tribes if at any stage of their consideration for

such promotion, sufficient number of candidates belonging to these communities possessing the requisite experience is not available to fill the reserved posts. **[Para 6.19.2 (v)]**

Action Taken

The minimum residency at various levels for movement to higher levels has been prescribed to ensure that the officer matures to shoulder the higher responsibilities. This is applicable to all categories and relaxation in respect of any one group would not be in the interests of public service.

Recommendation No. 21

Page No. 362

Section 13(3) of the proposed bill provides that where any case of negligence or lapse in relation to providing reservation for members of SC/ST/OBC comes to the notice of the Liaison Officer during the course of the inspection carried out by him, or otherwise, he will submit his report to the concerned Secretary to the Govt. or to the Head of the Department, as the case may be, and that Secretary or Head of the Department, will issue appropriate orders in the matter to the concerned appointing authority. In its comments, the Commission suggested the following addition to be made at the end of this Section: - **[Para 6.19.2 (vi)]**

“The Secretary or the Head of the Department will send a copy of the action taken report to the nodal department dealing with the reservation matters i.e. Department of Personnel & Training and the National Commission for Scheduled Castes or National Commission for Scheduled Tribes, as the case may be.”

Action Taken

The Scheduled Castes, Scheduled Tribes and Other Backward Classes (Reservation in Posts and Services) Bill, 2004 has since been withdrawn and the Scheduled Castes and the Scheduled Tribes (Reservation in Posts and Services) Bill, 2008 has since lapsed.

Recommendation No. 22 (i) to (iii)

Page No. 362

22 (i): The percentage of reservation for STs in case of direct recruitment to Group 'C' and Group 'D' posts normally attracting candidates from a locality or a region should be fixed taking into consideration the population of the communities/tribes recognized as STs vide Constitution (Scheduled Castes and Scheduled Tribes) order (Amendment) Act 2002 and other similar amendments issued after conclusion of Census 2001 with a view to ensure that the persons belonging to these communities are not deprived of their constitutional rights. **[Para 6.20.1(i)]**

Page No. 362

22 (ii): The Commission has observed that one third of the cadre strength of all India services i.e. IAS, IPS and IFS are filled by nomination from amongst the State

Civil Services officers. There should be reservation in such induction/ nomination for the candidates belonging to Scheduled Tribes. **[Para 6.20.1(ii)]**

Page No. 363

22 (iii): The ST officers who are senior enough in their respective organizations should also be given opportunity for being nominated as Liaison Officers and also to work in the SC/ST Cell. **[Para 6.20.1(iii)]**

Action Taken

22 (i): The Government has already revised the percentage of reservation for SCs and STs on the basis of Census 2001.

22 (ii): The promotion of SCS/SPS/SFS officers to IAS/IPS/IFS is governed by statutory regulations, viz. IAS (Appointment by Promotion) Regulations, 1955, IPS (Appointment by Promotion) Regulations, 1955 and IFS (Appointment by Promotion) Regulations, 1966. The reservation to Scheduled Caste and Scheduled Tribe officers in the Central Government is available only if the mode of promotion from one Group A post to another Group A post is by non-selection, i.e. by seniority subject to fitness. Whereas criteria for selection of SCS/SPS/SFS officers for promotion to IAS/IPS/IFS is merit-cum-seniority. Further, it is stated that benefit of reservation under the extant instructions is available at the time of initial appointment to the State Civil Service/State Police Service/State Forest Service. After recruitment SCS/SPS/SFS officers obtain promotion in higher posts in the SCS/SPS/SFS in accordance with the extant instructions in the State Government on the subject. It is, therefore, stated that the recommendation for extending reservation to Scheduled Tribe officers of SCS/SPS/SFS in promotion to IAS/IPS/IFS is not in conformity with the policy of the Government.

22 (iii): As per DoPT's extant instructions any officer of the rank of Deputy Secretary or above may be nominated as Liaison Officer irrespective of Caste or community.

