



राष्ट्रीय आयोग
संविधान 1956
अनुसूचित जनजाति आयोग
National Commission for Scheduled Tribes

भारत सरकार
Government of India
राष्ट्रीय अनुसूचित जनजाति आयोग
National Commission for Scheduled Tribes

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D.O. No. 22/1/2011/DEV./RU-III

17th August, 2011

Dear Shri Shankar,

Please refer to your letter No. I-19012/4/2011-NI-II dated 8/8/2011 regarding next meeting of the NIC under the chairmanship of the Prime Minister to be held on 10/09/2011 in New Delhi and earlier correspondence regarding material for background Note on the agenda subject relating to discrimination against Scheduled Tribes.

2. Material for preparation of the Agenda Note is annexed herewith.

With regards,

Yours sincerely,

(Aditya Mishra)

Hand
17/8/11
S. K. M.

Shri Bhagwan Shankar,
Joint Secretary(HR),
Ministry of Home Affairs,
Lok-Nayak Bhawan,
Khan Market, New Delhi-110003

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SSA NIC

National Commission for Scheduled Tribes

Meeting of the National Integration Council (MHA)-10/09/2011 Background Material for

Issue : Discrimination-especially against minorities and Scheduled Tribes; measures to eliminate such discrimination.

The Scheduled Tribes have remained socially, educationally and economically backward due to long isolation from the rest of the world. Due to this backwardness, the Scheduled Tribes were not able to reap the benefits of general development. In order to eliminate these handicaps, the framers of the Constitution of independent India advocated positive discrimination in favour of the ST communities in matter of education and employment. Accordingly, Articles 15 and 16 of the Constitution were amended by inserting Article 15(4) and Art. 16(4) to incorporate special provision for making reservation for Scheduled Tribes (and Scheduled Castes) in admission to educational institutions and in matter of employment in services and posts under the Government respectively. Art. 16(4) was further amended to incorporate Clause (4A) and (4B) to ensure reservation in promotion to Scheduled Tribes (and SCs) and to ensure their due position in the seniority list after promotion. However, a very weak lacuna in the reservation policy is the provision allowing de-reservation in posts and services under the Government. Large number of vacancies reserved for Scheduled Tribes are being filled by appointment from General candidates by resorting to this exemption clause. As large number of educated and experienced Scheduled Tribe candidates are likely to be available now due to various educational programmes launched by the Government since independence, the provision for de-reservation should be totally banned, otherwise caste-based discrimination in appointment of Scheduled Tribe candidates will continue un-checked.

2. Discrimination in appointment to public services

Several safeguards have been provided in the Constitution of India for social, economic and educational development of Scheduled Tribes. These safeguards are being enforced either through legislative provisions or executive instructions. This includes Article 46, which is a comprehensive provision comprising both the developmental and regulatory aspects. It reads as follows:-

“The State shall promote with special care the educational and economic interests of the weaker sections of the people, and in particular, of the Scheduled Castes and Scheduled Tribes, and shall protect them from social injustice and all forms of exploitation”.

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

2.1 Representation of Scheduled Tribes in Central Govt services as on 01.01.2010 as per the information made available by the Department of Personnel

and Training (Ministry of Personnel and Training) vide their letter No. 36027/1/2010-Estt. (Res.) dated 09.07.2010 is as given in the table below:

(As on 01.01.2010)

Group	Total	Scheduled Tribes	%age
(1)	(2)	(3)	(4)
A	8000	428	5.40
B	30310	1667	5.50
C	117753	7837	6.70
D (Excl Sweepers)	26592	1599	6.00
Total(Excluding Sweepers)	182655	11531	6.31
Total (Including Sweepers)	185194	11624	6.24

Note: The above figures include information in respect of 25 Ministries/Departments only.

2.2 The above data states that the representation of STs in posts in Group A and B is much less than the prescribed percentage of 7.5. It is obvious that this situation has arisen on account of the backlog vacancies in these Groups, which are not being filled up by the concerned Ministries/ Departments. The Commission is of the view that **Ministries/Departments particularly those which are cadre controlling authorities for appointment to various posts/ services are obliged to fill up the backlog vacancies reserved for Scheduled Tribes by launching Special Recruitment Drives (SRDs) and/or by making ad-hoc promotions in case eligible ST candidates are not available in the extended zone of consideration in the matter of promotion by selection. Where the Recruitment Rules provide for 100% recruitment by promotion, relaxation of the same to fill up vacant posts for STs by direct recruitment or filling up of an equal number of resultant vacant posts at the lower level through direct recruitment (considering them as backlog vacancies) may be ensured. DoPT, which is the Nodal Ministry for matters relating to reservation, may formulate a time-bound Action Plan to fill up the vacant positions to meet the target.**

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

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

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

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

2.4 It is noted that there is a marginal improvement in the representation of STs in Group 'A', but in all other categories and overall there is a reduction in representation of STs as compared to the position as on 01.01.2008, the representation of STs in Group 'A' and 'B' is less than the prescribed reservation of 7.5%. **The Department of Public enterprises, being Nodal Department, may oblige the Central Public Sector undertakings to make concerted efforts to fill up the backlog vacancies reserved for Scheduled Tribes in Group A and B posts through SRDs to bring their representation to the prescribed level of 7.5%. DoPT and Deptt. of Public Enterprises should formulate a time-bound Action Plan to fill up the vacant positions to meet the target.**

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

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

(As on 01.01.2010)

S. No	Name of the Bank	Officers			Clerks			Sub Staff		
		Total	ST	%	Total	ST	%	Total	ST	%
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)
1	Allahabad Bank	8713	552	6.34	8099	361	4.46	2683	141	5.26
2	Andhra Bank	8478	540	6.36	3024	89	2.94	2683	189	7.04
3	Bank of Baroda	13346	952	6.63	15317	817	5.33	6862	633	9.22
4	Bank of India	14278	1089	7.63	17026	1217	7.15	5285	501	9.48
5	Bank of Maharashtra	4342	270	6.22	6423	420	6.53	2860	250	8.74
6	Canara Bank	17621	1138	6.46	16324	859	5.26	7494	348	4.64
7	Central Bank of India	12053	752	6.24	12754	808	6.34	7165	534	7.45
8	Corporation Bank	5207	244	4.68	4913	241	4.91	2565	185	7.21
9	Dena Bank	4263	421	9.88	4069	485	11.92	2218	315	14.20
10	Indian Bank	7731	458	5.92	9158	235	2.57	2932	134	4.57
11	Indian Overseas Bank	10348	609	5.15	11817	609	5.15	3259	142	4.36
12	Oriental Bank of Commerce	7516	382	5.08	5349	207	3.87	2329	90	3.86
13	Punjab National Bank	20131	1160	5.76	24475	801	3.27	9344	580	6.20

