



**NATIONAL COMMISSION  
FOR  
SCHEDULED TRIBES**

**FIRST REPORT  
2004-2005 & 2005-2006**

**Respected Rashtrapati Ji,**

I have the honour to present to you the first Report of the National Commission for Scheduled Tribes upon working of the safeguards provided for Scheduled Tribes under the Constitution or under any other law or under any order of the Government. During this period, the Members of the Commission inspected the implementation of the development programmes and held intensive discussions with the senior officers and people's representatives at State, district and local levels. The Commission held a series of hearings with the senior officers of the Central Ministries/Departments, Central Public Sector Enterprises and financial institutions including Banks and was instrumental in redressing the grievances of large number of petitioners relating to violation of the policy of reservation in matter of appointments. The Commission also had an interaction with sitting and former Members of Parliament, tribal leaders from different parts of the country and representatives of tribal associations on 18 August, 2005 to have the benefit of their views on a variety of issues relating to tribal development.

2. There has been some improvement in the socio-economic conditions of STs, but they continue to lag far behind the other communities in respect of opportunities for education, health, other social services and economic development. Economic development, therefore, holds the key to the social empowerment of STs. The Commission notes with concern that the funds released by the Govt. of India under Special Central Assistance to TSP and the grants-in-aid under Article 275(1) of the Constitution of India are not being released by the State Govts. in time to the implementing agencies, resulting in a huge cumulative unspent balance lying with the State Govts. The same is the position with the grants for development of Primitive Tribal Groups. The Commission, therefore, feels that a suitable mechanism has to be evolved to ensure the proper and timely utilization of the grants on various developmental programmes for Scheduled Tribes. The Commission has also noted that as required under the guidelines issued by the Planning Commission, the Central Ministries/Departments are not earmarking the necessary percentage of their plan budget in proportion to the population of the Scheduled Tribes to the total population of the country i.e. 8.2%. This is a serious lapse on the part of the Ministries and Departments and they need to be advised about their equally important role in strengthening the hands of the Govt. in promoting the tribal development. The Planning Commission has to find out ways and means for earmarking of the requisite funds by them from their plan budgets for being spent on tribal development.

3. The land and forests are the two basic resources of the tribal life support system. The Commission, therefore, cannot but note with serious concern that there has been assault on both these systems which is borne out by increasing number of cases of alienation of tribal lands to the non-tribals even in the teeth of anti-alienation laws being in position almost in every State where the tribals are sizeable in number. This is obviously due to loopholes in the anti-alienation laws. The State Govts., therefore, need to be advised to have a thorough review of these laws with a view to plug the loopholes to have a check on the illegal transfer of land from tribals to the non-tribals. The State Govts. also need to be advised to harmonize the provisions of the State laws with the provisions of the Panchayats (Extension to Scheduled Areas) Act, 1996 which, inter alia, empowers the Gram Sabhas to prevent alienation of land in the Scheduled Areas and to take appropriate action to restore any unlawfully alienated land of a Scheduled Tribe. The Commission is glad to note that the Govt. proposes to formulate a legislation to recognize the rights to hold and live in the forest land under the individual or common occupation for habitation or for self-cultivation for livelihood by a member or members of a forest dwelling Scheduled Tribes and other rights connected therewith and that a Bill to that effect has already been introduced in Parliament. The Commission feels that this is a step in the right direction as it addresses the long-standing and genuinely felt need of granting a secure and inalienable right to those communities whose right to life depends on right to forests.

4. Another area of alarming concern to the Commission has been the slow progress on the resettlement and rehabilitation of the tribals displaced and deprived of their houses and also of their means of livelihood on account of acquisition of their land under the Land Acquisition Act, 1894. The Government cannot overlook the trauma of those who suffer the consequences of such acquisitions. The Commission has suggested a number of measures to deal with this problem by evolving the best possible rehabilitation packages to mitigate the sufferings and hardships of the project oustees to the maximum extent. One of these measures is the formulation of a suitable central legislation either separately or as a part of the Land Acquisition Act, 1894 to ensure systematic rehabilitation and resettlement of persons likely to be displaced on acquisition of their lands for various development projects and advising the State Govts. to enact similar legislations to ensure adoption of a uniform resettlement and rehabilitation packages by all of them. Needless to say that it is the tribals who are most severely affected whenever such acquisitions take place. The Commission feels that all the issues related to resettlement and rehabilitation should be settled to the satisfaction of the tribals before the actual construction work on the project starts. The Commission received a large number of representations from the tribal oustees of Sardar Sarovar Project complaining about the lack of adequate and proper resettlement and rehabilitation arrangements by the State Govts. of Madhya Pradesh, Maharashtra and Gujarat. The Commission visited the affected areas of Madhya Pradesh from 10-14 April, 2005. As per the information furnished by the Ministry of Water Resources, more than 18,000 families affected by this Project are yet to be resettled. This causes severe anxiety to the Commission. The State Govts. of Gujarat, Madhya Pradesh and Maharashtra need to be advised to take urgent steps and to prepare a time-bound programme of resettling and rehabilitating the balance of families. The Commission also visited the Kalinga Nagar area of district Jajpur, Orissa from 11-13 January, 2006 where a large chunk of land had been acquired for setting up industries and 13 tribals had lost their precious lives in police firing on 2 January, 2006 while agitating against inadequate arrangements for their resettlement as also low compensation paid or proposed to be paid to them for their land. The Commission held detailed discussions with the senior officers of the State Govt. and impressed upon them to formulate a comprehensive rehabilitation package after consulting the tribal leaders. The

Commission also advised them to pay the compensation to the tribals (whose lands had been acquired) at the present market rates.

5. There can be no doubt that education provides the most vital input in human resource development. It is the most effective and crucial tool of empowering people- the primary vehicle by which economically and socially marginalized sections of society like Scheduled Tribes can be empowered to lift themselves from the existing levels of poverty. Unless these underprivileged sections of society receive the minimum education, they cannot exercise the civil, political, economic and social freedom as enshrined in the Constitution of India. The schemes which are being implemented for boosting up the educational development of STs, therefore, need to be strengthened and suitably expanded to cover more number of tribals. There is also an urgent need to effectively monitored the implementation of these schemes in the tribal areas. Level of education among STs continues to be much lower than other communities. According to 1991 Census, there were only 29.60% literates among STs in comparison to 52.21% of general category. As per 2001 Census, there were 47% ST literates as against the 65.38% of general population. The female literacy rate among tribals during the period 1991 to 2001 increased from 18.19% to 34.76% which is lower by approximately 20% as compared to literacy rate of the females of the general population. Thus though there has been a gradual increase in the ST literacy rates, it is still far below from the literacy rates of other communities. This low level of literacy explains the poor quality of education and also the reasons for their poor representation in services, particularly in higher echelons, despite the system of reservations. The representation of STs in the services of the Central Ministries/Departments was 4.18% and 4.32% in Group A and Group B services respectively as on 1.1.2003 as against 8.2% which is the percentage of their population to the total population of the country. Position in the PSEs and Banks presents more or less a similar picture. In the teaching staff of the Central Universities, their representation was far from satisfactory in most of the Universities. This situation has to be overcome through expanding the scope of the various Schemes to cover more and more tribals and tribal areas and also through ensuring a rigorous implementation of the reservation instructions particularly in Central Universities and financial institutions including Banks where the representation of Scheduled Tribes is very low. It is also essential to fix up accountability in these institutions for subverting the reservation policy of the Govt. The Commission has suggested a number of steps required to be taken to increase the literacy rate among the Scheduled Tribes particularly female literacy as also to arrest the drop-out rates among the tribal children.

6. The reservation policy is presently being implemented on the basis of the executive instructions issued by the Govt. of India from time to time. There has been strident demands from various quarters including the erstwhile National Commission for Scheduled Castes and Scheduled Tribes to replace these executive instructions by a suitable legislation. The Commission is happy to note that the Govt. has acceded to this demand and has already introduced a Bill for this purpose in Parliament. The Commission hopes that the proposed step will go a long way in ensuring proper implementation of the reservation policy of the Govt. The Commission has made a number of suggestions to further relax the reservation policy for raising the level of representation of Scheduled Tribes in Govt. services. These suggestions include the extension of the rule of reservation to the private sector.

7. The problem of a large number of persons getting employment under the Govt. of India and the State Govts. and other facilities on the basis of the false community certificates continues to assume alarming proportions and defies foolproof solutions. The Commission feels that the issue has not been given the attention it deserves and many false community

certificate holders continue to take undue advantage of the system, depriving thereby the genuine STs, of their due share in the Govt. services. The Commission is of the strong view that there is an urgent need to evolve a system of pre-appointment verification of the genuineness of the community certificates in replacement of the existing procedure for post-appointment verification, with a view to strike at the root of the problem which can be carried out during the period during which the character and antecedents of the recommended candidates are got verified from Police authorities before these candidates including the reserved category candidates are offered appointment. Realizing the gravity of the problem, the Commission has suggested a number of other steps required to be taken by the Govt. to effectively deal with this menace of the issuance of false community certificates.

8. The Hon'ble Supreme Court of India sought the views of the Commission in Writ Petition (Civil) No. 76 of 2003 in November 2004 on whether the Maaleru community was the same as the Maleru which (i.e. Maleru) has been recognized as Scheduled Tribe in the State of Karnataka. The Hon'ble Supreme Court directed this Commission to submit the report within six months after hearing all the affected parties. It was indeed an assignment of difficult nature. The Commission held three hearings with the advocates of the petitioners and the various organizations of the Govt. in which the petitioners had got employed. The Commission submitted its report consisting of over 200 pages to the Hon'ble Supreme Court within the prescribed timeframe (i.e. on 13 May 2005).

9. The Commission has observed that despite special laws such as the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act 1989 and Rules, 1995 framed thereunder, to protect the members of Scheduled Tribes and Scheduled Castes, there is no substantial reduction in the number of incidents of atrocities on them. This is a matter of grave concern for the Commission. It is common fact that most of STs are still residing in isolated pockets and are economically backward and illiterate and, as a result thereof, the incidences of crime against them are not being reported, the one which are reported are not always recorded, and those which are recorded are often minimized. The Commission has also observed that on an average about 17% of cases are decided by the Courts in a year out of which, on an average, only about 17% end in conviction and 83% in acquittal. It has also been observed that the investigation process is not completed within a reasonable period of time. There is, therefore, need to advise the State Govts. to complete the process of investigation within the prescribed period of 30 days and also that the amount of financial relief is provided to the victims of atrocities immediately after the incident particularly in cases of murder, grievous hurt, rape and arson. There is also a need to launch awareness programme in tribal areas about the availability of legal aids under SCs and STs (POA) Act 1989 so that the victims could avail of free legal aid.

10. The National Commission for Scheduled Tribes has been created after bifurcating the erstwhile National Commission for Scheduled Castes and Scheduled Tribes into two separate Commissions i.e. the National Commission for Scheduled Tribes and the National Commission for Scheduled Castes. The National Commission for Scheduled Tribes has been constituted under Article 338A of the Constitution w.e.f. 19 February, 2004. The actual bifurcation of staff and the officers of the erstwhile Commission, however, could take place only on 1 December, 2004. As this Commission did not have any separate office of its own, most of its time during the year 2004-05 had to be spent on setting up of a separate office. We could shift in our new office in this building (i.e. Lok Nayak Bhavan, Khan Market, New Delhi) only in the month of July, 2005 and, thereafter, the officers of the Commission had to get themselves deeply involved in creating separate functional units with respect to various

aspects in relation to the development of Scheduled Tribes, as also in setting up of a separate establishment for the Commission. In this backdrop, the Commission has decided to cover the period of two years i.e. 2004-05 and 2005-06 in its first Report.

11. I would like to acknowledge the valuable contributions made by Shri Gajendra Singh Rajukhedi, Vice-Chairman and Shri Buduru Srinivasulu, Smt. Prem Bai Mandavi, Ven. Lama Lobzang, Members and my Private Secretary Shri R.P. Meena in finalizing the contents of the various Chapters of this Report. A wide range of suggestions given by them, based on their understanding of the ground realities in relation to the problems of the Scheduled Tribes, helped the Commission in identifying the critical gaps in implementation of the reservation policy of the Govt. as also in the schemes and programmes being implemented by the Government for socio-economic and educational development of Scheduled Tribes and in making appropriate recommendations to plug these loopholes to ensure their better and more effective implementation. I would also like to acknowledge the valuable assistance and guidance provided by then Secretary to the Commission on various aspects and the hard work done by Shri K.N. Singh, Joint Secretary in drafting this Report and giving it a structured shape.

12. We have made a modest endeavour to understand and analyse the basic problems of the Scheduled Tribes, and wherever possible, given suggestions to improve the situation to reach out the benefits of developmental schemes to the Scheduled Tribes living in the remote areas. The rich tribal culture and heritage has to be saved at any cost. The remedy, in our opinion, lies in their emancipation from their economic backwardness not only through intensive implementation of the various schemes by the Central Govt. and the State Govts. but also by expanding the scope of these schemes and programmes to cover more and more tribals. We sincerely hope that the Govt. will give serious considerations to our recommendations.

With kind regards,

Yours sincerely,

**(Kunwar Singh)**

Shri A.P.J. Abdul Kalam  
President of India,  
New Delhi.

No.	<b>CHAPTER</b>	Page No.
<b>1.</b>	<b>ORGANIZATIONAL SET-UP &amp; FUNCTIONING OF THE COMMISSION</b>	<b>1-42</b>
1.1	Article 338 in its original form	1
1.2	Commissioner for Scheduled Castes and Scheduled Tribes	1
1.3	Commission for Scheduled Castes and Scheduled Tribes (Non-Statutory)	2
1.4	National Commission for Scheduled Castes and Scheduled Tribes (Non-Statutory)	3
1.5	National Commission for Scheduled Castes and Scheduled Tribes (Statutory)	4
1.6	Bifurcation of the erstwhile National Commission for Scheduled Castes and Scheduled Tribes and Setting up of a separate National Commission for Scheduled Tribes under Article 338A of the Constitution	5
1.7	Functions, Duties and Powers of the National Commission for Scheduled Tribes	6
1.8	Expanded Terms of Reference of the Commission	8
1.9	Bifurcation of the Officers and Staff of the erstwhile National Commission for Scheduled Castes and Scheduled Tribes	9
1.10	Organizational Set-up of the Secretariat of the Commission	10
1.11	Regional Offices of the Commission and their Jurisdiction	12
1.12	Functions of the Regional Offices	13
1.13	Need for Augmentation of the existing staff in the six Regional Offices and for Creation of four more Regional Offices.	14
1.14	New Office of the Commission	15
1.15	Approach and Methodology of the Functioning of the Commission	16
1.16	Meetings held by the Commission	17
1.17	Important Visits to the States/UTs by Chairman and Members	21
1.18	Progress of disposal of files/cases and receipts relating to complaints/petitions during the year 2004-05 and 2005-06	21
--	<b>Annexes</b>	24-42
<b>2.</b>	<b>CONSTITUTIONAL PROVISIONS FOR PROTECTION AND DEVELOPMENT OF SCHEDULED TRIBES</b>	<b>43-54</b>
2.1	Definition of Scheduled Tribes	43
2.2	Development and Protective Safeguards	43
	(i) Social Safeguards	44
	(ii) Economic Safeguards	45
	(iii) Educational and Cultural Safeguards	46
	(iv) Political Safeguards	46
	(v) Service Safeguards	52
2.3	Institutional Safeguards	53
<b>3.</b>	<b>SOCIO-ECONOMIC DEVELOPMENT OF SCHEDULED TRIBES</b>	<b>55-168</b>
3.1	Introduction	55
3.2	Demographic Trends and Present Status	56
3.3	Fifth Schedule	58
3.4	Sixth Schedule	61
3.5	Panchayats (Extension to Scheduled Areas ) Act,1996	62
3.6	Tribal Development Strategy and Programmes	68
3.7	Development of Primitive Tribal Groups (PTGs)	77
3.8	Recognition of Maleru Tribe in Karnataka as PTG	79
3.9	Land Allotment and Distribution	80
3.10	Land Alienation	82
3.11	Scheduled Tribes (Recognition of Forest Rights) Bill, 2005	88
3.12	Minor Forest Produce (MFP)	92
3.13	Safeguarding Rights of the Tribal Communities over Mineral Resources, Water Resources etc.	94
3.14	Health and Medical Services	96
3.15	Rural Housing	101
3.16	Rural Roads	103

3.17	Public Distribution System (PDS)	105
3.18	Drinking Water Supply	107
3.19	Rural Electrification	109
3.20	Rural Sanitation	111
3.21	Rural Employment	112
3.22	Other Welfare Schemes for Rural Scheduled Tribes	115
3.23	Grants-in-Aid to State Tribal Development Cooperative Corporation (STDCCs) and other such Organizations	116
3.24	Scheme of Assistance to State Scheduled Tribes Finance and Development Corporation (STFDCs)	117
3.25	National Scheduled Tribes Finance and Development Corporation (NSTFDC)	118
3.26	Tribal Cooperative Marketing Development Federation of India Ltd. (TRIFED)	121
3.27	Delimitation of Parliamentary/ Assembly Constituencies	123
3.28	Some Successful Cases dealt with in the Commission	124
--	<b>Annexes</b>	133-168
<b>4.</b>	<b>RESETTLEMENT AND REHABILITATION OF DISPLACED TRIBALS</b>	<b>169-183</b>
4.1	Introduction	169
4.2	Polavaram and Pulichintala Irrigation Projects in Andhra Pradesh	171
4.3	Resettlement and Rehabilitation of the Affected Families of Sardar Sarovar Project	171
4.4	Kalinga Nagar (Orissa) Visit of the Commission	175
--	<b>Annexes</b>	179-183
<b>5.</b>	<b>EDUCATIONAL DEVELOPMENT OF SCHEDULED TRIBES</b>	<b>184-225</b>
5.1	Introduction	184
5.2	Literacy among Scheduled Tribes	185
5.3	National Policy on Education	187
5.4	National Programme of Nutritional Support to Primary Education	188
5.5	Shiksha Karmi Project	190
5.6	Kasturba Gandhi Balika Vidyalaya (KGBV)	191
5.7	Sarva Shiksha Abhiyan	191
5.8	Some other Special Provisions for SCs & STs	193
5.9	Growth of Enrolment	195
5.10	Drop-out rates at Primary, Elementary and Secondary Stages	196
5.11	Centrally Sponsored Schemes (5.11.1) & Central Sector Schemes (5.11.2)	200
5.12	National Overseas Scholarship Scheme for Higher Studies Abroad	213
5.13	Eklavaya Madel Residential Schools	214
5.14	Extending the scope of Reservation in Educational Institutions receiving various types of concessions from the Govt.	215
--	<b>Annexes</b>	216-225
<b>6.</b>	<b>SERVICE SAFEGUARDS</b>	<b>226-285</b>
6.1	Constitutional Provisions	226
6.2	Reservation Profile	228
6.3	Review of five OMs issued by DoPT	230
6.4	SCs/STs selected/ promoted on their own merit not to be counted against vacancies reserved for them	233
6.5	Non-permissibility of Exchange of Reserved Points between SCs and STs, filling up of Backlog Vacancies & Non-lapsing of Reserved Points	233
6.6	Dereservation of Posts	235
6.7	Separate Representation of ST Officers in Departmental Promotion Committees	237
6.8	Reservation in Private Sector	237
6.9	Reservation for Scheduled Tribes in Scientific and Technical Posts	238
6.10	Concessions to SC/ST Officers in posts filled by Direct Recruitment	239
6.11	Concessions to SC/ ST Officers in posts filled by Promotion by Selection	240
6.12	Model Rosters for Reservation	242
6.13	Zone of Consideration	245
6.14	Percentage of Reservation for Scheduled Tribes (as also SCs and OBCs ) in Direct Recruitment to Group 'C' and Group 'D' Posts on Local and Regional basis	246

6.15	Reservation in Adhoc Promotions	248
6.16	Special Recruitment Drive to fill up Backlog Vacancies Reserved for SCs & STs	249
6.17	Appointments on Compassionate Grounds	251
6.18	Restoration of Reservation for STs in Govt. of NCT, Delhi.	252
6.19	Scheduled Castes, Scheduled Tribes and Other Backward Classes (Reservation in Posts and Services) Bill, 2004	257
6.20	DoPT proposes to issue Consolidated Instructions on Reservation in Supersession of all earlier Instructions	259
6.21	Representation of Scheduled Tribes in Central Ministries/ Departments, Central Public Sector Enterprises, Public Sector Banks and Central Universities	260
6.22	Special Concessions for members of Primitive Tribal Groups (PTGs) in Direct Recruitment	273
6.23	Recognition of Scheduled Castes and Scheduled Tribes Employees Welfare Associations	274
6.24	Successful Cases dealt with by the Commission	274
--	<b>Annex</b>	285
<b>7.</b>	<b>ISSUANCE AND VERIFICATION OF SCHEDULED TRIBE CERTIFICATES</b>	<b>286-304</b>
7.1	Competent Authorities to Issue Certificates	286
7.2	Duties of Appointment Authorities to verify the certificates	287
7.3	Guidelines laid down by Supreme Court for Verification of Community Certificates	290
7.4	Direction of Delhi High Court for Verification of Certificates	293
7.5	Proposal under consideration for introducing a Bill to regulate the issue and verification of caste/ tribe certificates	294
7.6	Corrective Steps to be taken to curb Issuance of False/ Bogus Community Certificates	295
7.7	Hon'ble Supreme Court of India seeks the views of Commission in Writ Petition (Civil) No. 76 of 2003- A.S. Nagendra & Ors. Vs. State of Karnataka & Ors.	299
--	<b>Annexes</b>	303-304
<b>8.</b>	<b>CRIME AND ATROCITY ON THE SCHEDULED TRIBES</b>	<b>305-336</b>
8.1	Introduction	305
8.2	Incidence of Crimes against Scheduled Tribes	306
8.3	Classification of Crimes	307
8.4	State-wise incidence of Crimes on Scheduled Tribes	307
8.5	Disposal of Cases by the Police	308
8.6	Disposal of Cases by Courts	309
8.7	Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act, 1989	310
8.8	Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Rules, 1995	311
8.9	State- wise number of Atrocities on STs	312
8.10	Classification of Atrocities committed on Scheduled Tribes	314
8.11	Disposal of Atrocity Cases by the Police	315
8.12	Disposal of Atrocity Cases by the Special Courts	316
8.13	Special Arrangements made by State Govts. under the SCs & STs (POA) Act, 1989 and the Rules, 1995 made hereunder	317
8.14	Some of the Atrocity Cases dealt with in the Commission	327
<b>9.</b>	<b>SUMMARY OF RECOMMENDATIONS</b>	<b>337-368</b>
Ch-1	Organizational Set up and Functioning of the Commission	337
Ch-2	Constitutional Provisions for Protection and Development of Scheduled Tribes	337
Ch-3	Socio-economic Development of Scheduled Tribes	338
Ch-4	Resettlement and Rehabilitation of Displaced Tribals	351
Ch-5	Educational Development of Scheduled Tribes	353
Ch-6	Service Safeguards	360
Ch-7	Issuance and Verification of Scheduled Tribe Certificates	364
Ch-8	Crime and Atrocity on the Scheduled Tribes	368

## CHAPTER-1

### ORGANIZATIONAL SET-UP AND FUNCTIONING OF THE COMMISSION

#### 1.1 Article 338 in its original form

1.1.1 This is the first Report of the National Commission for Scheduled Tribes after its creation w.e.f. 19 February, 2004 by amending article 338 and adding a new article 338A through the Constitution (Eighty-ninth Amendment) Act, 2003 and, therefore, it is considered essential to make a brief reference to the historical evolution of this Commission with a view to preserve its heritage and to provide to the future generation a glimpse into its chequered history.

1.1.2 The framers of the Constitution took note of the fact that certain communities in the country were suffering from extreme social, educational and economic backwardness arising out of age-old practice of untouchability and certain others on account of the primitive agricultural practices, lack of infrastructure facilities and geographical isolation, and, therefore, these communities needed special consideration for safeguarding their interests and for their accelerated socio-economic development. These communities were notified as Scheduled Castes and Scheduled Tribes as per provisions contained in Clause 1 of Articles 341 and 342 of the Constitution of India respectively. With a view to provide safeguards against the exploitation of members of Scheduled Castes & Scheduled Tribes and to promote and protect their social, educational, economic and cultural interests, special provisions were made in the Constitution. The Govt. realized that due to their social disability and economic backwardness, they were grossly handicapped in getting reasonable share in elected offices, Government jobs and educational institutions and, therefore, it was considered necessary to follow a policy of reservation in favour of these communities to ensure their equitable participation in governance. For effective implementation of various safeguards provided in the Constitution for the SCs & STs and various other protective legislations, the Constitution provided for appointment of a Special Officer under Article 338 of the Constitution. This Article in its original form provided that:-

- (i) There shall be a Special Officer for the Scheduled Castes and Scheduled Tribes to be appointed by the President;
- (ii) It shall be the duty of the Special Officer to investigate all matters relating to the safeguards provided for the SCs & STs under the Constitution and to report to the President on the working of these safeguards at such intervals as the President may direct, and the President shall cause all such reports to be laid before each House of Parliament;
- (iii) In this Article, references to the SCs and STs shall be construed as including references to such Other Backward Classes as the President may, on receipt of the report of a Commission appointed under Clause (1) of article 340 of the Constitution, by order, specify and also to the Anglo-Indian community.

#### 1.2 Commissioner for Scheduled Castes and Scheduled Tribes

1.2.1 In pursuance of the above-mentioned provisions, the following arrangements were made for monitoring the implementation of the Constitutional safeguards in favour of Scheduled Castes and Scheduled Tribes:

- (i) A Special Officer known as Commissioner for SCs and STs was appointed for the first time on 18 November, 1950 to investigate all matters relating to the safeguards

for SCs and STs in the Constitution and to report to the President upon working of the safeguards.

- (ii) In order to facilitate effective functioning of the office of the Commissioner for SCs & STs, 17 regional offices of the Commissioner were set up in different parts of the country, which were headed by Assistant Commissioners for SCs and STs who were, in July, 1965 re-designated as Deputy Commissioners.
- (iii) In June, 1967, the 17 Regional Offices were re-organised into 5 Zonal Offices and placed under the control of a newly created Directorate General of Backward Classes Welfare in the Department of Social Welfare. Each Zonal Office was headed by a Zonal Director, Backward Classes Welfare (a newly created post) and the post of Deputy Commissioner for SCs & STs was re-designated as Deputy Director, Backward Classes Welfare and placed under the control of Zonal Directors located at Chandigarh (Northern Zone), Bhopal (Central Zone), Patna (Eastern Zone), Baroda (Western Zone) and Madras (Southern Zone).
- (iv) The Eastern Zone office had two branches at Bhubaneswar and Shillong and later a branch office of the Central Zone office was also set up at Lucknow. Each of these branch offices was headed by a Deputy Director. The Western Zone office was shifted to Ahmedabad in 1969.

1.2.2 The 17 field offices functioned as the 'eyes and ears' of the Commissioner for SCs/STs. In June, 1967 it was, however, decided by the Government to take away all the 17 field offices, regroup them into five Zonal Offices of Backward Classes Welfare, and put them under the control of a newly created post of Director General, Backward Classes Welfare, under the Department of Social Welfare. This decision of the Government weakened the organization of the Commissioners for SCs & STs as the Commissioner was not left with any independent agency to collect reliable information and for assessment of the problems of these disadvantaged groups and the developmental programmes undertaken for them. In its first Report (1969), the Parliamentary Committee on the Welfare of Scheduled Castes and Scheduled Tribes expressed unhappiness on this action of the Government and wanted the hands of Commissioner to be strengthened. The Government, however, did not restore the field organization to the Commissioner for SCs and STs.

### **1.3 Commission for Scheduled Castes and Scheduled Tribes (Non-Statutory)**

1.3.1 There was a persistent demand by SC and ST representatives, particularly Members of Parliament that the Special Officer under article 338 should be replaced by an effective multi-member Commission with enhanced functions and powers. It was felt that the Office of the Commissioner for SCs & STs alone was not enough to monitor the implementation of Constitutional safeguards. Accordingly, a proposal was moved for amendment of Article 338 of the Constitution for replacing the arrangement of one- member system with a multi-member system. While the amendment was still under consideration, the Government decided to set up a multi-member Commission through an administrative decision vide Ministry of Home Affairs' Resolution No.13013/9/77-SCT(1) dated 21 July, 1978 (attached as **Annex 1.I**). It was decided that:

- (i) This Commission would consist of a Chairman and not more than four members including the Special Officer appointed under Article 338 of the Constitution and that the term of office of Chairman and Members will not ordinarily exceed three years.