Recommendation No. 23 (a) to (b)

Page No. 363

23 (a): The Department of Personnel & Training should impress upon all the Central Ministries/Departments particularly those which are the cadre controlling authorities with respect to various posts/services to make special efforts to increase the representation of Scheduled Tribes in all the Groups of services, particularly in Group A and B by filling up backlog of vacancies reserved for them. **[Para: 6.21.1.2]**

Page No. 363

23 (b): The representation of Scheduled Tribes in Group A and B posts is far below the prescribed percentage of 7.5 in the Central Public Sector Enterprises. The Department of Public Enterprises should impress upon all the administrative Ministries/Departments which exercise control over these

Enterprises to make concerted efforts to achieve the prescribed level of representation of Scheduled Tribes in these Groups. **[Para:6.21.2.2]**

Action Taken

23 (a) to (b): Instructions have been issued by the Department of personnel & Training(DOPT) to all the Ministries/Departments to make concerted efforts to fill up all the backlog reserved vacancies at the earliest possible.

A Special Recruitment Drive was launched in August, 2004 to fill up the backlog reserved vacancies of SCs and STs in a time bound manner. As per information received from various Ministries/ Departments, including 127 CPSEs, there were a total of 36,356 backlog reserved vacancies of STs out of which 30,592 were filled.

Another Special Recruitment Drive to fill up the backlog reserved vacancies of SCs, STs and OBCs has been launched on 19.11.2008. There were a total of 63647 backlog reserved vacancies (DR quota and promotion quota) which could be filled up. Out of which 33550 are filled up so far. The Drive was re-launched in July, 2011 and all the Ministries /Departments have been requested to make concerted efforts to ensure that the remaining backlog vacancies of SCs/STs/OBCs are filled up by 31st March, 2012.

The DoPT has advised all the Ministries/ Departments that reservation quota should be completed while filling up the current vacancies so that there is no occasion for the building up of the backlog vacancies.

Further, various concessions like relaxation in the upper age limit, unlimited number of chances within the relaxed age limit prescribed for appearing in the competitive examinations, exemption from payment of examination fee, relaxation in standards of suitability, non-adjustment of candidates selected on their own merit against reserved vacancies, provisions of carry forward of reservation, etc. continue to be available to improve the representation of STs in the services/posts. To ensure that posts reserved for STs are filled by candidates belonging to these categories of persons only, there is a ban on dereservation of posts in case of direct recruitment.

Recommendation No. 24 (i) to (ii)

Page No. 363

24 (i): The representation of Scheduled Tribes in all the three cadres i.e. officers, clerical and sub-staff is very poor in most of the public sector Banks. This situation has arisen mainly because the Chief Executives of these Banks who are the cadre controlling authorities as well as appointing authorities in respect of all posts, have failed to discharge their constitutional obligations in implementing the reservation policy of the Govt. of India in respect of Scheduled Tribes. This grave situation calls for taking stringent action against the Chief Executives of these Banks for their failure in proper implementation of the reservation policy. Apart from this, the Banking

Division of the Department of Economic Affairs (Ministry of Finance) should also issue instructions to the defaulter Banks to fill up the backlog/shortfall of ST vacancies in a time-bound manner. **[Para:6.21.3.5]**

Page No. 363

24 (ii): In case the response from ST candidates to the press advertisement released by the Banks inviting application from ST candidates to fill up the backlog is not good, the Banking Division should advise the Banks to depute recruiting teams in the areas where there is high concentration of ST population in the country to locate eligible candidates for various posts. **[Para:6.21.3.5]**

Action Taken

24 (i) to (ii): The Department of Financial Services has issued necessary instructions to all the Public Sector Banks & Reserve Bank of India to fill up all backlog/shortfall of ST vacancies by a Special Drive for Recruitment (SDR) in a time bound manner.

However, SDR is an ongoing process in the PSBs and some of the Public Sector Banks have done exceedingly well like Dena Bank.

Recommendation No. 25 (i) to (vi)

Page No. 363

25 (i): The Ministry of Human Resource Development should either consider stopping the annual grants to the Aligarh Muslim University in toto or effecting a suitable cut in the quantum of the grant, as considered appropriate by them until such time this University agrees to implement the reservation policy of the Govt. of India in respect of Scheduled Tribes in appointment of Lecturers and initiate necessary action in this regard by appointing Lecturers belonging to Scheduled Tribes within a reasonable period of time. **[Para:6.21.4.5(i)]**

Page No. 363

25 (ii): The Ministry of Human Resource Development should issue instructions to all the Central Universities to follow the reservation in appointment to the posts of Readers and Professors, which are filled up by direct recruitment in compliance with the reservation policy of the Govt. of India. **[Para:6.21.4.5 (ii)]**