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)
14	Punjab & Sind Bank	5624	149	2.65	1437	34	2.37	1308	38	2.90
15	Syndicate Bank	10043	647	6.44	10845	611	5.63	3834	247	6.44
16	Union Bank of India	13221	780	5.90	8627	383	4.44	5719	417	7.29
17	United Bank	5051	370	7.32	6981	245	3.50	3420	127	3.71
18	UCO Bank	8742	558	6.35	10046	458	4.56	3576	179	5.01
19	Vijaya Bank	5250	265	5.04	3819	132	3.45	2214	155	7.00
20	State Bank of India	71370	4366	6.12	89137	6407	7.19	42716	3083	7.22
21	State Bank of Bikaner & Jaipur	4611	427	9.26	4891	334	6.82	2260	242	10.70
22	State Bank of Hyderabad	5206	324	6.22	6104	381	6.24	2528	148	5.85
23	State Bank of Indore	2484	236	9.50	2854	514	18.01	1065	233	21.88
24	State Bank of Mysore	3193	234	7.32	4706	219	4.65	1652	94	5.69
25	State Bank of Patiala	4506	152	3.40	5668	62	1.1	2366	63	2.7
26	State Bank of Travancore	4215	129	3.06	5812	177	3.05	1820	85	4.67
27	IDBI	9300	327	3.52	1452	42	2.89	932	67	7.19
28	NABARD	3863	289	7.48	880	104	11.81	0	0	0
29	EXIM Bank	233	19	8.15	0	0	0	8	0	0
30	SIDBI	877	52	5.93	99	8	8.08	71	14	19.72
31	Reserve Bank of India	9427	658	7.00	3789	439	11.6	5811	590	10.2
32	National Housing Bank	92	4	4.35	0	0	0	0	0	0

2.6 It is seen from the above Table that the representation of Scheduled Tribes in the officers' cadres is less than the prescribed percentage of 7.5% except in most of the Banks. The representation of STs in the cadre of Clerks in many of banks is less than 6% and even 1.1% in State Bank of Patiala and 2.37% in Punjab & Sind Bank. As regards the cadre of Sub-ordinate staff (Sub-staff) the percentage of representation for STs in some of the Banks is not satisfactory, for example Oriental Bank of Commerce (3.86%), Punjab & Sind Bank (2.90%), United Bank (3.71%), State Bank of Patiala (2.70%) and others. **Dena Bank is the only Bank in which representation of STs in all the cadres is 7.5 % or above.**

2.7 The respective Banks are the recruiting agencies for all the categories since 2001 and, therefore, the Commission fails to understand the low representation of

Scheduled Tribes in respect of either Officer Cadre or Clerks Cadre or Sub-staff cadres. It appears that the banks have not taken effective steps to fill up the backlog vacancies reserved for Scheduled Tribes. **The Commission is of the view that the Department of Economic Affairs (Banking division) should oblige the banks to devise a time bound programme to make up the shortfall / backlog of ST vacancies by launching Special Recruitment Drive or by deputing special recruiting teams in the tribal areas or by both.**

(iv) **Representation of Scheduled Tribes in Group A, B, C and D posts as on 1.1.2009 in Public Sector Insurance Companies**

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

(As on 01.01.2010)					
S No.	Name of Insurance Company	Group	Total employees	ST employees	% age
(1)	(2)	(3)	(4)	(5)	(6)
1	Insurance Regulatory and Development Authority , Hyd.	Group A&B	60	1	1.60
		Group C	0	0	0.00
		Group D	33	2	6.00
		Total	93	3	3.00
2	Life Insurance Corporation of India, Mumbai	Group A&B	49788	3261	6.55
		Group C	64737	4660	7.20
		Group D	2421	176	7.27
		Total	116946	8097	6.92
3	General Insurance Corporation of India, Mumbai	Group A&B	274	13	4.74
		Group C	131	12	9.16
		Group D	34	1	2.90
		Total	439	26	5.92
4	National Insurance Company Ltd., Kolkatta	Group A&B	6686	304	4.55
		Group C	7239	494	6.82
		Group D	2047	165	8.06
		Total	15972	963	6.03
5	The New India Assurance Company, Mumbai	Group A&B	7996	390	4.88
		Group C	9090	704	7.74
		Group D	2461	198	8.05
		Total	19547	1292	6.61
6	Oriental Insurance Company Limited, New Delhi	Group A&B	6506	323	4.96
		Group C	6582	478	7.26
		Group D	1988	174	8.75
		Total	15076	975	6.47

(1)	(2)	(3)	(4)	(5)	(6)
7	United India insurance Company Limited, Chennai	Group A&B	6558	295	4.50
		Group C	8438	598	7.09
		Group D	2437	240	9.85
		Total	17433	1133	6.50
8	Agriculture Insurance Company Ltd., New Delhi	Group A&B	155	13	8.39
		Group C	33	5	15.15
		Group D	8	1	12.50
		Total	196	19	9.70
	Total (All Companies)	Group A&B	78023	4600	5.89
		Group C	96250	6951	7.22
		Group D	11429	957	8.37
Grand Total (all Companies – all Groups)			185702	12508	6.74

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

The Commission is of the view that in order to enhance the representation of STs in Group A & B level posts in the Insurance Sector, the Ministry of Finance needs to take special measures like SRD to achieve the required representation of 7.5 percent in a time bound action plan.

