

National Commission for Scheduled Tribes

Summary Record of the meeting to review Implementation of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 and Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Rules, 1995 in the State of Madhya Pradesh.

The meeting to review the implementation of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 and Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Rules, 1995 in the State of Madhya Pradesh was held at 11:30 Hrs. on 26/05/2010 in the Conference Room of the National Commission for Scheduled Tribes. The following were present:

National Commission for Scheduled Tribes

1. Shri Maurice Kujur, Hon'ble Vice-Chairperson (in Chair)
2. Shri Tsering Samphel, Member
3. Shri Oris Syiem Myriaw, Member
4. Shri Aditya Mishra, Joint Secretary
5. Shri R.C. Durga, Director

Government of Madhya Pradesh.

1. Smt. Sanjukta Mudgal, Additional Secretary, Department of Tribal Welfare
2. Shri Surendra Singh Bhandari, Additional Director (PCR)
3. Shri Ashok Awasthi, IG (AJK), Police Headquarters, Bhopal

2. Initiating the discussions Hon'ble Vice-Chairperson, National Commission for Scheduled Tribes mentioned that the Commission was in the process of finalisation of its 4th Report for submission to the Hon'ble President as per mandate provided in Article 338A of the Constitution. Since atrocities on Scheduled Tribes by non-Scheduled Tribes was a vital issue, it was decided to highlight the position relating to implementation of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 and Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Rules, 1995 prevailing in the States having Scheduled Areas and in this context this meeting with the officials of the Government of Madhya Pradesh has been convened.

Maurice Kujur
मोरीस कुजुर/MAURICE KUJUR
उप-अध्यक्ष/Vice-Chairperson
राष्ट्रीय अनुसूचित जनजात आयोग
National Commission for Scheduled Tribes
भारत सरकार/Govt. of India
नई दिल्ली/New Delhi

3. The discussion on various issues relating to atrocities on Scheduled Tribes, commenced with the remarks by the Commission that in most of the cases there was undue delay in furnishing of comments/ reports by the Police authorities and the Distt. Officials of the Govt. on the representations received/ cases dealt in the Commission pertaining to atrocities on the STs. In almost all the cases, while the reply has not been received within the stipulated period of 30 days, in some cases the reports furnished by the Police Authorities have also not been found to be comprehensive with specific comments on the issues raised by the Commission. Copies of FIR, charge-sheets, Medical Examination Reports of the ST victims/ postmortem reports of the ST diseased, information about arrest of the accused and details of relief and rehabilitation provided to the ST victims are generally missing in most of the cases. After reference to some of the important cases it was decided that, in cases of atrocities on Scheduled Tribes the communications sent to the district police authorities may also be sent to the IG (AJK) for proper follow up and directions.

4. Regarding machinery for dealing with the cases of atrocities on Scheduled Tribes received at the Police Stations, the Commission was informed that there is a AJK Cell, generally known as Anusuchit Jati/ Janjati Kalyan Cell, in the office of DGP in the State, IGP in the rank of Addl. DGP is in-charge of the AJK Cell to monitor the implementation of the PoA Act and PoA Rules in the State. Besides, there is one AJK (Anusuchit Jati/ Janjati Kalyan) Police Station in each of the 48 out of 50 districts. Two districts are new and the process for opening AJK Police Station in those districts was in progress. The complaints can be lodged by the STs at any Police Station and these complaints are taken cognizance by the Police without any delay and a copy of the FIR was also given to the complainant free of cost. Thereafter, the case is transferred to the Dy. Superintendent of Police in-charge of AJK Police Station. Commission was also informed that keeping in view the incidence of atrocities on Scheduled Castes and Scheduled Tribes and the fact that as per the Rule 7(1) of POA Rules, 1995, the case under PoA has to be investigated by an Officer not below the rank of Dy. Superintendent of Police, the Inspectors in the AJK Police Stations have been given the rank of Dy. SP and designated as Dy. SP II.