Page No. 364

25 (iii): The representation of Scheduled Tribes in most of the Central Universities in the Grade of Lecturers is very low. The Ministry of HRD (Department of Secondary and Higher Education) and the University Grants Commission should

advise the Central Ministries to identify the backlog vacancies of Lecturers and to chalk out a time-bound programme to fill them up within a specified period of two years. **[Para:6.21.4.5(iii)]**

25 (iv) In case the defaulter Central Universities fail to fill up the backlog vacancies reserved for Scheduled Tribes within two years period, the Ministry of HRD/ UGC while releasing the instalments of grants should put a condition that unless they make up the shortfall of posts reserved for STs, the next instalments shall not be released. **[Para 6.21.4.5 (iii)]**

25 (v) The representation of Scheduled Tribes in non-teaching category posts is negligible in all the Central Universities barring a few. The Ministry of HRD should advise all defaulter Central Universities to identify the backlog of the vacancies reserved for Scheduled Tribes in non-teaching category posts and to chalk out a time-bound programme to fill up these vacancies within a specified period of one year. **[Para:6.21.4.8]**

25 (vi) In case the defaulter Universities fail to fill up the backlog vacancies reserved for STs within that period of one year, the Ministry of HRD/UGC while releasing the instalments of the grants should put a condition that unless they make up the shortfall of ST vacancies, the next instalment of the grant shall not be released. **[Para:6.21.4.8]**

Action Taken

25 (i): The reservation policy of Government of India meant for Scheduled Castes/Scheduled Tribes is not applicable to the Minority Institutions under Article 30(1) of the Constitution of India. The Govt. of India has recognized Aligarh Muslim University as a Religious Minority Institution established and administered under Article 30(1) of the Constitution of India. The Department of Higher Education has informed that the matter is still sub-judice before the **Hon'ble** Supreme Court.

25 (ii): The University Grants Commission (UGC) has issued guidelines with their letter dated 25.08.2006 to all Universities/Deemed to be Universities for strict implementation of SC/ST reservation policy of the Government of India. As per guidelines, para No.6(a) Reservation is applicable to all teaching posts such as Lecturers, Readers, Professors or by whatever other nomenclature the posts are known, and to all posts of non-teaching staff of all the Institutions.

25 (iii) to (iv): As per direction of the Ministry of Human Resource Development, the UGC has issued instructions to all Universities / Deemed to be Universities funded by the Central Government to fill up the backlog vacancies for

SC/ST in teaching and non-teaching posts otherwise "UGC may not release the financial assistance under the Plan Funds for the Second Quarter of this financial year, without obtaining certification for filling up the SC/ST vacancies".

25 (v) to (vi): The UGC is issuing various instructions from time to time for (i) implementation of SC/ST Reservation policy of Govt./UGC and also for (ii) filling up of backlog reserved vacancies of teaching and non-teaching posts in Central Universities as well as other Universities, Deemed to be Universities, colleges and other grant-in-aid institutions and Centers receiving grant-in-aid from the Public funds except in Minority institutions under Article 30 (1) of the Constitution of India.

Status of backlog vacancies reserved for STs in Central Universities under Ministry of Human Resource Development (MHRD) in respect of Non-teaching staff:

Classification	Direct Recruitment			Promotion		
	No. of backlog vacancies as on 1.11.2008	No. of backlog vacancies advertised	No. of backlog vacancies filled as on July, 2011	No. of backlog vacancies as on 1.11.2008	No. of backlog vacancies advertised	No. of backlog vacancies filled as on July, 2011
Group-A	208	178	32	1	0	2
Group-B	11	10	5	14	7	7
Group-C	96	63	38	157	86	16
Group-D	49	19	11	19	2	2
Total	364	270	86	191	95	27

The UGC has also taken a decision in its meeting held on 6th November, 2008 to adopt reservation policy for SC/ST and to fill up backlog reserved vacancies for STs within 6 months. Accordingly, all vice-chancellors of Central Universities as well as Deemed to be Universities and Institutions have been requested by UGC that advertisement for the backlog vacancies may be issued immediately and a compliance report along

with the copy of the advertisement may be sent to the Commission within one month. A portion of grant will be withheld until a status for full implementation of Reserved policy is received from the respective Universities. The instructions have been reiterated in April 2011.