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

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

(A) Teaching posts

S NO.	Name of the University	Professor		Reader		Lecturer		
		In Position (Sanctioned)	STs	In position (Sanctioned)	STs	In position (Sanctioned)	STs	Back-log (ST)
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
1	Hyderabad	161(106)	0	145(221)	1	51(214)	7	NA
2	Central Instt of English & Foreign Lang.	52(32)	1	52(60)	1	78(145)	9	NA
3	Assam	45(32)	0	81(94)	0	170(199)	11	NA
4	Tezpur	34(48)	0	45(64)	0	72(120)	5	NA

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
5	Jamia Millia Islamia	170(113)	0	186(176)	0	267(434)	14	NA
6	Jawaharlal Nehru	223(165)	3	195(287)	0	67(271)	7	NA
7	MG Antar Rashtriya Hindi Vishwavidyalaya	9 (16)	0	6(10)	0	28(43)	2	NA
8	Manipur University	50 (35)	0	63(81)	0	54(141)	6	NA
9	Mizoram University	22(43)	0	44(67)	0	147(228)	10	NA
10	Allahabad	98(70)	1	143(167)	5	79(534)	18	NA
11	Babasaheb Bhimrao Ambedkar, Lucknow	12(22)	0	20(43)	0	43(65)	3	NA
12	Banaras Hindu	635(347)	0	555(680)	0	300(1368)	21	NA
13	Visva Bharti	131(62)	0	151(128)	1	180(359)	14	NA
14	Pondicherry	79 (69)	0	96(138)	0	83(253)	10	NA
15	Aligarh Muslim University	358(173)	0	428(356)	0	360(853)	0	NA

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

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

(B) Non-Teaching posts

(for the Year 2009-10)

S. No.	Name of the University	Group `A`		Group `B`		Group `C`		Group `D`	
		In position (Sanctioned)	STs	In Position (Sanctioned)	STs	In position (Sanctioned)	STs	In position (Sanctioned)	STs
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
1	Hyderabad	72(87)	4	176(195)	5	355(426)	15	498(629)	34

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
2	Central Instt. of English & Foreign Lang.	21(43)	2	53(102)	4	101(189)	13	71(106)	4
3	Assam	16(22)	1	29(37)	0	140(157)	12	71(72)	6
4	Tezpur	32(37)	2	31(41)	1	82(102)	5	74(74)	3
5	Jamia Millia Islamia	41(65)	0	48(59)	2	618(645)	4	446(447)	2
6	Jawaharlal Nehru	69(104)	3	185(253)	7	479(558)	18	676(710)	15
7	M G A Hindi Vishwa-vidyalaya	9(13)	0	9(9)	0	35(46)	1	23(23)	0
8	Manipur University	23(34)	2	20(25)	2	178(236)	22	84(119)	17
9	Mizoram University	19(40)	0	32(80)	0	248(384)	108	0(0)	0
10	Allahabad	28(48)	0	13(21)	0	493(588)	0	624(653)	0
11	Babasaheb Bhimrao Ambedkar, Lucknow	11(17)	0	7(8)	0	47(53)	1	25(28)	0
12	Banaras Hindu	169(231)	6	200(297)	12	2035(3127)	44	2712(3568)	101
13	Visva Bharti	70(86)	1	102(114)	5	521(663)	20	510(886)	42
14	Pondicherry	54(67)	1	56(72)	2	260(299)	10	224(238)	13
15	Aligarh Muslim University	122(168)	0	791(999)	0	1557(1851)	0	2709(2896)	9

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

2.13 The Commission is of the considered view that the Ministry of Human Resource Development (Department of Higher Education)/ University Grants Commission may issue stringent instructions to all the defaulter Central Universities to identify the backlog vacancies reserved for Scheduled Tribes in the non-teaching posts in respect of Group 'A', 'B', 'C' and 'D' and to launch SRDs to fill them within a specified time limit.

2.14 Computerization of Rosters

In order to ensure smooth monitoring of the implementation of reservation policy the DoPT, which is Nodal Department on the subject of reservation may develop a common software programme for computerization of the rosters so that recruiting / cadre control authorities do not find difficulties in identifying a vacancy to be unreserved or reserved for any particular group viz; ST, SC or OBC and for PWD or Ex-Serviceman etc., for whom lateral reservation is provided, and implementation of reservation policies in transparent fashion.

3. De-reservation of promotion posts

3.1 Since de-reservation in promotion has not been banned, the National Commission for Scheduled Tribes receives a large number of proposals for de-reservation in promotions. Most of these proposals have one of the following two situations:-

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

3.2 The Commission is of the view that restricting the ZoC for the reserved category of posts is not only an excuse to seek de-reservation but also detrimental to the reservation policy and also violation of the spirit of the judgment of Hon'ble Supreme Court in Civil Appeal No. 4026 of 1988 in the case of UP Rajya Vidyut Board SC/ ST Karamchari Kalyan Sangh vs. UP State Electricity Board and Ors. in which the Hon'ble Court held that "We are prima-facie in agreement with the contention of the learned council for the appellant that there has to be a separate zone of consideration so far as SC/ ST candidates are concerned. Clubbing the Scheduled Castes with general category in same zone of consideration would defeat the very purpose of reservation". The issue of separate zone of consideration with reference to SCs/STs also came up for consideration before the Supreme Court in Civil Appeal No.14568-69/95 in the matter of C.D. Bhatia & Ors. vs. Union of India & Ors. in which the Supreme Court in their order dated 20.10.1995 held that "We are of the view that the law laid down by this Court in U.P. Rajya Vidyut Parishad's case is binding on all the authorities including Union of India" .

3.3 The DoPT, by way of implementing the above cited judgment of the Hon'ble Supreme Court, issued instructions vide their OM No. 36012/27/2000-Estt. (Res.) dated 15/03/2002 for drawing separate lists of all eligible SC/ ST candidates for promotion on ad-hoc basis. No instructions have so far been issued in regard to regular promotions. The matter relating to drawal of separate zone of consideration in selection promotions in implementation of the above referred verdict of Hon'ble Supreme Court has been taken up by the Commission with the DoPT time and again. However, the Commission has not heard anything in this regard from DoPT. **DoPT should revise the instructions contained in their OM No. 36012/27/2000-**

Estt. (Res.) dated 15/3/2002 at the earliest to provide for a separate zone of consideration for SCs and STs in the matter of promotion by selection.

