

## **ANNEX-VIII**

### **NATIONAL COMMISSION FOR SCHEDULED TRIBES**

#### **EXTRAORDINARY GAZETTE**

**(Formation notified vide file No.17014/12/99-TDR, dated 19<sup>th</sup> February, 2004,**

**Ministry of Tribal Affairs, Government of India).**

**(Under Article 338A(4) of the Constitution)**

#### **NOTIFICATION**

New Delhi dated 17<sup>th</sup> September, 2004

### **RULES OF PROCEDURE OF THE NATIONAL COMMISSION FOR SCHEDULED TRIBES**

**F.No.1/1/NCST/2004-C.Cell**

#### **CHAPTER I**

#### **GENERAL**

##### **Constitution of the Commission**

1. The National Commission for Scheduled Tribes (hereinafter called the Commission) has been constituted under new Article 338A of the Constitution of India as amended by the Constitution (Eighty-Ninth Amendment) Act, 2003. The Commission shall consist of a Chairperson, a Vice-Chairperson and three other Members.

##### **Headquarters of the Commission**

2. The Headquarters of the Commission shall be located at New Delhi.

3. The functions and responsibilities of the Commission as laid down in the Constitution are:

(a) to investigate and monitor all matters relating to the safeguards provided for the Scheduled Tribes under the Constitution or under any other law for the time

being in force or under any order of the Government and to evaluate the working of such safeguards;

(b) to inquire into specific complaints with respect to the deprivation of rights and safeguards of the Scheduled Tribes;

(c ) to participate and advise on the planning process of socio-economic development of the Scheduled Tribes and to evaluate the progress of their development under the Union and any State;

(d) to present to the President, annually and at such other times as the Commission may deem fit, reports upon the working of those safeguards;

(e) to make in such report recommendations as to the measures that should be taken by the Union or any State for the effective implementation of those safeguards and other measures for the protection, welfare and socioeconomic development of the Scheduled Tribes; and

(f) to discharge such other functions in relation to the protection, welfare and development and advancement of the Scheduled Tribes as the President may, subject to the provisions of any law made by Parliament, by rule specify.

4. The Commission shall function by holding 'sittings' and 'meetings' at any place within the country and also through its officers at the Headquarters and in the State Offices. The Members of the Commission including the Chairperson and the Vice-Chairperson shall function in accordance with the procedure prescribed under these rules.

## **CHAPTER II**

### **Division of responsibilities and allocation of work**

#### **Chairperson**

5. The Chairperson shall be the head of the Commission and shall have the residuary powers to decide on all questions and matters arising in the Commission excepting such matters where specific provision has been made in these rules.

6. The Chairperson shall allocate subjects and responsibilities among the Members of the Commission. The Order allocating the subjects and responsibilities shall be circulated to all concerned by the Secretariat of the Commission.

7. The Chairperson shall be the authority to sanction leave and approve tours of the Members.

8. The Chairperson shall preside over the meetings of the Commission.
9. All important decisions in the Commission pertaining to the subjects allotted to the Members shall be taken with the approval of the Chairperson.
10. The Chairperson may call for any records on any matter which he/she considers important and may take a decision on it himself/herself or, if necessary, place it at the meeting of the Commission.

### **Vice-Chairperson**

11. The Vice-Chairperson shall preside over the meetings of the Commission in the absence of the Chairperson.
12. The Vice-Chairperson shall perform such functions as are entrusted to him/her by the Chairperson.

### **Members**

13. The Members of the Commission shall have collective responsibility and shall function by participating in the 'meetings' and 'sittings' of the Commission and looking after the subjects allocated to them. Important actions and decisions of a Member may be brought at a meeting of the Commission which may review the same.
14. Any Member may suggest items for inclusion in the agenda of a meeting of the Commission and the same shall be so included after obtaining the consent of the Chairperson.
15. Each Member shall have overall responsibility of subjects and/or regions or State(s) as may be allocated to him.
16. The Members shall play the role of advising the State Governments under their jurisdiction on matters of planning and development relating to the welfare of Scheduled Tribes. The Commission's Secretariat at Headquarters and the State Offices shall assist the Members in keeping them fully informed of the problems and activities of the States and subjects under their respective charge.
17. One or more Members may, in accordance with the procedure specified in the rules elsewhere, hold sittings of the Commission to give hearing to the cases or to collect evidence or information on any matter, issue or case under investigation or inquiry of the Commission.
18. The Members shall communicate their tour Programme well in advance to the State Offices indicating in detail the purpose of the visit and to the State Govt. Department and other concerned for discussions/inquiry, etc., during the

tour/visit. The Members will observe the norms laid down by the State Govts. regarding security/travel/ accommodation etc., during such tours.