- (ii) The Commission would devise its own procedure and would submit an Annual Report to the President detailing its activities and recommendations and that the Annual Report together with a Memorandum outlining the action taken on the recommendations and explaining the reasons for non-acceptance of recommendations, if any, in so far as it related to the Central Government would be laid before each House of Parliament.

1.3.2 The first Commission for SCs & STs was set up in August, 1978 with Shri Bhola Paswan Shastri as Chairman and four other Members.

1.3.3 The field offices of the erstwhile Commissioner for Scheduled Castes and Scheduled Tribes which were transferred under the control of DG, Backward Classes Welfare in 1967 were brought back under the control of the Commission.

1.3.4 The Government later decided to put in place a statutory multi-member National Commission for Scheduled Castes and Scheduled Tribes to replace the two organizations namely- the office of the Commissioner for Scheduled Castes and Scheduled Tribes, and the Commission for Scheduled Castes and Scheduled Tribes by amending Article 338 of the Constitution, keeping in view the magnitude of the problems of Scheduled Castes and Scheduled Tribes. With this purpose in mind, the Government of India introduced the Constitution (Forty-sixth Amendment) Bill, 1978 in the Lok Sabha on 3 August, 1978. The Bill, however, could not be taken up for discussion in the 1978 Winter Session of the Parliament due to lack of time and was brought up again in the Lok Sabha as the Constitution (Fifty-first Amendment) Bill, 1979. Though the Bill was debated in the Lok Sabha but during voting on 17 May, 1979, the Bill fell through for want of the requisite majority. In these circumstances, the Commission set up by the Resolution of the Govt. of India dated 21 July, 1978 (referred to above) continued to function. It was an unsatisfactory situation with the statutory office of the Special Officer/Commissioner for SCs and STs and the non-statutory Commission for SCs and STs co-existing, charged with the same functions. After the then Commissioner for SCs and STs demitted office in November, 1981, the post was not filled up for more than four years.

## **1.4 National Commission for Scheduled Castes and Scheduled Tribes (Non-Statutory)**

1.4.1 On 1 September 1987, the Government decided to demarcate the functions of the Commissioner for SCs and STs, and the Commission for SCs and STs. It was decided that only the Commissioner for SCs and STs would be submitting the Reports (Annual) to the President and that the Commission for SCs and STs which was rechristened as the National Commission for Scheduled Castes and Scheduled Tribes would conduct studies. The Ministry of Welfare's Notification No. BC-13015/12/86-SCD VI dated 1 September, 1987, (attached as **Annex.1.II**) issued in supersession of the Ministry of Home Affairs' Resolution No. BC-13013/9/77-SCT-I dated 21 July, 1978, (referred to above) assigned the following functions to the National Commission for Scheduled Castes and Scheduled Tribes (non-statutory):

- (i) To study the extent and ramifications of untouchability and social discrimination arising therefrom and effectiveness of the present (then existing) measures and recommend further measures to be taken;
- (ii) To study the socio-economic and other relevant circumstances leading to the commission of offences against persons belonging to Scheduled Castes and

Scheduled Tribes and to recommend appropriate remedial measures to ensure prompt investigation of such offences;

- (iii) To take up studies on different aspects of development of Scheduled Castes and Scheduled Tribes with a view to ensuring integration of these groups with the mainstream of the society in all aspects. These would include studies in the fields of socio-economic development, education, commerce, trade, art, literature, language, housing, communication, agriculture, forestry, horticulture, fisheries, rehabilitation, pollution and environment, and
- (iv) Such other functions as may be entrusted to the National Commission for Scheduled Castes and Scheduled Tribes in evolving general policies relating to any aspects of development of the Scheduled Castes and Scheduled Tribes as may be thought proper by the Central Government.

1.4.2 It was also decided by the above-mentioned Resolution of the Ministry of Welfare that:

- (i) The National Commission for SCs and STs (non-statutory) would consist of a Chairman and not more than eleven other Members;
- (ii) The term of the Office of Chairman and other Members would not normally exceed three years;
- (iii) It will be a national level Advisory Body to advise on broad issues on policy and levels of development of the Scheduled Castes and Scheduled Tribes, and with this objective in view, the Commission might include experts in the field of social anthropology, social work and other related social sciences;
- (iv) The Reports of the Commission would be project-based to be submitted to the Central Govt.

## **1.5 National Commission for Scheduled Castes and Scheduled Tribes (Statutory)**

1.5.1 A fresh Bill viz., the Constitution (Sixty-fifth Amendment) Bill, 1990 was introduced in the Parliament for creating a statutory multi-member National Commission for Scheduled Castes and Scheduled Tribes. The Bill, passed by the Parliament, received the assent of the President on 7 June, 1990 and notified on 8 June, 1990. The rules relating to appointment of Chairperson, Vice-Chairperson and Members of the National Commission for Scheduled Castes and Scheduled Tribes were notified on 3 November, 1990. This Act was given effect from 12 March, 1992 and from this date, the office of the Commissioner for Scheduled Castes and Scheduled Tribes was abolished. A copy of the Constitution (Sixty-fifth Amendment) Act, 1990 is attached at **Annex.1.III**.

1.5.2 The Article 338 as amended by Constitution (Sixty-fifth Amendment) Act, 1990, inter-alia, provided that the Commission shall consist of a Chairperson, Vice-Chairperson and five other Members and their conditions of service and tenure of office will be such as the President may by rule determine. The Act further provided that the Chairperson, Vice-Chairperson and other Members of the Commission shall be appointed by the President by warrant under his hand and seal and that the Commission will have the power to regulate its own procedure.

1.5.3 The first Commission under the Constitution (Sixty-fifth Amendment) Act, 1990 was constituted on 12 March, 1992 replacing the Office of the Commissioner for Scheduled Castes and Scheduled Tribes and the non-statutory National Commission for Scheduled Castes and Scheduled Tribes set up under the Ministry of Welfare's Resolution dated 1 September, 1987 (referred to above). The first Commission consisted of Shri Ram Dhan as the Chairman, Shri Bandi Oraon as the Vice-Chairman and Shri B. Somaiah, Dr. Sarojini Mahishi, Choudhary Hari Singh, Shri N. Brahma and Shri Jina Bhai Darjee as Members.

1.5.4 The second Commission was constituted on 5 October, 1995 with Shri H. Hanumanthappa as Chairman and Smt. Omem Moyong Deori as Vice –Chairman. The Members of the Commission were Shri N.C. Chaturvedi, Shri Anand Mohan Biswas, Ven. Lama Lobzang, Shri Nar Singh Baitha and Shri B. Yadaiah.

1.5.5 The third Commission was constituted on 16 December, 1998 consisting of Shri Dileep Singh Bhuria as Chairman, Shri Kameswar Paswan as Vice-Chairman and Shri Harinder Singh Khalsa, Ven. Lama Lobzang, Shri Chhotray Majhi and Shri M. Kannan as Members. Smt. Veena Nayyar was also appointed as a Member vide Ministry of Social Justice & Empowerment's Notification No.S.O.529 (E) dated 30 June, 1999. On resignation of Shri M.Kannan, Shri C. Chellappan was appointed as Member vide Ministry of Social Justice & Empowerment's Notification No. S.O 722(E) dated 3 July, 2000.

1.5.6 The fourth Commission was constituted on 21 March, 2002 consisting of Dr. Bizoy Sonkar Shastri as Chairman, Ven. Lama Chosphe Zotpa, Vice-Chairman, and Shri Vijay Kumar Choudhary, Shri Narayan Singh Kesari and Shri Tapir Gao as Members. Smt. Veena Premkumar Sharma also assumed office on 23 August, 2002 as a Member. Shri Challappan who was appointed as a Member in the third Commission on 3 July, 2000, and continued in the same capacity in the fourth Commission, completed his three years tenure as Member on 2 July, 2003. Shri Sampath Kumar assumed office on 30 September, 2003 in place of Shri C. Chellappan.

## **1.6 Bifurcation of the erstwhile National Commission for Scheduled Castes and Scheduled Tribes and Setting up of a separate National Commission for Scheduled Tribes under Article 338A of the Constitution**

1.6.1 The framers of the Constitution had realised that geographically, socially and culturally, the needs and problems of the Scheduled Tribes were different from those of Scheduled Castes and, therefore, a special approach was required to bring about all-round development of Scheduled Tribes. It was in recognition of these considerations that the framers of the Constitution made special provisions for Scheduled Tribes in Articles 244 (Fifth and Sixth Schedule States), 275 (1) (Grants from the Union to certain States) and 339 providing for appointment of a Commission to report on the administration of Scheduled Areas and the welfare of Scheduled Tribes in the States. Accordingly, the first such Commission was set up in the year 1960 under the Chairmanship of Shri U.N. Dhebar. The Commission submitted its Report in 1961. This was followed by adoption of a new Tribal-Sub-Plan strategy for development of tribal predominant and Scheduled Areas after independence. Subsequently, a separate Tribal Development Division was also created in Ministry of Home Affairs (Govt. of India). In October, 1999, a new Ministry of Tribal Affairs was created to provide a sharp focus to the welfare and development of Scheduled Tribes. It was felt necessary that the Ministry of Tribal Affairs should coordinate all activities in relation to Scheduled Tribes as it would not be administratively feasible for the Ministry of Social Justice & Empowerment to perform this role. Another important step in the direction of creation of a separate independent mechanism for tribal development was the bifurcation of the erstwhile National Scheduled Castes and Scheduled Tribes Finance and

Development Corporation and setting up of a separate National Scheduled Tribes Finance and Development Corporation in the year April, 2001. This separation was essential to ensure adequate flow of funds for income generating economic development schemes for Scheduled Tribes. This was followed by the appointment of second Scheduled Areas and Scheduled Tribes Commission under the provisions of Article 339 (after a gap of 42 years) in July, 2002 with a view to give further thrust to the welfare and development of Scheduled Tribes. The Commission was assigned duties to examine the strategies followed so far for the welfare and development of Scheduled Tribes and to suggest an outline of a viable comprehensive tribal policy. The Commission, set up under the Chairmanship of Shri Dileep Singh Bhuria, submitted its Report to the President in July, 2004.

1.6.2 It was also felt necessary that a separate National Commission for Scheduled Tribes should be set up to monitor the implementation of the Constitutional safeguards for the Scheduled Tribes more effectively by bifurcating the existing National Commission for the Scheduled Castes and Scheduled Tribes. The National Commission for Scheduled Tribes was set up with effect from 19 February, 2004 by amending Article 338 and by inserting a new Article 338A in the Constitution through the Constitution (Eighty-ninth Amendment) Act, 2003 (attached at **Annex.1.IV**), which, inter-alia, enjoins upon the Commission to monitor all matters relating to the implementation of the safeguards provided for the Scheduled Tribes under the Constitution or under any other law or under any order of the Government and to participate and advise on the planning process of socio-economic development of the Scheduled Tribes.

1.6.3 Consequent upon the constitution of the National Commission for Scheduled Tribes w.e.f. 19 February, 2004, the fourth National Commission for Scheduled Castes and Scheduled Tribes (erstwhile) demitted office on 19 February, 2004. The new Article 338A, inter-alia, provides that the National Commission for Scheduled Tribes shall consist of a Chairperson, a Vice-Chairperson and three other Members and that their conditions of service and tenure of office shall be such as the President may, by rule, determine, and further that they shall be appointed by the President by warrant under his hand and seal. The Commission has been given the power to regulate its own procedure.

1.6.4 The National Commission for Scheduled Tribes Chairperson, Vice-Chairperson and Members (Conditions of Service and Tenure) Rules, 2004 were notified on 20 February, 2004. These Rules, inter-alia, provide that the Chairperson, the Vice-Chairperson and Members shall hold office for a term of three years from the date on which they assume such office. The Chairman and the Vice-Chairman of the Commission have been conferred the rank of Union Cabinet Minister and Minister of State respectively. The Members of the Commission have been given the rank of a Secretary to the Govt. of India.

1.6.5 The first National Commission for Scheduled Tribes comprises Shri Kunwar Singh, Chairman (who assumed office on 15.3.2004), Shri Gajendra Singh Rajukhedi, Vice-Chairman (who assumed office on 29.5.2006), Ven. Lama Lobzang (who assumed office on 2.3.2004), Smt. Prem Bai Mandavi (who assumed office on 4.3.2004), and Shri Buduru Srinivasulu (who assumed office on 11.3.2004) Members. Shri Tapir Gao, who had joined as Vice-Chairman on 3.3.2004 resigned on 31.3.2004. Thereafter, the post of Vice-Chairman had been lying vacant till 28 May, 2006.

## **1.7 Functions, Duties and Powers of the National Commission for Scheduled Tribes**

1.7.1.1 The functions, duties and power of the National Commission for Scheduled Tribes have been laid down in Clauses (5), (8) and (9) of the Article 338A of the Constitution, as amended by Constitution [Eighty-ninth Amendment] Act, 2003. Clause(5) states that it shall be the duty of the Commission:

- (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 reports 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 socio-economic 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.

1.7.1.2 Clause (6) provides that the President shall cause all such reports to be laid before each House of Parliament along with a memorandum explaining the action taken or proposed to be taken on the recommendations relating to the Union and the reasons for the non-acceptance, if any, of any of such recommendations.

1.7.1.3 Clause (7) provides that where any such report, or any part thereof, relates to any matter with which any State Government is concerned, a copy of such report shall be forwarded to the Governor of the State who shall cause it to be laid before the Legislature of the State along with a memorandum explaining the action taken or proposed to be taken on the recommendations relating to the State and the reasons for the non-acceptance, if any, of any of such recommendations.

1.7.1.4 Clause (8) states that the Commission shall, while investigating any matter referred to in sub-clause (a) or inquiring into any complaint referred to in sub-clause (b) of clause (5), have all the powers of a 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 documents;
- (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;

1.7.1.5 Clause (9) provides that the Union and every State Government shall consult the Commission on all major policy matters affecting Scheduled Tribes.

## 1.8 Expanded Terms of Reference of the Commission

1.8.1 The Ministry of Tribal Affairs vide their letter No. 17014/3/2004-C&LM-II dated 29 November, 2004 informed this Commission that the President is pleased to direct that the terms of reference in respect of the National Commission for Scheduled Tribes shall be expanded to incorporate the following:-

- (i) Measures that need to be taken over conferring ownership rights in respect of minor forest produce to Scheduled Tribes living in forest areas;
- (ii) Measures to be taken to safeguard rights of the tribal communities over mineral resources, water resources etc. as per law;
- (iii) Measures to be taken for the development of tribals and to work for more viable livelihood strategies;
- (iv) Measures to be taken to improve the efficacy of relief and rehabilitation measures for tribal groups displaced by development projects;
- (v) Measures to be taken to prevent alienation of tribal people from land and to effectively rehabilitate such people in whose case alienation has already taken place;
- (vi) Measures to be taken to elicit maximum cooperation and involvement of tribal communities for protecting forests and undertaking social afforestation;
- (vii) Measures to be taken to ensure full implementation of the provisions of Panchayat (Extension to Scheduled Areas) Act, 1996 (40 of 1996);
- (viii) Measures to be taken to reduce and ultimately eliminate the practice of shifting cultivation by tribals that lead to their continuous disempowerment and degradation of land and the environment.

1.8.2 The above stated expanded terms of reference of the Commission were discussed in the fourth meeting of the Commission held on 1 December, 2004. The Commission observed that while it was ever willing to accept any additional functions for promoting the welfare of the STs, but at the same time felt that the additional responsibilities would not be effectively discharged unless adequate staff and funds were made available for the purpose of conducting studies. In this backdrop, the Commission desired that a separate proposal might be sent to the Ministry of Tribal Affairs for creation of additional posts and also for placing requisite funds at the disposal of the Commission for operationalizing the required studies. The Commission also observed that any additional functions could be assigned to it either by adding additional duties in Clause (5) of Article 338A or by issuing a suitable notification under sub-clause (f) of Clause (5) of this Article. The Commission, accordingly, requested the Ministry of Tribal Affairs for sanctioning additional staff and to advise whether this Commission might notify the additional duties in the Rules of Procedure of the Commission. The Ministry of Tribal Affairs vide their letter cited above dated 17 February 2004 advised this Commission to discharge the additional items of work in addition to the duties mentioned under the Clause (5) of Article 338A of the Constitution with the existing staff. The Ministry also advised the Commission to amend its Rules of Procedure to incorporate above-mentioned additional items of work. This Commission vide its d.o. letter number 11/E/2004-ESDW(ST) dated 15 April, 2004 again wrote back to the Ministry of Tribal Affairs requesting them to clarify whether the

Ministry was clear in their mind that the action taken by them was in accordance with the Constitutional provisions and if it was so, they might issue appropriate notification in respect of additional duties. At this point of time, the Ministry of Tribal Affairs decided to seek the advice of Ministry of Law and Justice (Department of Legal Affairs) and on their advice, the Ministry of Tribal Affairs issued a Notification of even number dated 23 August, 2005 (attached as **Annex – 1.V**) which, inter-alia, says that in exercise of the powers conferred by sub-clause (f) of Clause (5) of Article 338A of the Constitution, the President hereby makes the following Rules to specify the other functions of the National Commission for Scheduled Tribes, namely;

- (i) **Short Title and commencement;** These rules may be called the National Commission for Scheduled Tribes (Specification of other functions) Rules, 2005;
- (ii) They shall come into force on the date of their publication in the official Gazette;
- (iii) The Commission shall discharge the following functions in relation to the protection, welfare and development and advancement of the Scheduled Tribes, namely (mentioned below Para 1.8.1).

1.8.3 It would be appropriate to mention that there is no budgetary head/funds available in the National Commission for Scheduled Tribes under a plan scheme and out of the limited budget under the non-plan, the Commission feels severely handicapped in commissioning any study through a professional agency with reference to its Constitutional mandate. The non-availability of funds also acts as a roadblock in organizing programmes/meetings/conferences for in-depth discussion of the problems in relation to the socio-economic developments of the tribals. The Commission has, therefore, requested the Ministry of Tribal Affairs to create a new head “Other Administrative Expenses” under the non-plan budget itself with a minimum provision of Rs. 50.00 lakhs to enable the Commission to meet expenses on organizing such programmes and commissioning requisite studies.

## **1.9 Bifurcation of the Officers and Staff of the erstwhile National Commission for Scheduled Castes and Scheduled Tribes**

1.9.1 The orders for bifurcation of the officers and staff of the erstwhile National Commission for Scheduled Castes and Scheduled Tribes between the National Commission for Scheduled Castes and the National Commission for Scheduled Tribes in the ratio of 2:1 (respectively), as decided by the Ministry of Social Justice & Empowerment and the Ministry of Tribal Affairs, were issued vide Order No.27/4/SCTC/2002-Admn. dated 1 December, 2004.

1.9.2 The administrative head of the Commission is an officer in the rank and pay scale of Secretary to the Govt. of India who is assisted by a Joint Secretary in the rank and pay scale of Joint Secretary to Govt. of India and other officers and staff.

1.9.3 The total staff strength of the erstwhile Commission at its Hqrs. at New Delhi and the 18 State Offices at the time of bifurcation (including the Joint Cadre and Ministerial posts in State Offices) was 340 out of which 113 posts were allotted to the National Commission for Scheduled Tribes, which included 27 posts which were vacant. 4 more posts have fallen vacant after bifurcation which are still unfilled. Efforts are continuously being made by the Commission to get the vacant posts filled up through the Ministry of Social Justice & Empowerment, and the National Commission for Scheduled Castes who are the Cadre controlling authorities w.r.t. Joint Cadre posts and Ministerial posts. Efforts are also being made to get the 5 vacant CSS/ C/SSS/ C/SCS posts filled up through the Ministry of Social

Justice & Empowerment. The above-mentioned figure of 113 posts allotted to the National Commission for Scheduled Tribes is exclusive of a few posts which were created vide Ministry of Tribal Affairs' Office Order No.17014/12/99-TDR dated 19 April, 2004 which, apart from the posts of 1 Chairman, 1 Vice-Chairman and 3 Members and their personal staff, include Secretary-1, Joint Secretary-1, SP-1, PPS-1, PS-1, Assistant Director (Programming)-1, Law Officer-1, Assistant Director (OL)-1, Sr. Hindi Translator-1, Librarian-cum-Documentation Assistant-1, Accountant-1, and Dispatch Rider-1. Out of these 12 newly created posts for the Commission's Secretariat, 8 posts are still vacant. The Ministry of Tribal Affairs have been requested to take necessary action to fill up these vacant posts or to indicate the mode of recruitment in respect of these posts. It will be seen from the above that as on date the total number of vacant posts is 44. The total number of vacant posts allocated to this Commission at the time of bifurcation, the total number of vacant secretariat posts out of those created in the context of bifurcation, and the posts which are presently vacant, and the additional requirement of posts with reference to expanded terms of reference of the Commission is as given in the Table below:

S.No.	Posts vacant out of 113 posts allocated after bifurcation	Number of ministerial posts created	Posts vacant out of col.3	Additional posts required to deal with expanded terms of reference
(1)	(2)	(3)	(4)	(5)
1.	Director -1, Dy.Dir.-2, AD-2, RO-1, Sr. Inv.-3, Inv.-5, PA-5, Steno-2, UDC-4, LDC-5, Peon-5, CCF-1	Secretary-1, Joint Secretary-1, PPS-1, PS-1, SP-1, AD (Prog.)-1, Law Officer-1, AD (OL)-1, Sr. Hindi Trans.-1, Librarian-cum-Doc. Asstt.-1, Accountant-1, Dispatch Rider-1	SP-1, AD (Prog.)-1, PS-1, Law Officer-1, Sr. Hindi Trans.-1, Librarian-cum-Doc. Asstt.-1, Accountant-1, Dispatch Rider-1	Dir-1, AD-2, Inv.-4, Computer Operator-2, Steno-cum-Typist-1
<b>Total</b>	<b>36</b>	<b>12</b>	<b>8</b>	<b>10</b>

1.9.4 There can be no doubt that the Commission has been experiencing severe functional problems on account of allotment of only one-third of the total staff strength of the erstwhile Commission to it and more than one-third of the posts allotted to the Commission (including 12 newly created posts, referred to above) are lying vacant. The Commission expresses its unhappiness on such a large number of posts being vacant in the Commission and **urges that the Ministry of Social Justice & Empowerment, Ministry of Tribal Affairs and the National Commission for Scheduled Castes will appreciate the problem and the severe constraints being faced by the Commission and make concerted efforts to fill up these vacant posts to enable the Commission to discharge its constitutional obligations in an effective manner.** The Commission also requests the Ministry of Tribal Affairs to take necessary steps to provide additional staff to enable the Commission to effectively deal with the expanded terms of reference of the Commission.

## 1.10 Organizational Set-up of the Secretariat of the Commission

1.10.1 The National Commission for Scheduled Tribes functions from the Headquarters located at New Delhi and from its six Regional Offices of the Commission

located at Bhopal, Bhubaneswar, Jaipur, Raipur, Ranchi and Shillong. There are four Wings at the Headquarters namely:-

- (i) Administration/Establishment Wing
- (ii) Economic & Social Development Wing
- (iii) Service Safeguards & Coordination Wing
- (iv) Atrocities Wing

1.10.2 **The Administration/Establishment Wing** looks after all establishment matters, general administration including cash/accounts and budgetary matters, & personnel management of officers and staff of the Secretariat of the Commission as also the six Regional Offices and provides administrative support in the functioning of the Commission.

1.10.3 **The Service Safeguards Wing** deals with the implementation of reservation policy for the Scheduled Tribes in the services of the Central Govt./ State Government/ Central PSEs/ State PSEs/Universities/ Autonomous Bodies/ Public Sector Banks and Financial Institutions. All representations/complaints relating to Scheduled Tribe employees about their service grievances are dealt with in this Wing. In addition, this Wing also deals with the matters relating to major policy issues affecting Scheduled Tribes which are referred to it by the Central Ministries/ State Govts. for the purpose of offering its comments/ observations concerning service matters. Cases relating to false community certificates and inclusion in or exclusion from the lists of Scheduled Tribes are also dealt with in this Wing. The Co-ordination Unit of this Wing deals with matters relating to issue of communications to the State Govts. in relation to the tour programmes of the Chairman and Members of the Commission, making arrangements for holding internal meetings of the Commission, preparing and issuing the minutes of the meetings of the Commission and other meetings, circulating these minutes among the Heads of the Unites and officers for information and taking follow up action. The Commission receives a large number of petitions from the Govt. servants belonging to Scheduled Tribes working in various Ministries/Departments of the Govt. of India etc. These petitions/representations are examined in the Commission and para-wise comments of the concerned organization called for. The Commission takes a final view on the grievance of the petitioner on the basis of the points made in the petitions and the information furnished by the concerned organizations and accordingly, advises them to take corrective action. In case the Commission is satisfied with the action taken by the concerned organization, a copy of the reply sent by it is forwarded to the petitioner for his information and thereafter the matter is closed unless the petitioner sends a rejoinder which is, if it contains any additional material, examined further in consultation with the concerned organization. In case the Commission does not get a reply from the concerned organization on the points raised in the petition despite repeated reminders, the Commission invites the Head of the organization or any other senior officer of that organization to appear before the Commission for discussion with Chairman/Member, NCST. The decisions taken after the discussions are recorded on the same day and got signed by all concerned and thereafter the respective organization is requested by the Commission to take necessary action on its advice/recommendation within a specified period of time and inform the Commission about the outcome of the decision taken by them.

1.10.4 **The Atrocities Wing** deals with the matters pertaining to atrocities on Scheduled Tribes defined under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 and Rules, 1995 framed thereunder and cases relating to the Bonded Labour System (Abolition) Act, the Minimum Wages Act, etc. either on receipt of complaints from individuals or on the basis of reports published in newspapers. Evaluation studies/surveys on these subjects are also conducted by this Wing. The complaints from the members of Scheduled Tribes relating to atrocities are referred to the concerned police

authorities for detailed investigation. It has been observed by the Commission that generally the police authorities initiate action under relevant sections of the Indian Penal Code without invoking the requisite sections of the SCs & STs (POA) Act, 1989 or Rules, 1995. The Commission, therefore, takes care to ensure that the charge-sheets after investigation are framed without loss of much time with reference to the relevant sections of the Atrocities Act. On a number of occasions, on intervention of the Commission, the charge-sheets had to be changed to include therein the relevant sections of the SCs & STs (POA) Act, 1989. The police authorities are also requested to make arrangements in consultation with the District Magistrate for providing immediate relief in cash or kind or both to the victims of the atrocity, their family members and dependents according to the scale as given in the schedule annexed to the SCs & STs (POA) Rules, 1995 and also to make necessary arrangements for providing relief and rehabilitation facilities in accordance with the scale provided in the said schedule. In case the atrocities committed on the members of Scheduled Tribes are of very serious nature involving loss of human lives and properties etc., the Chairman/Members along with the officers of the Commission also visit the venue of occurrence of the atrocities to have detailed discussions with the State and district authorities regarding the relief and rehabilitation measures taken by them.

1.10.5 **Economic and Social Development Wing** deals with matters relating to socio-economic development and advancement of Scheduled Tribes. This duty is discharged by the Commission through the mechanism of monitoring the implementation of the various plan schemes being formulated by the Central/State Governments and the monitoring of the implementation is conducted by the Commission through reviews with the senior officers of the Central Ministries/Departments and the State Govts. These reviews are undertaken at State/district/taluk levels. The Commission has framed different types of Questionnaires for calling for detailed information from the Ministries/Departments of the Central Government and the State Govts. The information furnished in these Questionnaire is examined by the Commission in detail before undertaking the review. There is a different Questionnaire for undertaking review of the various schemes under implementation at district/taluk level by the Members of the Commission whenever they hold discussions with the district authorities during their visit to the States. These include monitoring of flow of funds released by the Ministry of Tribal Affairs as Special Central Assistance to Tribal Sub-Plan (TSP), grants given by the Ministry of Tribal Affairs under Article 275(1) of the Constitution flow of funds from the State Plan and Central Ministries (TSP Component) to the TSP. Some of the other activities of this Wing include dealing with the representations/complaints made by Scheduled Tribe persons regarding their grievances on matters other than atrocities and service matters, in consultation with the concerned State Govt./U.T. Administration, and monitoring of implementation of Land Reforms Acts and various schemes for educational development of Scheduled Tribes.