3.4 The Commission is further of the view that

- (i) **There should be total ban on dereservation of posts reserved for Scheduled Tribes to be filled by any method i.e. whether Direct Recruitment or promotion in all Ministries/Depts./Organisations except those where reservation is exempted..**
- (ii) **The ban on dereservation in Direct Recruitment should be monitored strictly as many Ministries/Depts./Organisations including DoPT have failed to appoint Scheduled Tribes candidates against Direct Recruitment posts/ grades of general nature, for which there should be no paucity of qualified/ eligible ST candidates.**
- (iii) **Recruitment Rules in r/o each post must specifically mention about applicability of reservation for Scheduled Tribes, Scheduled Castes and OBCs (where admissible).**
- (iv) **There should be total ban on dereservation in general, excluding certain exceptional categories of posts. The exceptional posts should be decided in consultation with the Ministry of Tribal Affairs as well as National Commission for Scheduled Tribes.**
- (v) **If no ST candidate is likely to become available for a long time, steps should be taken to fill the reserved post from ST candidates through direct recruitment by amending the RRs if the existing RRs do not provide for the same, instead of seeking de-reservation of the post.**
- (vi) **No exchange of vacancies may be permitted between ST, SC or OBC or vice-versa.**
- (vii) **Instead of seeking dereservation of the post, provisions of the DoPT OM No. 36011/14/83-Estt.(ST) dated 30/04/1983 relating to consideration of cases of ad-hoc promotion of SC/ ST employees should be applied in the matter of promotion of ST candidates against reserved posts. The relaxation in period of ad-hoc appointments upto 3 years agreed in respect of Group 'C' and 'D' posts vide DoPT OM No. 28036/01/2007-Estt(D) dated 14/11/2007 may be allowed, with suitable amendments, in case of ad-hoc promotion of ST candidates appointed against all categories of posts reserved for Scheduled Tribes.**
- (viii) **To check various issues and problems connected with de-reservation and to ensure accomplishment of the targets of achieving required percentage of reservation for Scheduled Tribes in all categories of posts, the DoPT OM No. 36011/14/83-Estt.(ST) dated 30/04/1983 may be revised to prescribe drawing of separate lists of eligible ST/ SC candidates in respect of all kinds of promotion on regular as well as ad-hoc basis in all categories of posts.**
- (ix) **Action should simultaneously be taken to amend the RRs for each post to provide for element of direct recruitment in all cases where appointment is being made 100% by promotion, by incorporation of 'failing which' clause.**
- (x) **In normal course Recruitment Rules should provide elements of Direct**

Recruitment as well as deputation/transfer on deputation, beside promotion, instead of 100% by promotion, so that deficiencies due to non-availability of reserved category candidate(s) in the seniority list of the feeder grade may be made up through Direct Recruitment or deputation/ transfer on deputation as the case may be.

- (xi) As per instructions of the Supreme Court of India separate list of eligible ST and SC candidates, fulfilling the prescribed conditions relating to educational and experience qualification may be prepared for filling the posts reserved for Scheduled Tribes and Scheduled Castes respectively.**
- (xii) In case of non-availability of ST/SC candidates in the feeder grade, in the near future, the post may be filled by deputation and the reserved point to be carried forward as shortfall/ backlog vacancy till such time the eligible ST/SC candidates becomes available for promotion.**
- (xiii) In case of non-availability of ST/SC candidates, at all, in the feeder grade the post(s) could be filled by Direct Recruitment from the candidates belonging to the concerned reserved category to the extent of shortfall/backlog. This may be done by resorting to Special Recruitment Drive.**

4. Atrocities on Scheduled Tribes

4.1 **Article 17** provides that “Untouchability” is abolished and its practice in any form is forbidden. To give effect to this Article, Parliament made an enactment viz. Untouchability (Offences) Act, 1955. To make the provisions of this Act more stringent, the Act was amended in the year 1976 and was also renamed as the Protection of Civil Rights Act, 1955. As cases of atrocities on STs were not covered under the provisions of PCR Act, 1955, Parliament passed another important Act in 1989 for taking specific measures to prevent the atrocities on Scheduled Castes and Scheduled Tribes. This Act known as the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, became effective from 30th January, 1990. For carrying out the provisions of this Act, the Govt. of India notified the SCs and the STs (Prevention of Atrocities) Rules, 1995 on 31 March, 1995. Although it is a Special Act to deal with the matters relating to atrocities on Scheduled Tribes (and Scheduled Castes) yet the disposal of the cases registered under this Act is very slow; and consequently, large number of cases result not only in acquittal of the accused but re-course to further harassment/ atrocities upon the victims by the accused persons. With the objective of fast disposal of the cases of atrocities on STs and SCs, this Special Act provides for trial of the cases, which are registered under the Act, by a Special Court and appointment of Special Public Prosecutor. In most of the States, the Special Courts are basically designated Courts which have no priority for the cases covered in under the PoA. Similarly, Special Public Prosecutors, appointed under this Act are burdened with several other cases; and consequently, the trial of cases gets abnormally delayed. Thus, discrimination against STs and SCs continue to remain un-checked. The best solution lies in prompt and timely disposal of the cases by the Special Courts. This can be achieved by setting of Exclusive Special Courts to deal with the offences under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 and appointment of Exclusive Special Public Prosecutors. Besides, a fixed time frame for disposal of the case by the Exclusive Special Courts may be prescribed, as in Section 13 (3A) of the Consumer Protection Act, 1986, wherein a case has to be disposed within 3-5 months.

Disposal of Crimes by Police during 2008

4.2 Data relating to crime in the country is collected, compiled and published by the NCRB (Ministry of Home Affairs). This data also include data relating to crimes against Scheduled Tribes. The State/UT-wise details of crimes against Scheduled Tribes disposed by the Police is given at **ANNEXURE I**. It is noted from the statement at ANNEXURE I that 26% of the cases at all India level were pending for investigation by the Police at the end of the year 2008. However, 13 States and 2 UTs were having more than 26% pendency, so much so that Goa, Meghalaya and Daman & Diu had 100% pendency followed by 96.7% in Manipur, 70.5% in Assam, 66.7% in West Bengal, 64.6% in Bihar, 60% in A & N Islands, 56.3% in Sikkim and 53.8% in Jharkhand. Daman & Diu had 2 cases pending at the end of 2007, which remained pending at the end of 2008 while no new case was registered during the year. The same is the position in respect of Meghalaya State, as 1 case which was pending at the end of 2007 remained pending for investigation at the end of 2008. Goa had no pendency and only 1 case was registered during 2008 and the same remained pending at the end of year. The position in respect of Manipur State is worse as 29 cases pending at the end of 2007 continued to remain pending at the end of 2008, along with pendency of sole case registered during 2008. The States with very high rate of disposal of investigation by Police are Himachal Pradesh (100%), UP (100%), Madhya Pradesh (96%), Gujarat (93.7%), Arunachal Pradesh (90.6%), Tamil Nadu (90%), Rajasthan (89.7%) and Chhattisgarh State (88.8%). Other States with high rate of disposal are D & N Haveli (75%), Karnataka (74.5%), Maharashtra (69.9%), Andhra Pradesh (66.8%), Tripura (66.7%), Kerala (63.5%) and Orissa (57.7%).