### **Secretary**

19. The Secretary shall be the administrative head of the Commission and shall assist the Commission in the discharge of its functions with the assistance of the officers of the Commission.

20. All important administrative matters shall be placed before the Secretary who may pass general or specific orders on such matters.

21. The Secretary shall be responsible for having the agenda prepared for the meetings of the Commission and for circulating the minutes.

22. The Secretary shall assist the Commission in finalizing the Reports.

23. The Secretary may, in his discretion, delegate any of his functions or authority to a subordinate officer of the Secretariat.

## **CHAPTER III**

### **INVESTIGATION AND INQUIRY BY THE COMMISSION**

#### **Methods of investigation and inquiry**

24. The Commission may adopt any one or more of the following methods for investigating or inquiring into the matters falling within its authority:

(a) By the Commission directly;

(b) By an Investigating Team constituted at the Headquarters of the Commission;  
and

(c) through its Regional Offices Investigation and Inquiry by the Commission directly 25. The Commission may hold sittings for investigation into matters relating to safeguards, protection, welfare and development of the Scheduled Tribes for inquiry into specific complaints for which the Commission decided to take up investigation or inquiry directly. Such sittings may be held either at the Headquarters of the Commission or at any other place within the country.

26. The sitting(s) of the Commission would be held after giving due notice to the parties intended to be heard and also due publicity notice to the general public. Care will be taken to see that the members of the Scheduled Tribes who are affected in the matter under investigation or inquiry are given due information through notice or publicity.

27. When a decision for direct investigation is taken, an officer not below the rank of Research Officer/Section Officer along with necessary staff may be attached to the Member(s) entrusted with such investigation or enquiry and they shall take all steps to arrange such sittings.

28.(i) In accordance with clause 8 of Article 338A of the Constitution, while investigating in a matter referred to in sub-clause (a) or in inquiring into any complaint referred to in sub-clause (b) of clause (5) of Article 338A, the Commission shall have all the powers of civil court trying a suit and in particular in respect of the following matters, namely:-

(a) Summoning and enforcing the attendance of any person from any part of India and examining him on oath;

(b) Requiring the discovery and production of any document;

(c) Receiving evidence on affidavits;

(d) Requisitioning any public record or copy thereof from any court or office;

(e) Issuing commissions for the examination of witnesses and documents;

(f) Any other matter which the President may, by rule, determine.

(ii) The Commission for the purpose of taking evidence in the investigation or inquiry may require the presence of any person and when considered necessary may issue summons to him/her. The summons for enforcing attendance of any person from any part of India and examining him/her during the course of investigation and inquiry by the Commission shall provide at least 15 days' notice to the person directed to be present before the Commission from the date of receipt of the summons.

29. Where the property, service/employment of Scheduled Tribes and other related matters are under immediate threat and prompt attention of the

Commission is required, the matter shall be taken cognizance by issue of telex/fax to the concerned authority for making it known to them that the Commission is seized of the issue. Urgent reply by telegram or fax shall be called from the concerned authority. In case no reply is received within ten working days, the authority concerned may be required to appear before the Commission at a shorter notice for enquiry.

30. The Commission may issue commission/under clause 8 (e) of Article 338A of the Constitution to take evidence in any matter under investigation or inquiry and for this purpose appoint any person by an order in writing. The Commission may make further rules for payment of fee and traveling and other allowances to persons appointed to take evidence on commission.

31. After holding the required sittings, the Member(s) who conducted the investigation shall make a report which shall be sent to the Secretary or any other officer authorized to receive the report. After examination, action may be initiated on the report with the approval of the Chairperson.

#### **Investigation or inquiry by an Investigation Team constituted at the Headquarters of the Commission**

32. The Commission may decide about the matter that is to be investigated or enquired into by an Investigating Team of officials of the Commission, provided that in case the matter is urgent, the decision for such investigation or inquiry may be taken by the Chairperson.