## **1.11. Regional Offices of the Commission and their Jurisdiction**

1.11.1 The erstwhile National Commission for Scheduled Castes and Scheduled Tribes initially had 17 field offices located in different States and Union Territories. One office at Shimla was later merged into Chandigarh Office. After re-organization of Madhya Pradesh and Bihar States and creation of new States viz. Chhatisgarh and Jharkhand, two new offices were opened at Raipur (Chhatisgarh) and Ranchi (Jharkhand). The 18 State Offices of the erstwhile National Commission for Scheduled Castes and Scheduled Tribes and the officers and staff working in these offices were also divided between NCSC and NCST in the same ratio i.e. 2:1. Six State Offices of the erstwhile Commission at Bhopal, Bhubaneswar, Jaipur, Raipur, Ranchi and Shillong along with the officers and staff posted in them were allotted to the National Commission for Scheduled Tribes and the remaining 12 State Offices at Agartala, Ahmedabad, Bangalore, Chandigarh, Chennai, Guwahati, Hyderabad, Kolkatta,

Lucknow, Patna,, Pune, Thiruvananthapuram, along with the staff and officers posted in these offices were retained with the National Commission for Scheduled Castes.

1.11.2 The location and jurisdiction of these offices along with name and designation of the officers heading these offices is as given below :-

S.No	Location & Address	Name & designation of the Officer	Jurisdiction
1.	Room No.309, Nirman Sadan, CGO Complex, 52-A, Arera Hills, <b>Bhopal-462011</b>	Shri Dhruv Kumar, Director (Ph:0755-2578272/2576530 (PC))	M.P., Maharashtra, Karnataka, Kerala, Goa, and Union Territories of Dadra & Nagar Haveli and Lakshadweep.
2.	N-1/297, IRC Village, <b>Bhubaneshwar-751015</b>	Shri R.K. Mishra, Research Officer Ph:0674-2551616/2551818(PC)	Andhra Pradesh, Orissa, Tamil Nadu, West Bengal and Union Territories of Andaman & Nicobar Islands, and Pondicherry
3.	C-29, Lal Kodhi Scheme, Behind SMS Stadium, Pankaj Sidhri Marg, <b>Jaipur-302015</b>	Dr. G.S. Somawat, Director (Ph:0141-2741173/2743199 (PC))	Chandigarh, Gujarat, Haryana, Himachal Pradesh, Jammu & Kashmir, Punjab, Rajasthan, Uttaranchal and Daman & Diu.
4.	R-26, Sector-2, Avanti Vihar, Post Office, Ravigrame, <b>Raipur-492006</b>	Shri Dhruv Kumar, Director (Addl.charge) (Ph:0755-2560869)	Chhattisgarh
5.	14, New A.G. Co-operative Colony, Kadru, <b>Ranchi</b>	Shri R.K. Mishra, Research Officer (Addl. charge) (Ph:0651-2340368/2341677)	Bihar, Jharkhand, and Uttar Pradesh
6.	Rabekka Villa, Temple Road, Lower Lachumiere, <b>Shillong-793001</b>	Miss. P. Syiemlieh, Assistant Director (Ph:0364-2221362/2504202 (PC))	Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim and Tripura,

## 1.12 Functions of the Regional Offices

1.12.1 The Regional Offices of the Commission work as ‘eyes and ears’ of the Commission. They keep a watch on the formulation of policy and issue of guidelines relating to the welfare of Scheduled Tribes in the respective States/UTs under their jurisdiction and keep the Commission’s Headquarters informed about the developments periodically. Policy decisions taken by any State Government/UT Administration affecting the interest of the Scheduled Tribes are brought to the notice of the concerned authorities for necessary action. The officers working in the Regional Offices are required to liaise with the State/UT Administration for taking up evaluation and other studies to assess the working of various development programmes being implemented for the welfare of the Scheduled Tribes and their impact on ameliorating the socio-economic conditions of the target groups. The findings of the studies are brought to the notice of the concerned State Government for taking remedial measures. The main observations are highlighted in the Commission’s Report.

1.12.2 The Regional Offices of the Commission are required to interact with the State authorities and guide them with a view to see that the interests of the Scheduled Tribes are protected and promoted while formulating plans and policies by them. The Regional

Offices also monitor the utilization of funds earmarked for plans pertaining to Scheduled Tribes, including keeping a watch on proper utilization of funds from Tribal Sub-Plan (TSP).

1.12.3 Each of the Regional Offices sends Quarterly Report to the Commission Hqrs. on the activities undertaken by them highlighting major issues relating to welfare of Scheduled Tribes in each State/UT under their jurisdiction. These reports contain useful information about the developments in a State and enable the Commission to have an overall view in respect of various States as well as national situation for taking appropriate action.

1.12.4 The Regional Officers of the Commission accompany Chairman and Members of the Commission on their tours in the States/UTs under the jurisdiction of the Regional Office. These officers are associated at the time of the State reviews conducted by the Commission and at the time of on-the spot enquiry conducted by the Chairman/Members in the cases of atrocities committed on the Scheduled Tribes. The Regional Officers are required to keep a liaison with the State authorities for making necessary arrangements for conducting reviews by the Commission at State/district level.

### **1.13 Need for Augmentation of the existing staff in the six Regional Offices and for Creation of four more Regional Offices**

1.13.1 Prior to bifurcation, the erstwhile National Commission for Scheduled Castes and Scheduled Tribes had 18 State Offices which were working as 'eyes and ears' of the Commission for protecting the interests of both Scheduled Castes and Scheduled Tribes. Consequent upon bifurcation, the number of State Offices for the National Commission for Scheduled Tribes has come down from 18 to 6 resulting in a very large jurisdiction. For example, the jurisdiction of Madhya Pradesh Regional Office of the Commission comprises Madhya Pradesh, Maharashtra, Kerala, Goa, and Union Territories of Dadra & Nagar Haveli and Lakshadweep. Similar is the case with the Regional Offices at Bhubaneswar, Jaipur, Ranchi and Shillong. The Regional Offices of the Commission at Bhubaneswar, Raipur and Ranchi are each headed by a Research Officer, and the Regional Office at Shillong is headed by an Assistant Director. The issues relating to enlarged jurisdiction of the Regional Offices and the four Regional Offices being headed by functionaries of the level of Research Officer/Assistant Director were considered in the meeting of the Commission held on 28 September, 2005 and **the Commission expressed a strong view that there was an urgent need for augmenting the existing staff strength of the six Regional Offices of the Commission, upgrading the level of heads of offices to the level of Director in four Regional Offices, and for creation of four more Regional Offices to enable the Commission to do justice with the duties assigned to it in the Constitution for working as watchdog to safeguard the interests of Scheduled Tribes. The Commission accordingly recommends that:-**

- (i) **The Ministry of Tribal Affairs should take necessary action to upgrade the level of head of office of the four Regional Offices of the Commission at Bhubaneswar, Raipur, Ranchi and Shillong to the level of Director by creating four posts of Director.**
- (ii) **The Ministry of Tribal Affairs should also take necessary action to augment the existing strength of the supporting staff (other than the Heads of Offices) in the six Regional Offices of the Commission as given in column 4 of the Table given below:-**

S. No.	Name of the Regional Office	Existing Sanctioned/available Posts	Additional Staff proposed to be created
(1)	(2)	(3)	(4)
1.	Bhopal	Director-1, RO/AD-1, Inv/Sr. Inv.-2, UDC-1, P.A.-1, Steno-1, LDC-2, SCD-1, Daftary-1, Peon-2, CCF-1	Office Supdt.-1
2.	Bhubaneswar	AD/RO-1, Sr.Inv/Inv.-2, O.S.-1, PA-1, UDC-1, LDC-1, SCD-1, Daftary-1, Peon-2, CCF-1	Inv.-1, LDC-1,
3.	Jaipur	Dir-1, RO-1, Sr.Inv.-1, Inv.-2, O.S.-1, PA-1, UDC-1, LDC-2, SCD-1, Daftary-1, Peon-2, CCF-1	Nil
4.	Raipur	Office Supdt. -1	Asst. Dir.-1, Sr.Inv.-1, Inv.-2, PA-1, UDC-1, LDC-2, Gr.'D'-2, Daftary-1, Chowkidar-1, Driver-1
5.	Ranchi	AD-1, Inv.-2, UDC-1, LDC-1, Peon-2	Office Supdt.-1, Sr. Inv.-1, PA-1, LDC-1, Daftary-1, CCF-1, SCD-1
6.	Shillong	AD-1, Sr. Inv.-1, Inv.-2, O.S.-1, PA-1, UDC-1, LDC-2, SCD-1, Daftary-1, Peon-1, CCF-1	Peon-1

(iii) **Four additional Regional Offices of the Commission may be set up, one each at Hyderabad (Andhra Pradesh), Nagpur (Maharashtra), Shimla (Himachal Pradesh) and Ahmedabad (Gujarat) with a view to ensure the presence of the Commission in all the Fifth Schedule Area States to safeguard the interests of the Scheduled Tribes, with the following minimum complement of staff:**

(a)	Director	-	4 (one each for the four Offices)
(b)	Assistant Director	-	4 ( -do- )
(c)	Sr. Investigator	-	4 ( -do- )
(d)	Investigator	-	8 (two each for the four Offices)
(e)	P.A.	-	4 (one each for the four Offices)
(f)	Office. Supdt.	-	4 ( -do- )
(g)	U.D.C.	-	4 ( -do- )
(h)	L.D.C.	-	8 ( two each for the four Offices)
(i)	Group 'D'	-	8 ( -do- )
(j)	Daftary	-	4 (one each for the four Offices)
(k)	Chowkidar	-	4 ( -do- )
(l)	SCD	-	4 ( -do- )
	<b>Total</b>	-	<b>60</b>

## 1.14 New Office of the Commission

1.14.1 When the erstwhile National Commission for Scheduled Castes and Scheduled Tribes was bifurcated into two separate Commissions namely- The National Commission for Scheduled Tribes (NCST) and the National Commission for Scheduled Castes (NCSC), the officers and staff allotted to the National Commission for Scheduled Tribes temporarily continued to share the office accommodation with the officers and staff of the National Commission for Scheduled Castes on the 5<sup>th</sup> Floor, 'B' Wing, Lok Nayak Bhavan, New Delhi. In the meanwhile, the NCST approached the Directorate of Estates for allotment of space for construction of the new office of the Commission. The Directorate of Estates vide their letter dated 17 August, 2004 allotted 8,532 sq.ft. space on the 6<sup>th</sup> Floor, 'B' Wing of the Lok Nayak Bhavan, New Delhi for construction of the new office.

1.14.2 The construction work by CPWD started in the last week of February, 2005 and was completed in June, 2005. The new office premises of the Commission at 6<sup>th</sup> Floor, 'B' Wing of Lok Nayak Bhavan were inaugurated on 11 July, 2005 jointly by Shri Kunwar Singh, Chairman, National Commission for Scheduled Tribes and Dr. Suraj Bhan, Chairman, National Commission for Scheduled Castes. The officers and staff of NCST shifted to the new office in the month of July, 2005.

## **1.15 Approach and Methodology of the Functioning of the Commission**

1.15.1 In order to monitor and evaluate the impact of development schemes, the Commission interacts with the State/UT Governments by holding State level review meetings with the Chief Secretaries and other senior officers through visits to the States and UTs. The Commission also conducts field visits to discuss with the district and taluka level officers to assess the impact of the developmental schemes. The Commission has noticed that these visits and meetings have been greatly instrumental in enhancing the interests and involvement of the State/UT Governments in better understanding of the genuine problems of the Scheduled Tribes and accordingly, in advising them to take suitable initiatives in working out remedial measures and adopting appropriate and relevant strategies.

1.15.2 The Commission, through its Headquarters Office and Regional Offices, conducts field level inquiries and studies. This process has been given a renewed vigour with a view to ensure prompt relief in matters relating to crimes and atrocities on Scheduled Tribes and making available the benefits of development.

1.15.3 The procedure for investigating into complaints, especially with reference to violation of safeguards, is also being streamlined to ensure prompt and speedy disposal of cases and relief in genuine cases. By calling officers in the Commission with all relevant records, many long pending cases are being decided in one or two sittings.

1.15.4 The Commission realizes that it is only through proper planning and implementation of appropriate schemes for development that the Scheduled Tribes can come up to the general level of development and reach their full potential. The Commission has thus made a beginning by actively associating itself and participating in the planning process at the national and State levels. Regular communication is being maintained with the Planning Commission, Ministry of Tribal Affairs and the State/UT Governments. The Annual Plans of the Ministries/ State/ UT Governments are analyzed in the Commission to this end with the support of its Regional Offices.

1.15.5 Clause (9) of Article 338A, provides that the Union and State Governments shall consult the Commission on all major policy matters affecting the Scheduled Tribes. The Commission has impressed upon all concerned that this provision should be strictly enforced and as a result of which many bills and other policy matters affecting the interests of STs are now being referred to the Commission for comments. In the recent past, the Commission offered its comments/suggestions on the (i) Scheduled Castes, Scheduled Tribes and Other Backward Classes (Reservation in Posts and Services) Bill, 2004 to the Department of Personnel & Training and Rajya Sabha Secretariat, (ii) the draft Office Memorandum proposed to be issued by DoPT to consolidate instructions on reservation, and (iii) Right to Education Bill, 2005. The Commission would like to reiterate the obligatory nature of this provision and impress upon all the Ministries/Departments of the Govt. of India and also the State Govts. to ensure that the Commission is consulted in all major policy matters affecting the Scheduled Tribes.

## 1.16 Meetings held by the Commission

1.16.1 The first meeting of the National Commission for Scheduled Tribes was held on 16 April, 2004 to finalise the draft Rules of Procedure which had been modelled on the Rules of Procedure of the erstwhile National Commission for Scheduled Castes and Scheduled Tribes with minor modifications. The Commission approved the draft Rules of Procedure. The other issues discussed in this meeting related to bifurcation of the 18 State Offices and the officers and staff of the erstwhile Commission between National Commission for Scheduled Castes and National Commission for Scheduled Tribes and creation of additional posts for NCST to deal with expanded terms of reference of the Commission.

1.16.2 The second meeting of the Commission was held on 29 June, 2004. While reviewing the action taken on the decisions of the last meeting held on 16 April, 2004, the Commission discussed the matter relating to inclusion of certain communities in the list of Scheduled Tribes in respect of Maharashtra and Uttar Pradesh. It was decided that Member Shri Buduru Srinivasulu would first examine the status of these groups namely-Telegu Munurwar, Telegu Munurwad, Telegu Phulmali and Manurkapur in the States of Andhra Pradesh and Maharashtra and submit a report for consideration of the Commission. As regards the inclusion of Kharwar community in the list of Scheduled Tribes of Uttar Pradesh, the Commission decided to refer the representation to the Ministry of Tribal Affairs for further examination in consultation with the respective State Govt. and RGI, as per the procedure laid down for the purpose.

1.16.3 The third meeting, which was a joint meeting of the National Commission for Scheduled Castes and the National Commission for Scheduled Tribes was held on 6 July, 2004. It was jointly chaired by Chairmen of the two Commissions. It was, inter-alia, observed that the socio-economic conditions of SC/ST people were not upto the mark and they were still deprived of the benefits of the planned process due to illiteracy, poverty and age-old exploitation within the system. The focus of the discussions related to non-allocation of funds by the State Govts. according to the population of the State under SCP and TSP, non-implementation of reservation instructions in teaching posts in the Central and other Universities, review of the action taken for reversal of the adverse effect of 5 O.Ms issued by DoPT in 1997, pendency of two Writ Petitions before the Constitution bench of the Hon'ble Supreme Court in respect of SCs and STs- one challenging the validity of Article 16 (4A) of the Constitution and the other praying for reservation in promotion by selection within Group 'A' posts on the basis of the provisions of Article 16(4A) which provides for reservation to the SC/ST employees in promotion, with consequential seniority, to any class or classes of posts, and evaluation of the implementation position of the reservation instructions in Central Ministries/Departments and State Govts. through periodic reviews by the two Commissions.

1.16.4 The fourth meeting of the National Commission for Scheduled Tribes was held on 1 December, 2004. The Commission reviewed the action taken position on decisions taken in the third meeting (which was a joint meeting of the two Commissions) held on 6 July, 2004, inter-alia, relating to (i) furnishing of information by the State Govts. and UT Administrations regarding allocation, utilization and diversion of funds under the TSP and under Article 275(1) during the last 10 years, (ii) obtaining details of U.P. and Maharashtra models in respect of implementation of TSP, (iii) implementation of instructions on reservation for STs in the Central and other Universities, (iv) review of the reservation implementation status by the Central Ministries/Departments and State Govts. and devising a suitable Questionnaire for the purpose, (v) reservation in services and posts in private sector, (vi) obtaining data on unemployed youth belonging to Scheduled Tribes registered in various Employment Exchanges of the country, (vii) creating awareness among the law enforcing agencies about the provisions of SCs and STs (POA) Act, 1989 and the Rules, 1995 framed

thereunder by organizing suitable training programmes for police officers and Public Prosecutors, and (viii) the matter relating to reservation for Scheduled Tribes in the posts and services in the Govt. of NCT of Delhi and agencies under its administrative control in the context of the judgment of Delhi High Court dated 5 July, 2004 holding that in the absence of Presidential Notification declaring any community/communities to be Scheduled Tribes in the Union Territory of Delhi under Article 342(1) of the Constitution of India, no posts under the Govt. of NCT of Delhi and local bodies or statutory authorities under its administrative control could be reserved for ST candidates.

1.16.5 A joint meeting of the National Commission for Scheduled Tribes and the National Commission for Scheduled Castes was held on 13 December, 2004 to decide on the comments to be sent to the Department of Personnel & Training on the Scheduled Castes, Scheduled Tribes and Other Backward Classes (Reservation in Posts and Services) Bill, 2004. Both the Commissions sent identical comments to DoPT on the proposed Bill on the same day. A separate meeting of the National Commission for Scheduled Tribes was held on 17 December, 2004 to formulate supplementary comments on the Bill and, based on the decisions taken in the meeting, the supplementary comments were sent to DoPT on the same day. On introduction of the Bill in Rajya Sabha, the Rajya Sabha Secretariat requested this Commission on 15 February, 2005 that it had been decided to have the benefit of the views of the National Commission for Scheduled Tribes on the Bill and accordingly, they requested this Commission to apprise them of its views on the Bill. The Commission again met on 7 March, 2005 to discuss this matter and decided that the same comments which had been sent to the Department of Personnel & Training in December, 2004 might be sent to the Rajya Sabha Secretariat. The details of the comments sent by the Commission to DoPT and the Rajya Sabha Secretariat have been given in para 5.19.2 of Chapter-5 on "Service Safeguards" of this Report.

1.16.6 A special meeting of the Commission was convened on 1 March, 2005 to discuss amendments proposed to be made by the Ministry of Tribal Affairs in Part I of the Schedule to the Constitution (Scheduled Tribes) (Union Territories) Order, 1951. The Bill sought to amend the existing entries which provide that inhabitants of Lakshadweep who and whose parents, were born in those Islands will be treated as Scheduled Tribes. The amendments in question proposed to add a proviso that if children born outside Lakshadweep to such parents, both of whom were born in these Islands settle permanently in Lakshadweep, they shall be deemed to have been born in Lakshadweep. The Ministry of Tribal Affairs requested this Commission to give its comments on the definition of the expression 'settle permanently' as a minimum period of stay of 10 years either for education or otherwise in the Islands of Lakshadweep as proposed by MHA in consultation with Lakshadweep Administration. The Commission noted that the consideration of the said Bill, which was introduced in Rajya Sabha on 5 March, 2003 had been deferred on the request of the Ministry of Home Affairs because they had received a series of representations that it should be open-ended and not to be restricted to the medical cases. The Commission sent the following comments on 1 March, 2005:-

- (i) The conditionality of stay of a minimum period of 10 years in the Islands in respect of children born on mainland on account of labour cases being referred by the competent medical authorities of the UT would operate harshly against them as their delivery cases were referred by the competent medical authorities of Lakshadweep and, therefore, their births outside the Islands was on account of circumstances beyond their control arising from non-availability of the requisite medical facilities in the Islands. The Commission accordingly observed that the cases of children born on mainland on account of labour/delivery cases being referred by the competent medical authorities of the Union Territory of Lakshadweep for safe delivery of children of the

inhabitants of the UT should be treated on a different footing and not on par with non-medical cases, and that the conditionality of stay for a minimum period of 10 years in the Islands after the birth of the children on the mainland should not be insisted in case of children born on the mainland on account of labour cases being referred by the competent medical authorities and in these cases their return to the Islands soon after their birth should be sufficient to treat them as regular inhabitants of these Islands within the meaning of the Constitution (Scheduled Tribes) (Union Territories) Order, 1951 in relation to Lakshadweep.

- (ii) A minimum period of stay of 10 years either for education or otherwise in the islands of Lakshadweep may be made mandatory in respect of only such children who are born on mainland not on account of labour cases but due to other circumstances/grounds.
- (iii) Such children who are born on mainland on account of circumstances not related to labour cases and who return to the Islands soon after their birth on the mainland should be provided with all concessions/reservations in the educational institutions during the period prior to completion of a minimum stay of 10 years in the Islands, available to such children who born in the Islands.

1.16.7 The date-wise details of the meetings of the National Commission for Scheduled Tribes held during the year 2005-06 alongwith the issues discussed in brief are as given below:-

### **3 May, 05**

This meeting was held to consider the draft report on whether Maaleru community was the same as Maleru which found place in the Constitution (Scheduled Tribes) Order, 1950 issued under Article 342(1) of the Constitution, on the direction of the Hon'ble Supreme Court in Writ Petition (Civil) No.76 of 2003- A.S. Nagendra & Ors. vs. State of Karnataka & Ors. The details of this case have been given in para 6.7 of Chapter –6 on 'False Scheduled Tribe Certificates' of this Report.

### **15 June, 05**

This meeting was held to review the action taken on the decision taken in the meeting of the Commission held on 1.12.2004. In addition to the Agenda points, the issues discussed in this meeting related to shortage of manpower in the Commission, giving publicity about the setting up of the separate Commission for Scheduled Tribes and its functions, progress of work in all the Wings of the Commission, delimitation of Parliamentary and State Assembly constituencies taking into consideration the ST population on the basis of new communities included in the Constitution (Scheduled Tribes) Order, 1950 as amended in the year 2002, progress of ceiling up of the backlog vacancies in the context of special recruitment drive launched by DoPT etc.

### **11 July, 05**

In this meeting, the Commission discussed the additional duties proposed to be assigned by the Ministry of Tribal Affairs. As a follow up of this meeting, a meeting with the experts in the field of tribal development was held on 18.7.2005 to discuss the proposed expanded terms of reference of the Commission. The meeting was attended by Dr. B.D. Sharma, Ex-Commissioner for SCs & STs, Shri S. R. Sankaran, Retd. IAS, Dr. Bhupinder Singh, Special Commissioner for Scheduled Tribes and Retd. IAS.

**25 August,05**

The Commission, in this meeting discussed the comments prepared on the draft O.M. of DoPT proposed to be issued by it containing consolidated instructions on reservation for SCs, STs and OBCs in posts and services under the Government in supersession/modification of all the orders issued in the past.

**12 Sept.,05**

This meeting was held to discuss the fallout of the judgment of the Hon'ble Jharkhand Court, Ranchi quashing second proviso to Clause (g) of Section 4 of the PESA Act, 1996 relating to reservation of all seats of Chairpersons of Panchayats at all levels for Scheduled Tribes and to decide whether it would be appropriate for the Commission for Scheduled Tribes to file an Intervention Application in the Supreme Court after the SLP had been filed in the Hon'ble Supreme Court against the Jharkhand High Court judgment by the Ministry of Panchayati Raj.

**28 Sept.,05**

This meeting was convened to discuss the draft of the first Report of the Commission in respect of the five Chapters namely- (i) Organizational Set-up and Functioning of the Commission, (ii) Constitutional Provisions for Protection and Development of STs, (iii) Service Safeguards, (iv) False ST Certificates, and (v) Crime and Atrocities on STs.

**14 Dec.,05**

This meeting was held to review the Administrative problems of the Commission in general and the progress of disposal of cases and receipts relating to petitions/complaints filed by members of Scheduled Tribes.

**19 Dec., 05**

This meeting was held to discuss the amendments made in the five draft Chapters of the first Report of the Commission on the basis of suggestions given by Chairman, Members and officers of the Commission in its meeting held on 28.9.2005 and also the draft Chapter on Socio-Economic Development of Scheduled Tribes.

**6-7 March, 06**

In this meeting, the Commission discussed the amended draft Chapter of its first Report on the Socio-Economic Development of Scheduled Tribes. The Commission also discussed the issue of inclusion of MATE community in the list of STs in respect of the State of Manipur as recommended by the State Govt. and Census Commissioner, Registrar General of India. Another points which was discussed in this meeting related to the filing of SLP in the Hon'ble Supreme Court of India by the Ministry of Panchayati Raj against the judgment of the Hon'ble Jharkhand High Court quashing the 2<sup>nd</sup> Proviso to Clause (g) of Section 4 of PESA Act, 1996. It was decided that the Commission should take up this matter with the Ministry of Panchayati Raj and Ministry of Tribal Affairs requesting them to vigorously follow up the case in the Supreme Court. On the issue of the inclusion of the MATE community in the list of Scheduled Tribes, the Commission decided that the Commission should visit the State of Manipur to assess the merit of the proposal. The Commission also observed in this meeting that there was a need to study the problem of naxalism in the tribal

areas with a view to find out the basic reasons for resorting to such practices.

### **5 May, 06**

This meeting was held to discuss the general administrative problems and to review the progress of pendency of cases and files in the Commission.

## **1.17 Important Visits to the States/UTs by Chairman and Members**

1.17.1 One of the duties assigned to the Commission is to investigate and monitor all matters relating to the safeguards provided for Scheduled Tribes under the Constitution or under any law or under any order of the Government and to evaluate the working of such safeguards. In implementation of these duties, the Chairman and Members of the Commission undertake visits to the States and UTs to assess the implementation status of various development projects/programmes for Scheduled Tribes including flow of funds for financing the schemes under Tribal-Sub-Plan (TSP) from State and Central Sectors; Special Central Assistance (SCA); and Institutional Finance; achievements of physical targets under these schemes/programmes; conducting on-the-spot enquiries into serious cases of atrocities; and to discuss various problems relating to socio-economic development of Scheduled Tribes with the state/district authorities such as land disputes, rehabilitation of tribals displaced by construction of projects, false community certificates, implementation of the reservation instructions in the State services, in financial institutions, Central Public Sector Enterprises etc. On conclusion of the discussions with the senior officers of the State Govt. with respect to State level reviews and of the District Administration with respect to district level reviews, the respective officers at the State/district level are given suitable instructions to take follow up action on the various issues emerged during the discussions relating to socio-economic development of Scheduled Tribes, implementation of reservation policy and matters relating to atrocities. The details of some of the the field visits by Chairman and Members of the Commission during the years 2004-05 and 2005-06 along with a brief mention of the issues discussed are given in the Table at **Annex. 1.VI**

## **1.18 Progress of disposal of files/cases and receipts relating to complaints/petitions during the years 2004-05 and 2005-06**

1.18.1 At the time of bifurcation of the erstwhile National Commission for Scheduled Castes and Scheduled Tribes in December, 2004, in all 983 files relating to socio-economic development, service safeguards and atrocities in relation to Scheduled Tribes were transferred to the National Commission for Scheduled Tribes and 148 files were opened during the remaining months of 2004-05 taking the total number of files/cases to 1131 out of which 53 files were closed and 1078 files/cases were pending at the end of the year 2004-05. During the financial year 2005-06, 1154 files were opened taking the total number of files to 2232 (1078+1154) out of which 167 were closed during that year and 2065 files/cases were pending at the end of March, 2006. As regards receipts relating to complaints/petitions, 195 such receipts in all relating to development, service and atrocity matters were transferred to the National Commission for Scheduled Tribes in December, 2004. 5359 receipts relating to complaints/petitions were received in the Commission during the remaining three months of 2004-05 and during the year 2005-06 taking the total number of receipts to 5554. 4859 receipts were disposed by the Commission during January, 2005 to March, 2006. At the end of March, 2006, 695 receipts were pending. The details of these files/cases and the receipts relating to complaints/petitions (Wing-wise) are as given in the Tables below:-

**A**     Disposal of files/cases

Period	Files/ cases Brought Forward	Files/ cases opened	Total files	Files closed	Files active at the end of the period
<b>ATROCITY WING</b>					
Financial Year 2004-05	123@	35*	158	31	127
Financial Year 2005-06	127	204	331	73	258
<b>ECONOMIC AND SOCIAL DEVELOPMENT WING</b>					
Financial Year 2004-05	402@	31*	433	---	433
Financial Year 2005-06	433	461	894	53	841
<b>SERVICES SAFEGUARD WING</b>					
Financial Year 2004-05	458@	82*	540	22	518
Financial Year 2005-06	518	489	1007	41	966
<b>TOTAL (ALL WINGS)</b>					
Financial Year 2004-05	983@	148*	1131	53	1078
Financial Year 2005-06	1078	1154	2232	167	2065

@ No. of files received after bifurcation of staff of erstwhile NCSCST in December, 2004.