Disposal of Crimes by Courts during 2008

4.3 The average conviction rate for crimes against the Scheduled Tribes stood 27.2% as compared to overall conviction rate of 42.6% relating to IPC cases and 83.5% relating to SLL cases. The State/UT-wise details of crimes against Scheduled Tribes disposed by the courts is given in the statement at **ANNEXURE II**. Looking at the information relating to completion of trial in cases of crimes against Scheduled Tribes in various States during the year 2008, the States of Arunachal Pradesh, and Meghalaya, and UTs of A&N Islands, D & N Haveli, Daman & Diu as well as Lakshadweep have 100% pendency at the end of the year 2008. Sikkim and Tripura States had pendency of 46.7% and 44.8% respectively, while most of the other States including those with Scheduled Areas/ areas of high tribal concentration are having pendency of about 70% and above.

4.4 Comparing the data relating to number of cases ending in conviction with the total number of cases in which trial was completed during the year 2008, it is noted that, amongst the States having sizable ST population as well as sizable incidence of crimes against Scheduled Tribes the highest rate of conviction was 43.2% in Rajasthan followed by 40.1% in Madhya Pradesh, 32.2% in Chhattisgarh while Jharkhand had 16.7% conviction rate followed by Orissa (15.7%), Maharashtra (11.6%), AP (10%) and Gujarat (3.1%) only. The conviction rate is lower in respect of other States not having sizeable Scheduled Tribes population as well as incidence of crime against STs viz. Himachal Pradesh (33.3%), Assam (20.0%), Tripura (18.8%), Bihar (10%), Kerala (9.8%), Karnataka (2.6%).

4.5 The poor rate of conviction is generally due to slow pace of investigation by Police in certain cases and very slow pace of trial by the courts. The delay at various stages reduces the interest of the victims as well as witnesses in the disposal of the case, which subsequently leads to very low conviction on account of dilution of the sections of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 included in the FIR/ Charge-sheet due to undue delay in processing the case. **The National Commission for Scheduled Tribes therefore, recommends that the number of Special courts setup in various States for trial of crimes against Scheduled Tribes may be increased, if necessary for early disposal of pending cases and timely disposal of future cases charge-sheeted in those courts.**

4.6 From the analysis of NCRB data relating to disposal of cases of atrocities on Scheduled Tribes by the Courts, it is further noted that in many cases it took several years to dispose the cases which, possibly, led to acquittal in large number of cases. The Consumer Protection Act, 1986 {Section 13(3A)} provided for time-bound disposal (3-5 months) of the cases by the Consumer Forums, while the National Commission for Women had recommended that the Courts may dispose the cases relating to rape in a time-bound manner (within 6 months). It was felt that since the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 is a special Act for protection of the Scheduled Tribes, a similar provision should be incorporated in this Act also. While the provision for setting up Special Courts in the Act was aimed at speedy disposal of cases registered under the Act, experience so far had belied this expectation. **The Commission, therefore, consider that the cases registered under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 should be disposed by the Special Courts within 6 months. To meet this objective, the Act could also be amended to provide for setting up exclusive Special Courts (instead of designating a Session Court as a Special Court) for trial of cases under this Act. The above recommendation of the Commission was forwarded to the Ministry of Social Justice and Empowerment vide letter, dated 16/07/2009 (Copy enclosed)**

4.7 The Commission is also of the view that:-

- (i) Whenever a complaint is made to a police officer regarding an offence punishable under sub-clause (iii), (v), (xi) or (xii) of sub-section (1) of Section 3 or sub-clause (i), (iv) or (v), of sub-section (2) of Section 3, the concerned Superintendent of Police shall submit a preliminary report within four days, in the matter, in such manner as may be prescribed, to the following:-
 - (i) concerned State Government/Union Territory Administration,
 - (ii) The Central Government in the Ministry of Home Affairs and the Ministry of Social Justice & Empowerment/Tribal Affairs, depending on whether the offence relates to a Scheduled Castes or a Scheduled Tribes, and
 - (iii) Within 45 days of the registration of the FIR relating to an offence mentioned in sub-rule (1), the concerned State Government/Union Territory Administration shall submit to the Ministries of the Central Government and the concerned National Commission, as specified in sub-rule (1) above, a detailed report in the matter in such manner as may be prescribed, in the light of the report submitted under sub-rule (2) of the Rule 7.