Recommendation No. 26

Page No. 364

The Ministry of Tribal Affairs should advise the 15 States/Union Territories (other than Madhya Pradesh) having Primitive Tribal Groups (PTGs) to make provisions for recruitment of candidates belonging to PTGs in Group C and D posts etc. without subjecting them to go through the recruitment process provided they possess the minimum qualification for these posts on the lines of a similar scheme introduced by the Govt. of Madhya Pradesh. **[Para:6.22]**

Action Taken

The State Govts. concerned have been requested to consider the recommendation of the Commission and take necessary action.

Chapter – 7

Chapter 7: Issuance and Verification of Scheduled Tribe Certificates

Recommendation No. 1 (a) and (b)

Page No. 364

1 (a): The existing format prescribed for issue of the community certificates should be amended to list all the Orders/Acts relating to recognition of castes/tribes as STs on the back of the format to enable the issuing authorities to write the name of the relevant Orders/Act in the certificate. A copy of the amended format, which also contains certain other changes to make it more clear and intelligible is placed at Annex.6.1. **[Para:7.1.2]**

Page No. 364

1 (b): There is a need to reintroduce the second caste/tribe certificate format, which was prescribed by DoPT in the year 1982 for those SCs/STs who had migrated from original State to another State to enable them to obtain a certificate from the State of migration on the basis of caste/tribe certificate issued to their father/mother. A copy of this format, with requisite modifications, is placed at Annex.7.II. **[Para:7.1.3]**

Action Taken

1 (a) and (b): The Department of Personnel and Training (DOPT) is examining a proposal to issue revised guidelines regarding issue of caste/community certificates keeping in view the recommendations of the National Commission for Scheduled Tribes.

Recommendation No. 2

Page No. 364-365

The administrative Ministries/Departments should be advised that at the time of promotion of ST candidates they should themselves verify the community status of the ST candidates proposed to be promoted, from the records available with them and in case the upto-date records are not available with them, they should approach the Ministry of Tribal Affairs to ascertain whether the community of the said ST candidates continues to figure in the list of Scheduled Tribes at the time of promotion or not. **[Para:7.2.2(a)]**

Action Taken

The Department of Personnel and Training vide their O.M. No.36011/3/2005-Estt.(Res.) dated 9.9.2005 has reiterated the instructions to all Ministries/ Departments that appointing authorities are required to verify the caste status of a Scheduled Caste/ Scheduled Tribe/ Other Backward Class candidates at the time of initial appointment and at every important upturn of employee's career.

Recommendation No. 3

Page No. 365

The Ministry of Tribal Affairs, which is the nodal Ministry for the purpose of scheduling or descheduling of any community as Scheduled Tribe, should invariably make available a copy of the notification, which is issued under Article 342 to all the Central Ministries/Departments etc. for their information, record and use at appropriate time. **[Para:7.2.2 (b)]**

Action Taken

The recommendation has been noted for appropriate action. The notification on scheduling or descheduling of any community as Scheduled Tribe is published in the Gazette of India. It will also be ensured that the notifications are uploaded on the Ministry's website.

Recommendation No. 4

Page No. 365

The State Govts. should issue instructions to the district level authorities (competent to issue certificates) to the effect that the community certificates should be issued to the applicants within a maximum period of 30 days from the date of receipt of the applications. **[Para: 7.2.3]**

Recommendation No. 5

Page No. 365

In pursuance of Govt. instructions and Supreme Court's directions some States have set up Scrutiny Committees at district and State levels for verification of the community status of certificate holders belonging to SC/ST. Such Committees have been set up in Andhra Pradesh, Karnataka, Kerala, M.P., Maharashtra, Tamil Nadu, Uttar Pradesh and UT of Chandigarh. The Ministry of Tribal Affairs/DoPT may advise the remaining States/UTs to put in place similar mechanisms for the purpose of verification of community status of such employees who claim to belong to Scheduled Castes/ Scheduled Tribes. **[Para:7.3.2]**

Action Taken

(4) and (5): The work of issuance and verification of social status certificates rests with the State Govts. concerned. The Recommendations of the Commission have been conveyed to all State Govts.

In pursuance of the directions of the Supreme Court, the Ministry of Tribal Affairs has requested the State Govts./UT Admns. to entrust all cases of verification of Caste Certificates, including educational institutions, Public bodies, PSUs, local bodies and other autonomous institutions, where reservation for SCs and STs are applicable, to the Scrutiny Committee appointed by the State Govts. It has also been requested that the Scrutiny Committee may be given jurisdiction by administrative order so that their report may not be challenged in the High Court and the bogus caste certificate cases pending before the courts are not decided against the Govt./Public Sector Banks.