33. The Investigating Team shall hold the investigation or inquiry, as the case may be, promptly and for this purpose, may initiate necessary correspondence including issuance of notices for production of documents in Form I, appended to these rules.

34. The Investigating Team may visit the area concerned after observing due formalities for obtaining approval of tours and other administrative requirements and after giving information to the concerned local authorities regarding the matter, purpose, scope and procedure of the investigation or inquiry. The Investigating Team may enlist the help of the officers and staff of the concerned State Office but the responsibility of preparing and presenting the report shall rest with the head of the Investigating Team.

35. The Investigating Team shall submit the report of the investigation or inquiry, as the case may be, to the Secretary or a subordinate officer of the Commission as may be directed by general or specific orders within the stipulated time, if any. If the time limit stipulated is likely to be exceeded, the head of the Investigating Team shall obtain the orders of the Secretary through the Officer-in-charge of the matter. The report shall be examined and put up to the competent authority for a decision regarding the action to be taken on the report.

36. The report shall be placed before the Chairperson of the Commission who will take appropriate action in the matter.

### **Investigation and inquiry through the State Offices**

37. The Chairperson, the Vice-chairperson, the Members having jurisdiction over the subject or the Secretary of the Commission may decide about an investigation or inquiry that may be carried out through the State Offices of the Commission. The decision will be conveyed to the Officer-in-Charge of the concerned State Office who will be asked to get the matter investigated or inquired into within a stipulated time and send the report. The State Office shall conduct the investigation or inquiry through interrogation, on the spot visit, discussions and correspondence and examination of documents as may be necessary in the case and shall follow any special or general instructions issued in the matter by the Secretariat of the Commission from time to time.

38. If the investigation or inquiry cannot be completed within the stipulated time, the officer-in-charge of the State Office may send a communication to the Secretariat of the Commission before the expiry of the stipulated time and explain the circumstances and reasons for non-completion of the investigation or inquiry, as stipulated time. The Secretary to the Commission or an officer acting under delegated functions may consider the request and communicate a revised date for the completion of the investigation or inquiry.

39. If during the course of investigation or inquiry, the Head of the State Office feels that it is necessary to invoke the powers of the Commission to require the production of any document or compelling the attendance of a person, he may make a special report with full facts to the Secretariat of the Commission. On receipt of such special report, the matter shall be placed before the Secretary/Member in-charge of the subject/State/UT who may make an order that necessary legal process to compel attendance or to require production of any document may be issued. The summons and warrants issued for the purpose may be served on the person concerned either directly or through the officer-in-charge of the State Office as may be directed by the Secretary/Member authorizing issue of such legal process.

40. After completion of the investigation or inquiry, as the case may be, the head of the State Office shall submit the report to the Secretary of the Commission

suggesting the course of action that could be followed in the matter. The gist or findings of the report may be placed before the Secretary who may decide about further action in the matter.

### **Confidentiality of certain reports**

41. The Commission may, through a decision at a meeting or otherwise, direct that the contents of any report made on any matter shall be kept confidential and shall not be revealed to any person other than those who have been authorized access to such report.

### **Legal processes**

42. All summons and warrants that are required to be issued in pursuance of the exercise of the powers of a civil court by the Commission shall be written in the prescribed form and shall bear the seal of the Commission. The legal process shall be issued from the Legal Cell of the Commission and shall bear its seal. The provisions of the Code of Civil Procedure applicable for the service of the legal processes shall be followed by the Commission.

### **Issue of letters and notices**

43. Letters and notices requiring production of documents which are issued without exercising the powers of the civil court by the Commission may be signed by an officer not below the rank of Research Officer/Section Officer.

### **Form of summons and warrants**

44. The summons and warrants shall be as provided in Form II and III respectively, appended to these rules.

## **CHAPTERS IV**

### **MEETINGS OF THE COMMISSION**

#### **Frequency of meetings**

45. The Commission shall meet at least once in two months. The notice for a meeting shall normally be issued two weeks in advance. Emergent meetings may also be called by the Chairperson either on his own or on the request of a Member or the Secretary for disposing of important matters requiring urgent consideration by the Commission.