- (ii) State level and District level Vigilance & Monitoring Committees should closely review the implementation of provisions regarding payment of monetary relief to the victims of atrocities strictly in accordance with the norms laid down under PoA Rules.
- (iii) The observations of the Hon'ble Supreme Court in Masumsha Hasanasha Musalman vs. State of Maharashtra 2000 (3) SCC 557 that "the State Govt. is under obligation to register a case under the Act of 1989 in respect of atrocities committed on the Scheduled Castes and Scheduled Tribes migrated to that State for any social, religious, or other cause and the State Govt. cannot shrink from its responsibilities for the atrocities committed on members of the Scheduled Castes and Scheduled Tribes by the upper strata of society" should be brought to the notice of all States/ UTs for strict compliance.
- (iv) All efforts should be made by the police to ensure that the accused is arrested as early as possible particularly in the cases of heinous crimes like murder, arson, rape, etc.
- (v) With a view to create awareness among the masses about various provisions of the Act and Rules including the provisions for relief and compensation, Special Awareness Programmes should be conducted by the Government through the mass media and by organizing seminars and workshops at different places, particularly in rural and remote areas. NGOs working for the cause of combating crimes of atrocities on STs alongwith the local bodies should also be involved in the task by extending adequate financial help to them. Awareness about the provisions of the Act/Rules may also be spread by installing hoardings at prominent locations.
- (vi) In order to ensure effective implementation of the PoA Act, the District Level Vigilance and Monitoring Committee should review the implementation of the provisions of the Act, relief and rehabilitation facilities provided to the victims and other matters connected therewith, prosecution of cases under the act, role of different officers/agencies responsible for implementing the provisions of the Act and various reports received by the District Administration, at least once in three months in accordance with Rule 17 of the PoA Rules.
- (vii) Exclusive Special Courts should be set up by all the States/UTs urgently for rendering speedy justice to the victims of atrocities.
- (viii) The police personnel in every State/UT need to be sensitized about the importance of effective implementation of the PoA Act through regular training and refresher programmes by the Police Training Institutes. The training programmes for the police personnel should also include lessons about legal provisions and related procedures to ensure drafting of fool proof chargesheets in atrocity cases.
- (ix) The Directorate of Prosecution should make all efforts to ensure that adequate number of Special Public Prosecutors are attached with the Special Courts for speedy trial of atrocity cases. The Special Public Prosecutor should possess requisite qualifications and experience and their selection should be made through a well laid down procedure. The fee of the Special PP requires to be suitably enhanced to attract more qualified and dedicated persons.
- (x) There is an imperative need to formulate a policy to have a focused approach

for taking effective precautionary measures to check offences of atrocities and ensure effective implementation of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 in such cases.

- (xi) The State level Vigilance and Monitoring Committees should play pro-active role in overseeing the implementations of PoA Act by holding quarterly meetings on regular basis. These Committees should issue necessary guidelines and directions to the District level Committees. Registration of FIRs and the disposal of cases by the Special Courts should be particularly monitored by the State level Committees.
- (xii) The State Governments/UTs Administration should issue necessary instructions that the Superintendent of Police in all the districts will review at least 5% of the closed cases on a quarterly basis and initiate action against the concerned police officials if the cases were closed due to delay on their part.
- (xiii) The State Governments/UTs should issue instructions to ensure that the victims and witnesses are paid TA/DA which should not be less than minimum wages fixed from time to time.

5. Discrimination in economic opportunities and living conditions

5.1 As per the guidelines issued by the Planning Commission and reiterated by the Ministry of Tribal Affairs from time to time, each State Government and Central Ministry/ Department used to submit draft Tribal Sub-Plan along with total plan proposals for consideration in the Planning Commission. However, the procedure for discussion and approval of the Tribal Sub-Plan got derailed after Seventh Five Year Plan and thereafter, State Governments and Central Ministries/ Departments have discontinued with the exercise of preparing Tribal Sub-Plan along with their Five Year Plans and Annual Plans. Whereas STs and tribal areas need focused attention and investments for accelerated development to bring them on par with the rest, non-preparation of TSP leads to discrimination against the ST population and is in violation of the specific provisions made in Art. 46 of the Constitution. **The Commission considers that each Ministry should set up a TSP Cell as in the past. The TSP Cell should be functional throughout the year like the Official Language Section in each Ministry/ Department. The TSP Cell will monitor implementation of TSP schemes of the Ministry and, by using the inputs received through monitoring, prepare the TSP component, of Annual Plan and Five Year Plan of the Ministry/ Department in terms of financial and physical aspects. The Commission also considers that the Planning Commission may conduct an exercise with all the Ministries/ Departments and finalise the Ministries/ Departments which must prepare TSP as part of the General Plan exercise and emphasize all those Ministries/ Departments that their Plan proposals will not be discussed if the TSP document is not submitted simultaneously.**

5.2 **The Commission is of the view that the TSP should not be less than 8% of the Budgeted funds. The Planning Commission should issue revised guidelines for implementation of TSP expeditiously. The revised guidelines should be codified as part of the Budget / Planning manuals. The Commission also considers that the TSP funds of each Ministry/ Department should be made non-lapsable and non-divertible. As in the case of the 'Non-Lapsable Central Pool of Resources' for North East Region, the unutilized and non-**

lapsed TSP funds of each Ministry/ Department should be made eligible for pooling at the end of the year. The pooled funds should be kept at the control of the MTA and the fund should be preferably used for infrastructure development in the TSP areas. It is also necessary to prepare detailed guidelines for expenditure out of this fund, to make optimum use of those funds and to ensure that the desired benefits reach the Scheduled Tribes and the tribal areas.

5.3 The Commission also considers that the Government of India should bear the responsibility for infrastructure development/ upgradation of Administration in Scheduled Areas under Art. 275 of the Constitution. So far the policy has been to ensure that the Scheduled Tribes get their due share from various schemes of the Government and therefore, minimum share in proportion to the population of the Scheduled Tribes was being envisaged. **Keeping in view the fact that the tribal areas are isolated from general areas and most of them are also unapproachable, the benefits of infrastructure development for communication and that required for educational, economic and social development of the tribals has not reached them. Therefore, the problems and needs of the tribals and the tribal areas require higher allocations and in higher ratio than required for the plain areas. Under the circumstances the schema relating to allocations for TSP areas on the basis of population percentage of Scheduled Tribes in the State or at the National level needs immediate review. Thus, allocation for Tribal Sub-Plan should not be per population share but according to "problem-share" and "need-based".**

5.4 In the recent past various Ministries concerned with development and services have formulated National Missions on crucial services like National Rural Health Mission, National Drinking Water Mission, Mahatma Gandhi NREGA. These Missions have direct impact on the life of Scheduled Tribes but do not make specific provisions for Scheduled Tribe beneficiaries. **The Commission is of the view that all major mission/ schemes/ programmes of all the Ministries/ Departments should have specific TSP components to have a clear focus on formulation of schemes/ programmes concerning the Scheduled Tribes and their implementation/ monitoring.**

5.5 **The Commission is of the view that the Ministries/ Departments administering the National Missions must ensure that adequate investments/ benefits are earmarked for Scheduled Tribes under Tribal Sub-Plan of the Ministry/ Department during each plan period so as to provide for their accelerated development to improve their conditions upto acceptable/ targeted standards.**