Recommendation No. 6

Page No. 365

The Department of Personnel & Training may advise all the State Govts./UT Administrations to stop forthwith the practice of issuing temporary caste/tribe certificates valid for a period of six months and that community certificates should be issued after full verification of the community status of the applicant, within a period of 30 days (as stated above). **[Para:7.6.1]**

Action Taken

The Department of Personnel and Training (DOP&T) has not issued any instructions about issue of temporary caste certificates. However, the DOPT proposes to issue fresh guidelines about issue of caste/ community certificates.

Recommendation No. 7

Page No. 365

The certificate issuing authorities need to be advised that the sons and daughters of persons already having caste/tribe certificates duly issued by a competent authority are issued community certificates without fresh inquiry in a separate format placed at Annex.7.II. **[Para:7.6.2]**

Action Taken

The DOP&T is of the view that such a provision may be misused by some unscrupulous persons. It, therefore, does not appear to be proper to issue such instructions.

Recommendation No. 8

Page No. 365

The Ministry of Tribal Affairs and Ministry of Personnel & Training should direct all the State Govts to review the instructions for issue of caste/tribe certificates, issued by them to the district or taluka level authorities and advise them to use standard format for issuing the community certificates as prescribed by GOI. **[Para:7.6.3 (i)]**

Action Taken

The Government of India has already issued instructions to the effect that caste/ community certificates issued only by the following authorities:

1. District Magistrate / Additional District Magistrate/ Collector/ Deputy Commissioner/ Additional Deputy Commissioner/ Deputy Collector/ Ist Class stipendiary Magistrate/ Sub Divisional Magistrate/ Taluka Magistrate/ Executive Magistrate/ Extra Assistant Commissioner.

2. Chief Presidency Magistrate/ Additional Chief Presidency Magistrate/ Presidency Magistrate.

3. Revenue Officer not below the rank of Tehsildar, and

4. Sub-Divisional Officer of the area where the candidate and / or his family normally resides.

The Government has also prescribed a format for the issue of the certificate.

Recommendation No. 9

Page No. 365

The requests for issue of caste/tribe certificates should be entered in a register specifically maintained for the purpose at taluka/district level and that the certificate issuing authorities should ensure that the certificates issued by them contain the serial number or the registration number in the register recording requests for issue of caste/tribe certificate, Certificate Book No. & the Certificate No. on the face of the certificates which should bear the clear seal and stamp of the issuing authority. **[Para:7.6.3 (ii)]**

Action Taken

The matter of issue of the Cast certificates is the concern of the State Governments. The Recommendation has been conveyed to the State Govts. for appropriate action.

Recommendation No. 10

Page No. 365-366

The Department of Personnel & Training should advise all the State Govts./UT Administrations to issue instructions to the district/taluk level authorities to ensure that the certificates are issued bilingually i.e. in regional language as well as in English or Hindi language with a view to avoid harassment to the certificate holders as also to check their misuse. **[Para: 7.6.4]**

Action Taken

Language of the certificate is decided by the concerned State Government. However, the instructions have been issued to the effect that if a Caste Certificate is issued in any language other than English or Hindi, it should simultaneously be issued in English or Hindi also as it would facilitate the appointing authorities not knowing the language of the State/UT to consider the claim of candidate belonging to SC or ST or OBC.

Recommendation No. 11

Page No. 366

The amendments to original Presidential Orders issued under Article 342(1) of the Constitution should invariably include a clause clarifying that the place of ordinary residence in respect of persons belonging to the communities included in the Schedule for the first time or in cases where area restriction has been removed, the place of ordinary residence shall be determined with reference to the date of notification of the amendment to the original Order/Act. **[Para:7.6.5]**

Action Taken

The Recommendation has been noted for taking up suitably with the Departments of Legal/Legislative Affairs as the drafting is done by that Department.

Recommendation No. 12

Page No. 366

All the original orders along with the amendments made therein regarding inclusion in or exclusion from the list of Scheduled Tribes should be made available on the website of the Ministry of Tribal Affairs. A State/UT-wise up to date list of Scheduled Tribes should also be put on the website of the Ministry of Tribal Affairs. **[Para:7.6.6]**

Action Taken

Efforts are being made by the Ministry of Tribal Affairs to make available the original orders on inclusion in or exclusion from the list of Scheduled Tribe in the website (**www.tribal.nic.in**) of the Ministry.