## **Quorum**

46. Presence of at least three members including the Chairperson and/or Vice-Chairperson shall constitute the quorum for holding meeting of the Commission.

## **Matters requiring decisions by the Commission at its meetings**

47. The following matters shall be brought up before the Commission at a meeting for consideration and decision:

- (i) Any amendment to these Rules of Procedure;
- (ii) Matters to be investigated by the Commission directly;
- (iii) All the reports that are required to be considered by the Commission as provided in these rules;
- (iv) Any matters that a Member may like to bring to the meeting, with the approval of the Chairperson;
- (v) Important matters relating to planning and development for the welfare and advancement of the Scheduled Tribes and specially references received under Article 338A (9) of the Constitution; and
- (vi) Any matter that the Chairperson may direct to be placed at a meeting of the Commission.

## **Agenda for the meeting**

48. The agenda will normally be circulated to all the Members at least seven days before the date of the meeting, provided that for an Emergent Meeting, this time limit may not apply.

49. The minutes of a meeting shall be circulated as soon as possible to all the Members.

## **Place of meeting of the Commission**

50. Normally the place of meeting of the Commission shall be the Headquarters of the Commission at New Delhi. The Commission may, however, decide to hold a meeting at any other place in India.

## **Fee**

51 The Chairperson, the Vice-Chairperson and the Members shall not be entitled to any fee for sitting in the meeting of the Commission. However, the entitlement of part-time Members, if any, may be determined by the terms of appointment of such Members.

## **CHAPTER V**

### **SITTINGS OF THE COMMISSION**

#### **Need for sittings**

52. Whenever a matter is to be investigated into directly by the Commission it may do so by holding sittings of the Commission. In the case of such sittings, the presence of all the Member may not be necessary.

#### **Officers to be present**

53. Whenever a Member(s) is holding a sitting, an officer of the Commission, not below the rank of Research Officer/Section Officer, duly deputed for the purpose, shall be present to assist the Member(s) holding the sitting to discharge the functions properly and promptly. It shall be the duty of the officer to assist the Member(s) in preparing the report if called upon to do so by the Member(s). The officer shall also be responsible for assisting the Member(s) in following the prescribed procedure.

#### **Frequency of sitting(s)**

54. Sittings of the Commission may be held as and when necessary. The Commission may hold more than one sitting simultaneously in different parts of the country with different Members functioning separately.

#### **Programme of the sittings**

55. The Programme of the sittings, both at the Headquarters and at other places, would normally be worked out each month in advance and duly circulated.

#### **Defraying expenses to witnesses**

56. The Commission may defray traveling expenses to persons who have been called through summons to appear before the Commission in a sitting, provided that the place of residence of one person is more than 8 kms. from the place of the sitting of the Commission. The amount so defrayed shall be limited to the actual traveling expenses plus Daily Allowance for the number of days that the person has appeared before the Commission in its sitting, provided that the person is not entitled to traveling and daily allowance from any other source. Persons who are employees of the Government/Public Sector Undertaking shall be deemed to be on duty if they are summoned to depose before the Commission or produce documents. The limit of traveling expenses shall be determined on the basis of the rail fare and road mileage calculated on the basis of the rates that may be prescribed by the Commission. In the case of any doubt regarding the entitlement of the person, the decision of the Secretary of the Commission shall be final.

57. The officer attached to the Member for the purposes of the sitting shall take steps to ensure that sufficient cash amount is carried if the sitting is held at a place other than the Headquarters of the Commission. The Secretariat of the Commission may devise a suitable procedure to ensure that such claims as above are paid on the spot and in cash to the person(s) so appearing.

58. The claim for traveling expenses as above shall not be admissible in the case of a person who appears before the Commission during any investigation or enquiry on his own accord or in response to a communication or notice which is not a summon issued by the Commission.

## **CHAPTER VI**

### **DUTIES OF THE STATE OFFICES OF THE COMMISSION**

59. It shall be the duty of the State Offices of the Commission:

- (i) To act as the “eyes and ears” of the Commission in the State(s) under their jurisdiction.
- (ii) To maintain effective interaction and liaison with State Government/UT Administration on behalf of the Commission.
- (iii) To serve on State Level Advisory Councils/Committees/Corporations, etc. on behalf of the Commission.