\* No. of files opened after bifurcation and upto March,2005.

**B.**     Disposal of receipts

Unit/ Wing of the Commission	Receipts relating to petitions brought forward after bifurcation of staff in December, 2004	Receipts relating to petitions received during Jan. 2005 to March 2006	Total receipts for disposal (Col.2+3)	Receipts disposed off during Jan. 2005 to March 2006	Receipts pending for action at the end of March, 2006 (Col. 4- 5)
(1)	(2)	(3)	(4)	(5)	(6)
Atrocity Wing	11	1391	1402	1297	105
Socio-economic Dev. Wing	32	1765	1797	1575	222
Service Safeguard Wing	152	2203	2355	1987	368
Total (All Wings)	<b>195</b>	<b>5359</b>	<b>5554</b>	<b>4859</b>	<b>695</b>

1.19           As the separate National Commission for Scheduled Tribes was set up for the first time w.e.f. 19 February, 2004, attention of the Commission during the first year of its setting up i.e. 2004-05 had to be diverted to the creation of a number of infrastructure and

functional facilities including construction of the new office premises for the Commission. In spite of the diversion of the attention of the Commission to creation of a number of infrastructural facilities and several other constraints arising out of bifurcation coupled with a severe shortage of staff due to non-filling of several vacant posts, the Commission made sincere efforts to discharge its Constitutional duties through its office at the Hqrs. at Delhi and its six Regional Offices most of which have a very large jurisdiction. The thrust of the Commission's activities was on monitoring the implementation of the various programmes relating to socio-economic development of Scheduled Tribes and suggesting a series of measures to the State Govts. for accelerating the pace of development in different areas. The Commission adopted a more vigorous and pro-active approach in its functioning, keeping in view its constitutional obligations and the issues that are now critical, after more than half a century of Independence, for the overall development and mainstreaming of the Scheduled Tribes. The Commission took up a number of initiatives to provide a sharp focus to its functioning which include intensive interactions with the State/UT Govts. on the developmental schemes, impressing upon all the State Govts and UT Administrations to organize suitable training programmes for the police officers as well as the Public Prosecutors to create enhanced awareness among them about application of the various provisions of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 and Rules, 1995 framed thereunder, devising a new Questionnaire for calling detailed information from the Central Ministries/ Deptts. and the State Govts. for undertaking reviews to appraise the implementation status of the reservations instructions in services and the development programmes, and intensive follow up on the taken-up cases with the Ministries/Departments of Govt. of India and State Govts. The Commission hopes that the new initiatives will yield better results in the years to come.

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**Ministry of Home Affairs  
(Grih Mantralaya)**

New Delhi-110001  
Dated: 21 July, 1978/30 Asadha, 1900

**RESOLUTION**

**No.13013/9/77-SCT.I**

Article 338 of the Constitution provides for the appointment of a Special Officer for the Scheduled Castes and Scheduled Tribes who is charged with the duty to investigate all matters relating to the safeguards provided for the Scheduled Castes and Scheduled Tribes under the Constitution and to report to the President upon the working of these safeguards at prescribed intervals. In pursuance thereto, a Special Officer, commonly known as Commissioner for Scheduled Castes and Scheduled Tribes, is appointed by the President from time to time. Considering the magnitude of the problem the Government are of the view that in addition to the functioning and authority of the Special Officer, these matters should appropriately be entrusted to a high level Commission consisting of persons of eminence and status in public life. The functioning of the Commission will not be lessening the authority of the Special Officer.

2. Government have accordingly decided to set up a Commission for this purpose which shall consist of a Chairman and not more than four other Members, including the Special Officer appointed under Article 338 of the Constitution. The term of office of the Chairman and the Members of the Commission will not ordinarily exceed three years.
3. The headquarters of the Commission will be located at New Delhi.
4. The functions of the proposed Commission will broadly correspond with the functions at present entrusted to the Special Officer under Article 338 of the Constitution and will be as follows:
  - (i) To investigate all matters relating to safeguards provided for Scheduled Castes and Scheduled Tribes in the Constitution. This would, inter-alia, include a review of the manner in which reservations stipulated in public services for Scheduled Castes and Scheduled Tribes, are, in practice, implemented.
  - (ii) To study the implementation of Protection of Civil Rights Act, 1955, with particular reference to the objective of removal of untouchability and invidious discrimination arising therefrom within a period of five years.
  - (iii) To ascertain the socio-economic and other relevant circumstances accounting for the commission of offences against persons belonging to Scheduled Castes or Scheduled Tribes with a view to ensuring the removal of impediments in the laws in force and to recommend appropriate remedial measures including measures to ensure prompt investigation of the offences.
  - (iv) To enquire into individual complaints regarding denial of any safeguards provided to any person claiming to belong to Scheduled Castes or Scheduled Tribes.

5. The Commission will devise its own procedure in the discharge of its functions. All the Ministries and Departments of the Government of India will furnish such information and documents and provide such assistance as may be required by the Commission from time to time. The Government of India trusts that the State Governments and Union Territory Administrations and other concerned will extend their fullest cooperation and assistance to the Commission.

6. The Commission will submit an Annual Report to the President detailing its activities and recommendations. This will, however, not preclude the Commission from submitting Reports to the Government at any time they consider necessary on matters within their scope of work. The Annual Report together with a memorandum outlining the action taken on the recommendations and explaining the reasons for non-acceptance of recommendations, if any, insofar as it relates to the Central Government will be laid before each House of Parliament.

### **ORDER**

Ordered that a copy of this Resolution be communicated to all Ministries and Departments of the Government of India, State Governments and Union Territory Administrations, etc.

Ordered also that the Resolution be published in the Gazette of India for general information.

Sd/-  
**(B.G. DESHMUKH)**  
Additional Secretary

**GOVERNMENT OF INDIA****MINISTRY OF WELFARE**

New Delhi, 1st September, 1987

**No.BC-13015/12/86-SCD-VI****RESOLUTION**

Whereas a Commission for Scheduled Castes and Scheduled Tribes (hereinafter referred to as the Commission) was set up under the Ministry of Home Affairs' Resolution No. BC-13013/9/77-SCT I dated the 21<sup>st</sup> July, 1978 (hereinafter referred to as the said Resolution).

2. And whereas according to the said Resolution the functions of the Commission were to broadly correspond with the functions entrusted to the Special Officer under Article 338 of the Constitution.

3. And whereas it is considered necessary to modify the functions of the Commission as originally thought of in the said Resolution to avoid any overlapping of the functions of the Special Officer and the Commission.

4. Now, therefore, in supersession of the said Resolution, the Government of India have decided to set up a National Commission for Scheduled Castes and Scheduled Tribes in place of the Commission. It shall consist of a Chairman and not more than eleven other members. The terms and conditions of the Chairman and the Members of the National Commission shall be as determined by the Government in each case, provided that their term of office shall not normally exceed three years.

5. The National Commission for Scheduled Castes and Scheduled Tribes will be a national level advisory body to advise on broad issues on policy and levels of development of Scheduled Castes and Scheduled Tribes. With this objective in view, the National Commission may include experts in the field of social anthropology, social work and other related social sciences.

6. The headquarters of the National Commission will be located at New Delhi.

7. The functions of the National Commission for Scheduled Castes and Scheduled Tribes will be as follows:

- (a) To study the extent and ramifications of untouchability and social discrimination arising therefrom and effectiveness of the present measures and recommend further measures to be taken,
- (b) to study socio-economic and other relevant circumstances leading to the commission of offences against persons belonging to Scheduled Castes and Scheduled Tribes and to recommend appropriate remedial measures to ensure prompt investigation of such offences,
- (c) to take up studies on different aspects of development of the Scheduled Castes and Scheduled Tribes with a view to ensuring integration of these groups with the mainstream of the society in all aspects. These would include studies in the fields of

socio-economic development, education, commerce, trade, art, literature, language, housing, communication, agriculture, forestry, horticulture, fisheries, rehabilitation, pollution and environment, and

(d) such other functions as may be entrusted to the National Commission for Scheduled Castes and Scheduled Tribes in evolving general policies relating to any aspects of development of the Scheduled Castes and Scheduled Tribes as may be thought proper by the Central Government.

8. All the Ministries and Departments of the Government of India will furnish such information and documents and provide such assistance as may be required by the National Commission for Scheduled Castes and Scheduled Tribes from time to time. The Government of India trusts that the State Governments and Union Territory Administrations and others concerned will extend their fullest co-operation and assistance to the National Commission.

9. The reports of the National Commission for Scheduled Castes and Scheduled Tribes will be project based to be submitted to the Central Government as and when studies are completed.

### **ORDER**

Ordered that a copy of this Resolution be communicated to all Ministries and Departments of the Government of India, State Governments and Union Territory Administrations, etc.

Ordered also that the Resolution be published in the Gazette of India for general information.

Sd/-  
**(B.K. MISRA)**

Joint Secy, to the Govt. of India

**The Gazette of India  
EXTRAORDINARY**

**PART-II-Section 1**

**PUBLISHED BY AUTHORITY  
No.31, NEW DELHI, FRIDAY, JUNE 8, 1990/  
JYAISTHA 18, 1912**

**MINISTRY OF LAW AND JUSTICE**  
(Legislative Department)

New Delhi, the 8<sup>th</sup> June, 1990/Jyaistha 18, 1912(Saka)

The following Act of Parliament received the assent of the President on the 7<sup>th</sup> June, 1990, and is hereby published for general information:-

**THE CONSTITUTION (SIXTY-FIFTH AMENDMENT)  
ACT, 1990**

(7<sup>th</sup> June, 1990)

An Act further to amend the Constitution of India.

Short title and commencement 1. (1) This Act may be called the Constitution (Sixty-fifth Amendment) Act, 1990.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint

Amendment of Article 338 2. In Article 338 of the Constitution:-

(a) for the marginal heading, the following marginal heading shall be substituted, namely:-

“National Commission for Scheduled Castes and Scheduled Tribes”.

(b) for clauses (1) and (2), the following clauses shall be substituted, namely:-

“(1) There shall be a Commission for the Scheduled Castes and Scheduled Tribes to be known as the National Commission for the Scheduled Castes and Scheduled Tribes.

(2) Subject to the provisions of any law made in this behalf by Parliament, the Commission shall consist of a Chairperson, Vice-Chairperson and five other Members and the conditions of service and tenure of office of the Chairperson, Vice-Chairperson and other Members so appointed shall be such as the President

may by rule determine.

(3) The Chairperson, Vice-Chairperson and other Members of the Commission shall be appointed by the President by warrant under his hand and seal.

(4) The Commission shall have the power to regulate its own procedure.

(5) It shall be the duty of the Commission:

- (a) to investigate and monitor all matters relating to the safeguards provided for the Scheduled Castes and Scheduled Tribes under this 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 Castes and Scheduled Tribes;
- (c) to participate and advise on the planning process of socio-economic development of the Scheduled Castes and 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 time as the Commission may deem fit, reports upon the working of those safeguards;
- (e) to make in such reports recommendation as to the measures that should be taken by Union or any State for the effective implementation of those safeguards and other measures for the protection, welfare and socio-economic development of the Scheduled Castes and Scheduled Tribes; and
- (f) to discharge such other function in relation to the protection, welfare and development and advancement of the Scheduled Castes and Scheduled Tribes as the President may, subject to the provisions of any law made by Parliament, by rule specify.

(6) The President shall cause all such reports to be laid before each House of Parliament along with a memorandum explaining the action taken or proposed to be taken on the recommendations relating to the Union and the reasons for the non-acceptance, if any, of any of such recommendations.

(7) Where any such report, or any part thereof, relates to any matter with which any State Government is concerned, a copy of such report shall be forwarded to the Governor of the State who

shall cause it to be laid before the Legislature of the State along with a memorandum explaining the action taken or proposed to be taken on the recommendations relating to the State and the reasons for the non-acceptance, if any, of any of such recommendations;

(8) The Commission shall, while investigating any matter referred to in sub-clause (a) or inquiring into any complaint referred to in sub-clause (b) of clause (5), have all the powers of a 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 documents;
- (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.

(9) The Union and every State Government shall consult the Commission on all major policy matters affecting Scheduled Castes and Scheduled Tribes.”

(c) existing clause (3) shall be renumbered as clause (10).

Sd/-  
**(V.S.RAMA DEVI)**  
**Secy. To the Govt. of India**

REGD.NO.D.L(N)04/0007/2003-05

**The Gazette of India**

Extraordinary

PARTII-Section 1

PUBLISHED BY AUTHORITY

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**No.55 NEW DELHI, TUESDAY, SEPTEMBER 30,2003/ASVINA 8, 1925**

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Separate paging is given to this Part in order that it may be filed as a separate compilation.

**MINISTRY OF LAW AND JUSTICE  
(Legislative Department)**New Delhi, the 30<sup>th</sup> September, 2003/Asvina 8, 1925 (Saka)The following Act of Parliament received the assent of the President on the 28<sup>th</sup> September, 2003, and is hereby published for general information:-**THE CONSTITUTION (EIGHTY-NINTH AMENDMENT) ACT, 2003**[28<sup>th</sup> September, 2003]**An Act further to amend the Constitution of India.**

Be it enacted by Parliament in the Fifty-fourth Year of the Republic of India as follows:-

- |  |                              |
|--|------------------------------|
| 1.(1) This Act may be called the Constitution (Eighty-ninth Amendment) Act, 2003.  | Short title and commencement |
| (2) It shall come into force on such date as the Central Government may, by notification in the official Gazette, appoint. |                              |
| 2. In article 338 of the Constitution--  | Amendment of article 338     |
| (a) for the marginal heading, the following marginal heading shall be substituted namely:-                                 |                              |
| “National Commission for Scheduled Castes”,  |                              |
| (b) for clause (1) and (2), the following clauses shall be substituted, namely:-   |                              |

(1) There shall be a Commission for the Scheduled castes to be known as the National Commission for Scheduled Castes.

(2) Subject to the provisions of any law made in this behalf by Parliament the Commission shall consist of a Chairperson, Vice-Chairperson and three other Members and the conditions of service and tenure of office of the Chairperson, Vice-Chairperson and other Members so appointed shall be such as the President may by rule determine.:

(c) in-clauses (5) and (10), the words “and Scheduled Tribes” where they occur shall be omitted.

Insertion of  
New Article  
338A.

(3). After Article 338 of the Constitution, the following article shall be inserted namely:-

National  
Commission  
for  
Scheduled  
Tribes

“338 A (1) There shall be a Commission for the Scheduled tribes to be known as the National Commission for the Scheduled Tribes.

(2) Subject to the provisions of any law made in this behalf by Parliament, the Commission shall consist of a Chairperson, Vice-Chairperson and three other Members and the conditions of service and tenure of office of the Chairperson, Vice-Chairperson and other members so appointed shall be such as the President may by rule determine.

(3) The Chairperson, Vice-Chairperson and other Members of the Commission shall be appointed by the President by warrant under his hand and seal.

(4) The Commission shall have the power to regulate its own procedure

(5) It shall be the duty of the Commission----

(a) to investigate and monitor all matters relating to the safeguards provided for the Scheduled Tribes under this Constitution 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 reports 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 socio-economic development of the Scheduled tribes; and

- (f) to discharge such other functions insulation 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.

(6) The President shall cause all such reports to be laid before each House of Parliament alongwith a memorandum explaining the action taken or proposed to be taken on the recommendations relating to the Union and the reasons for the non-acceptance, if any, of any of such recommendations.

(7) Where any such report, or any part thereof, relates to any matter with which any State Government is concerned, a copy of such report shall be forwarded to the Governor of the State who shall cause it to be laid before the legislature of the State along with a memorandum explaining the action taken or proposed to be taken on the recommendations relating to the State and the reasons for the non-acceptance, if any of any of such recommendations.

(8) The Commission shall, while investigating any matter referred to in sub-clause (a) or inquiring into any complaint referred to in sub-clause (b) of clause (5) have all the powers of a civil court trying a suit and in particular in respect of the following manners 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.

(9) The Union and every State Government shall consult the Commission on all major policy matters affecting Scheduled Tribes.”

Sd/-  
**SUBHASH C. JAIN**  
Secy to the Govt. of India

**Ministry of Tribal Affairs**  
**Notification**  
 New Delhi, the 23<sup>rd</sup> August, 2005

S.O. 1175(E) – In exercise of the powers conferred by sub-clause (f) of clause 5 of Article 338A of the Commission, the President hereby makes the following rules to specify the other functions of the National Commission for the Scheduled Tribes, namely:-

1. Short title and commencement:- (1) These rules may be called the National Commission for the Scheduled Tribe (Specification of other functions) Rules, 2005.

2. The Commission shall discharge the following other functions in relation to the protection, welfare and development and advancement of the Scheduled Tribes, namely:-

- (i) Measures that need to be taken over conferring ownership rights in respect of minor forest produce to STs living in forest areas.
- (ii) Measures to be taken to safeguard rights of the tribal communities over mineral resources, water resources etc. as laid down by law.
- (iii) Measures to be taken for the development of tribal to plug loopholes and to work more viable livelihood strategies.
- (iv) Measures to be taken to improve the efficacy of relief and rehabilitation measures for tribal groups displaced by development projects.
- (v) Measures to be taken to prevent alienation of tribal people from land and to effectively rehabilitate such people in whose case alienation has already been taken place.
- (vi) Measures to be taken to elicit maximum cooperation and involvement of tribal communities for protecting forests and undertaking social afforestation.
- (vii) Measures to be taken to ensure full implementation of the provision of Panchayat (Extension to Scheduled Areas) Act, 1996
- (viii) Measures to be taken to reduce and ultimately eliminate the practice of shifting cultivation by tribal that lead to their continuous disempowerment and degradation of land and the environment.

(F.No.17014/3/2004-C&LM-II)

Sd/-  
**S.Chatterjee, Jt. Secy.**

### Details of field visits by Chairman and Members during the years 2004-05 and 2005-06

#### A. Visits of Chairman (Shri Kunwar Singh)

Dates of Visits	Places visited	Issues discussed in brief
5-6 August, 04	Dunguriguda village in Nawarangpur district, Orissa	It was reported that at least 10 tribal children died due to some unknown disease. After the visit, instructions were issued to the District administration as well as the State Govt. of Orissa to take immediate remedial measures and to provide necessary medical assistance/treatment to the affected children.
9-11 September, 04	Panchmahal and Kheda districts, Gujarat	The purpose of the visit was to discuss the problems of rehabilitation of tribals displaced due to construction of Kadana Dam. Chairman met the land oustees of tribal villages and heard the problems being faced by them and other problems of the local tribals. The field visit was followed by a review meeting with the State Govt.
29 September to 3 October, 04	Leh, Jammu & Kashmir	Chairman was accompanied with Ven. Lama Lobzang, Member and Shri Manoj Kumar, Secretary, NCST. During this visit, meetings were held with different local tribal representatives and Corp. Commander, 14 Corp. and other senior Army officials to find out ways and means to resolve various issues arising out of discontentment between the tribals and Army officials.
10-16 October, 04	West Bengal and Sikkim States	Visited along with Ven. Lama Lobzang, different tribal schools in Lower Bom Basti Kalimpong and other Lepcha Basti run by Lepcha tribes. A review meeting was held with the State Govt. of Sikkim at Gangtok to discuss the problems being faced by the tribal people.
29 October to 1 November, 04	Khunti Gumla and Lohardaga of Jharkhand State	Visited the tribal areas in these districts to know about the overall development work taken up by the State Govt. The field visit was followed by a review meeting with the State Govt. officials at Ranchi.
(i) 5-11 December, 04	Andaman & Nicobar Islands	In this visit, Chairman was accompanied with Ven. Lama Lobzang, Member and Secretary, NCST to review the overall developmental activities taken up by the UT administration in the areas inhabited by Jarawas, Great Andamanese, Nicobarese, Sentinelese etc.
(ii) 2-7 April, 05	-do-	Visited along with Ven. Lama Lobzang, and Shri Buduru Srinivasulu, Members Tsunami affected areas particularly inhabited by Jarawas, Onges and other primitive tribe habitations, and Car Nicobar Islands, Katchal, Teressa and areas of Andaman & Nicobar Islands to review the relief, rescue and rehabilitation work taken up by A & N administration in the affected tribal areas. The field visit was followed by a review meeting with the Lieutenant Governor and A & N administration at Port Blair.
11-15 April, 04	(i) Indore, Jhabua and Badwani districts of Madhya Pradesh, (ii) Narmada district of	Visited along with Shri Buduru Srinivasulu, Member the tribal areas in these districts affected by Sardar Sarovar Dam, and met the land oustees and affected tribal villages in these districts of three States and heard the problems

	Gujarat and (iii) Nandurbar district of Maharashtra	faced by them. A high-level meeting was held after the field visit with various State Govt. officials, district officials and Sarovar Dam authorities in this regard at Indore.
2-7 April, 05		<p>Visited alongwith Shri Ven. Lama Lobzang and Shri Buduru Srinivasulu, Members and a few officers of the Commission. The State of West Bengal and UT of A &amp; N Islands to oversee the development works undertaken by the respective Governments in respect of welfare of Scheduled Tribes and particularly to see the relief and rehabilitation work undertaken by A &amp; N Administration in the aftermath of Tsunami devastation which took a heavy toll life, most of them belonging to primitive tribal groups. In West Bengal, the Commission visited Chayalabhi Bantala, Malanchal, Parsemari and Sandeshkhali areas of North 24 Paragana District to oversee the civic and other facilities extended to the Scheduled Tribe population residing in these areas. The Commission arrived at Port Blair on 3.4.2005. On 3<sup>rd</sup> April, the team proceeded to Straight Island where one of the primitive tribes Great Andamaneese were living. On 4<sup>th</sup> April, the team reached the Car Nicobar Islands predominantly inhabited by Nicobareese tribe. The team was taken to Mus, Perka, Malacea, Chukchucha villages which were badly damaged due to Tsunami. The team was informed that Tsunami had snatched 613 tribal lives and 228 non-tribals. On the same day, the team also visited Teressa, and Kamorta/Nancowries islands. On 5<sup>th</sup> April, the team visited Katchal, Campbell Bay, Car Nicobar and other islands inhabited by primitive tribes. On 6<sup>th</sup> April, the team reached Little Andaman and visited Hut Bay, Harbinder Bay where Nicobareese were to be rehabilitated. The team also visited Ramkrishnapur where members of Ongi primitive tribe were living near Bora Nala inside the forest. The team requested the Andaman Administration to make adequate arrangements for treatment of Ongis suffering from skin diseases, malnutrition and anaemia etc.</p> <p>On 7 April, 2005 the team took a review meeting with the United Bank of India, Kolkata to monitor the implementation service safeguards and welfare measures taken by the Bank in respect of Scheduled Tribes. At the end, Chairman along with other Members of the Commission held a press conference both with print media and electronic media and briefed them about the problems being faced by the members of Scheduled Tribes.</p>
11-15 April, 05	Indore, Badwani, Bhar, Jhabua (MP), Vadodara (Gujarat)	<p>(i) Rehabilitation of displaced tribal issue (Sardar Sarovar Dam)</p> <p>(ii) Review meetings with DCs, DSPs and other officials about tribal development programmes in the districts of Badwani, Dhar and Jhabua</p> <p>(iii) Visited Bhilkheda rehabilitation site (Badwani) and Lundra rehabilitation site (Vadodra)</p>
29 April to 1 May, 05	Indore, Dhar (MP)	(i) Discussed with Secretary Tribal Welfare and Narmada Control Authority the progress of

		rehabilitation of displaced tribals. (ii) Discussed with DC, Dhar and other officials regarding tribal development programmes in the district.
11-23 May, 05	Renukut, Sonbhadra (UP) Sidhi (MP)	Visited tribal areas and conducted review meetings with District Collectors and officials
24-26 May, 05	Dausa, Alwar, Jaipur (Rajasthan)	(i) Local tribal area visit at Mahuwa (ii) Discussed with District officials regarding tribal development programmes
12-17 September, 05	Khurda, Rayagada, Bhubaneswar, Koraput, Kalahandi, Kendrapada, Cuttack, Jajpur (Orissa)	(i) Discussed with NALCO Management regarding the implementation of reservation policy for ST employees in NALCO. (ii) Visited Kucheipadar and other tribal villages affected by Utkal Alumina Industries Ltd. (iii) Discussed with District Collectors, DSPs and other officials in various districts regarding the implementation of various developmental programmes and constitutional safeguards for STs. (iv) Conducted meeting with Chief Secretary, Home Secy Edn. Secy, Health and other Secretaries of different Deptt. TRIFED and Regional Manager NSTFDC (v) Press conference
30 Sept. to 1 Oct. 05	Bangalore, Mysore (Karnataka)	(i) Attended National seminar of all India Defence SC/ST Employees Federation at Bangalore (ii) Discussed with local tribal leaders/tribal sarpanch, Z.P. Members. (iii) Meeting with Collector and Distt. Magistrate, DSP and other officials of Mysore regarding implementation of various developmental programme and constitutional safeguards for ST.
6-10 Oct. 05	Vindhya Nagar, Rewa (MP)	Review meeting was held with NTPC management regarding displacement issues, various developmental programmes for tribals taken up by NTPC and NTPC St employees problems.
17-19 Nov. 05	Midnapur, Kolkata (WB)	(i) Meeting was held with Chairman, Coal India regarding rules of reservation/roster maintenace/backlog/welfare measures and grievances of ST employees etc. (ii) Conducted visit to Amlsole tribal areas, meeting with tribal delegates and distt. officials.
9-10 Dec. 05	Jodhpur (Rajasthan)	Discussed with Dist. Collector, SP and other officials reg. implementation of various developmental projects for the tribals.
15-17 Dec. 05	Gangtok (Sikkim)	Review meeting was held with State Govt. reg. tribal development programme under various schemes.
23-27 Dec. 05	Sonbhadra (UP)	(i) Meeting ws held with ST/SC Employees Association/trade union of NTPC, Rehand Nagar. (ii) Discussion was held with management of NTPC, Rehand super Thermal Power Project and Shaktinagar (NTPC).
11-13 Jan. 06	Cuttack, Khurda, Jajpur- Kalinganagar (Orissa)	(i) Visited Kalinganagar village to meet the victims of police firing, and also the injured tribals in the hospital at Cuttack. (ii) Meeting with Distt. Collector and other officials regarding firing incident (iii) Discussed with Chief Secy, Home Secy, Secy, (Rev), ST/SC Development Deptt., DGP and MD,

		IDCO regarding various tribal developmental issues, Kalinganagar tribals issues and progress and implementation of relief and rehabilitation policy etc. (iv) Press Conference.
2-5 March,06	Rewa, Sidhi, Satna (MP)	(i) Review meeting with Distt. Collector, DSP and other district officers in each district (ii) Meeting with local tribal delegates, elected tribal representatives.
7-10 March	Kota, Bundi, Chittorgarh (Rajasthan)	(i) Meeting with Divisional Commissioner and DM/SP of all district of division and district level officers concerned regarding implementation of tribal development schemes/programmes. (ii) Meeting with Management of NPC and Heavy Water Plant, Chittorgarh.
25-26 March,06	Bhopal (MP)	Attended as an expert/resource person in the orientation course on tribal customs, laws and tribal dispute settlement process: Role of formal legal systems at National Judicial Academy, Bhopal.