Recommendation No. 13

Page No. 366

The existing procedure of post appointment verification of the genuineness of the community certificates should be replaced by a mechanism for pre-appointment verification with a view to effectively curb the increasing practice of getting appointments on the basis of false community certificates. The period during which the character and antecedents of the recommended candidates are got verified from police authorities should also be utilized for verification of the genuineness of the community certificates issued to the candidates claiming to belong to Scheduled Tribes/Scheduled Castes from the district authorities. The concerned appointing authorities which write to the police authorities of the respective State for verification of character and antecedents should also be advised to write simultaneously to the concerned district authorities viz. District Collectors, Deputy Commissioners, District Magistrates etc. for verifying the authenticity of the certificates or to certify that the candidate actually belongs to a Scheduled Tribe in case the records are not available for any reason. **[Para: 7.6.7. (i)]**

Recommendation No. 14

Page No. 366

The appointing authorities should generally issue the offer of appointment on receipt of a satisfactory verification report with respect to the genuineness of the community certificates produced by them in support of their claim of belonging to Scheduled Tribes.

However, in case the verification report from the District authorities regarding the authenticity (or otherwise) of the community certificates produced by the candidates along with their applications is not received within a maximum period of six months, offer of appointment on provisional basis may be given to the ST candidate subject to the condition that his probation should not be clear until receipt of verification report (Attention, in this regard is invited to the recommendation at S. No. 16). **[Para: 7.6.7 (ii)]**

Recommendation No. 15

Page No. 366

Pending switch- over to the proposed system of pre-appointment verification of the genuineness of the community certificates, (as mentioned against serial number 13) of getting the community certificates verified by the issuing authorities prior to the appointment of the candidates, the existing instructions of verifying the community certificates through the issuing authorities after the candidate has been appointed on provisional basis must be completed within a period of six months after the appointment of the candidate and in the event of failure to complete the verification within the specified period, the appointing authority should fix the responsibility on the concerned officer for this failure and take necessary action against the officer/ official held responsible for this failure. **[Para: 7.6.7 (iii)]**

Recommendation No. 16

Page No. 367

In case a candidate belonging to ST category has been appointed against a vacancy reserved for ST quota on provisional basis pending verification of his/her community certificate, his probation should not be cleared until the process of verification of the genuineness of the community certificates produced by him is completed and a satisfactory report received in this regard from the concerned district authorities. This will help the Government to straightaway terminate the services of such candidate/candidates under Rule 5 of the Central Civil Services (Temporary Service) Rules, 1965 by giving one month's notice in writing to him/them, in case the community certificate produced by him/them is/are found to be fake/bogus or false. **[Para:7.6.7 (iv)]**

Recommendation No. 17

Page No. 367

If the post-appointment verification by the appointing authority through the concerned District authorities/Scrutiny Committee reveals that the candidate had produced a fake/bogus or false certificate and he/she does not belong to a recognized Scheduled Tribe, his/her services (in case he has been appointed on

regular/substantive basis), should be dispensed with straightaway without giving him/her any further notice in terms of the procedure laid down by **Hon'ble Supreme Court in Civil Appeal No. 5834-Kumari Madhuri Patil, Vrs. Govt. of Maharashtra, 1994** [referred to in Para 7.3.1 (xiii)]. The appointing authority should simultaneously also take up the matter with the CBI for the purpose of launching of criminal proceedings under IPC against the fake/false community certificate holders. **[Para: 7.6.7 (v)]**

Action Taken 13 to 17

The Government is examining a proposal to revise instructions about verification of caste/ community certificates at the time of initial appointment of SC/ST/OBC candidates.

Recommendation No. 18

Page No. 367

In no case should the false ST certificate holders be allowed to work as a general candidate. The services of such fake/false certificate holders should be terminated after following the due procedure and the posts/seats so vacated filled from ST for whom it was originally reserved. **[Para: 7.6.8]**

Action Taken

The DOPT's O.M. No.36012/6/88-Estt.(SCT) dated 24.4.1990 provides that the appointing authorities should, in offer of appointment to the candidates claiming to belonging to be STs include a clause as follows:

"The appointment is provisional and is subject to the caste/tribe certificate being verified through the proper channels and if the verification reveals that the claim to belong ST is false, the services will be terminated forthwith without assigning any further reasons and without prejudice to such further action as may be taken under the provisions of the Indian Panel Code for production of false certificate."

