



सत्यमेव जयते

भारत सरकार

राष्ट्रीय अनुसूचित जनजाति आयोग

GOVERNMENT OF INDIA

NATIONAL COMMISSION FOR SCHEDULED TRIBES

No.Policy-1/MTA/Atrocity/2007/RU-II

छठी मंजिल, 'बी' विंग, लोक नायक भवन
खान मार्किट, नई दिल्ली-1100036th Floor, 'B' Wing, Lok Nayak Bhawan
Khan Market, New Delhi - 110 003

Dated 01.12.2009

To
The Secretary,
Ministry of tribal Affairs,
(C & LM Division)
Shastri Bhawan,
New Delhi- 115.

[Kind Attn : Dr. N. K. Ghatak, Jt. Dir]

Sub: Comments on Report of the Committee on draft Policy on Criminal Justice.

Sir,

I am to refer to your letter No. 12025/03/2007-C&LM-II dated 12.09.2007 vide which the subject report was forwarded for comments of the Commission on the subject matter. The Commission deliberated on the subject in its meeting held on 17.11.2009 and recommended as follows:-

"The Commission discussed the recommendations of the Committee and opined that:-

- (i) Recommendation already made by the Commission, regarding amendment of the PoA Act to provide for a time limit of 6 months for disposal of atrocity cases by the Courts and for setting up Exclusive Special Courts for trial of cases under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 may be reiterated as comments on para 8.4.1 of the Report of the Committee.
- (ii) The suggestions in para 8.4.2 is agreed. However, it needs to be examined as to how the "public defender system" will be different in practice from the notification of special panel of Public Prosecutors / engagement of senior Advocates in Special Courts under the provisions of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 and the SC & ST (PoA) Rules, 1995.
- (iii) As regards para 8.4.3 of the Report, the Commission observed that as per Constitutional provisions all laws (affecting Scheduled Tribes) may not apply/ be

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extended to Scheduled Areas by the Governor or may be extended with certain modifications (Clause 5/ Fifth Schedule, Clause 12/ Sixth Schedule). Under this provision, the Cr.P.C., 1973 does not apply to some Scheduled Areas. This runs counter to the general principle of separation of judiciary / executive since Executive Magistrates still wield judicial authority in these areas (as per the earlier Cr.P.C.). The Committee seems to favour continuation of existing arrangements; though in the prevailing culture of mis-governance, it is difficult to cite advantages. The Commission favours separate Judicial Courts, so that judicial cases receive due attention and proper consideration."

2. You are requested to kindly intimate the final outcome of the draft policy w.r.t. the recommendations of the Commission.

Yours faithfully,


(Vinod Aggarwal)
Director