#### B. Visits of the Member (Ven. Lama Lobzang)

Dates of Visits	Places visited	Issues discussed in brief
27-28 March, 2004	Kolkata	Visited to interact with NGOs working for the welfare of Scheduled Tribes in the State of West Bengal.
6-10 April, 2004	Leh, Ladakh	Visited the villages and sub-divisional offices to discuss the tribal problems with the district officials.
29-30 June, 2004	Deharadun, Uttaranchal	Visited in connection with a meeting convened by the Chief Minister, Uttaranchal.
5-11 August, 2004	Guwahati, Assam	Visited selected villages and held meetings with the representatives of the tribals and district-level officers at Guwahati to discuss the various tribal problems. He also attended a conference organized by local tribals.
9 March, 2005	Kushinagar, U.P.	He met a delegation of Gond community from this district. He also held a meeting with DM, Kushinagar and other district officials in connection with the demands of the Gond community of Kushinagar district for being given the status of Scheduled Tribe on the lines of Gond community of Sonbhadra district who had migrated to Kushinagar.
29 September-03 October, 2004, 10-16 October, 2004, 5-12 December, 2004 and 2-7 April, 2005	Visits along with Chairman	He accompanied Chairman during the latter's visits to Leh (29 September, 2004 to 3 October, 2004), West Bengal and Sikkim (10-16 October, 2004), and A& N Islands (5-12 December, 2004 and 2-7 April, 2005).
2-7 April 05	Kolkata & Andaman & Nicobar (Portblair)	Visited Tsunami affected areas of Andaman & Nicobar Islands to see the relief and rehabilitation arrangements made by the UT Administration about the affected tribals particularly PTGs.
28-30 April 05	(Hyderabad/Guntur)	Held review meeting with Distt. level officers and local tribal representatives to discuss the tribal development problems.
29-6-05 to 2-7-05	Leh-Ladakh	Held meeting with CMO, MS and Heads of Depts. of the SMS Hospital, Leh reg. Medical Camp for ST people.
1-3 Oct. 05	Hyderabad/ Guntur	Attended meeting convened by Chief Minister, Andhra Pradesh and held discussions with local tribal

		representatives and District Officers in Guntur Dist. And Amravati.
26-29 Nov. 05	Leh-Ladakh	Held discussions with the newly elected Executive Council and Members of LAHDC, Leh reg. Development of the region and its people.
15-17 Dec. 05	Kolkata/ Gangtok	Review meeting with State Govt. reg. tribal development programmes under various schemes along with Chairman, NCST.
27-2-06 to 1-3-06	Mumbai/ Ahmednagar	Visited the tribal areas of Ahmednagar to see the ground reality conditions regarding ST development.
25-31 March 06	Leh-Ladakh	Attended the medical camp organized for the welfare of Scheduled Tribes of the region.

**C. Visits of Member (Shri Buduru Srinivasulu)**

<b>Dates of Visits</b>	<b>Places visited</b>	<b>Issues Discussed</b>
8-20 July, 2004	Nellore, Prakasam and Chittoor districts of Andhra Pradesh	Held review meetings with the concerned officers regarding the tribal development activities by TRIFED and TRICOR and State Girijan Cooperative Corporation. He also held review meeting with ITDA officers and district welfare officers of these districts
13-18 September, 2004	Chennai, Thiruvallur and Tirunannamallai districts of Tamil Nadu	Held discussion with Additional Secretary, Tribal Welfare Department, Govt. of Tamil Nadu and other concerned officers at Chennai on the subject of false Scheduled Tribe certificates and other related issues. This was followed by review meetings with the District Collectors of these districts
18-25 November, 2004	Bangalore, Bellari, Koppal, Dharawad and Kolar districts of Karnataka	Held review meetings with the Secretary, Department of Tribal Affairs, Govt. of Karnataka and with all other concerned State-level officers dealing with the Tribal Development Programmes such as TSP, PESA (Panchayat Extension to the Scheduled Areas Act). He also held review meetings with District Collectors, SPs and other district level officers of Bellari, Koppal, Dharawad and Kolar districts.
13-16 December, 2004	Pune and Nasik districts of Maharashtra	Held review meetings with the officials of PSEs at Pune and with Tribal Commissioner of the State of Maharashtra at Nasik.
21-25 January, 2005	Shimoga and Chikmagalur districts of Karnataka	The Hon'ble Supreme Court in Writ Petition (Civil) No.76 of 2003 A.S. Nagendra & Ors. vs. State of Karnataka & Ors. sought the views of the Commission on whether 'Maaleru' community is the same as the 'Maleru' community which has been recognized as a Scheduled Tribe under Article 342 (1) of the Constitution. The Hon'ble Member along with the officers of the Commission and the State Govt. of Karnataka visited Shimoga and Chikmagalur districts of the Karnataka State to ascertain the ground realities on the basis of on-the-spot inquiries on the status of Maaleru and Maleru and, based on that, to submit a report to the Commission. The Hon'ble Member submitted a detailed report to the Commission on 1 March, 2005 which was found to be of great help in drafting the final report for submitting to the Hon'ble Supreme Court.
26-30 March,	Chittoor and	Held review meetings with District Collectors and

2005	Cuddapah districts of Andhra Pradesh	district level officers of these two districts with special reference to the Public Distribution System (PDS) in the tribal areas.
2-7 April 05	West Bengal & Andaman & Nicobar	Visited the TSUNAMI affected areas of A&N Islands to see the relief and rehabilitation arrangements made by the UT Administration for the affected tribals particularly PTGs.
11-15 April 05	Madhya Pradesh/ Maharashtra & Gujarat.	Reviewed the rehabilitation work in the areas affected by the Sardar Sarovar project on Narmada river.
6-11 May 05	Kozikode, Waynad, Idukki, Thiruvananthapuram (Kerala)	Held District level review of the Tribal Developmental activities.
22-29 May 05	Aurangabad, Jalgaon, Nandurbar (Maharashtra)	Held review meeting on developmental activities in the tribal areas on the I.T.D.P. level and District level.
16-21 June 05	Coimbatore, The Nilguries, Chittore (A.P.) (Tamilnadu/ Andhra Pradesh)	Held District level review meeting reg. the developmental activities in the tribal areas.
25-29 July 05	Goa	Took a review meeting on developmental activities for tribals.
8-13 August 05	Vishakhapatnam (Andhra Pradesh)	Visited the fever affected villages in the tribal areas.
27-8-05 to 1-9-05	Jamnagar, Porbandar, Junagarh, Rajkot, Ahemadabad, Sabarkantha (Gujarat)	Took a review of the developmental activities with special reference to the P.T.G. Sidhi Tribe in the Gujarat.
12-18 Sept. 05	Lakshadweep	Took review of developmental activities for tribal people.
18-21 Sept. 05	Chennai, Thanjavur (Tamilnadu)	(i) Enquired into the cases of Bonded Child Labourers in the Rice Mills. (ii) Discussed the False Caste Certificates matters with the Director, ADATWD.
18-25 Oct. 05	Hyderabad, Mahbubnagar, Kurnoor, Ananthapur (A.P)	Held review meeting with District Collectors and I.T.D.A. officers.
13-17 Nov. 05	Hyderabad, Karimnagar, Adilabad (A.P.)	(i) Held review meeting with District Collectors and I.T.D.A. officers. (ii) Discussed with the Pr. Secy. (Irrigation) & Secy. (Tribal Welfare) and Commissioner (Tribal Welfare) about the impact of the Polavaram Irrigation Project on the tribals residing in the project affected areas.
10-18 Dec. 05	Nellore (A. P.)	Held review meeting with District Collector and I.T.D.A. officers
6-7 Jan. 06	Hyderabad	Attended and addressed the seminar organized by the Mahatma Gandhi National Institute of Research & Social Action (MG-NIRSA).
29-1-06 to 4-2-06	Adilabad, Khammam, Mahbubnagar, (A.P.)	Visited the tribal areas & took a review meeting of the developmental activities related to the tribals.
17-19 Feb. 06	Pondicherry	Held meeting with the tribal workers and Govt. officers.
8-17 March 06	Nagpur, Gadchiroli,	(i) Visited tribal areas in the district of Gadchiroli and

	Chandrapur (Maharashtra)	held review meeting with Distt. Collector, Gadchiroli. (ii) Held review meeting with Addl. Tribal Commissioner, Nagpur.
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**D. Visits of Member (Smt. Prem Bai Mandavi)**

Dates of Visits	Places visited	Issues Discussed
2-13 June, 2004	Raipur, Kankar, Durg and Rajnangaon districts of Chhatisgarh	Visited these districts to meet the tribal people to discuss the problems being faced by them. She also visited the tribal villages in these districts and heard the problems being faced by them.
9-18 July, 2004	Sambalpur and Khurda districts of Orissa	Visited Orissa State in connection with State review and attended tribal seminar at Sambalpur district organized by Baljagruiti Association and another seminar at Khurda district organized by Asian Welfare Trust. She also visited various NGOs working for the development and welfare of Scheduled Tribes.
3-14 August, 2004	Bhopal district of Madhya Pradesh and Chhatisgarh State	Held review meeting with Minister of Tribal Welfare, Secretary and other officials of Tribal Welfare Department at State Guest House, Bhopal. She also met tribal people and heard their problems.
15-26 September, 2004	Raipur, Chhatisgarh	Held review meeting with Minister of Tribal Welfare, Secretary, Tribal Welfare and Director, NCST (State Office of the Commission at Raipur) and other officials of Tribal Development Department. She met tribal people and heard their problems. She also met Chief Minister & Home Minister of Chhatisgarh to discuss problems of Scheduled Tribes relating to minor forest produce, atrocities on STs and other ST related problems.
15-17 October, 2004	Allahabad and Varanasi districts of Uttar Pradesh	Held review meetings with Collectors, SPs and other officials of these districts to discuss the matter relating to atrocities on members of Scheduled Tribes in that State.
10-23 December, 2004	Raipur district of Chhatisgarh and Nagpur district of Maharashtra	Held review meetings with the Collectors, SP and other officials of the Raipur district at State Guest House, Raipur to discuss the problems of tribals relating to minor forest produce, atrocities on them and other cases. She also met tribal delegates and visited tribal villages to hear their problems. She also visited Nagpur district of Maharashtra where she interacted with NGOs working for development and welfare of Scheduled Tribes.
3-12 February, 2005	Raipur, Bilaspur, Durg and Rajnangaon districts of Chhatisgarh	Held review meetings with district Collectors, SPs and other officials in these districts to discuss with them the tribal problems. She also visited tribal villages and attended All India Adivasi seminar at Bilaspur.
5-18 March, 2005	Madhya Pradesh	Accompanied the Chairman, NCST in his visit to the State of Madhya Pradesh to attend a National seminar organized by Kalandi Samaj Ka Utthan Sansthan. They also visited tribal villages, met tribal people and heard their problems relating to education, drinking water, atrocities and other cases relating to tribals.
29-15 April	Indore and Dhar	Took a review meeting with the district authorities on

2005	(M.P.)	the rehabilitation of the tribals affected by the Sardar Sarovar Porject on river Narmada.
14-31 May, 2005	Bhubaneswar and Raipur (Orissa and Chhattisgarh)	Took a district level review meeting with the various authorities concerned with tribal development and attended Adivasi programme.
6-21 August, 2005	Raipur and Durg (Chhattisgarh)	Had a meeting with C.M. Chhattisgarh and Secretary, SC/ST to discuss the implementation of various schemes and programmes for tribal development.
30 Sept. to 13 Oct. 2005	Rajnand Gaon and Bastar (Chhattisgarh)	Discussed with the district authorities the problem of tribals related to procurement and sale of minor forest produce. Also discussed about the steps being taken to reduce the number of atrocities on STs.
3-26 Feb, 2006	Bilaspur, Korba and Sarguja (Chhattisgarh)	Discussed with HPCL and NTPC officials about the rehabilitation and resettlement of the displaced tribals.
17-22 March, 2006	Ahmedabad and Palanpur (Gujarat)	Held review meeting with District Collectors of the two District and the officers concerned with tribal development to discuss the implementation status of various programmes/ schemes.

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## CHAPTER-2

### CONSTITUTIONAL PROVISIONS FOR PROTECTION AND DEVELOPMENT OF SCHEDULED TRIBES

#### 2.1 Definition of Scheduled Tribes

2.1.1 Article 366 (25) defines "Scheduled Tribes" as such tribes or tribal communities or parts of or groups within such tribes or tribal communities as are deemed under Article 342 to be "Scheduled Tribes".

2.1.2 Article 342 of the Constitution of India defines as to who would be Scheduled Tribes with respect to any State or Union Territory. The relevant provisions are reproduced below:

- (i) **Article 342(1):** "The President may with respect to any State or Union Territory, and where it is a State after consultation with the Governor thereof, by public notification, specify the tribes or tribal communities or parts of or groups within tribes or tribal communities which shall for the purpose of this Constitution be deemed to be Scheduled Tribes in relation to that State or Union Territory, as the case may be."
- (ii) **Article 342 (2):** "Parliament may by law include in or exclude from the list of Scheduled Tribes specified in a notification issued under clause (1) any tribe or tribal community or part of or group within any tribe or tribal community but save as aforesaid a notification issued under the said clause shall not be varied by any subsequent notification."

2.1.3 The Inter-State, and in case of certain specified communities, inter-district and inter- taluk or tehsil area restrictions have been imposed so that the people belonging to a specific community residing in a specific area, which has been assessed to qualify for the Scheduled Tribes status, may alone benefit from the facilities provided for them. Since the people belonging to the same tribes but living in different States or Union Territories may not necessarily suffer from the same disabilities, it is possible that two persons belonging to the same tribe/tribes but residing in different States/UTs may not both be treated as belonging to Scheduled Tribes or vice versa. Thus the residence of a particular person in a particular locality assumes a special significance. This residence has not to be understood in the literal or ordinary sense of the word. This connotes the permanent residence of a person on the date of the notification of the Presidential Order scheduling his community as Scheduled Tribes in relation to that locality.

#### 2.2 Developmental and Protective Safeguards

Several safeguards have been provided in the Constitution of India for social, economic and educational development of Scheduled Tribes. These safeguards are being enforced either through legislative provisions or executive instructions. This Chapter discusses these safeguards in detail. These safeguards are contained in the Directive Principles of State Policy of the Constitution. Article 46 is a comprehensive provision comprising both the developmental and regulatory aspects. It reads follows:-

"The State shall promote with special care the educational and economic interests of the weaker sections of the people, and in particular, of the Scheduled Castes and

Scheduled Tribes, and shall protect them social injustice and all forms of exploitation”.

### 2.2.1 Social Safeguards

The Constitutional provisions have been made to provide social safeguards to the Scheduled Castes and Scheduled Tribes people in the country so that they may live with dignity and make progress in all walks of life. The provisions made under the Constitution for educational and cultural development and protection of the Scheduled Castes and Scheduled Tribes are given below:

- (i) **Article 15 (1)** provides that “the State shall not discriminate against any citizen on grounds only of religion, race, caste, sex, place of birth or any of them”.
- (ii) **Article 15(2)** provides that “No citizen shall, on grounds only of religion, race, caste, sex, place of birth or any of them, be subjected to any disability, liability, restriction or condition with regard to: -
  - (a) access to shops, public restaurants, hotels and places of public entertainment;
  - (b) the use of wells, tanks, bathing ghats, roads and places of public resort maintained wholly or partly out of State funds or dedicated to the use of general public”.
- (iii) **Article 17** provides that “Untouchability” is abolished and its practice in any form is forbidden. The enforcement of any disability arising out of “Untouchability” shall be an offence punishable in accordance with law. To give effect to this Article, Parliament made an enactment viz. Untouchability (Offences) **Act, 1955**. To make the provisions of this Act more stringent, the Act was amended in 1976 and was also renamed as the Protection of Civil Rights (PCR) Act, 1977. As provided under the Act, Government of India also notified the Rules, viz., the PCR Rules, 1977, to carry out the provisions of this Act. As cases of atrocities on STs were not covered under the provisions of PCR Act, 1977, Parliament passed another important Act in 1989 for taking specific measures to prevent the atrocities on Scheduled Castes and Scheduled Tribes. This Act known as the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, became effective from 30 January, 1990. For carrying out the provisions of this Act, the Govt. of India notified the SCs and the STs (Prevention of Atrocities) Rules, 1995 on 31 March, 1995. Some of the special provisions of this Act and its implementation by the State Govts. have been discussed separately in this report under the Chapter VII on “Crime and Atrocity on Scheduled Tribes”.
- (iv) **Article 23** prohibits traffic in human beings and begar (forced labour) and other similar forms of forced labour and provide that any contravention of this provision shall be an offence punishable in accordance with law. It does not specifically mention STs but since sizeable number of bonded labour comes from STs, this Article has a special significance for members of Scheduled Tribes. In pursuance of this Article, Parliament has enacted the Bonded Labour System (Abolition) Act, 1976. For effective implementation of this Act, the Ministry of Labour is running a Centrally Sponsored Scheme for identification, liberation and rehabilitation of bonded labour. The Commission monitors the cases of Scheduled Tribes bonded labour in the country and suggests necessary ways and means to free and to rehabilitate them by providing assured work or job.

- (v) **Article 24** provides that no child below the age of 14 years shall be employed to work in any factory or mine or engaged in any other hazardous employment. There are Central and State laws to prevent child labour. This Article too is significant for Scheduled Tribes as a substantial portion of child labour engaged in hazardous employment belongs to STs.
- (vi) **Article 25(2) (b)** provides that Hindu religious institutions of a public character shall be thrown open to all classes and sections of the Hindus. This provision is relevant as some sects of the Hindus used to claim that only members of the concerned sects had a right to enter their temples.

### 2.2.2 Economic Safeguards

The provisions of Articles 46, 23 and 24 mentioned above also form part of the economic safeguards. The safeguards, which specifically provide for the economic uplift of the Scheduled Tribes, are as mentioned below:

- (i) **Clause (1) of Article 244** provides that the provisions of the Fifth Schedule shall apply to the administration and control of the Scheduled Areas and Scheduled Tribes in any State other than the States of Assam, Meghalaya, Mizoram and Tripura. According to Clause (2), the provisions of the Sixth Schedule shall apply to the administration of the tribal areas in the States of Assam, Meghalaya, Mizoram and Tripura.
- (ii) **Article 275 (1)** of the Constitution of India guarantees grants from the Consolidated Fund of India each year for promoting the welfare of STs. In pursuance of this Constitutional obligation, the Ministry of Tribal Affairs provides funds through a Central Sector Scheme called “Grants under Article 275(1) of the Constitution” for promotion of welfare of STs and administration of Scheduled Areas.
- (iii) **Fifth Schedule** contains provisions regarding the administration and control of the Scheduled Areas and Scheduled Tribes. There are nine States having Scheduled Areas, viz., Andhra Pradesh, Chattisgarh, Gujarat, Jharkhand, Himachal Pradesh, Madhya Pradesh, Maharashtra, Orissa and Rajasthan. The Governors of these States have special responsibilities and powers. These States have Tribal Advisory Councils. Tamil Nadu and West Bengal, which do not have any Scheduled Areas but have Scheduled Tribe population also have Tribal Advisory Councils. The Governors of the nine Scheduled Areas states have powers to make regulations for the peace and good governance of any Scheduled Area, particularly to:
  - (a) prohibit or restrict the transfer of land by or among members of the Scheduled Tribes in such area;
  - (b) regulate the allotment of land to members of the Scheduled Tribes in such area; and;
  - (c) regulate the carrying on of business as moneylender by persons who lend money to members of the Scheduled Tribes in such area.
- (iv) **The Sixth Schedule** of the Constitution of India under Article 244 (2) makes provisions for the administration of the tribal areas in the States of Assam, Meghalaya, Mizoram and Tripura through Autonomous District/Regional Councils. Areas where provisions of Sixth Schedule are applicable are known as Tribal Areas. In relation to the Tribal Areas, Autonomous District/Regional Councils, each having not more than 30 members have been set up. These Councils are elected bodies and have powers of legislation, administration of justice apart from executive

developmental and financial responsibilities. These Councils are empowered to make rules with the approval of the Governor with regard to matters like establishment, construction or management of primary schools, dispensaries, markets, cattle ponds, ferries, fisheries, roads and water- ways. They also have powers to make laws on a variety of subjects, e.g., land, forest, shifting cultivation, village or town administration including village or town police and public health and sanitation, inheritance or property, marriage and divorce and social customs. These Councils have also been conferred powers under Civil Procedure Code and Criminal Procedure Code for trial of certain suits and offences, as also the powers of a revenue authority for their area for collection of revenue and taxes and other powers for the regulation and management of natural resources. The States having tribal areas are (i) Assam (The North Cachar Hills District),(The Karbi-Anglong District), and (The Bodo Land Territorial Area District) (ii) Meghalaya (Khasi Hills District), (Jaintia Hills District) and, (The Garo Hills District) (iii) Tripura (Tripura Tribal Areas District), (iv) Mizoram (The Chakma District), (The Mara District) and, (The Lai District)

### 2.2.3 Educational and Cultural Safeguards

- (i) **Article 15(4)** empowers the State to make any special provision for the advancement of any socially and educationally backward classes of citizens or for Scheduled Castes and Scheduled Tribes. This provision was added to the Constitution through the Constitution (First Amendment) Act, 1951, which amended several articles. This provision has enabled the State to reserve seats for SCs & STs in educational institutions including technical, engineering and medical colleges and in scientific & specialized courses.
- (ii) **Article 29(1)** provides that any section of the citizens residing in the territory of India or any part thereof having a distinct language, script or culture of its own shall have the right to conserve the same. This Article further provides that no citizen shall be denied admission into any educational institution maintained by the State or receiving aid out of State funds on grounds only of religion, race, caste, language or any of them. This Article has special significance for the Scheduled Tribes. Santhals have a script of their own, viz., Olchiki.
- (iii) **Article 350 A** provides that it shall be the endeavour of every State and of every local authority within the State to provide adequate facilities for instructions in the mother tongue at the primary stage of education to children belonging to linguistic minority groups. It further provides that the President may issue such directions to any State as he considers necessary or proper for securing the provision of such facilities. Most of the tribal communities have their own languages or dialects, which usually belong to a different family of languages from the one to which the State's official language belongs. This provision, however, should not be mis-understood to mean that education to tribals should be imparted only in their language, thereby making them isolated and alienated. Tribals should be educated in the language of the State as well as the national Language so as to expose them to the outside world.

### 2.2.4 Political Safeguards

The political safeguards available to the members of Scheduled Tribes in the Constitution include the following:-

- (i) **Article 164(1)** provides that in the States of Bihar, Madhya Pradesh and Orissa, there shall be a Minister in charge of Tribal Welfare who may, in addition, be in charge of the welfare of the Scheduled Castes and backward classes or any other such work. **The Commission recommends that the Article 164 (1) may be suitably amended**

**to make the provisions of this Article applicable for newly formed States of Jharkhand and Chhatisgarh and all other States, which have the fifth Scheduled Areas to provide that each of these States shall also have a Tribal Minister who may, in addition, be in charge of the welfare of the Scheduled Castes and backward classes or any other such work.**

- (ii) **Article 330** This relates to reservation of seats for Scheduled Castes and Scheduled Tribes in the House of the People. It, inter-alia, provides that seats shall be reserved in the House of the People for (a) the Scheduled Castes; (b) the Scheduled Tribes except the Scheduled Tribes in the autonomous districts of Assam; and (c) the Scheduled Tribes in the autonomous districts of Assam. It further provides that:
- (a) The number of seats reserved in any State or Union Territory for the Scheduled Castes and Scheduled Tribes shall bear, as nearly as may be, the same proportion to the total number of seats allotted to the State/Union Territory in the House of the People as the population of the Scheduled Castes in the State or Union Territory or of the Scheduled Tribes in the State or Union Territory or part of the State or Union Territory, as the case may be, in respect of which seats are so reserved, bears to the total population of the State or Union Territory.
  - (b) Notwithstanding the position stated above, the number of seats reserved in the House of the People for the Scheduled Tribes in the autonomous districts of Assam shall bear to the total number of seats allotted to that State a proportion not less than the population of the Scheduled Tribes in the said autonomous districts bears to the total population of the State.
- (iii) **Article 332** This provides for reservation of seats for Scheduled Castes and Scheduled Tribes in the Legislative Assemblies of the States. This Article, inter-alia, provides that:-
- (a) Seats shall be reserved for the Scheduled Castes and the Scheduled Tribes, [except the Scheduled Tribes in the autonomous districts of Assam], in the Legislative Assembly of every State.
  - (b) Seats shall be reserved also for the autonomous districts in the Legislative Assembly of the State of Assam.
  - (c) The number of seats reserved for the Scheduled Castes and Scheduled Tribes in the Legislative Assembly of any State shall bear, as nearly as may be, the same proportion to the total number of seats in the Assembly as the population of the Scheduled Castes and the Scheduled Tribes in the State or part of the State, as the case may be, in respect of which seats are so reserved, bears to the total population of the State.
  - (d) The number of seats reserved for an autonomous district in the Legislative Assembly of the State of Assam shall bear to the total number of seats in that Assembly a proportion not less than the population of the district bears to the total population of the State.
  - (e) The constituencies for the seats reserved for any autonomous district of Assam shall not comprise any area outside that district

- (f) No person who is not a member of a Scheduled Tribe of any autonomous district of the State of Assam shall be eligible for election to the Legislative Assembly of the State from any constituency of that district.
- (iv) **Article 334** originally laid down that the provisions relating to the reservation of seats for SCs/STs in the Lok Sabha and State Vidhan Sabhas and the representation of the Anglo-Indian community in the Lok Sabha and the State Vidhan Sabhas by nomination would cease to have effect on the expiration of a period of ten years from the commencement of the Constitution. This Article has been amended five times, extending the said period by ten years on each occasion. This provision will now expire in January, 2010.
- (v) **Article 243 D** This Article which provides for reservation of seats for SCs and STs in Panchayats, inter-alia, provides that:
- (a) Seats shall be reserved for Scheduled Castes and Scheduled Tribes in every Panchayat and the number of seats so reserved shall bear, as nearly as may be, the same proportion to the total number of seats to be filled by direct election in that Panchayat as the population of the Scheduled Castes in that Panchayat area or of the Scheduled Tribes in that Panchayat area bears to the total population of that area and such seats may be allotted by rotation to different constituencies in a Panchayat.
  - (b) Not less than one-third of the total number of seats reserved under sub-para (a) above shall be reserved for women belonging to Scheduled Castes and the Scheduled Tribes.
  - (c) Not less than one – third (including the number of seats reserved for women belonging to the Scheduled Castes and the Scheduled Tribes) of the total number of seats to be filled by direct election in every Panchayat shall be reserved for women and such seats may be allotted by rotation to different constituencies in a Panchayat.
  - (d) The offices of the Chairpersons in the Panchayats at the village or any other level shall be reserved for the Scheduled Castes and Scheduled Tribes and women in such manner as the Legislature of a State may, by law, provide-

Provided that the number of offices of Chairpersons reserved for the Scheduled Castes and the Scheduled Tribes in the Panchayats at each level in any State shall bear, as nearly as may be, the same proportion to the total number of such offices in the Panchayats at each level as the population of Scheduled Castes in the State or of the Scheduled Tribes in the State bears to the total population of the State:

Provided further that not less than one-third of the total number of offices of Chairpersons in the Panchayats at each level shall be reserved for women:

Provided also that the number of offices reserved under this clause shall be allotted by rotation to different Panchayats at each level.

- (e) Nothing in this Part shall prevent the Legislature of a State from making any provision for reservation of seats in any Panchayat or offices of chairpersons in the Panchayats at any level in favour of backward class of citizens.
- (vi) **Article 243T** This Article provides for reservation of seats in Municipality for Scheduled Castes and Scheduled Tribes. It, inter-alia, provides that:
- (1) Seats shall be reserved for the Scheduled Castes and the Scheduled Tribes in every Municipality and the number of seats so reserved shall bear, as nearly as may be, the same proportion to the total number of seats to be filled by direct election in that Municipality as the population of the Scheduled Castes or of the Scheduled Tribes in the Municipal area bears to the total population of that area and such seats may be allotted by rotation to different constituencies in a Municipality.
  - (2) Not less than one-third of the total number of seats reserved under (1) above shall be reserved for women belonging to the Scheduled Castes or, as the case may be, the Scheduled Tribes.
  - (3) Not less than one-third (including the number of seats reserved for women belonging to the Scheduled Castes and the Scheduled Tribes) of the total number of seats to be filled by direct election in every Municipality shall be reserved for women and such seats may be allotted by rotation to different constituencies in a Municipality.
  - (4) The offices of Chairpersons in the Municipalities shall be reserved for the Scheduled Castes and Scheduled Tribes and women in such manner as the Legislature of a State may, by law, provide.
  - (5) The reservation of seats under Clause (1) & (2) and the reservations of offices of Chairperson (other than reservation for women) under Clause (4) shall cease to have effect on the expiration of the period specified in Article 334
  - (6) Nothing in this Part shall prevent the Legislature of a State from making any provision for reservation of seats in any Municipality or offices of Chairpersons in the Municipalities in favour of backward class of citizens.