The instructions contained in DoPT's O.M. 11012/7/91-Estt. (A) dated 19.5.93 and reiterated vide OM No.42011/22/2006-Estt. (Res) dated 29.3.2007 and dated 19.5.93 also provide that wherever it is found that a Government servant, who was not qualified or eligible in terms of the recruitment rules etc. for initial recruitment in service or had furnished false information or produced a false certificate in order to secure appointment, he should not be retained in service. If he is a probationer or a temporary Government servant, he should be discharged or his services should be terminated. If he has become a permanent Government servant, an inquiry as prescribed in Rule 14 of CCS (CCA) Rules, 1965, may be held and if the charges are proved, the Government servant should be removed or

dismissed from service. The posts reserved for ST candidates are filled through the ST candidates only.

Recommendation No. 19

Page No. 367

The Ministry of Social Justice & Empowerment should expedite the process of finalizing the Bill already drafted by them to regulate the issue of community certificate relating to SCs/STs/OBCs and introduce it in the Parliament at an early date after consulting NCST. The Ministry should also advise the State/UT Govts. to enact similar legislations to curb the growing menace of issuance of false community certificate. **[Para: 7.6.9]**

Action Taken

The Ministry of Social Justice & Empowerment (M/SJ&E) has informed that pursuant to the Supreme Court judgement dated 18.04.95 in Director of Tribal Welfare, Government of Andhra Pradesh Vs. Laveti Giri and Other, the erstwhile Ministry of Welfare had drafted a Bill to regulate the issue of community certificates to persons belonging to Scheduled Castes, Scheduled Tribes and Other Backward Classes and sent it to all State Governments/UT Admns. with its letter dated 13.07.1995 inviting their views. The comments received from 19 States/UTs on the draft Bill were referred to the then NCSCST by that Ministry for obtaining their comments. Thereafter, the National Commission for Scheduled Castes (NCSC) has been reminded from time to time. The matter has also been taken up by that Ministry with the Minister of Tribal Affairs: Chairperson, NCSC and the Chairperson, NCST, to expedite their comments.

Recommendation No. 20

Page No. 367

There is a need to reiterate the instructions that the tribe/community status of a person is determined on the tribe/community status of his/her father and not mother and, therefore, the certificates to be issued to a female applicant are required to be verified with reference to (i) the tribe/community status of her father and not of her husband, and (ii) her place of ordinary residence with reference to the place of residence of her **father or grandfather and not that of her husband's family. In case the matriarchical system is in vogue, the tribe status of the person will be determined on the tribe status of his/her mother and not father and in this case the certificates to be issued to a female applicant are required to be verified with reference to the community status of her mother and not of her husband and her place of ordinary residence with reference to the place of residence of her mother or grandmother and not that of her husband's family.** These instructions further imply that an ST woman marrying a non-ST person will continue to be an ST. Similarly, in case of inter-caste marriage,

the children of that family would get the community/tribe status of their father. **[Para: 7.6.10]**

Action Taken

The guidelines in the matter have been issued to the States/UTs under the circular No.35/1/72-R.U. (SCT.V), dated 02/05/1975 on the question of granting of Scheduled Tribes status on marriage, as under:

The guiding principle is that no person who was not a Scheduled Tribe by birth will be deemed to be a member of a Scheduled Tribe merely because he or she had married a person belonging to a Scheduled Tribe. Similarly, a person who is a member of a Scheduled Tribe would continue to be a member of that Scheduled Tribe, even after his or her marriage with a person who does not belong to a Scheduled Tribe.

In a recent judgement of Hon'ble Supreme Court involving the offspring of a couple where the mother belong to a ST and the father was a non ST, in the case titled Anjan Kumar v/s Union of India reported in (2006) 3SCC-257 wherein the Supreme Court has, after discussing earlier decisions of the Supreme Court on this issue, said that in view of the catena of the decisions of the Supreme Court, the questions raised are no more res integra. To sustain the claim, one must show that he/she suffered disabilities – socially, economically and educationally, cumulatively. The authorities concerned, before whom such claim is made is duty bound to satisfy itself that the applicant suffered disabilities – socially, economically and educationally before such certificate is issued. These instructions have been brought to the notice of the all States/UTs by this Ministry in October 2008.

