

AUSKRE



सत्यमेव जयते

राष्ट्रीय अनुसूचित जातों की आयोग

GOVERNMENT OF INDIA
NATIONAL COMMISSION FOR SCHEDULED TRIBES

(A Constitutional Commission set up under Art. 338A of the Constitution to investigate and monitor all matters relating to violation of rights and safeguards provided for STs.)

संख्या/ No.- 12/01/10-Coord

दिनांक/ Date: 30/07/2010

To

Shri A.K. Saxena,
Director (Delhi),
Ministry of Home Affairs,
North Block,
New Delhi-110001

Sub: Grant of reservation to migrant SCs/ STs in civil posts under the Government of NCT of Delhi – Proposal of MHA received vide their letter dated 27.11.2009 for inclusion of all Scheduled Caste & Scheduled Tribe communities in the list of Scheduled Castes and Scheduled Tribes respectively in relation to the NCT of Delhi and all other Union Territories consequent to the judgment dated 04.08.2009 of Hon'ble Supreme Court of India in Civil Writ Petition No. 507/06 titled Sarv Rural & Urban Welfare Society Vs. Union of India -Analysis and proposed recommendations.

Sir,

I am directed to refer to your letter No. U-13028/31/2006-Delhi-I dated 27th November, 2009 on the above subject and to say that the matter was placed before the Commission for consideration.

2. The Commission expressed the view that Delhi is a National Capital Territory and a large number of people had migrated to Delhi after independence in 1947. The huge increase in population from 1951 (17.44 Lakhs) to 2001 (137.83 Lakhs) can not be attributed to normal growth only, but also combines the effect of continuous migration of people from other regions in search of opportunity or employment. While no Scheduled Tribes have been specified in relation to Delhi, the number of ST migrants from other States who have settled in Delhi, is also not available to indicate possible reservation requirements. The ST migrants may unwittingly face discrimination in the matter of reservation vis-à-vis SC migrants whose communities were also included in the list of Scheduled Tribes specified in relation to Delhi and may have been returned as SC of Delhi in various Census enumerations; and also secured Caste certificates mentioning that they were ordinary residents of Delhi, entitling them to the benefits meant only for the original SC communities of Delhi. The position of Delhi is quite unique as being the National Capital Territory, it has facilities and services created/ supported with Central Funds and Revenues. Therefore, it is quite appropriate that the migrant ST population settled in Delhi should not be discriminated against whether it is a matter of service or admission to educational institutions under the Government of Scheduled Tribes of Delhi

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3. The Commission also expressed the view that, since there are significant differences in the relative backwardness of different tribal communities living in different geographical regions of the country, it will be difficult to prevent marginalization of local tribal communities and monopolization of benefits by more advanced (migrant) communities if a common reservation policy/ order is contemplated for all (disparate) UTs (which are also home to


Vulnerable Tribes of Jarawas, Shompens, and Nicobarese etc. in A & N Islands, and all the native tribal inhabitants of Lakshadweep Islands).

4. In view of above the Commission recommended as follows:-

- (a) While refraining to comment on the merit of the Hon'ble Supreme Court judgment since Commission does not have any legal expertise, the Commission recommend that a common list of ST communities may not be notified under Article 342 in respect of all UTs including Delhi as this may lead to marginalization of the original tribal inhabitants of the concerned UT beside compromising the sanctity of Article 342.
- (b) Keeping in view the unique status of Scheduled Tribes of Delhi, being the National Capital of the Country and existence of various offices of the Union Government in Delhi and the fact that the employment opportunities and educational facilities of high order have been created in the Scheduled Tribes of Delhi through the use of central revenues, it is desirable to extend the benefit of reservation, to the Scheduled Tribes resident in Delhi irrespective of their nativity and period of residence while retaining the reservation level of 7.5% for Scheduled Tribes as admissible at National level.
- (c) A constitutionally valid scheme of reservation may, however, be evolved to extend benefits of reservation to migratory Scheduled Tribes living outside their original place of nativity as indicated in para 41 of the judgment of the Hon'ble in Supreme Court of India in SLP 243237 of 2005 (WP No. 507 of 2006).

5. Information about the action taken on the above views/ recommendation of the Commission may be intimated to this Commission in due course. Bill on the subject, as and when drafted by the Ministry of Home Affairs may be forwarded to this Commission as per provision under Art. 338A(9) of the Constitution.

Yours faithfully,


(B.C. Durga) 21/2/2010
Director