

No.16/1/Rajasthan/Atrocity/2010/RU-I

Record of the Sitting taken by the Vice-Chairperson to review implementation of the SC/ST PO Act, 1989 by the Government of Rajasthan.

The following Officers were present:

NCST

1. Shri Maurice Kujur, Hon'ble Vice-Chairperson (in Chair)
2. Shri Tsering Samphel, Hon'ble Member
3. Shri Vinod Aggarwal, Director
4. Dr. G. S. Somawat, Director, RO, Jaipur
5. Shri K.C. Behera, PS to VC

Govt. of Rajasthan

1. Smt. Aditi Mehta, Pr. Secretary, SJ&E
2. Shri J. P. Chandeliya, Secretary, Department of Home
3. Shri N. Morris Babu, IGP (H.R.), CID, PHQ

At the outset the Commission observed that there is delay in furnishing of comments by the Police authorities and the Distt. Officials of the Rajasthan Govt. on the representations received 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 have also not been found to be comprehensive with specific comments on the issues raised by the Commission. IGP (HR) mentioned that the delay in furnishing of the requisite comments to the Commission had occurred as in most of the cases, the details had to be obtained from the Superintendent of Police and investigation also takes time and sometimes witnesses are not available. The Vice Chairperson observed that the time-frame of 30 days for investigation has been specified in the POA rules, 1995 and is, therefore, required to be adhered to.

Action: Govt. of Rajasthan

02. The Commission mentioned that, in respect of the complaints against the Police personnel, it was necessary that investigation reports should pass through

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internal verification mechanism in the Police Deptt. The Commission also emphasized that suitable guidelines/instructions/procedures should be formulated by the State Government in handling such cases. It was explained by the Govt. of Rajasthan that there is a well defined system and processed by the vigilance section of the Police department and action taken according to the findings. On a query from the Commission, IGP mentioned that recently action has been taken against a police officer for his negligence. The IGP (HR) assured that necessary action would be taken by the State Government to strictly follow the established system.

Action: Govt. of Rajasthan

03. Regarding delay in on the spot investigation and payment of compensation, IGP mentioned that delay in investigation was attributed to non-availability of independent witnesses, non-receipt/ delay in receipt of opinions from Forensic Science Laboratories, and time involved in verification of allegations made in the complaint. After investigation, before filing of the charge-sheet, the caste certificates of the complainant and the accused are also obtained from the district authorities, who are taking considerable time for verification of caste certificate after detailed enquiry. Moreover, mis-representation of caste by the complainant may lead to arrest of accused under POA rules, who may be acquitted by the court later on. The Commission observed that the necessity of verification of caste certificate in respect of the complainants and the accused in all cases should be examined by the State Government considering the fact that any mis-representation of caste either by the complainant or by the accused itself invited registration of cases against them for fraud. The delay occurring in seeking verification of caste certificate cannot be accepted as a reason for not meeting the stipulated time-frame of 90 days for filing of charge sheets. The Vice Chairperson desired that the State Government should strictly adhere to the stipulated time-frame in this regard.

Action: Govt. of Rajasthan

04. The Commission desired to know the monitoring mechanism in the State at different levels. It was revealed that a HR cell, headed by an officer of the rank of IGP worked under the direct supervision of the Addl. Dir. Gen. of Police, CID. The

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चर्च दिवसी/Annual Report

'GP is assisted by Dy.SP and Inspectors of Police who are stationed in the District Headquarters. The HR Cell collects information on the atrocities on Scheduled Castes and Scheduled Tribes and calls reports from the Unit Officers. Whenever the allegations are of serious nature, the officers of HR Cell make personal enquiry/takes up investigation and submit reports. The HR Cell is the Nodal Agency on the investigation enquiries relating to atrocities mentioned in the POA Act and PCR Act.

05. It was however, assured by the IGP (HR) that in case of any specific case, or where Commission required to have a report on priority that can be arranged. Further, in case of non-cooperation by any of the SP, IGP (HR) can be approached. The Commission desired that the State Government should issue necessary instructions to the District Collectors and SPs to ensure close monitoring of atrocity cases on monthly basis and also timely submission of periodical reports to the HR Cell. The timeliness and quality of investigation should also be monitored at all levels.

Action: Govt. of Rajasthan

06. The Commission desired to know the conviction rate against the cases filed by the police in the courts. The IGP informed that there are 21 special SC/ST courts in 18 sensitive districts of the State. Police officials have been specially trained to sensitize them towards weaker section of the society. The conviction rate during the last 3 years is almost 37%, which is perhaps the highest in the country.

07. The Commission emphasized that under Sec 16 of POA Act, two meetings of the State Level Vigilance & Monitoring Committee were required to be held in a year. It was informed that two meetings have held during the last year. Director, NCST, Jaipur also confirmed that the last meeting in the Feb'10 was quite fruitful.

08. The Commission desired to know whether any atrocity prone areas have been identified in the State. It was informed that 18 districts have been identified atrocity prone in the State to have focus on atrocity cases.

09. It was informed by the State Govt. that at present, victims and their witness are entitled for TA and DA as per the minimum wage system, but there is problem in

disbursement of the same. The Commission, therefore, recommended that Department of SJ & E should transfer the funds to the SC/ST courts in the 18 districts, so that payment can be made on the same day of the court proceedings.

Action: Govt. of Rajasthan

10. On a query from the Commission regarding procedure being followed for review of closed cases, IGP, (HR) informed that instructions have been issued in Feb'10 that SP will review 5% of the cases registered under POA Act, which were closed and submit a report to the HR cell.

11. Director, NCST, Jaipur raised the issue of not registering the case under POA Act in cases where victim is from ST community scheduled in other State. Secretary, Home explained that this is not the correct position; POA Act is a central act and is applicable to persons from a community scheduled as SC/ST in any part of the country. It was assured that any violation of this should be brought to their notice.

Action: NCST, RO, Jaipur

12. It was mentioned by the Commission that some times atrocity and economic offences are committed at the same time (atrocity is committed to encroach the tribal land). Mostly in such cases, economic offences are proved and atrocity is not proved in absence of evidences/witnesses and as a result a police report is sent mentioning that the case is purely of economic nature and there is no atrocity on the members of ST community. Secretary, Home appreciated the concern shown by the Commission in such cases. The Commission therefore, recommends that cognizance to the atrocity committed on the victim mentioned in his complaint in such cases should be given. Mostly the atrocity in such cases can only be proved implicitly.

Action: Govt. of Rajasthan

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13. Regarding involvement of NGOs for conducting awareness programmes, it was informed by the State Govt. that such programmes were being conducted regularly by the State Govt. with the help of NGOs. There is a toll free telephone number in the state, on which a complaint can directly be registered. If a person is not getting justice at one level, he/she can approach the higher level. IGP (HR) himself attending to the complaints received directly or through different channels.

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