Chapter- 8

Chapter 8: Crime and Atrocity on the Scheduled Tribes

Recommendation No. 1

Page No. 368

Suitable amendments need to be carried out in Rule 7 (1) and also Rule 5 (3) of the SCs and STs (POA) Rules, 1995 to empower, apart from the Deputy Supdts. of Police, the Police Inspectors also with a view to expedite the investigation of cases of atrocity on members of Scheduled Tribes.

[Para: 8.11.2]

Action Taken

The Ministry of Social Justice & Empowerment has informed that the issue was examined in consultation with the Ministries of Home Affairs and Tribal Affairs and the view, on the whole, has been that it would not be desirable to lower the level of investigation in view of the sensitivity of such cases and the gravity of the offences.

Recommendation No. 2

Page No. 368

In all the districts of the Fifth Schedule States, Special Courts may be exclusively set up instead of designating Additional Session Courts or Session Courts as a Special Courts. There is also need to appoint Special Public Prosecutors. **[Para:8.12.3]**

Action Taken

The State Govts. have been requested to take appropriate action on the Recommendations.

Recommendation No. 3

Page No. 368

Chief Secretaries of the nine 5th Schedule States which have not yet prepared and notified the Contingency Plans in terms of Rule 15 of the SCs and STs (POA) Rules, 1995 may be requested to the needful. **[Para: 8.13.3]**

Action Taken

The State Govts. have been requested to take appropriate action on the Recommendations.

Recommendation No. 4

Page No. 368

State/UT Govts. may be requested to make necessary arrangements to ensure that the investigation process is completed within the prescribed period of 30 days and that the victims/their dependents are provided economic assistance immediately after the incident. **[Para: 8.14.2]**

Action Taken

The Ministry of Social Justice & Empowerment has informed this Ministry that it has advised the State Govts./Union Territory Admns. on 14.3.2006 that in accordance with Rule 7(2) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Rules, 1995, the investigation of offences should be completed within 30 days and that disbursement of relief and rehabilitation should be provided to victims without delay.

Recommendation No. 5

Page No. 368

In case the ST victim is not satisfied with the performance of the Public Prosecutor (PP), he/she should be allowed to change the P.P. and engage a private lawyer/advocate and the expenses for engaging private lawyer should be borne by the State Govt. **[Para: 8.14.3 (i)]**

Action Taken

The State Governments have been requested to take appropriate action on the Recommendations.

Recommendation No. 6

Legal aid, for which there is provision in the SCs and STs (POA) 1989, should be disbursed to the ST victim as early as possible. Awareness

programme about grant of legal aid should be launched in tribal areas so that the victims could come to know about availability of free legal aids. **[Para: 8.14.3 (ii)]**

Action Taken

The State Govts. have been requested to take appropriate action on the Recommendations.

Recommendation No. 7

Page No. 368

The amount of financial relief under Rule 12(4) of the SCs & STs (POA) Rules, 1995 is required to be provided to the victim immediately after the incident. However, it has been noticed that some of the district authorities are not providing the relief particularly in cases of murder, grievous hurt, rape and arson immediately after the incident. Necessary orders should be issued to all the District Magistrates to ensure immediate payment of financial relief especially in heinous offences and in other offences of atrocity as per provision of these Rules. **[Para: 8.14.3 (iii)]**

Action Taken

The Ministry of Home Affairs under its advisory issued to the State Govts./UT Adms. on 1.4.2010 had inter-alia requested them to (i) ensure adequate measures for the economic and social rehabilitation of the victims of atrocities, (ii) the States which have not prescribed any scale of monetary relief and rehabilitation facilities to the SC/ST victims of atrocities may do so without further delay.

Recommendation No. 8

Page No. 368

The amount of financial relief to the victims of the atrocities under Rule 12(4) of the SCs & STs (POA) Rules, 1995 should be reviewed and suitably increased in recognition of the hard fact that the cost of living over the past one decade, starting from 1995 has enormously gone up. **[Para: 8.14.3 (iv)]**

Action Taken

The Central Government has amended the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Rules, 1995 vide notification

dated 23.12.2011, effecting an increase – generally of 150% - in the minimum scale of relief for victims of atrocities.