#### Certain judicial observations/interpretations

- (a) 'Reserved' and 'unreserved' explained. (Arts. 243-T (4) & (6)).- There is no basis or justification for the contention that "unreserved" is also a type of reservation for persons other than those for whom reservation has been made under the law. In fact every body including those belonging to the reserved categories or elected from reserved categories can contest for the office of Mayor. When it is unreserved because by virtue of the reservation of a seat or office for persons belonging to a community, caste or tribe a person belonging to that caste, community or tribe does not cease to belong to general category. [Ashok Kondiba Yenpur v. State Election Commission. AIR 1998 Bom. 180 (FB)].
- (b) In the case of Bihar, the Hon'ble Patna High Court in CWJC No. 3351 of 1994 and analogous cases struck down certain provisions of the Bihar Panchayat Raj

Act, 1993 relating to reservation of seats for Backward Classes and also held that there should not be reservation to the post of Mukhiya of a Gram Panchayats, Pramukh of a Panchayat Samiti and Adhyaksha of a Zilla Parishad on the ground that these are solitary posts and such reservation would amount to 100% reservation. The Government of Bihar has filed SLPs Nos. 9724-28, 9819-25 of 1996 in the Supreme Court challenging the aforesaid orders of the Hon'ble High Court, Government of India being a Party. The case is still pending. In the meantime the Hon'ble Supreme Court clarified on 29.8.2000 and 5.1.2001 that this Government of Bihar may hold Panchayat elections in the State in accordance with law "as it stands today". The interpretation of this, as given by the Supreme Court was that elections can be held but without the provision of any reservation of seats for the posts of Chairpersons. Accordingly, the Government of Bihar held Panchayat elections in April 2001 without providing reservation SCs/STs/Women to the offices of Chairperson at all the three levels of Panchayats.

- (c) In the case of Madhya Pradesh reservation of seats for elections to Panchayats in excess of 50% for Scheduled Tribes, women and backward classes in normal areas and 100% reservation of seats of Chairpersons to the Panchayats in Scheduled Areas was challenged in the High Court of Jabalpur in 1999 when the elections were about to be held. The High Court vide order dated 17.12.1999 in the Writ Petitions upheld the reservation made by the State. The Court observed that the attempt of the State and the Union of India is to encourage participation in the local self government of hitherto supplement classes i.e. SCs, STs and weaker sections i.e. Other Backward Classes and women who the incompetent to compete elections with the educated and wealthy sections of the society called the forward classes. In the case of 100% reservation for STs for the posts of chairperson at all the three tiers in PESA areas also, the Court upheld the reservation provisions of the State. Consequent upon the Order of the High Court of Jabalpur dated 17.12.1999, Panchayat elections in Madhya Pradesh were held in January, 2000 providing reservation for the Scheduled Tribes as per the provisions of the Act.
- (vii) **Article 371A** This Article contains special provisions with respect to the State of Nagaland. It provides that notwithstanding anything in the Constitution of India, no Act of Parliament in respect of – (i) religious or social practices of the Nagas, (ii) Naga customary law and procedure, (iii) administration of civil and criminal justice involving decisions according to the Naga customary law and (iv) ownership and transfer of land and its resources shall apply to the State of Nagaland unless the Legislative Assembly of Nagaland by a resolution so decides.
- (viii) **Article 371B** This Article contains special provisions with respect to the State of Assam. It provides that notwithstanding anything in the Constitution of India, the President may, by order made with respect to the State of Assam provide for the constitution and functions of a committee of the Legislative Assembly of the State consisting of members of that Assembly elected from the tribal areas specified in Part I of the table appended to paragraph 20 of the Sixth Schedule and such number of other members of that Assembly as may be specified in the order and for the modifications to be made in the rules of procedure of that Assembly for the constitution and proper functioning of such committee.
- (ix) **Article 371C** This Article contains special provisions with respect to the State of Manipur: This Article provides that:

- (i) Notwithstanding anything in this Constitution, the President may, by order made with respect to the State of Manipur, provide for the constitution and functions of a committee of the Legislative Assembly of the State consisting of the members of that Assembly elected from the Hill Areas of that State, for the modifications to be made in the rules of business of the Government and in the rules of procedure of the Assembly of the State and for any special responsibility of the Governor in order to secure the proper functioning of such committee.
- (ii) The Governor shall annually, or whenever so required by the President, make a report to the President regarding the administration of the Hill Areas in the State of Manipur and the executive power of the Union shall extend to the giving of directions to the State as to the administration of the said areas.  
**Explanation** - In this Article, the expression "Hill Areas" means such areas as the President may, by order, declare to be Hill Areas.]
- (x) **Article 371G** This Article contains special provisions with respect to the State of Mizoram . It provides that notwithstanding anything in the Constitution of India,
- (a) No Act of Parliament in respect of -(i) religious or social practices of the Mizos, (ii) Mizo customary law and procedure, (iii) administration of civil and criminal justice, involving decisions according to the Mizo customary law, (iv) ownership and transfer of land, shall apply to the State of Mizoram unless the Legislative Assembly of the State of Mizoram by a resolution so decides:
- Provided that nothing in this clause shall apply to any Central Act in force in the Union Territory of Mizoram immediately before the commencement of the Constitution (Fifty-third Amendment) Act, 1986;
- (b) The Legislative Assembly of the State of Mizoram shall consist of not less than forty members.
- (xi) **Article 339** This Article relates to control of the Union over the administration of Scheduled Areas and the welfare of Scheduled Tribes. This Article provides that:
- (a) The President may at any time and shall, at the expiration of ten years from the commencement of the Constitution of India by order appoint a Commission to report on the administration of the Scheduled Areas and the welfare of the Scheduled Tribes in the States.
- (b) The executive power of the Union shall extend to the giving of directions to a State as to the drawing up and execution of schemes specified in the direction to be essential for the welfare of the Scheduled Tribes in the State.

In accordance with the Constitutional provisions and the specific recommendation of the erstwhile National Commission for Scheduled Castes and Scheduled Tribes in its Sixth Report for the period 1999-2000 and 2000-2001, the Govt. of India (Ministry of Tribal Affairs) constituted the second Scheduled Areas and Scheduled Tribes Commission in the year 2002. This Commission submitted its Report to the President of India on 16 July, 2004.

## 2.2.5 Service Safeguards

The main objective for providing reservations for Scheduled Tribes (as also for SCs & OBCs) in civil post and services of the Government is not just to give jobs to some persons belonging to these communities and thereby increase their representation in the services but to uplift these people socially and educationally with a view to empower them to join the national mainstream. The relevant Articles of the Constitution which govern the entire reservation set up are mentioned below:

- (i) **Article 16(4):** This Article provides that “Nothing in this Article shall prevent the State from making any provision for the reservation of appointments or posts in favour of any backward class of citizens which, in the opinion of the State, is not adequately represented in the services under the State.”
- (ii) **16(4A):** This Article was added in the year 1995 to provide that “Nothing in this Article shall prevent the State from making any provision for reservation in matters of promotion to any class or classes of posts in the services under the State in favour of the Scheduled Castes and Scheduled Tribes which, in the opinion of the State, are not adequately represented in the services under the State.” [Constitution (Seventy seventh Amendment) Act, 1995].
- (iii) **Amended Article 16 (4A):** Article 16 (4A) was further amended in the year 2001 to substitute the words “in matters of promotion to any class” by words “in matters of promotion, with consequential seniority, to any class” vide Constitution (Eighty-fifth Amendment) Act, 2001. This amendment in Article 16 (4A) was made operative retrospectively from 17 June, 1995, i.e. the date of the addition of this Article.
- (iv) **Article 16(4B):** This Article was added in the Constitution vide Constitution (Eighty-first Amendment) Act, 2000. It provides that “Nothing in this Article shall prevent the State from considering any unfilled vacancies of a year which are reserved for being filled up in that year in accordance with any provision for reservation made under Clause (4) or clause (4A) as a separate class of vacancies to be filled up in any succeeding year or years and such class of vacancies shall not be considered together with the vacancies of the year in which they are being filled up for determining the ceiling of fifty percent reservation on total number of vacancies of that year.”
- (v) **Article 335:** This Article provides that “The claims of the members of Scheduled Castes and Scheduled Tribes shall be taken into consideration, consistently with the maintenance of efficiency of administration, in the making of appointments to services and posts in connection with the affairs of the Union or of a State.” The following proviso was added to this Article by the Constitution (Eighty-second Amendment) Act, 2000:
 

“Provided that nothing in this Article shall prevent in making of any provision in favour of the members of the Scheduled Castes and Scheduled Tribes for relaxation in qualifying marks in any examination or lowering the standards of evaluation, for reservation in matters of promotion to any class or classes of services or posts in connection with the affairs of the Union or of a State.”

## 2.2.6 Exemption from consultation with Public Service Commissions

2.2.6.1 Clause (3) of Article 320 of the Constitution, inter alia, provides that the Union Public Service Commission or the State Public Service Commission, as they case may be, shall be consulted on all matters relating to methods of recruitment to civil services and

civil posts, and on principles to be followed in making appointments to civil services and posts and in making promotions and transfers from one service to another and on the suitability the candidates for such appointments, promotions or transfers. However, Clause (4) of this Article provides that a Public Service Commission is not required to be consulted in regard to the manner in which any provision referred to in clauses (4), (4A) and (4B) of Article 16 may be made or in respect of the manner in which effect may be given to the provisions of Article 335.

## 2.3 Institutional Safeguards

2.3.1 **Article 338A:** As in the mentioned in the preceding paragraphs, with a view to provide protection against the exploitation of SCs & STs and to promote their social, educational, economic and cultural interests, special provisions have been made in the Constitution under different Articles. For effective implementation of these safeguards and various other protective measures, the founding father of the Constitution provided for an inbuilt mechanism in the Constitution itself for watching the implementation of safeguards provided for SCs & STs and to this effect, arrangements for appointment of a Special Officer were made under Article 338 of the Constitution. The Special Officer who was commonly known as the Commissioner for SCs & STs was assigned the duty to investigate all matters relating to the safeguards for SCs & STs in various organizations and to report to the President upon the working of the safeguards. The first Commissioner was appointed on 18 November, 1950. This Article was first amended in July, 1990 and the National Commission for Scheduled Castes and Scheduled Tribes came into being from 12 March, 1992 upon passing of the Constitution (Sixty-fifth Amendment) Act, 1990. This Article was again amended by Constitution (Eighty-ninth Amendment) Act, 2003 and the National Commission for Scheduled Castes and Scheduled Tribes was replaced by (i) National Commission for Scheduled Castes (NCSC), and (ii) National Commission for Scheduled Tribes (NCST) by amending Article 338 and adding a new Article 338A. Details in respect of the historical evolution of this organization has been given in paras 1.1 to 1.6 the first Chapter titled “Organizational Set- up and Functioning of the Commission ”.

2.3.2 Clause (5)(d) of Article 338A provides that it shall be duty of the Commission to present to the President annually and at such other times as the Commission may deem fit, reports upon the working of the Constitutional safeguards. Clause (5) (e) of this Article further provides that the Commission shall make in such reports recommendations as to the measures that should be taken by the Union or any State for effective implementation of those safeguards and other measures for the protection, welfare and socio-economic development of the Scheduled Castes and Scheduled Tribes. Clause (6) of this Article provides that the President shall cause all such reports to be laid before each House of Parliament along with a memorandum explaining the action taken or proposed to be taken on the recommendations relating to the Union and the reasons for the non-acceptance, if any, of any of such recommendations. It has been observed that the Reports submitted by the erstwhile National Commission for Scheduled Castes and Scheduled Tribes were not placed before the Parliament for a long period by the Government. It was noted that this delay was primarily attributable to the long time taken by the Government in preparing the action taken report on the recommendations/suggestions of the Commission. The result of this delay was that the Reports of the Commission for a long time were accessible neither to the Parliament nor to the public institutions and this phenomenon used to substantially detract from the value and importance of the recommendations made by the Commission. The Commission is of the opinion that this situation has to be cured by de-linking the requirement of ‘action taken’ from the requirement of laying the main Report in the Parliament. The Commission is, therefore, of the strong view that the Reports should be laid in the Parliament within three months of its submission to the President and action taken report by the Ministry of Tribal

Affairs may be prepared and laid on the Table of both the House of the Parliament within six months. Similar time- frame may be prescribed for laying those portions of the Report in the State Assemblies, which pertain to the State Govts. **The Commission would like to reiterate the earlier recommendations of the erstwhile National Commission for Scheduled Castes and Scheduled Tribes in its Fourth Report (1996-97) and (1997-98) for amending Clause 6 and Clause 7 of Article 338 (now Article 338A in the context of the National Commission for Scheduled Tribes) as given in the Table below:-**

Sl.No.	Existing provisions in Article 338A of the Constitution	Proposed amendments in Article 338A
(1)	(2)	(3)
1.	Clause 6 – The President shall cause all such reports to be laid before each House of Parliament along with a memorandum explaining the action taken or proposed to be taken on the recommendations relating to the Union and the reasons for the non-acceptance, if any, of any of such recommendations.	<b>The President shall cause all such reports to be laid before each House of Parliament within three months of such submission and a memorandum explaining the action taken or proposed to be taken on the recommendations relating to the Union and the reasons for the non- acceptance, if any, of any of such recommendations shall be placed before each House of the Parliament within six months of such submission.</b>
2.	Clause 7 – Where any such report, or any part thereof, relates to any matter with which any State Government is concerned, a copy of such report shall be forwarded to the Governor of the State who shall cause it to be laid before the Legislature of the State along with a memorandum explaining the action taken or proposed to be taken on the recommendations relating to the State and the reasons for the non-acceptance, if any, of any of such recommendations.	<b>Where any such report, or any part thereof, relates to any matter with which any State Government is concerned, a copy of such report shall be forwarded to the Governor of the State who shall cause it to be laid before the Legislature of the State within three months and a memorandum explaining the action taken or proposed to be taken on the recommendations relating to the State and the reasons for the non- acceptance, if any, of any of such recommendations shall be laid before the Legislature within six months of such submission.</b>

## CHAPTER-3

### SOCIO-ECONOMIC DEVELOPMENT OF SCHEDULED TRIBES

#### 3.1 Introduction

3.1.1 Primitive, geographically isolated, shy and socially, educationally & economically backwardness these are the traits that distinguish Scheduled Tribes of our country from other communities. Tribal communities live in about 15% of the country's areas in various ecological and geo-climatic conditions ranging from plains to forests, hills and inaccessible areas. Tribal groups are at different stages of social, economic and educational development. While some tribal communities have adopted a mainstream way of life at one end of the spectrum, there are 75 Primitive Tribal Groups (PTGs), at the other, who are characterized by (a) a pre-agriculture level of technology, (b) a stagnant or declining population (c) extremely low literacy and (d) a subsistence level of economy.

3.1.2 There are over 500 tribes (with many overlapping communities in more than one State) as notified under article 342 of the Constitution of India, spread over different States and Union Territories of the country, the largest number of tribal communities being in the State of Orissa. The main concentration of tribal population is in central India and in the North-eastern States. However, they have their presence in all States and Union Territories except Hayrana, Punjab, Delhi, Pondicherry and Chandigarh. The predominantly tribal populated States of the country (having tribal population more than 50% of the total population) are: Arunachal Pradesh, Meghalaya, Mizoram, Nagaland, Union Territories of Dadra & Nagar Haveli and Lakshadweep. States with sizeable tribal population and having areas of large tribal concentration are Andhra Pradesh, Assam, Chhattisgarh, Gujarat, Himachal Pradesh, Jharkhand, Madhya Pradesh, Maharashtra, Orissa and Rajasthan.

3.1.3 Promotion of all round development of tribals inhabiting the length and breadth of our country has received priority attention of the government. There are numerous government policies for ensuring the welfare and well being of tribals. The Govts. at State as well as Central levels have made sustained efforts to provide opportunity to these communities for their economic development by eradicating poverty and health problems and developing communication for removal of isolation of their habitats. The Constitution of India seeks to secure for all its citizens, among other things, social and economic justice, equality of status and opportunity and assures the dignity of the individual. The Constitution further provides social, economic and political guarantees to the disadvantaged sections of people. Some provisions are specific to both Scheduled Castes and Scheduled Tribes and some are specific to only Scheduled Tribes. These are:-

**(a) Social**

- (i) Equality before law [Article 14];
- (ii) The State to make special provisions for the advancement of any socially and educationally backward classes of citizens or for the Scheduled Castes and the Scheduled Tribes [Article 15(4)];
- (iii) Equality of opportunity for all citizens in matters relating to employment or appointment to any office under the State [Article 16];
- (iv) Appointment of a Commission to report on the administration of the Scheduled Areas and the welfare of the Scheduled Tribes in the States [Article 339(1)];
- (v) To specify the tribes or tribal communities to be Scheduled Tribes [Article 342].

**(b) Economic**

- (i) The State to promote with special care the educational and economic interests of the weaker sections of the society and in particular, of the Scheduled Castes and Scheduled Tribes and to protect them from social injustice and all forms of exploitation [Article 46].
- (ii) Grants-in-aid from the Consolidated Fund of India each year for promoting the welfare of the Scheduled Tribes and administration of Scheduled Areas [Article 275(1)].

**(c) Political**

- (i) The administration and control of Scheduled Areas and the Scheduled Tribes through the Fifth Schedule, in any state other than the States of Assam, Meghalaya, Tripura and Mizoram by ensuring submission of Annual Reports by the Governors to the President of India regarding the administration of the Scheduled Areas and setting up of a Tribal Advisory Council to advise on such matters pertaining to the welfare and advancement of the Scheduled Tribes [Article 244(1)].
- (ii) Special provisions through the Sixth Schedule for the administration of tribal areas in the States of Assam, Meghalaya, Tripura and Mizoram by designating certain tribal areas as autonomous Districts and Autonomous Regions and also by constituting District Councils, Autonomous Councils and Regional Councils [Article 244(2)].
- (iii) Reservation of seats for the Scheduled Castes and the Scheduled Tribes in the House of People [Article 330]
- (iv) Reservation of seats for the Scheduled Castes and the Scheduled Tribes in the Legislative Assemblies of the States [Article 332]
- (v) Reservation of seats for the Scheduled Castes and Scheduled Tribes in every Panchayat [Article 243D]
- (vi) Extension of the 73<sup>rd</sup> and 74<sup>th</sup> Amendments of the Constitution to the Scheduled Areas through the provisions of the Panchayats (Extension to the Scheduled Areas) Act, 1996 to ensure effective participation of the tribals in the process of planning and decision-making.

**3.2. Demographic Trends and Present Status**

3.2.1 According to 2001 Census, the population of Scheduled Tribes in the country was 8.43 crores, which is 8.2% of the total population of the country. The population of Scheduled Tribes has been on the increase since 1961. The State-wise overall population, ST population, percentage of STs in the State to the total State population and the percentage of STs in the State to the total population of STs in the country is given in the statement at **Annex.3.I**. The decadal population growth between the Census 1981 to Census 1991 in respect of the tribal population was 31.64% which was higher than that for the entire population which was 23.51%. However, during the Census years 1991 to 2001, tribal decadal growth was 24.45% against the growth rate of 22.66% for the entire population. As per 2001 Census, the ST population in the State of Karnataka has witnessed the highest growth rate of 80.82% followed by Nagaland 67.23%, and the lowest growth rate in respect of ST population has been recorded in Andaman & Nicobar Islands (10.08%) followed by Himachal Pradesh (12.02%). It has been found that no new communities have been recognized as Scheduled Tribes during the period 1991-2001 in respect of the State of Nagaland and therefore, the reasons for steep increase in the population of Scheduled Tribes in the State of Nagaland (i.e. 67.23%) needs to be studied. Similarly, no new communities have been recognized as Scheduled Tribes during this period in respect of the State of Karnataka and, therefore, the reasons for highest increase in the ST population in this State

too need to be found out through an in-depth study. **The Commission, therefore, recommends that Ministry of Home Affairs should advise the Registrar General and the Census Commissioner of India to commission a special study to find out the reasons for steep increase in the population of Scheduled Tribes in respect of the State of Karnataka and Nagaland during the decade from 1991 to 2001.**

3.2.3 A three- judge bench of the Hon'ble Supreme Court vide their judgment dated 11.2.2005 in Civil Appeal No.6-7 of 1998 in the matter of S. Pushpa & Ors. vs. Sivachanmugavelu & Ors.had held that the UT of Pondicherry having adopted the policy of the Central Government, no legal infirmity could be ascribed in the policy of reservation in posts in that Union Territory for members of SC/ST irrespective of their State of origin. Ministry of Home Affairs vide their letter dated 1 June, 2005 informed the Govt. of NCT of Delhi that the Ministry of Law & Justice (Department of Legal Affairs) had opined that the law declared by the Hon'ble Supreme Court in its above referred judgment applies to NCT of Delhi also. Based on this communication of MHA and the advise of the Department of Legal Affairs, the Govt. of NCT of Delhi vide their letter No.F-16 (73)/97-S III/710 dated 30.6.2005 have issued instructions to all concerned that all SC/ST candidates irrespective of their nativity are eligible for reservation to civil posts under the Govt. of NCT of Delhi, which are reserved for SC/ST candidates. **Now when the Govt. of NCT of Delhi have decided to restore the benefits of reservation to SC/ST candidates irrespective of their nativity in civil posts under them, the Commission recommends that the Ministry of Home Affairs should advise the Registrar General and Census Commissioner of India to enumerate in the next Census of 2011 the migrant population of Scheduled Tribes residing in the National Capital Territory of Delhi and other UTs.**

3.2.4 As compared to the **sex ratio** for the overall population (933 females per 1000 males), the sex ratio among Scheduled Tribes, as per 2001 Census is more favourable, being at 977 females per 1000 males. In all States except Andhra Pradesh, Tamil Nadu and Uttaranchal, the ST sex ratio was more women favoured.

3.2.5 The **literacy rate** for overall population has increased from 52.2% to 65.38% between 1991 and 2001. In case of Scheduled Tribes, the increase in literacy has been from 29.62% to 47.10%. The female literacy rate among tribals during the period 1991 to 2001 increased from 18.19% to 34.76% which is lower by approximately 20% as compared to literacy rate of the females of the general population. However, the significant point is increase in total as well as female literacy among the tribals.

3.2.6 According to 1991 Census figures, 42.02% of the Scheduled Tribes population were main workers, of whom 54.50% were cultivators and 32.69% were agricultural labourers. Thus, about 87% of the main workers from these communities were engaged in primary sector activities. These disparities are compounded by higher dropout rates in formal education, resulting in a disproportionately lower representation in higher education. The cumulative effect has been that the proportion of Scheduled Tribes population below the poverty line is substantially higher than the national average. As per a statement provided by the Planning Commission, it is observed that ST people living below poverty line in 1993-1994 was 51.94% in rural areas, and 41.14% in urban areas respectively. The percentage of ST population living below poverty line has decreased to 45.86% in rural areas and 34.75% in urban areas as per the estimation of below poverty line in the year 1999-2000. Thus there is a decrease of STs living below poverty line by about 6% in rural areas and 4.5% in urban areas during the last five years i.e. from 1993-94 to 1999-2000.

3.2.7 The Scheduled Tribes live in contiguous areas unlike other communities. It is, therefore, much simpler to have area approach for development activities and also regulatory provisions to protect their interests. In order to protect the interests of Scheduled Tribes with regard to land alienation and other social factors, special provisions in the form of “Fifth Schedule” and “Sixth Schedule” have been made in the Constitution.

### 3.3 Fifth Schedule

3.3.1 The Fifth Schedule under Article 244(1) of Constitution defines “Scheduled Areas” as such areas as the President may by Order declare to be Scheduled Areas after consultation with the Governor of that State. The Sixth Schedule under Article 244(2) of the Constitution relates to those areas in the North-east which are declared as “tribal areas”, and provide for District or Regional Autonomous Councils for such areas. These Councils have wide ranging legislative, judicial and executive powers.

3.3.2 The criteria for declaring any area as a “Scheduled Area” under the Fifth Schedule are:-

- (i) Preponderance of tribal population,
- (ii) Compactness and reasonable size of the area,
- (iii) A viable administrative entity such as a district, block or taluk, and,
- (iv) Economic backwardness of the area as compared to neighbouring areas.

3.3.3 The specification of “Scheduled Areas” in relation to a State is done by a notified Order of the President, after consultation with State Government concerned. The same applies for altering, increasing, decreasing, incorporating new areas, or rescinding any Orders relating to “Scheduled Areas”. The following Orders are in operation at present in their original or amended form:-

S.No.	Name of Order	Date of Notification	Name of State (s) for which now applicable
1.	The Scheduled Areas (Part A States) Order, 1950 (C.O.9)	26.1.1950	Andhra Pradesh
2.	The Scheduled Areas (Part B States) Order, 1950 (C.O.26)	7.12.1950	Andhra Pradesh
3.	The Scheduled Areas (Himachal Pradesh) Order, 1975 (C.O. 102)	21.11.1975	Himachal Pradesh
4.	The Scheduled Areas (States of Bihar, Gujarat, Madhya Pradesh and Orissa) 1977 (C.O.109)	31.12.1977	Gujarat and Orissa
5.	The Scheduled Areas (State of Rajasthan) Order, 1981 (C.O.114)	12.2.1981	Rajasthan
6.	The Scheduled Areas (Maharashtra) Order, 1985 (C.O.123)	2.12.1985	Maharashtra
7.	The Scheduled Areas (States of Chhattisgarh, Jharkhand and Madhya Pradesh) Order, 2003 (C.O.192)	20.2.2003	Chhattisgarh, Jharkhand and Madhya Pradesh

3.3.4 The purpose and advantages of an area being declared as Scheduled Areas are as follows:-

- (i) The Governor of a State, which has Scheduled Areas, is empowered to make regulations in respect of the following:-

- (a) Prohibit or restrict transfer of land from tribals;
  - (b) Regulate the allotment of land to members of Scheduled Tribes in such area;
  - (c) Regulate the business of money lending to the members of Scheduled Tribes by persons who lend money to members of Scheduled Tribes in such areas.
- (ii) In making any such regulation, the Governor may repeal or amend any Act of Parliament or of the Legislature of the State, which is applicable to the area in question.
  - (iii) The Governor may, by public notification, direct that any particular Act of Parliament or of the Legislature of the State shall not apply to a Scheduled Area or any part thereof in the State or shall apply to such area subject to such exceptions and modifications as he may specify.
  - (iv) The Governor of a State having Scheduled Areas therein, shall annually, or whenever so required by the President of India, make a report to the President regarding the administration of the Scheduled Areas in that State and the executive power of the Union shall extend to the giving of directions to the State as to the administration of the said area.
  - (v) Tribes Advisory Council (TAC) shall be established in States having Scheduled Areas. The TAC may also be established in any State having Scheduled Tribes but not Scheduled Areas on the direction of the President of India. The TAC consists of not more than twenty members of whom, as nearly as may be, three fourth are from the representatives of Scheduled Tribes in the Legislative Assembly of the State. The role of TAC is to advise the State Government on matters pertaining to the welfare and advancement of the Scheduled Tribes in the State as may be referred to it by the Governor.
  - (vi) The Panchayats (Extension to Scheduled Areas) Act, 1996, vide which the provisions relating to Panchayats, contained in Part IX of the Constitution, were extended to Scheduled Areas, also contains special provisions for the benefit of Scheduled Tribes.