Maurice Kujur
मौरिस कुजुर/MAURICE KUJUR
उपनिर्देशक/Vice-Chairman
राष्ट्रीय अनुसूचित जातों की आयोग
National Commission for Scheduled Tribes
भारत सरकार/Govt. of India
सदर, दिल्ली/New Delhi

5 With regard to the complaints of atrocities on STs committed by the Police personnels, the Commission was informed that the complaint against the Constable and other subordinate staff was investigated by the Inspector and the complaints against other Police personnels were inquired by the Magistrate. The Commission was of the view that investigation reports in such cases should pass through internal verification mechanism in the Police Deptt. The Commission also emphasized that suitable guidelines/ instructions/ procedures should be formulated by the State Government for handling such cases.

6 Since the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 deals with cases of atrocities on Scheduled Tribes by non-Scheduled Tribes, it was necessary to ascertain caste status of the victim as well as accused and the circumstances in which the incident of atrocity took place. The Commission was informed that the case was registered under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 on the basis of the statement of the victim. However, the caste status of both victim as well as accused persons are ascertained by Dy. SP after registration of FIR and before submission of chargesheet in the Court, and as per CrPC procedure the chargesheet has to be submitted within 60/90 days of arrest of the accused, depending upon the charge. The Commission was informed that there has been decreasing trend in occurrence of cases of atrocities on Scheduled Tribes from 1501 in 2007 to 1071 in 2008 and 1150 in 2009. It was noted that the incidence of atrocities relating to murder, rape, fire and injuries has remained almost at the same level in all these years while cases of other nature have come down from 951 in 2007 to 634 in 2009. As regards disposal of these cases by the Police it was noted that the pendency at the end of each year was not alarming, though it varied from year to year.

7 The Commission was informed that 49 out of 50 districts had one designated Special Court each. The Commission noted that as per NCRB records the rate of conviction in 2008 was 40.1% in MP as against 64.3% in UP. As regards, disposal of the cases by the Courts during 2009, the Commission was informed that these Special Courts had received 2364 new cases (relating to SCs & STs both) beside 6983 backlog cases. Out of total of 9347 cases, the Courts disposed 2484 cases during the year. The accused were acquitted in 1460 cases while conviction was

M. Maurice Raju
MAURICE RAJU
उपप्रधान/ Vice-Chairperson
राष्ट्रीय अनुसूचित जनजाति आयोग
National Commission for Scheduled Tribes
भारत सरकार/ Govt. of India

given in 470 cases only and the remaining cases were closed due to out of Court compromise. In many cases the victims as well as witnesses turn hostile in the Court leading to acquittal of the accused. The main reason for this behaviour is the fact that victims and witnesses are generally dependent upon the accused for their livelihood activities. Delay in disposal of cases by the Special Courts is also an important factor for hostile or non-responsive behaviour of the witnesses and loss of interest by the victims. Hon'ble Vice-Chairperson, however, emphasized that the Police has to act in such a way that people must have trust in the system and it also has to be ensured that the cases do not get dismissed in the Court due to technical and procedural flaws. IG (AJK) informed that due to this reason 40% of the staff posted in the AJK Police Stations belong to Scheduled Castes/ Scheduled Tribes so that the SC/ ST victims feel comfortable at the time of reporting of case at the Police Station, although many non-SC/ ST staff were also dedicated to the interest of SCs and STs.

8 Actual details of registration and disposal of cases of atrocities on Scheduled Tribes registered at the Police Station as well as Special Courts were not available. The State Government was advised to furnish to this Commission, the details in respect of last 4 years i.e. 2006, 2007, 2008, and 2009 by Fax as well as SPEED POST.

9 IG (AJK) also mentioned that some ST communities had a system of Marriage by elopement (Bhagoria) for which special functions were organized by the community leaders. Large number of couples marry by this practice and, therefore, parents of such girls file complaints of kidnapping with the Police. However, as soon as the couple returns, the marriage of the couple is solemnized by their parents and the cases of kidnapping were subsequently withdrawn. This is also one of the reasons for high closure of cases.

10 As regards, identification of atrocity prone areas in the State, it was informed that 45 areas extending over 17 districts of the State had been identified as atrocity prone areas. The details of the atrocity prone areas in the State of Madhya Pradesh may be furnished to the Commission by FAX/ SPEED POST.