5.6 The Commission has noted that formulation of various National Missions are policy matters affecting the life of Scheduled Tribes and therefore, the Government is expected to consult the National Commission for Scheduled Tribes as per provisions of Article 338A(9) of the Constitution. However, no consultation with the Commission was made by the Government while formulating the National Missions. **The Commission is of the view that each Ministry/ Department should consult the National Commission for Scheduled Tribes in all policy matters affecting Scheduled Tribes, as provided under Article 338A(9) of the Constitution.**

TABLE-7.12
Disposal Of Cases By Police For Crimes Committed Against Scheduled Tribes During 2008
(State & UT Wise)

Sl. No.	State/UT	Total No. Of Cases For Investigation Including Pending Cases from previous year	Cases With-drawn By Govt.	No. Of Cases In Which				No. Of Cases Pending Investigation at the end of the year	Pendency Percentage	Percentage Of Pendency To All India Total	Charge Sheetng Rate (Col. (8) Col. (3) - 100)	
				Investigation Refused	Investigation Completed							
					Charge Found False / Mistake Of Fact Or Law Etc.	Final Report True Submitted	Charge Sheets Submitted					Total {(6) + (7) + (8)}
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)
STATES:												
1	ANDHRA PRADESH	1013	0	3	242	22	410	674	336	33.2	18.0	64.9
2	ARUNACHAL PRADESH	64	0	0	0	8	50	58	6	9.4	0.3	86.3
3	ASSAM	224	0	0	19	12	35	66	158	70.5	8.4	74.3
4	BIHAR	237	0	0	16	15	53	84	153	64.6	8.2	77.9
5	CHHATTISGARH	703	6	6	10	15	587	612	79	11.2	4.2	97.5
6	GOA	1	0	0	0	0	0	0	1	100.0	0.1	99.9
7	GUJARAT	238	0	1	4	3	215	222	15	6.3	0.8	98.6
8	HARYANA	0	0	0	0	0	0	0	0	@	0.0	99.9
9	HIMACHAL PRADESH	1	0	0	0	0	0	0	0	@	0.0	99.9
10	JAMMU & KASHMIR	0	0	0	0	0	1	1	0	0.0	0.0	100.0
11	JHARKHAND	465	0	0	0	0	0	0	0	@	0.0	99.9
12	KARNATAKA	444	0	8	54	23	159	215	250	53.8	13.4	83.7
13	KERALA	159	0	0	13	16	72	101	113	25.5	6.9	91.4
14	MADHYA PRADESH	1177	0	0	15	9	1106	1130	58	36.5	3.1	81.8
15	MAHARASHTRA	362	0	1	20	2	230	252	47	4.6	2.5	99.5
16	MANIPUR	30	0	0	0	1	0	1	109	30.1	5.8	99.1
17	MEGHALAYA	1	0	0	0	0	0	0	29	96.7	1.6	0.0
18	MIZORAM	0	0	0	0	0	0	0	1	100.0	0.1	99.9
19	NAGALAND	0	0	0	0	0	0	0	0	@	0.0	99.9
20	ORISSA	829	0	3	45	8	422	475	0	@	0.0	99.9
21	PUNJAB	0	0	0	0	0	0	0	351	42.3	18.8	98.1
22	RAJASTHAN	1143	0	0	557	6	462	1025	0	@	0.0	99.9
23	SIKKIM	16	0	0	0	1	6	7	118	10.3	6.3	98.7
24	TAMIL NADU	20	0	0	3	1	14	18	9	56.3	0.5	85.7
25	TRIPURA	15	0	0	0	0	10	10	2	10.0	0.1	93.3
26	UTTAR PRADESH	9	0	0	2	0	7	9	5	33.3	0.3	100.0
27	UTTARAKHAND	0	0	0	0	0	0	0	0	0.0	0.0	100.0
28	WEST BENGAL	33	0	0	1	0	10	11	22	66.7	1.2	100.0
	TOTAL (STATES)	7184	6	22	1026	173	4095	5294	1862	25.9	99.6	95.9
UNION TERRITORIES:												
29	A & N ISLANDS	5	0	0	0	0	2	2	3	60.0	0.2	100.0
30	CHANDIGARH	0	0	0	0	0	0	0	0	@	0.0	99.9
31	D & N HAVELI	12	0	0	2	0	7	9	3	25.0	0.2	100.0
32	DAMAN & DIU	2	0	0	0	0	0	0	2	100.0	0.1	99.9
33	DELHI	0	0	0	0	0	0	0	0	@	0.0	99.9
34	LAKSHADWEEP	0	0	0	0	0	0	0	0	@	0.0	99.9
35	PUDUCHERRY	0	0	0	0	0	0	0	0	@	0.0	99.9
	TOTAL (UTs)	19	0	0	2	0	9	11	8	42.1	0.4	100.0
	TOTAL (ALL-INDIA)	7203	6	22	1028	173	4104	5305	1870	26.0	100.0	96.0

@ Indicates infinite percentage / rate because of division by zero

TABLE-7.15
Disposal Of Cases By Courts For Crimes Committed Against Scheduled Tribes During 2003