(iv) To provide information and documentation about the policies and programmes of the Union Government for the welfare and advancement of Scheduled Tribes to the States, NGOs, Media in their respective jurisdiction, and obtain similar information and documentation from such organizations and provide to the Headquarters of the Commission information/documentation about important developments, social movements, policy changes etc. in the State(s) affecting the interest of Scheduled Tribes.

(v) To monitor and assist the working of voluntary and other non-governmental organizations receiving grant-in-aid from the Ministry of Tribal Affairs as also other Ministries/Departments of the Central Government and the concerned State governments, foreign Aid Agencies etc., for Research Studies and any other development work relating to Scheduled Tribes.

(vi) To conduct Research Studies, Seminars, Conferences, Surveys etc. either on their own or as entrusted to them by Headquarters from time to time.

(vii) to conduct on-the-spot inquiries into cases of atrocities on Scheduled Tribes either on their own or as entrusted to them by Headquarters and interact with the concerned Administrative/Police authorities having jurisdiction and report to the Headquarters.

(viii) To deal with complaints/representations from individuals, Scheduled Tribes Welfare Associations, etc., on various matters.

(ix) To participate and advise in the planning process for socio-economic development of Scheduled Tribes as envisaged under clause 5 of Article 338A of the Constitution of India.

(x) To collect, compile, analyze and monitor issues pertaining to development of Scheduled Tribes in the states especially with reference to Tribal Sub Plan (TSP) and Special Central Assistance (SCA) and prepare drafts of Reports pertaining to the State(s)/UT(s) under their jurisdiction.

(xi) To prepare and maintain a comprehensive and up-to-date database of Scheduled Tribes population, education, development etc. in the State(s)/UT(s); and

(xii) To perform any other duty specifically assigned/entrusted to the State Office(s) by the Commission or the Secretary or any other officer empowered in this regard.

## **CHAPTER VII**

### **ADVISORY ROLE OF THE COMMISSION**

#### **Interaction of the Commission with the State Governments.**

60. The Commission shall interact with the State Governments through its Members, Secretariat and the State Offices.

61. The Members in-charge of the State/UT would interact with the State Government/UT Administration through meetings, personal contacts, visits and correspondence. The information in this regard may be sent to the concerned should also be informed about the same. For this purpose, detailed guidelines may be formulated by the Commission. The Secretariat of the Commission through its concerned Wing(s) would provide necessary assistance and information to the Member for enabling him to discharge his functions effectively. The State Governments should provide facilities for transport, security, accommodation etc. to the Member as per his entitlement.

#### **Interaction with the Planning Commission**

62. The Commission shall interact with the Planning Commission at appropriate levels through representation in the various Committees, Working Groups or other such bodies set up by the Planning Commission. The Commission shall indicate this requirement through general or specific communication to the Planning Commission.

63. The Commission may request the Planning Commission to forward copies of all the documents concerning the process of planning and development and evaluation of all programmes and schemes touching upon the Scheduled Tribes.

64. The Commission may decide about the manner of interaction between the Chairperson/Members of the Commission and the Deputy Chairman/Members of the Planning commission.

## **Interaction of the State Offices with the State Governments**

65. The State Offices of the Commission shall work in a manner so as to provide a regular and effective link between the State Governments concerned and the Commission. For this purpose, the Commission may send communications to the State Governments suggesting that the officers-in-charge of the State Offices of the Commission may be taken on important Planning, Evaluation and Advisory bodies including Corporations concerned with the welfare, protection and development of the Scheduled Tribes.

66. The officers-in-charge of the State Offices may be directed or authorized by the Commission to convey to any State authority the formal views, opinion or approach of the Commission on any specific or general matter or issue arising at any meeting or deliberation.

## **Research/Studies/Surveys/Evaluation**

67. The Commission may undertake studies to evaluate the impact of the development schemes on the socio-economic development of the Scheduled Tribes taken up by the Union or State Governments. For this purpose, the Commission may constitute Study Teams either at the Headquarters or at the State Offices. The Study Teams may undertake investigations, surveys or studies either in collaboration with Central or State Govt. authorities or Universities or Research Bodies, as the case may be, or may do so independently.