3.3.5 Various Committees and Commissions including the Scheduled Areas and Scheduled Tribes Commission (Dhebar Commission), 1961 had observed that no instructions had been issued by the Union Government about the format and contents of the Governor's reports on the administration of Scheduled Areas in the States with the result that the State Govts. have come to look upon them as departmental reports. It was finally agreed on the basis of the Dhebar Commission's recommendations that the preparation of the Governors' report should be the responsibility of the State Secretariat and that the views of the TACs should be incorporated in the Governors' report. The Governor's reports are expected to contain objective assessment of quality and adequacies of administration of Scheduled Areas, operationalisation of the Constitutional safeguards, Acts and regulations relating to prevention of land alienation, protection of the interests of tribals in forests and trade, abolition of bonded labour etc. These reports are also expected to make a mention of the difficulties being faced by the tribals arising out of the displacement of tribals and the steps taken by the State Government to rehabilitate them and steps taken to prevent atrocities as also the problems in relation to law and order and tribal unrest etc. It has, however, been observed that the reports of the Governors have become stereotyped and that these reports do not give requisite coverage to matters affecting the vital interests of Scheduled Tribes. **The Commission, therefore, recommends that:**

- (i) **The Ministry of Tribal Affairs should prescribe a uniform format for preparation and submission of the reports by the Governors with particular reference to its contents. The Commission further recommends that the Ministry of Tribal Affairs should also issue the following instructions to the State Governments: -**
- (a) **The reports should reach the Ministry of Tribal Affairs within six months of closing of the financial year.**
  - (b) **The States, which have TACs, should ensure that TACs are constituted/reconstituted timely and that their meetings are held regularly as per Constitutional provisions.**
  - (c) **The reports should contain a detailed note on the implementation of the constitutional safeguards for promotion of educational and socio-economic development of the Scheduled Tribes. These reports should also contain a brief on problems relating to law and order, naxal movements and tribal unrest. The reports should also make a mention about Central and State laws enacted in the State during the report period and extension/applicability of those laws to scheduled areas in the light of the powers of the Governor under Fifth Schedule. Working of PESA Act in the State should also be integral part of the Governor's report.**
- (ii) **In case the reports do not contain the observations of TAC, they may be sent back to the State Governments advising them to apprise the Central Government of the observations of the TACs and action taken on the observations of TAC.**
- (iii) **The reports should be thoroughly examined in the Ministry of Tribal Affairs on the basis of the material contained in them and the State Governments should be apprised of the assessment to enable them to take necessary follow-up action.**
- (iv) **A copy of the Governor's Report should be made available to the National Commission for Scheduled Tribes immediately after receipt of the Report in the Ministry to enable the Commission to examine the same and offer its comments thereon.**

3.3.6 The Commission also recommends that:-

- (i) **All the areas covered under Integrated Tribal Development Projects (ITDPs), Modified Area Development Approach (MADA) Pockets and Clusters included in Tribal-Sub-Plan of the States should be made co-terminus with the Scheduled Areas of the respective State.**
- (ii) **It has been brought to the notice of the Commission that in certain cases ITDP was functioning in one single district and subsequently a new district was created out of the that district. It may be ensured that the ITDP areas covering these two districts do not face any problem in the matter of release of funds.**
- (iii) **All such revenue villages having 50% or more tribal population as per 2001 Census but presently not included in Scheduled Areas of the State concerned, may be included in Scheduled Areas or MADA or Cluster, as the case be of the respective State.**

3.3.7 Article 339 of the Constitution relates to control of the Union over the administration of Scheduled Areas and the welfare of Scheduled Tribes. This Article provides that:

- (1) The President may at any time and shall, at the expiration of ten years from the commencement of this Constitution by order appoint a Commission to report on the administration of the Scheduled Areas and the welfare of the Scheduled Tribes in the States. The order may define the composition, powers and procedure of the Commission and may contain such incidental or ancillary provisions, as the President may consider necessary or desirable.
- (2) The executive power of the Union shall extend to the giving of directions to a State as to the drawing up and execution of schemes specified in the direction to be essential for the welfare of the Scheduled Tribes in the State.

3.3.8 In pursuance of the provisions of this Article, the first Scheduled Areas and Scheduled Tribes Commission was set up in 1960 under the Chairmanship of Shri U.N. Dhebar. The second such Commission was set up vide order dated 18 July, 2002 under the Chairmanship of Shri Dileep Singh Bhuria, Ex-MP (with ten other Members) (popularly known as Bhuria Commission) with a view to give a further thrust to the welfare and development of Scheduled Tribes. The Commission submitted its report to the President on 16 July, 2004.

### 3.4 Sixth Schedule

3.4.1 The Sixth Schedule of the Constitution of India under Article 244 (2) makes provisions for the administration of the tribal areas in the States of Assam, Meghalaya, Mizoram and Tripura through Autonomous District Councils Regional Councils. Areas where provisions of Sixth Schedule are applicable are known as Tribal Areas.

3.4.2 In relation to the Tribal Areas, Autonomous District Councils/Regional Councils, each having not more than 30 members have been set up. These Councils are elected bodies and have powers of legislation, administration of justice apart from executive developmental and financial responsibilities. These Councils are empowered to make rules with the approval of the Governor with regard to matters like establishment, construction or management of primary schools, dispensaries, markets, cattle ponds, ferries, fisheries, roads and water- ways. They also have powers to make laws on a variety of subjects, e.g., land, forest, shifting cultivation, village or town administration including village or town police and public health and sanitation, inheritance or property, marriage and divorce and social customs. These Councils have also been conferred powers under Civil Procedure Code and Criminal Procedure Code for trial of certain suits and offences, as also the powers of a revenue authority for their area for collection of revenue and taxes and other powers for the regulation and management of natural resources. The State-wise details of tribal areas are (i) **Assam** (North Cachar Hills District, Karbi-Anglong District, and Bodo Land Territorial Area District) (ii) **Meghalaya** (Khasi Hills District, Jaintia Hills District, Garo Hills District) (iii) **Tripura** (Tripura Tribal Areas District) and (iv) **Mizoram** (Chakma District, Mara District, Lai District). The Autonomous Councils of the North Cachar Hills and Karbi Anglong have been granted additional powers to make laws with respect of other matters like secondary education, agriculture, social security and social insurance, public health and sanitation, minor irrigation etc.

### 3.5 Panchayats (Extension to Scheduled Areas) Act, 1996

3.5.1 The 73<sup>rd</sup> and 74<sup>th</sup> amendments to the Constitution of India inserted in Part IX of the Constitution gave Panchayats and Nagar Palikas not only constitutional recognition but also enhanced powers. The important features of the Panchayats are:

- (i) Panchayats at the village, intermediate and district level are to be elected
- (ii) A State Finance Commission has to make recommendations for distribution between the State and Panchayats of net proceeds of taxes, duties, tolls and fees leviable by the State
- (iii) State Election Commission has to conduct elections to the Panchayats
- (iv) The Panchayats are responsible for preparation and implementation of plans for economic development and social justice
- (v) The Legislature of a State may endow the Panchayats with such power and authority as may be necessary to enable them to function as institutions of self-government.

3.5.2 Article 243M of the Constitution, inter-alia, provides that the general provisions pertaining to Panchayats in **Articles 243A to 243L** in Part IX of the Constitution shall not apply to Scheduled Areas referred to in Clause (1) [which contains provisions of the Fifth Schedule relating to administration and control of Scheduled Areas and Scheduled Tribes in any State other than the States of Assam, Meghalaya, Tripura and Mizoram] and Clause (2) [which contains provisions of the Sixth Schedule relating to the administration of the tribal areas in the States of Assam, Meghalaya, Tripura and Mizoram] of Article 244 of the Constitution (Part X). Article 243M further provides that the Parliament may, by law, extend the provisions of Part IX to the Scheduled Areas and the tribal areas subject to such exceptions and modifications as may be specified in such law and further that no such law shall be deemed to be an amendment of the Constitution for the purposes of Article 368 [relating to the power of Parliament to amend the Constitution and procedure therefor].

3.5.3 In pursuance of the enabling provisions mentioned in Article 243M, the Parliament passed the Panchayat (Extension to Scheduled Areas) Act, 1996 (PESA Act, 1996). This Act seeks to extend the provisions of Part IX of the Constitution relating to Panchayats to Scheduled Areas as referred to in Clause (1) of Article 244 and calls for the Legislature of a State not to make any law under that Part (i.e. Part IX of the Constitution) which is inconsistent with any of the features given under Section-4 of the Act, some of the important features of which are:-

- (i) The State legislation should be in tune with the customary law, social and religious practices and traditional management practices of community resources.
- (ii) Every Gram Sabha should be competent to safeguard and preserve the traditions and customs of the people, their cultural identity, community resources and customary mode of disputes resolution.
- (iii) Every Gram Sabha should be responsible for identification or selection of persons as beneficiaries under the poverty alleviation and other programmes.

- (iv) Every Gram Sabha should have the authority to approve the plans, programmes and projects for social and economic development before such plans, programmes and projects are taken up for implementation by the Panchayats at the village level.
- (v) The reservation of seats in the Scheduled Areas at every Panchayat shall be in proportion to the population of the communities in that Panchayat area for whom reservation is sought to be given under Part IX of the Constitution;

Provided that the reservation for the Scheduled Tribes shall not be less than a one-half of the total number of seats;

Provided further that all seats of Chairpersons of Panchayats at all levels shall be reserved for the Scheduled Tribes

- (vi) The State Government may nominate persons belonging to such Scheduled Tribes as have no representation in the Panchayat at the intermediate level or the Panchayat at the district level:

Provided that such nomination shall not exceed one-tenth of the total members to be elected in that Panchayat.

- (vii) The Gram Sabha or the Panchayat at the appropriate level should be consulted before making acquisition of land in the Scheduled Areas and before resettling or rehabilitating persons affected by such projects in the Scheduled Areas.
- (viii) The recommendations of the Gram Sabha and the Panchayats at the appropriate level should be mandatory prior to grant of prospecting licence or mining lease for minor minerals in the Scheduled Areas
- (ix) The Gram Sabha and the Panchayats should-
  - (a) have the power to enforce prohibition or regulate or restrict the sale and consumption of any intoxicant.
  - (b) be endowed with the ownership of the minor forest produce
  - (c) be conferred the power to prevent alienation of land in the Scheduled Areas and to take appropriate action to restore any unlawfully alienated land of the Scheduled Tribes
  - (d) have the power to manage village markets and exercise control over money-lending to the Scheduled Tribes
  - (e) have the power to exercise control over institutions and functionaries in all social sectors
  - (f) have the power of control over local plans and resources for such plans including the Tribal sub-Plan.

3.5.4 It is obvious from the specific provisions of PESA Act, 1996 that the Gram Sabhas and the Panchayats have been intended to assume total responsibilities for planning and implementation of plans, programmes and projects aimed at the two objectives contained in Article 243G of the Constitution namely- (a) preparation of plans for socio-economic development and social justice, and (b) implementation of schemes for economic development and social justice as may be entrusted to them including those in relation to the matters listed in the Eleventh Schedule to the Constitution. However, notwithstanding the almost plenary role assigned to the Panchayats by 73<sup>rd</sup> Amendment Act and a wide range of

powers given in the PESA Act, Article 243G of the Constitution and Section 4 (n) of the PESA Act, Panchayats rely on the State Legislatures to “endow the Panchayats with such powers and authority as may be necessary to enable them to function as institution of self-government” and “such law may contain provisions for the devolution of powers and responsibilities upon Panchayats at appropriate level”. Thus in practical terms, the empowerment of Panchayats rests, by and large, with the State Governments. Although the PESA Act, 1996 prohibits the State Govts. to make any law inconsistent with the provisions given in Section 4, it has been noticed that the enactments made by the State Govts. vary from State to State and do not strictly correspond with the provisions of PESA Act. **The Commission, therefore, recommends that there is need to issue instructions to the State Govts. advising them to take necessary action in terms of Section 4(n) of the PESA Act to equip Panchayats with requisite powers and authority to enable them to function as institution of self-government.**

3.5.5.1 Article 243D provides for reservation of seats for the Scheduled Castes, and the Scheduled Tribes in every Panchayat and that the number of seats so reserved will be, as nearly as may be, in the same proportion to the total number of seats to be filled by direct election in that Panchayat as the population of the Scheduled Castes in that Panchayat area or of the Scheduled Tribes in that Panchayat area to the total population of that area and that such seats may be allotted by rotation to different constituencies in Panchayat. This Article further provides that offices of the Chairpersons in Panchayats at the village or any other level shall be reserved for the Scheduled Castes, the Scheduled Tribes and women in such manner as the Legislature of a State may, by law, provide:

Provided that the number of offices of Chairpersons reserved for the Scheduled Castes and the Scheduled Tribes in the Panchayats at each level in any State shall bear, as nearly as may be, the same proportion to the total number of such offices in the Panchayats at each level as the population of the Scheduled Castes in the State or of the Scheduled Tribes in the State bears to the total population of the State:

Provided further that not less than one-third of the total number of offices of Chairpersons in the Panchayats at each level shall be reserved for women:

Provided also that the number of offices reserved under this clause shall be allotted by rotation to different Panchayats at each level.

3.5.5.2 In view of the above provisions of the Constitution, Clause (g) of Section 4 of PESA Act, 1996 provides that the reservation of seats in the Scheduled Areas at every Panchayat shall be in proportion to the population of the communities in that Panchayat for whom reservation is sought to be given under Part IX of the Constitution. Second proviso to this Clause provides that all seats of Chairpersons of Panchayats at all levels shall be reserved for the Scheduled Tribes. All the State Govts. except NCT of Delhi, J & K, Meghalaya, Mizoram and Nagaland have enacted the State Panchayati Raj Acts, inter-alia, including the provisions relating to reservation of Scheduled Tribes to the offices of the Chairpersons in these Acts. As per Article 243M of the Constitution, the State of Meghalaya, Mizoram and Nagaland have been exempted from the application of the Constitution (Seventy-third Amendment) Act, 1992. In Jammu & Kashmir, the State Legislature has not adopted the provisions of the Constitution (Seventy-third Amendment) Act, 1992.

3.5.5.3 A group of petitions were filed in the Hon’ble High Court of Jharkhand most of which had challenged the validity of second proviso to Clause (g) of Section 4 of PESA Act, 1996 as well as Section 21 (B), Section 40(B), Section 55(B), sub-section 2 to Section

17(B), sub-section 2 to Section 36(B) and sub-section 2 to Section 51(B) of the Jharkhand Panchayat Raj Act, 2001. The Hon'ble High Court of Jharkhand by their judgment dated 2 September, 2005 held that cent-percent reservation of the offices and seats of Chairpersons can not be made, being excessive, unreasonable and against the principles of equality i.e. violative of Article 14 of the Constitution of India. By the aforesaid provisions, cent-percent reservation of seats of Chairpersons of Panchayats at all levels in Scheduled Areas having been made, they can not be upheld, being unconstitutional. Accordingly, the Hon'ble High Court of Jharkhand declared the 2<sup>nd</sup> proviso to clause (g) of Section 4 of PESA Act, 1996, and Section 21 (B), Section 40 (B) and Section 55(B) of Jharkhand Panchayati Raj Act, 2001 so far cent-percent reservation of seats of Chairpersons of Panchayats at all levels in favour of Scheduled Tribes is concerned, as unconstitutional and ultra-vires.

3.5.5.4 The National Commission for Scheduled Tribes could not but feel gravely concerned on the adverse implications of the verdict of the Hon'ble High Court of Jharkhand on the reservation of seats of Chairpersons of Panchayats at all levels for Scheduled Tribes in the Scheduled Areas. The matter was considered by the Commission in a special meeting held on 12 September, 2005. It was felt that the Commission should immediately take up the matter with the Ministry of Panchayati Raj, the nodal Ministry concerned with the administration of PESA Act, 1996 and advise them to file an Appeal/SLP against the judgment of the Jharkhand High Court to protect the interests of Scheduled Tribes. The Commission accordingly, took up the matter vide its d.o. letter dated 20 September, 2005 with the Ministry of Panchayati Raj requesting them to apprise the Commission of the steps taken/proposed to be taken by them in the matter of filing appeal against the judgment of the Hon'ble High Court of Jharkhand. The Govt. of Jharkhand was also requested to inform the Commission about the action being taken by them against the judgment of the Hon'ble High Court of Jharkhand in so far as it related to Jharkhand Panchayati Raj Act, 2001. The Ministry of Panchayati Raj have informed vide their letter dated 5 January, 2006 that the SLP has since been filed by them in the Hon'ble Supreme Court of India vide Dy. No.24969/2005. The Govt. of Jharkhand. vide their letter dated 31.12.2005 has informed that the State Govt. have sought guidelines from Ministry of Panchayati Raj and the Ministry of Tribal Affairs, Govt. of India to decide the future course of action to be taken by them and that Ministry of Tribal Affairs vide its letter dated 22.9.2005 had suggested the State Govt. to prefer an appeal in the interest of the Scheduled Tribes in the State, after seeking legal advice in the matter and in consultation with the Ministry of Panchayati Raj.

3.5.5.5 The Ministry of Panchayati Raj have apprised this Commission of the judgments of the Hon'ble Patna High Court and Madhya Pradesh High Court (Jabalpur) on the issue of reservation of all seats of Chairpersons of Panchayats at all levels for the Scheduled Tribes. The information furnished by the Ministry of Panchayati Raj reveals that

- (i) In the case of Bihar, the Hon'ble Patna High Court in CWJC No.3351 of 1994 and analogous cases struck down certain provisions of the Bihar Panchayati Raj Act, 1993 relating to reservation to the posts of Mukhiya of a Gram Panchayats, Pramukh of the Panchayat Samiti and Adhyaksha of a Zila Parishad on the ground that these were solitary posts and such reservation would amount to 100% reservation. The Government of Bihar has filed SLP Nos.9724-28, 9819-25 of 1996 in the Hon'ble Supreme Court challenging the aforesaid orders of the Hon'ble High Court. Government of India is also a party in this case. The case is still pending. In the meantime, the Hon'ble Supreme Court clarified on 29.8.2000 and 5.1.2001 that the Government of Bihar might hold Panchayat elections in the State in accordance with law "as it stands today". The interpretation of this, as given by the Supreme Court was that elections could be held but without the provision of any reservation of seats

for the posts of Chairpersons. Accordingly, the Government of Bihar held Panchayat elections in April, 2001 without providing reservation for SCs/STs/Women to the offices of Chairperson at all the three levels of Panchayats.

- (ii) In the case of Madhya Pradesh, reservation of seats for elections to Panchayats in excess of 50% for Scheduled Castes, Scheduled Tribes, women and backward classes in normal areas and 100% reservation of seats of Chairpersons to the Panchayats in Scheduled Areas was challenged in the High Court of Jabalpur in 1999 when the elections were about to be held. The High Court vide order dated 17.12.1999 in the Writ Petitions upheld the reservation made by the State. The Court observed that the attempt of the State and the Union of India is to encourage participation in the local self-government of hitherto suppressed classes i.e. SCs/STs and weaker sections i.e. OBCs and women who are incompetent to compete elections with the educated and wealthy sections of the society called the forward classes. In the case of 100% reservation for STs for the posts of Chairpersons at all three tiers in PESA areas also, the Court upheld the reservation provisions of the State. Consequent upon the Order of the High Court of Jabalpur dated 17.12.1999, Panchayat elections in Madhya Pradesh were held in January, 2000 providing for reservation for the Scheduled Tribes as per the provisions of the Act.

3.5.6 Article 243H enables the legislature of a State to enact law that authorizes the Panchayats to levy and collect taxes, assigns to the Panchayats share of taxes, duties etc. levied and collected by the State Govts. and provides for grants- in- aid to the Panchayats from the Consolidated Fund of State. There is also a provision in Article 243I for constitution of a State Finance Commission for distribution between the States and the Panchayats of financial resources. It has, however, been noticed that the availability of requisite finances is the most critical problem being faced by the Panchayats. The Commission has observed that since the State Govts. have, by and large, severe resource crunch, there is an irresistible tendency on their part to divert funds from development to non-development areas. It has been seen that even funds provided by the Centre like Special Central Assistance to TSP, grants-in-aid under Article 275 (1) have largely remained undisbursed or unutilized or under utilized at State level or, to an extent, have been used for purposes other than schemes for development of Scheduled Tribes. These have, no doubt, reduced the availability of funds for tribal development at the micro level. **The Commission, therefore, is of the view that there is a need to devise a mechanism, which would enable the field formations to receive funds directly instead of being routed through State Hqrs. by enforcing on them a system of accountability for proper utilization of those funds.**

3.5.7 In terms of the PESA Act, 1996, the Gram Sabha or the Panchayats at the appropriate level are required to be consulted before making any acquisition of land and before making any arrangements for resettlement and rehabilitation of displaced persons. No such provision exists in the Land Acquisition Act, 1894, which is a colonial hangover. This is a provision, which necessitates suitable amendments in the Land Acquisition Act, 1894. On similar lines, suitable amendments are also required to be made in Indian Forest Act, 1927 to make it consistent with the provisions of PESA Act. For instance, the PESA Act confers ownership of minor forest produce on Gram Sabha and Panchayats. On the contrary, the Indian Forest Act, 1927 does not make any distinction between major and minor forest produce and vests the ownership of the entire range of forest produce in the State, meaning thereby the Forest Department. **In view of this, the Commission recommends that:**

- (i) **The Ministry of Rural Development may be advised to make suitable amendments in the Land Acquisition Act, 1894 to make it conform to the provisions of PESA Act, 1996 in respect of endowing the Panchayats at the appropriate level and the Gram Sabhas with necessary powers for making any acquisition of land for resettlement and rehabilitation of displaced persons.**
- (ii) **The Ministry of Environment & Forests may be advised to make suitable amendments in the Indian Forest Act, 1927 to make its provision consistent with the provisions of PESA Act, 1996 in respect of endowing Panchayats at the appropriate level and the Gram Sabhas with necessary powers with respect to conferring ownership of minor forest produce.**

3.5.8 Section 4(d) of the PESA Act, 1996 provides that the legislature of a State shall not make any law on Panchayats in Scheduled Areas which is inconsistent with the traditional management practices of community resources. This implies that the natural and physical resources vest in the community and hence these resources should be managed by it as per its traditions. Some States have created legal frameworks to regulate natural resources like water, forest etc. through their regulatory authorities which are at variance with the provisions of the PESA Act. There are numerous instances where traditionally villagers have been cultivating the land which has been subsequently brought under the joint forestry management programme leading, as a consequence, to virtually converting it into forest land in the books of the Forest Department and as a result necessitating the demand for 'Pattas'. This has also had the effect in some Scheduled Areas of wiping away the traditional forest village systems. The Commission feels that this situation has grave implications in terms of law and policy and until issues of such nature are resolved, eviction of tribal forest dwellers will continue unchecked. **The Commission recommends that:-**

- (i) **There is a need to advise the State Govts. to ensure that the State legislations on Panchayats should conform with the customary law, social and religious practices and traditional management practices of community resources and where the State Govts. have enacted legislations which do not conform with the customary law, social religious practices and traditional management practices, they should initiate corrective action to make suitable amendments in the State legislations.**
- (ii) **The Ministry of Tribal Affairs should make all possible efforts to expedite the passing of the Scheduled Tribes (Recognition of Forest Rights) Bill, 2005 which has already been introduced in Parliament and referred to the Joint Parliamentary Committee (JPC) for further examination which, inter alia, addresses the problems of the tribals relating to grant of pattas in respect of the forest land on which they have been cultivating/living for generations.**

3.5.9 The Commission has observed that necessary steps are not being taken by the State Govts. to preserve the tribal heritage particularly comprising their art and crafts, places of worship, historical museums, historical monuments etc. The Commission, therefore, recommends that the State Govts. be advised:

- (i) **To take necessary steps to preserve the cultural heritage of the tribal people with particular reference to (i) places of worship, (ii) historical museums,(iii) historical monuments and (iv) tribal art and crafts.**

- (ii) **To create a Tribal Cell within the Tribal Welfare Department of each State to monitor the activities being taken by the State Govts. with respect to item No.(i) and to advise the State Govts. regarding additional measures to be taken to maintain and preserve the tribal culture and heritage.**

3.5.10 **The Commission further recommends that the Archeological Survey of India, (Govt. of India ) and its counterparts in the States should also be advised to pay special attention to preserve the rich tribal culture and heritage.**

### **3.6 Tribal Development Strategy and Programmes**

#### **3.6.1 Tribal Sub-Plan**

3.6.1.1 The Tribal Sub-Plan (TSP) in a way, is the lifeline for the socio-economic development of tribal people. The Tribal Sub-Plan strategy was introduced for the first time in the Fifth Five Year Plan for the rapid socio- economic development of tribal people. This strategy was evolved on the recommendations of an Expert Committee set up by the then Ministry of Education and Social Welfare in 1972. Its salient features are:

- (i) It falls within the ambit of a State or a UT plan meant for the welfare and development of tribals. Such a plan is a part of the overall plan of a State or UT, and is, therefore, called a sub-plan. The benefits given to the tribals and tribal areas of a State or a UT from the TSP are in addition to what percolates from the overall Plan of a State/UT.
- (ii) The TSP strategy has been in operation in 21 States and 2 UTs. These States and UTs are:- Andhra Pradesh, Assam, Bihar, Chattisgarh, Gujarat, Himachal Pradesh, Jammu & Kashmir, Jharkhand, Karnataka, Kerala, Madhya Pradesh, Maharashtra, Manipur, Orissa, Rajasthan, Sikkim, Tamil Nadu, Tripura, Uttar Pradesh, Uttranchal, West Bengal, Andaman & Nicobar Islands, Daman & Diu. In Arunachal Pradesh, Meghalaya, Mizoram & Nagaland, the TSP concept is not applicable since in these States tribals represent more than 80% of the population.
- (iii) The Tribal Sub-Plan strategy requires to (i) identify the resources for TSP areas; (ii) prepare a broad policy framework for the development; and (iii) define a suitable administrative strategy for its implementation.
- (iv) The most significant aspect of this strategy is to ensure flow of funds for TSP areas at least in equal proportion to the Scheduled Tribes population of each of the State and UT.
- (v) The TSP fund of the State Plan with regard to TSP component of various departments/sectors of the States is put in a different demand head in the budget of the Tribal Development Department of the State.
- (vi) An amount equivalent to 10% of the total allocation under Article 275(1) is earmarked and used as an instrument to bring about changes in the institutional framework for adoption of the TSP and is to be allocated by the Central Govt. (Ministry of Tribal Affairs) only among the States actually releasing in the previous financial year, more than 75% of the approved TSP funds to the implementing agencies through the budget head of the Tribal Development Department of the State. In case of the tribal majority States, utilization of 75% of the grants released under the

Central Sector Schemes of the Ministry also qualifies for consideration of this incentive.

### **3.6.2 Funding of Tribal Development Programmes**

3.6.2.1 Funds for socio-economic development of tribal people are sourced from the following:-

- (i) Tribal Sub-Plan component of the State Plan;
- (ii) Special Central Assistance (SCA), Grants under Article 275(1) of the Constitution and funds under other schemes of the Ministry of Tribal Affairs;
- (iii) Sectoral Programmes (under TSP component) of Central Ministries/Departments, and;
- (iv) Institutional Finance

3.6.2.2 State Governments are required to quantify the funds from the State plan for development of tribal areas and tribal people in proportion to the percentage of tribal population in the States. Similarly, Central Ministries are also required to quantify the funds from their Annual Plans for tribal development in proportion to the percentage of the tribal population in the country. These funds are to be used for implementing development programmes in the tribal areas, primarily for the Scheduled Tribes, in the fields of education, health, agriculture, horticulture, small industries, artisans and other income generating activities.

### **3.6.3 Flow of funds from the State Plan to the TSP**

3.6.3.1 As per the guidelines, the flow of funds to the TSP out of the State Plan outlays is required to be not less than the proportion to the percentage of Scheduled Tribe population in the respective State. After adoption of this approach since the Fifth Five Year Plan, the flow of funds to the TSP areas has increased significantly. The expenditure for tribal development, which was just 0.51% during Fourth Plan i.e. prior to adoption of TSP strategy, increased to 9.47% during the Eighth Plan and was approximately 8% during the Ninth Plan due to adoption of TSP strategy since Fifth Plan.

3.6.3.2 As per the information furnished by the Planning Commission in June 2005, the flow of funds from the Plan outlays of the 21 State Govts. and 2 UTs has been given in the statement at **Annex. 3.II** to this Chapter. The actual amount of (i) State Plan outlay, (ii) TSP outlay, (iii) % age of outlay of TSP to the Annual Plan outlay of the State, (iv) actual expenditure of the State Plan (v) actual expenditure in the TSP, and (vi) percentage of actual TSP expenditure to the expenditure under the State Annual Plan has been given in the statement attached at **Annex. 3.III** to this Chapter.

### **3.6.4 Tribal Sub-Plan Component of Central Ministries/Departments**

3.6.4.1 The Central Government having special constitutional responsibilities towards the Scheduled Tribes and Scheduled Areas, the role of Central Ministries/Departments assumes significance. The Planning Commission and the Ministry of Tribal Affairs have been issuing instructions from time to time to the Central Ministries/Departments to have a clear idea of the problems of tribal people and tribal areas, to prepare specific programmes relating to their concerned sectors and adopt the programmes wherever necessary in consultation with the State Govt. In order to focus attention on tribal development, the Central Ministries were called upon by the then Prime Minister in 1980 to take the following steps:

- (i) quantification and earmarking of funds for tribal areas under the Central Ministries programmes
- (ii) formulation of appropriate need-based programmes for tribal areas
- (iii) adaptation of the on-going programmes to meet the specific requirements of Scheduled Tribes
- (iv) identification of a senior officer in a Ministry to monitor the progress of implementation of programmes for the welfare of Scheduled Tribes.