Sl. No.	Crime Head	Total No. Of Cases For Trial Including Pending Cases from previous year	Cases With-drawn By Govt.	No. Of Cases				Pending Trial at the end of the year	Pendency Percentage	Percentage Of Pendency To All India Total	Conviction Rate ((Col 6)/(Col 3) * 100)
				Compounded Or Withdrawn	In Which Trials Completed						
					Convicted	Acquitted Or Discharged	Total ((6) + (7))				
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)
STATES:											
1	ANDHRA PRADESH	1333	0								
2	ARUNACHAL PRADESH	216	0	14	40	360	400	919	68.9	5.0	10.0
3	ASSAM	151	0	0	0	0	0	216	100.0	1.4	0.0
4	BIHAR	180	0	0	4	16	20	131	86.8	0.8	20.0
5	CHHATTISGARH	2048	2	4	2	18	20	156	86.7	1.0	10.0
6	GOA	1	0	60	159	335	494	1494	72.9	2.6	0.0
7	GUJARAT	1837	0	0	0	1	1	0	0.0	0.0	0.0
8	HARYANA	0	0	6	8	253	261	1530	83.5	10.1	3.1
9	HIMACHAL PRADESH	14	0	0	0	0	0	0	0.0	0.0	0.0
10	JAMMU & KASHMIR	0	0	0	1	2	3	11	78.6	0.1	33.3
11	JHARKHAND	650	0	0	0	0	0	0	0.0	0.0	0.0
12	KARNATAKA	864	2	41	16	80	96	513	78.9	3.3	18.7
13	KERALA	254	0	1	5	184	189	674	78.0	1.3	0.6
14	MADHYA PRADESH	4967	1	1	4	37	41	212	83.5	1.1	2.8
15	MAHARASHTRA	2050	0	142	504	753	1257	3568	71.8	23.0	40.1
16	MANIPUR	0	0	1	26	199	225	1821	89.0	11.7	12.6
17	MEGHALAYA	1	0	0	0	0	0	0	0.0	0.0	0.0
18	MIZORAM	0	0	0	0	0	0	1	100.0	0.0	0.0
19	NAGALAND	0	0	0	0	0	0	0	0.0	0.0	0.0
20	ORISSA	2450	0	0	0	0	0	0	0.0	0.0	0.0
21	PUNJAB	0	0	0	37	199	236	2214	20.4	15.3	12.2
22	RAJASTHAN	2239	0	0	0	0	0	0	0.0	0.0	0.0
23	SIKKIM	15	0	19	192	252	444	1775	79.3	11.1	13.2
24	TAMIL NADU	64	0	0	5	3	8	7	46.7	0.0	62.5
25	TRIPURA	29	0	0	0	8	8	56	87.5	0.4	0.0
26	UTTAR PRADESH	103	0	0	3	13	16	13	44.8	0.1	18.8
27	UTTARAKHAND	14	0	0	9	5	14	89	86.4	0.6	61.3
28	WEST BENGAL	28	0	0	3	0	3	11	78.6	0.1	100.0
	TOTAL (STATES)	19508	5	289	1018	2729	3742	15431	79.4	99.2	27.2
UNION TERRITORIES:											
29	A & N ISLANDS	23	0	0	0	0	0	22	100.0	0.1	0.0
30	CHANDIGARH	0	0	0	0	0	0	0	0.0	0.0	0.0
31	D & N HAVELI	21	0	0	0	0	0	17	81.0	0.1	0.0
32	DAMAN & DIU	2	0	0	0	4	4	2	100.0	0.0	0.0
33	DELHI	1	0	0	0	0	0	1	100.0	0.0	0.0
34	LAKSHADWEEP	1	0	0	0	0	0	1	100.0	0.0	0.0
35	PUDUCHERRY	0	0	0	0	0	0	1	100.0	0.0	0.0
	TOTAL (UTs)	48	0	0	0	0	0	0	0.0	0.0	0.0
	TOTAL (ALL-INDIA)	19556	5	289	1018	2724	3742	15525	79.4	100.0	27.2

@ Indicates infinite percentage / rate because of division by zero

S.No.71(I)



सत्यमेव जयते

भारत सरकार

राष्ट्रीय अनुसूचित जनजाति आयोग

GOVERNMENT OF INDIA

NATIONAL COMMISSION FOR SCHEDULED TRIBES

No.6/3/2006/Atrocity/RU-II

छठी मंजिल, 'बी' विंग, लोक न्यायक भवन
खानि मार्केट, नई दिल्ली-110003
6th Floor, 'B' Wing, Lok Nayak Bhawan
Khan Market, New Delhi - 110 003

Date:

16.07.2009

To

The Secretary,
Ministry of Social Justice & Empowerment
Shastri Bhavan,
New Delhi-110001

Sub: Proposal for amendment of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 for providing time bound disposal of cases by special courts

Sir,

It has been noted that a large number of cases registered under PoA Act, 1989 in different states are pending in courts. It has also been observed that there is a very high rate of acquittal among disposed cases by the designated courts. Delay in disposal may be a possible reason for large scale acquittal. Therefore it was considered to fix a time frame for disposal of PoA Act cases, on the lines of the stipulation under section 13(3A) of the Consumer Protection Act, 1986, which provide a period of 2 to 5 months for disposal by a District forum.

2. National Commission for Women have also recommended in Section 309 of CrPC sub section (1) so that judgements in cases of sexual assault i.e. where the inquiry or the trial relates to offences under Section 376 to 376(E) (both inclusive) of IPC, the judgement shall as far as possible, be delivered within a period of six months from the date of commencement of the trial, under the Draft Bill titled "Criminal Law Amendment Act, 2006.

3. In view of the above and considering the importance of the issue an Agenda Note was prepared and put up before the Commission in its meeting held on 03.07.2009. The views of the Commission are as follows:-

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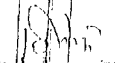
ISSUED

"The Secretary, National Commission for Scheduled Tribes informed the Commission that the above proposal was mooted on the basis of analysis of data relating to disposal of cases of atrocities on Scheduled Tribes by the Courts, discussed in the meeting of a Special Committee set up by the Ministry of Social Justice & Empowerment. It was noted that in many cases it took several years to dispose the cases which, possibly, led to acquittal in large number of cases. The Commission was informed that the Consumer Protection Act, 1986 provided for time bound disposal of the cases by the Consumer Forums (between 3 to 5 months) while the National Commission for Women had recommended that the Courts may dispose the cases relating to rape in a time bound manner (within 6 months). Since the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 is also a special Act for protection of the Scheduled Tribes, it was for consideration whether similar provision should be incorporated in the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

The Commission discussed the proposal in detail and recommended appropriate amendment to the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. It was noted that while the provision for setting up special courts in the Act was aimed at speedy disposal of cases registered under the Act, experience so far had belied this expectation. The Commission therefore approved the proposal that the cases registered under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 should be disposed by the Special Courts within 3 months. To meet this objective, the Act could also be amended to provide for setting up exclusive Special Courts instead of designating a Session Court as a Special Court for trial of cases under this Act."

4. You are requested to kindly intimate the final outcome of the amendment of SCs & STs, PoA Act, 1989 as proposed above by the National Commission for Scheduled Tribes.

Yours faithfully,


(Vinod Aggarwal)
Director