Maurice Kujur

मौरिस कुजुर/MAURICE KUJUR
उपअध्यक्ष/Vice-Chairperson
राष्ट्रीय अनुसूचित जनजाति आयोग
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भारत सरकार/Govt. of India

11 Rule 16 of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Rules, 1995 provide for constituting State Level Vigilance and Monitoring Committee to review the implementation of the provisions of the PoA Act and relief and rehabilitation facilities provided to the victims and other matter connected therewith. The Director/ Dy. Director of the Commission is also Member of the SLVMC. The Committee is expected to meet at least twice in a year. Similar Committee has to be constituted at District Level under the provision of Rule 17 of the PoA Rules and this Committee is expected to meet at least once in three months. The Commission was informed that the last meeting of SLVMC was held on 08/03/2010 while information about meetings of DLVMC furnished in the meeting indicated that in some of the districts, the Committee had not met even once during 2009 while in some other districts the Committee had held meetings in all the quarters of the year. The Commission expressed that the matters relating to atrocities on Scheduled Tribes should not be taken lightly and the State Level as well as District Level Committees should meet regularly to review the implementation of the PoA Act and PoA Rules in the State.

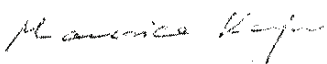
12 Rule 12 (4) of the PoA Rules provide for grant of relief and rehabilitation to the ST victims of atrocity. The Commission was informed that the Contingency Plan has been prepared by the State Government with reference to the measures to be taken by the district administration, as prescribed in Rule 12. The relief was also granted to the victims as per the norms prescribed by the Government of India. Rule 11 of the PoA Rules provide for grant of Traveling Allowance, Daily Allowance, Maintenance Expenses and Transfer facilities to the victims of atrocity, his/ her dependents and witnesses. It was noted that the State Government had in the past prescribed a fixed amount from for payment of daily maintenance allowance plus small amount towards diet expenditure only. Actual details of the State Government Order were, however, not available. Since the guidelines of the State Government were not in consonance with the Rules and guidelines provided in Rule 11 of the PoA Rules, the Commission suggested that instead of prescribing a particular fixed amount as the amount of daily maintenance allowance, the State Government may provide for payment of the allowance which may be not less than the minimum wages as may be fixed from time to time

Maurice Kujur
मोरीस कुजुर/MAURICE KUJUR
उपाध्यक्ष/Vice-Chairperson
राष्ट्रीय अनुसूचित जनजाति आयोग
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13 Issue relating to migration of tribal girls to cities in the name of employment and exploitation by the agency and the employers also came up for discussion. The Commission was informed that the phenomenon was rampant in all the States. Girls from tribal and poor SC families were taken away by persons belonging to the same village as he/ she is able to generate trust and also give advance payments to the families of those girls. The local district administration comes to know only when parents of the girl make a complaint in the event of some mis-happening with the girl while working in the city. It was informed that incidence of migration of ST girls had been noticed mostly from Sidhi district and of SC girls from Harda district. It was expressed that effective measures have to be taken by the State Governments as well as Central Governments to check and monitor migration followed by exploitation. Since the migration is mostly to the major cities where maid-servants are in demand and people can afford to pay for the same, the concerned State Governments should exercise some control over the placement agencies through legal provisions and also direct them to get the Police verification of their employees done before giving them placements.

14 In the context of any problems or suggestions relating to implementation of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 and Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Rules, 1995 the Commission was informed that the State Government have sent suggestions to the Ministry of Social Justice & Empowerment for amendment of the Act and the Rules. Since the details of the proposed amendments were not available, it was agreed that the State Government will send the details by FAX/ SPEED POST.

15 The Commission invited the attention of the State Government to the list of cases of atrocities on Scheduled Tribes sent by the Commission vide letter dated 13/05/2010 and emphasized that the detailed information on points (i) to (x) mentioned in the letter may be furnished w.r.t each case indicated in the list, urgently so as to incorporate the same in the Report of the Commission.


मोरीस कुजूर/MAURICE KUJUR
उपाध्यक्ष/Vice-Chairperson
राष्ट्रीय अनुसूचित जातों के आयोग
National Commission for Scheduled Tribes
भारत सरकार/Govt. of India
सद. अधिकारी/Secretary