



सत्यमेव जयते

भारत सरकार

राष्ट्रीय अनुसूचित जनजाति आयोग

GOVERNMENT OF INDIA

NATIONAL COMMISSION FOR SCHEDULED TRIBES

K. K. GUPTA
SECRETARY

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D.O.No.6/3/2006-Atrocity

January 5, 2007.

Dear Dr. Khanna,

With reference to your D.O. No.11012/11/2005-PCR (Desk) dated 13th December, 2006 and letter No.11012/11/2005-PCR (Desk) dated 26.12.2006, I enclose herewith a list of Agenda Items (along with explanatory notes on each) proposed for discussion in the 2nd Meeting of the Committee scheduled to be held at Jaipur on 15th January, 2007.

With regards,

Encl: As stated above

Yours sincerely,


(K.K. GUPTA)

Dr. Sundeep Khanna
Additional Secretary
Government of India
Ministry of Social Justice
and Empowerment
Shastri Bhawan, New Delhi-1.

NATIONAL COMMISSION FOR SCHEDULED TRIBES

AGENDA ITEMS PROPOSED FOR THE MEETING AT JAIPUR ON 15 JANUARY, 2007

(i) General:-

The National Commission for Scheduled Tribes during its visits to the various States/UTs has observed that there is strong need to sensitize not only the police machinery but also the prosecuting agencies about the socio-economic and psychological status of the Scheduled Tribe victims and the aims and objectives of the SCs and the STs (POA) Act and Rules and their responsibilities towards the implementation of the Act. The Commission accordingly has taken up the matter with State Govts. and UT Administration and requested them for arranging well-structured professional training programmes/ workshops for the Special Public Prosecutors with the objective to sensitize them for qualitative prosecution and also to enable them to share their field based practical experiences among themselves and to find out the remedial measures to enhance the rate of conviction.

(ii) Delay:-

It is being observed by the Commission that in substantial number of cases, the complaints are not being but investigated/ inquired into within a period of 30 days as provided under the SCs and the STs (POA) Rules, 1995. The Commission would like to advise the State Govts./ UT Administrations to stress upon the District Supdt. of Police to ensure the completion of investigation/ inquiry within a stipulated time of 30 days. The District Magistrates may also be directed to ensure timely payment of economic assistance and rehabilitation of the Scheduled Tribes victim of atrocities as per norms laid down in the Rules, 1995.

(iii) Amendments required:-

An analysis of the cases with the Police for investigation reveals that on an average in 92% of the cases, the police completed investigation out of which in 73% of the cases, the charge-sheet were issued and in 27% cases, the final reports had been submitted in the Court. The cases in which final report was submitted included the cases closed due to false reporting/wrong facts. It is mandatory that the atrocity cases should be investigated by a Police officer not below the rank of Deputy Supdt. of Police. It is well known fact that a Dy. Supdt. of Police is a supervisory officer of the criminal cases investigated by the Police Station level officers and also perform multifarious duties relating to law and order etc. and as a result quiet often the expeditious investigation of atrocity cases gets relegated in priority. The Commission is of the view that suitable amendment may be carried out in Rule 7(1) and also in Rule 5(3) of the SCs and the STs (POA) Rules, 1995 to empower, apart from the Dy. Supdts. of Police, the Police Inspectors also to expedite the investigations of atrocity cases/ complaints.

(iv) Land Alienation Cases:-

The Commission during its review meetings in different States has observed that there are cases of wrongful occupation/ dispossession or cultivation of land owned by the Scheduled Tribes by non-Scheduled Tribe persons. However, cognizance of these offences under the SCs and the STs (POA) Act, 1989 is not being taken by the District Administration alongwith or without the related revenue land laws. State Govts./ UT Administrations may

like to direct the Police authorities to take cognizance of sections 3(1)(iv) and (v) of the SCs and the STs (POA) Act, 1989 in all such cases. These sections provide for

- 3(1) (iv) "wrongfully occupies or cultivates any land owned by, or allotted to, or notified by any competent authority to be allotted to, a member of a Scheduled Caste or a Scheduled Tribe or gets the land allotted to him transferred."
- 3(1) (v) "wrongfully dispossesses a member of a Scheduled Caste or a Scheduled Tribe from his land or premises or interferes with the enjoyment of his rights over any land, premises or water."

Section 7(2) of the SCs and the STs (POA) Act, 1989 says that where any person is accused of any offence under the Act, it shall be open to the Special Court trying him to pass an order that all or any of the properties, movable or immovable or both, belonging to him, shall, during the period of such trial, be attached, and where such trial ends in conviction, the property so attached shall be liable to forfeiture to the extent it is required for the purpose of realization of any fine imposed. **The Commission is of the opinion that this particular section may be amended in such a way that the land so attached by the Special Court, and where such trial ends in conviction, shall be liable to be transferred to the Scheduled Tribe victim.**

(v) Awareness Needs:-

It has been observed that majority of Scheduled Tribe persons are not aware about the provisions of the SCs and the STs (POA) Act, 1989 and Rules 1995. In absence of non-awareness they are not in a position to press the Police authorities to register their cases under this Act with or without the relevant sections of India Penal Code and other special laws. There is a need to launch adequate publicity about the various provisions of the POA Act, 1989 and Rules, 1995. **State Govts./ UT Administrations may like to translate the provisions of this Act and Rules in tribal dialects of the area and distribute the pamphlets at village level through the Gram Panchayats.**