68. The Commission may entrust surveys or evaluation studies to any professional body or person considered suitable and competent to undertake such work and, for this purpose, may make any reasonable payment to such body or person towards the cost of the study by way of fee or grant.

69. The studies so undertaken or their gist's may form part of the Annual or Special Report of the Commission to be presented to the President or may be published separately by the Commission.

70. The Commission may forward a copy of such a study report to the Union or the State Government concerned, as the case may be, asking for their comments, if any. The comments or action taken reports by the Union/State Government may also form part of the Annual Report of the Commission.

## **CHAPTER VIII**

### **MONITORING FUNCTIONS OF THE COMMISSION**

#### **The Commission to determine subjects for monitoring**

71. The Commission may determine from time to time the subjects or matters and areas that it would monitor relating to safeguards and other socio-economic development measures provided for the Scheduled Tribes under the Constitution or under any other law for the time being in force or under any order of the Govt.

#### **Prescribing returns and reports**

72. The Commission may prescribe periodical returns or reports to be furnished by any authority responsible for or having control of the subject matter of which monitoring is being done by the Commission.

73. The Commission may from time to time issue instructions to its State Offices to collect information and data on any particular subject or matter from the State Governments, Local bodies, Corporate Bodies or any other authorities which is charged with the implementation of the safeguards provided for the Scheduled Tribes.

74. The Commission may direct its State Offices to process the information of data in the State Offices with a view to arriving at conclusions with regard to the deficiencies/ shortcomings discovered through such processing or analysis of the data and to bring these to the notice of the concerned authority for comments and rectification, where necessary.

75. The Commission may have data relating to the subjects monitored, collected at the headquarters and may prescribe returns and reports for the purpose to be sent the Central government or a State Government or Public Sector Undertaking or any other body or authority which is charged with the responsibility of implementing safeguards relating to the Scheduled Tribes.

## **Follow-up action**

76. In order to ensure that monitoring is done effectively, the Commission, after getting the information as prescribed in the above rules and after reaching conclusions, may as early as possible send out communications to the concerned authority describing the shortcomings that have been noticed in the implementation of the safeguards and suggesting corrective steps. Decisions on sending out such a communication may be taken at a level not lower than that of Joint Secretary/Secretary at Headquarters. Directors-in-Charge of State Offices may take decisions on routine matter whereas they will seek approval of the Secretary and the concerned Member on complex and important matters affecting the interest of Scheduled Tribes as a group.

77. The Commission may ask for the comments of the concerned authority on the action taken in pursuance of the communications sent under the Rule 76.

78. The Commission may include in its Annual Report or any Special Report, findings and conclusions arrived at through the process of monitoring of the subjects relating to the safeguards and socio-economic development measures provided for the Scheduled Tribes under the Constitution or under any other law for the time being in force or under any order of the Union/State Government.

## **CHAPTER IX**

### **Non-formal actions by the Commission**

79. The Commission may initiate correspondence in special cases in matters which are not strictly covered under the law if the matter is such that the welfare of an individual person belonging to Scheduled Tribes or that of a group of such persons is involved and it is necessary for the Commission in its inherent capacity as the protector of the interests of these classes of persons, to take action. The decision for correspondence on such matter shall be taken at the level of Director or above.

80. All routine formal communications from the Commission shall be issued under the signatures of an Officer not below the rank of Research Officer/Section Officer.

81. The Commission can sue or be sued through its Secretary.

82. The Scheduled Tribes in these rules will have the same connotation as is given in clause 10 of Article 338A of the Constitution.



### **Applicability of rules, etc., of the Central Government**

83. All rules, regulations and orders issued by the Central Government and applicable in the Ministries/Departments will also apply in the Commission.

84. The provisions relating to the delegation of financial powers in the Government of India shall apply to the corresponding officers in the Commission.

### **Use of Staff cars**

85. The Staff Car Rules of the Government of India shall apply for the purposes of utilization of staff cars in the Commission.

### **Decision on matters not specified in these rules**

86. If a question arises regarding any such matter for which no provision exists in these rules, the decision of the Chairperson shall be sought. The Chairperson may, if he deems fit, direct that the matter may be considered at a meeting of the Commission.

**SECRETARY**

**NATIONAL COMMISSION FOR SCHEDULED TRIBES**