3.6.4.2 These guidelines have been reiterated from time to time by the then Ministry of Welfare and now the Ministry of Tribal Affairs, and the Planning Commission, particularly that the funds at least equivalent to the percentage of ST population in the country should be set apart under TSP by the concerned Central Ministries and Departments. The objective is that areas in which Central Ministries and Departments can play distinct role are to be identified and quantified outlays projected. It is important that the Ministries and Departments of the Central Government take an integrated view of the developmental programmes undertaken by them, simultaneously with an appreciation of the special needs of the tribal socio-economic situation, in order to be able to identify schemes of relevance to the tribal areas and tribal population.

3.6.4.3 The contribution of Central Ministries has been reviewed from time to time and on the whole it has been found to be below par. The Table hereunder shows the picture as gleaned from different records.

(Rs. in crores)

Name of the Five Year Plan	Total Outlay	Flow to TSP	% age of TSP Allocation to total Outlay	Source
Sixth Plan	7,508	912	12.10	Working Group report for Seventh Plan
Seventh Plan				NA
Eighth Plan (1992-97)	68,924	5517	8.00	Planning Commission's Ninth Plan document
Ninth Plan (1997-2002)	1,10,454	6462	5.85	Planning Commission's Tenth Plan document

3.6.4.4 According to the Tenth Plan document of the Planning Commission, earmarking of funds for TSP is being carried out in 25 Ministries/Departments of the Central Government and 20 States/UTs. Parliamentary Committee on Welfare of Scheduled Castes and Scheduled Tribes had made observations and recommendations generally on quantification of benefits and found it to be not satisfactory. On occasions the Committee has expressed unhappiness on the performance of the Ministries and urged them as well as the Planning Commission to ensure that the intended funds and benefits from the general sectors are actually availed of for the welfare of Scheduled Tribes. Further, the Committee suggested evaluation to be undertaken periodically to assess the extent of flow of funds and benefits with a view to rectification of shortcomings and augmentation of the provisions.

3.6.4.5 The Ministry of Tribal Affairs in their Annual Report 2005-06 have given the details of the plan budget allocations for the year 2005-06 of 36 Central Ministries/Departments and the expected 8% allocation of funds for TSP areas, which are given in the statement at **Annex. 3.IV**. The Ministry of Tribal Affairs has not indicated the specific percentage of the plan budget earmarked for TSP. The Table given by them which, inter-alia, indicates the expected 8% of the Plan budget to be earmarked for TSP does not

convey any information. The fact of the matter is that most of the Ministries are not earmarking the requisite percentage for TSP on one ground or the other. The Department of Posts, for example, informed this Commission that they had got exemption from the Planning Commission from the necessity of earmarking 8% of their plan budget for TSP on the ground that the facilities created/being created were meant for all people including Scheduled Tribes and that the opening of post offices in areas inhabited predominantly by Scheduled Tribes was part and parcel of their plan. The Department of Agriculture Research & Education also informed on similar lines that they were not in a position to earmark a specific percentage of their budget to TSP having regard to the special nature of their work relating to research. The Ministry of Tribal Affairs has also stated that many Ministries/Departments have reported difficulties in segregation of the requisite component of their Plan outlays for TSP areas under the parameter fixed for flow of funds to the TSP because of their specialized activities. The Commission is of the view that the existing practice on the part of most of the Central Ministries in not implementing the instructions of the Planning Commission to earmark 8% of the budget to TSP will defeat the intended purpose and give a setback to the well-meaning and sincere efforts of the Government to accelerate the process of development of the tribals. Since TSP is an integrated area development plan, and developmental Ministries have several specific programmes and schemes which can directly or indirectly benefit the tribal people, tribal lands and tribal areas as a whole, the Commission, therefore, would like to suggest/recommend for developing a system of periodic evaluation to assess the extent of flow of funds and benefits with a view to rectification of shortcomings and augmentation of flow of funds to TSP. **The Commission accordingly recommends that:**

- (i) **The Planning Commission should make the release of Plan funds to the Central Ministries/Departments conditional to the earmarking of requisite 8.2% of these funds to the TSP in proportion to the ST population of the country (which is 8.2% of the total population). Alternatively, the Planning Commission itself while approving the Plan outlays of the various Ministries/Departments should earmark 8.2% of these outlays for welfare of Scheduled Tribes under TSP.**
- (ii) **The Planning Commission in consultation with Ministry of Tribal Affairs should also review their decision whether some of the Ministries/Departments can be exempted from apportioning 8.2% of their Plan outlays for being spent on activities relating to tribal development in relation to the subjects being handled by them, as has been stated by some of them having regard to their specialized nature of activities.**
- (iii) **The Ministry of Tribal Affairs should issue instructions to all the Ministries dealing with development programmes that they must indicate in their Annual Reports the specific percentage of their plan budget earmarked for Tribal Sub-Plan and the activities undertaken by them under the TSP budget for tribal development in the country.**
- (iv) **The funds allocated under TSP which are not spent at the end of the financial year by the States/UTs or Central Ministries should be made non-lapsable as in the case of the grants-in-aid to the State Govts. and UT Administrations under SCA to TSP and Article 275(1) of the Constitution.**

### **3.6.5 Special Central Assistance (SCA) to Tribal Sub-Plan**

3.6.5.1 Special Central Assistance (SCA) to Tribal Sub-Plan is provided by the Ministry of Tribal Affairs to the State Governments/UT Administrations as an additive to the State Plan in areas where State Plan provisions are not normally forthcoming to bring about a

more rapid economic development of tribals in the States/UTs. The scheme was launched as early as in the Fifth Five Year Plan. Till the end of Ninth Five Year Plan, the SCA to TSP was meant for filling up of the critical gaps in the family-based income-generation activities of the TSP. From the Tenth Five Year Plan period, the objective and scope of SCA to TSP has been expanded to cover the employment-cum-income generation activities and the infrastructure incidental thereto not only family-based, but also run by the Self-Help Groups (SHGs)/Community. The ultimate objective of extending SCA to TSP is to boost the demand-based income-generation programmes and thus raise the economic and social status of tribals.

3.6.5.2 SCA is provided to 21 Tribal Sub-Plan States and 2 Union Territories including North-eastern States of Assam, Manipur & Tripura. However, since 2003-04, the funds meant for UTs have been provided in the budget of Ministry of Home Affairs. The SCA is released for economic development of the tribals with respect to the following:

- (i) **Integrated Tribal Development Project (ITDP) area (195 Nos.):** These are generally contiguous areas of the size of a tehsil or a block or more in which the ST population is 50% or more of the total population.
- (ii) **Modified Area Development Approach (MADA) pockets (259 Nos.):** These are identified pockets having 50% or more ST population of a total population of 10,000 or more.
- (iii) **Clusters (82 Nos.):** These are identified clusters of villages, altogether having ST population of 5000 or more, which constitutes 50% or more of the total population of the cluster.
- (iv) **Primitive Tribal Groups (75 Nos.):** These are characterized by a low rate of growth of population, pre-agricultural level of technology and extremely low level of literacy.
- (v) **Dispersed tribal population** outside the categories at Sr. No.(i) to (iv) above

3.6.5.3 The SCA is released by Ministry of Tribal Affairs as 100% grants to the States and UTs having TSPs. The main features of the Special Central Assistance (SCA) to Tribal Sub-Plan (TSP) are as follows:-

- (i) Support to tribal population below the poverty line.
- (ii) 70% of the SCA is required to be used for Primary Schemes supporting family/SHG/community based employment and income generation in sectors such as agriculture/horticulture, land reforms, watershed development, animal husbandry, ecology & environment, development of forest and forest villages, development of entrepreneurship in SSI etc. The remaining 30% is to be used for development of infrastructure incidental thereto.
- (iii) Priority is to be accorded to the neglected tribals living in forest villages and synchronization with programmes of Joint Forest Management (JFM)
- (iv) 'Women's Component' is to be accorded top priority
- (v) SCA is to form an integral part of the Annual Plan of the State
- (vi) 10% of the allocation is earmarked for providing incentives to the States for effective implementation of the TSP in letter and spirit
- (vii) Funds are to be earmarked ITDP-wise

3.6.5.4 The following criteria are observed while allocating funds to the TSP States under this scheme:-

- (a) Of the total allocation under SCA to TSP, an amount of 10% is released to the States based upon a system of weighted criteria, listed below:
  - (i) Adoption of the TSP approach in letter and spirit by ensuring that the entire TSP funds at least in equal proportion to the population of tribals in the State, are placed in one Budget Head under the administrative control of the Tribal Development Department of the State Government for more integrated and focused planning and implementation of projects/schemes;
  - (ii) Thereafter, at least on an average 75% of the approved Tribal Sub-Plan funds are actually utilized/released to the implementing agencies in the previous three financial years through the budget head of the Tribal Development Department of the State; and
  - (iii) Funds awarded, as incentives to the State, are utilized only for employment and income generating activities benefiting the tribals.
- (b) The remaining 90% of the total allocation under SCA is then further allocated amongst the States on the basis of the share of the programmes under the broad strategy of the Tribal Sub-Plan, namely, Integrated Tribal Development Projects (ITDPs), Modified Area Development Approach Pockets (MADA), Clusters and Primitive Tribal Groups (PTGs) and is calculated in proportion to the Scheduled Tribe population under each programme.

3.6.5.5 For the purpose of allocation of SCA to ITDPs, the States are grouped into two categories. Category 'A' consists of States with substantial areas pre-dominantly inhabited by tribals. These are Andhra Pradesh, Chhattisgarh, Gujarat, Himachal Pradesh, Jharkhand, M.P., Maharashtra, Manipur, Orissa, Rajasthan and Sikkim. Category 'B' consists of States having dispersed population with some areas of tribal concentration such as Assam, Bihar, J& K, Karnataka, Kerala, Tamil Nadu, Tripura, U.P., Uttaranchal, West Bengal and UTs of A & N Islands, and Daman & Diu. The total allocation for ITDPs is made to these States on the basis of tribal population of the States/UTs.

3.6.5.6 As regards MADA Pockets, Clusters and Dispersed Tribal Groups, the allocation under SCA is made 100% on the basis of the ST population in these categories. As regards Primitive Tribal Groups (PTGs), 70% of the amount is distributed on the basis of numerical size of Primitive Tribal communities and remaining 30% on the basis of number of PTGs in the States/UTs. After calculating the entitlement for each of the State on the basis of the norms, the amount so calculated for MADAs, PTGs, STs in Clusters and Dispersed Tribal Groups (DTGs), SCA is separately earmarked for each State and placed at the disposal of the State Governments for implementing projects/schemes for the benefits of MADAs, PTGs, STs in Clusters and DTGs in a focused and well targeted manner.

3.6.5.7 The allocation under SCA to TSP for the year 2004-05 was fixed at Rs.497 crores. The entire amount was released to the States during this year. The allocation during the year 2005-06 was Rs.230 crores out of which Rs.181.08 crore was released to the States of Assam, Chhattisgarh, Gujarat, Madhya Pradesh and West Bengal in the first phase. A statement showing the release an expenditure as also the unspent balance during the first three years of the Tenth Plan is available at **Annex.3.V**. The trend of releases during the last five years is given in the Table below:-

S.No.	Financial Year	Amount released (Rupees in crores )
(i)	2000-01	400.00
(ii)	2001-02	500.00
(iii)	2002-03	500.00
(iv)	2003-04	461.30
(v)	2004-05	497.00
(vi)	2005-06	230.00

**Source: Annual Reports of Ministry of Tribal Affairs 2004-05 & 2005-06**

### 3.6.6 Grants under Article 275 (1) of the Constitution of India

3.6.6.1 The First Proviso to Article 275(1) of the Constitution of India guarantees grants from the Consolidated Fund of India each year for promoting the welfare of Scheduled Tribes and in pursuance of this Constitutional obligation, the Ministry of Tribal Affairs provides funds through the Central Sector Scheme “Grants under Article 275(1) of the Constitution”. The objective of the scheme is to meet the cost of such projects for tribal development as may be undertaken by the State Govts. for raising the level of administration of Scheduled Areas therein to that of the rest of the State. The scheme covers all the 21 Tribal Sub-Plan States and 4 other tribal majority States of the country. Some of the guidelines for release of grants under this scheme are as follows:-

- (i) The grants are to be used essentially for creation and upgradation of critical infrastructure required to bring the tribal areas with the rest of the country. The basic purpose is to create opportunities conducive to income and employment generation. Due emphasis is given to infrastructure in sectors critical to enhancement of human development indices such as in health, education, income generation etc.
- (ii) The specific projects/schemes along with physical and financial plans showing sector-wise and year-wise phasing of activities for funding under this Article are required to form an integral part of the overall TSP and, therefore, are to be prepared along with Annual Plan of the State.
- (iii) Peoples’ participation is the central thread around which the entire fabric of tribal development is to be woven. The approach towards tribal development should, therefore, ensure the participation of tribal population while planning and implementing the schemes out of the grants. Due regard is also to be given to the provisions of the Panchayats Act, 1992 and The Panchayats (Extension to the Scheduled Areas) Act, 1996.
- (iv) Each State, Region, ITDA, MADA and Cluster is required a specific plan, based on the felt local needs such as low literacy, poor health services, critical gaps in sectors like irrigation, roads, bridges, electricity, technical/vocational institutes, forests, sports promotion etc. Efforts are, therefore, to be made to identify thrust areas for each ITDA, MADA and Cluster and, on that basis, for the region or the State, as a whole.

- (v) Attempts should be made to dovetail resources available so as to ensure perceptible changes in the tribal areas as against the practice of spreading resources too thin under sectoral programmes in a disintegrated fashion.
- (vi) An amount maximum up to 2% of the Grant may be used for project management, training, MIS, administrative expenses and monitoring and evaluation.
- (vii) The concerns/issues affecting women should occupy central position in preparation of the projects/schemes, including the involvement of women right from planning to the implementation stage. The projects should be so planned that substantial benefits, at least 30% in proportion, are targeted for women.
- (viii) On the basis of ITDA-wise integrated plans prepared through micro-planning, projects can be taken up to bridge the gap in infrastructure in critical areas such as education, health, SSIs, forests, forest villages, drinking water, electrification, communication, rural marketing, agriculture, animal husbandry, sports promotion, food processing, processing of MFPS, human resource development in technical and vocational spheres, water harvesting, resettlement of displaced persons, tribal land management, etc.
- (ix) An amount equivalent to 10% of the total allocation under Article 275(1) is retained by the Ministry of Tribal Affairs which is allocated for innovative projects amongst those States which adopt TSP approach in letter and in spirit by actually releasing at least more than 75% of the approved TSP funds to the implementing agencies through the Budget Head of the Tribal Development Department of the State.

3.6.6.2 The grants are provided to the States on the basis of ST population percentage in the State. The Ministry of Tribal Affairs, which used to release the funds without identifying the projects in earlier year, has now decided to release funds to the State Govts. against specific infrastructure development and welfare projects from the year 2000-01. This new approach, however, does not envisage screening of the proposals received from the State Govts. to see whether those proposals are in accordance with the guidelines for release of funds under Article 275(1) and this deficiency results in release of grants for a number of such activities which do not fall within the purview of the scheme. **The Commission is, therefore, of the view that the Ministry of Tribal Affairs may constitute a Committee consisting of representatives from Ministries/Departments concerned with developmental work such as Health, Rural Development, Environment and Forest, Education, Water Resources etc. and representatives of Planning Commission and National Commission for Scheduled Tribes to consider proposals received from State Govts. both under the scheme of Special Central Assistance (SCA) to Tribal Sub-Plan (TSP), and the scheme of giving grants under Article 275(1). The Commission further recommends that The Ministry of Tribal Affairs should advise the State Govts. to ensure that the proposals for tribal development under the scheme of SCA to TSP and first proviso to Article 275(1) should be sent to it (i.e. Ministry of Tribal Affairs) after getting them duly approved by the Zila Panchayats of the concerned district.**

3.6.6.3 With the objective of providing quality education to the tribal students, it was decided during 1997-98 to utilize a part of the funds under Article 275(1) of the Constitution, for setting up of 100 Model Residential Schools from class 6 to 12 in different States, to enable tribal students to avail of the facility of reservation in higher and professional educational courses as well as in higher levels of jobs in the Government and Public Sector

Undertakings. During the Ninth Five Year Plan period, funds have been released for the setting up of 84 Model Residential Schools, spread over 22 States in the country. The schools are to be operated in each State through an autonomous society formed for this purpose. In order to provide a uniform pattern of education in those schools and enable their students to compete effectively for higher education programmes (medical, technical, etc.) an initiative has been taken to introduce the Central Board of Secondary Education (CBSE) syllabus in these schools and affiliate these schools to the CBSE. These schools have been named as **Eklavya Model Residential Schools**. As on date 90 such schools have been sanctioned out of which 68 are operational in 13 States.

3.6.6.4 The annual allocation and releases made to the State Govts. since 2000-01 under the Article 275(1) of the Constitution are as given in the Table below:-

(Rs. in crores)		
Year	Allocation	Grant-in-aid (Released)
2000-2001	200.00	191.29
2001-2002	300.00	300.00
2002-2003	300.00	300.00
2003-2004	300.00	252.70
2004-2005	330.00	330.00

3.6.6.5 As has been mentioned earlier, from the year 2000-01, the releases are to be made against specific developmental works/projects identified by the State Govts. One of the major constraints is that the State Governments often do not release the funds in time to the implementing agencies. A State-wise statement showing the Opening Balance at the beginning of the Tenth Plan, Amount Released, and Expenditure Reported for the years 2002-03, 2003-04 and 2004-05 and the cumulative Unspent Balance at the end of year 2004-05 is available at **Annex.3.VI**. It will be seen that the total amount of the Unspent Balance at the end of the year 2004-05 was more than Rs.480 crores. This is a very discouraging trend. The same position prevails in respect of the grants released to the State Govts./UT Administrations under SCA to TSP. Attention, in this connection, is invited to the total Unspent Balance of SCA to TSP releases at the end of the three financial years (i.e. 2002-03, 2003-04 and 2004-05) in **Annex.3.V** which was of the order of Rs.259.46 crores. It has also been noticed that in some cases the grants-in-aid under SCA to TSP and under Article 275(1) are, diverted by the States for purposes other than they were intended for. The non-utilization of the grants-in-aid coupled with diversion of funds diminishes the availability of resources for tribal development. This is a matter of concern for this Commission. The Ministry of Tribal Affairs and the Planning Commission should give serious consideration to this problem of accumulation of huge funds with the State Govts. with a view to find out effective ways to ensure that the grants-in-aid released by the Central Government are spent on the projects identified for socio-economic development of the Scheduled Tribes. **The Commission would like to advise the Ministry of Tribal Affairs and the Planning Commission to issue the following instructions to the State Govts. for ensuring timely utilization of the grants-in-aid under SCA to TSP and under Article 275 (1):**

- (i) **The State Govts./UT Administrations should be advised that they make 100% utilization of these grants by the end of the concerned financial year (i.e. the year in which the grants are given) and in case, despite best efforts by the State Govts. certain portion of the grants remains unutilized, the same (i.e. the unspent balance) should by all means be spent on the tribal development programmes and other related projects relating to tribal welfare by the mid of the next financial year. In case these grants are not utilized even by the mid of the next**

**financial year, the Ministry of Tribal Affairs should fix up the responsibility for non-utilization of the grants and advise the concerned State Govts. to make full utilization of the grants on tribal development programmes in the next financial year.**

- (ii) **The State Govts. should be advised to ensure that the funds available under the grants given under SCA to TSP and First Proviso to Article 275(1) are not diverted under any circumstances to any other area not connected with tribal development. The State Govts. should also be advised to submit to the Ministry of Tribal Affairs a statement of details of actual expenditure of these grants on various tribal development programmes within three months of the close of the concerned financial year with a view to exercise check both on timely utilization of the money on tribal welfare schemes as well as on non-diversion of these grants to other areas.**
- (iii) **The details of the grants received under SCA to TSP and Article 275 (1) and the expenditure incurred by the State Govts. on various schemes/programmes for socio-economic development of Scheduled Tribes should also form part of the report of the Governor which is required to be annually submitted to the Central Government in terms of para 5 (1) of the Fifth Schedule to the Constitution of India.**

3.6.6.6 The Commission also feels that there is a need to devise procedures which would enable the field formations to receive funds directly by enforcing on them accountability for utilization of these funds. **The Commission recommends that on the lines of the procedure adopted by the Ministry of Rural Development which makes direct releases to DRDAs, the Ministry of Tribal Affairs as also other Ministries should consider opening direct channels to the implementing agencies at the district levels and ensure direct flow of funds to the ITDPs or the District Panchayats.**

### **3.7 Development of Primitive Tribal Groups (PTGs)**

3.7.1 There are certain tribal communities which have a low level of literacy, declining or stagnant population, a pre-agricultural level of technology and are economically backward. 75 such groups in 16 States/UTs have been identified, and have been categorized as Primitive Tribal Groups (PTGs). The total population of the PTGs as per the 1991 Census was about 24.12 lakh. Most of these groups are small in number, have attained various levels of social and economic progress, and generally live in remote habitat, with poor administrative and infrastructure backup. Their problems and needs are quite different from other Scheduled Tribes. Since the PTGs constitute the most vulnerable section, States/UTs need to allocate adequate funds from central sector/centrally sponsored and State Plan Schemes for their socio-economic development. It was, however, observed by the Government that adequate funds were not reaching them, and, therefore, in order to overcome this problem, a separate 100% centrally funded scheme (administered by the Ministry of Tribal Affairs) for the exclusive development of PTGs was introduced in the year 1998-99. This is an extremely flexible scheme. Its activities may include agricultural development, cattle development, income generation programmes, health facilities, infrastructure development etc.

3.7.2 The scheme is implemented through the Integrated Tribal Development Projects (ITDPs)/Integrated Tribal Development Agencies (ITDAs), Tribal Research Institutes (TRIs) and NGOs. The State Govt. concerned is responsible for proper execution,

implementation, supervision and coordination of the schemes including the selection of NGOs. The optimum period for grants-in-aid to the implementing agencies is three years.

3.7.3 The Ministry of Tribal Affairs have set up a Selection Committee for scrutinizing and approving the proposals received from ITDPs/ITDAs, TRIs and NGOs. This Committee also reviews the performance of the projects/activities as undertaken under this scheme by the implementing agencies every year. The allocation under the scheme was made for each of the State having Primitive Tribal Groups population during 2003-04 for the first time, and the State Govts. and NGOs etc. were requested to formulate projects for undertaking activities which were most essential for the sustained development and welfare of PTGs. The Ministry of Tribal Affairs sanctioned proposals of State Govts. and NGOs covering about 62 PTGs during 2003-04. During 2005-06, the Ministry of Tribal Affairs sanctioned as many as 30 proposals of States/UTs and NGOs and provided grant of Rs.21.63 crores including Rs.10.00 crore under insurance component. The proposals covering mainly the activities relating to food security, promotion of primary education and extending basic minimum health services to the primitive tribes were approved and funds released to the State Govts. and NGOs. **The Commission is of the view that there is a need to review the functioning of the projects undertaken for the development of PTGs under this scheme, which was launched seven years ago. This will also give an opportunity to the Government to find out whether NGOs have given better results than the Government agencies in the matter of development of PTGs and, if so, such NGOs need to be encouraged by entrusting them projects in respect of other PTGs under the scheme. The Commission further recommends that the projects/schemes relating to development of PTGs should be given, amongst others, only to such NGOs which have a established reputation of working for PTGs with full involvement and a high sense of commitment for more than 15-20 years.**

3.7.4 During the year 2004-05, the Government of India (Ministry of Tribal Affairs) also decided to provide insurance coverage to the earning member of each PTG family throughout the country under the 'Janashree Bima Yojana' of Life Insurance Corporation of India which covers all PTG families within the remaining 3 years of Tenth Five Year Plan. During 2004-05, an amount of Rs.5.00 crore was released to 16 States to cover 1 lakh earning members of PTG families and during 2005-06 Rs.10.00 crore to 15 States/UT to cover 2 lakh earning members of PTGs families. The following benefits are available to the families whose life have been insured at no premium payment from them:

- (i) Payment of Rs.50,000/- to the nearest kith and kin of life insured in case of accidental death or permanent disability caused;
- (ii) Payment of Rs. 20,000/-to the nearest kith and kin in case of natural death;
- (iii) Payment of Rs.20,000/- in case of partial disability, and
- (iv) Educational grant of Rs.300/- per quarter for 2 children of the life insured studying in class IX and above.

3.7.5 The annual allocation made under the Scheme since its inception in 1998-99 and the release made against the allocation are:-

Year	Allocation	Release (Rs. in lakhs)
1998-99	400	494
1999-2000	1000	663
2000-2001	1250	1071
2001-02	1450	1418
2002-03	2000	1375

2003-04	2000	1613
2004-05	2150	2116
2005-06	2475	2154*

Source: Annual Report of Ministry of Tribal Affairs 2004-05 & 2005-06

\* upto 20.2.2006

3.7.6 Against the budget provision of Rs.24.75 crore for the year 2005-06, an amount of Rs.21.54 crore was released to State Governments and NGOs. The projects for which funds were released by the Ministry of Tribal Affairs, covered mostly land development programme, minor irrigation, horticulture, watershed development, extending facilities for promotion of primary education and health care. After adoption of project mode for release of grants targeting to maximum number of PTGs under the scheme, there has been a wider coverage of PTGs under the scheme. A statement showing the name of the PTGs (State/UT-wise) and amounts released (PTG-wise) during 2003-04 and 2004-05 is attached as **Annex.3.VII**. The details of amounts released and expenditure reported under Central Sector Scheme of development of PTGs during 2001-02, 2002-03, 2003-04 and 2004-05 and cumulative unspent balance are given in the statement at **Annex.3.VIII**.

3.7.7 A perusal of the statement at Annex.3.VIII reveals a very depressing scenario regarding the actual expenditure of the financial assistance given by the Govt. of India under the Central Sector Scheme of Development of PTGs. It is seen that out of about Rs.4628 lakhs released to the 17 State Govts. during the year 2001-2002, 2002-03, 2003-04 and 2004-05, the actual expenditure on the schemes for development of PTGs was Rs.2601 lakhs leaving a huge unspent balance of Rs.2027 lakhs at the end of the year 2004-05. During these years, the State of Maharashtra was sanctioned financial assistance of Rs.526.36 lakhs out of which the expenditure reported is nil. The entire purpose of the scheme of developing the extremely backward PTGs is being defeated by the State Govts. by their inexplicable inertia in making use of the grants by the Central Government on raising the economic levels of the PTGs. The action of the State Govts. in non-utilization of the central grants for the desired purpose amounts blocking the resources which could have been used for other developmental work. **The Commission recommends that the Ministry of Tribal Affairs should ensure that the grants are released to the concerned States (having PTGs) in the first quarter of the financial year to allow them maximum time to spend the money on the development of PTGs. The Ministry of Tribal Affairs should also assess the reasons for non-utilization of funds sanctioned by the Ministry for development of PTGs and also fix accountability for non-utilization of these grants. The Ministry of Tribal Affairs should also advise the State Govts.**

- (i) **To make all out efforts to ensure that the grants released by the Central Government is spent on the developmental programmes of PTGs by the end of the relevant financial year.**
- (ii) **To submit to the Ministry of Tribal Affairs a detailed statements of utilization of the grants on various tribal development programmes within two months of the expiry of the concerned financial year.**
- (iii) **That the benefits of programmes/schemes for the development of the PTGs should also be made available on similar lines to the PTGs living outside the PTGs project areas.**

### **3.8 Recognition of Maleru Tribe in Karnataka as PTG**

3.8.1 The Hon'ble Supreme Court of India sought the views of the Commission in Writ Petition (Civil) No.76 of 2003-A.S. Nagendra and Ors. vs. State of Karnataka & Ors. on whether the Maaleru community was the same as the Maleru which (i.e. Maleru) has been

recognized as Scheduled Tribe in the Constitution (Scheduled Tribes) Order, 1950 issued under Article 342 of the Constitution. The Commission took a series of action to gather the basic information to know whether Maaleru and Maleru represented two different communities or the same community. The information received from various quarters revealed that Maaleru and Maleru were two different communities with distinct social, cultural and religious characteristics, and that while the Maalerus lived in villages and towns with their traditional occupation as 'Temple Servants' not having any characteristics associated with declaration of a community as Scheduled Tribe, the Malerus [who have been recognized as a Scheduled Tribe in the Constitution (Scheduled Tribes) Order, 1950] lived in forests and on hills with their occupation as hunting and gathering of forest produce. The findings by a team of officers of the Commission headed by a Member further revealed that:

- (i) The total population of the Malerus as per 1991 Census was less than two thousand.
- (ii) Malerus are non-vegetarians and eat even the Chatni (sauce) made from roasted ants collected from the hills.
- (iii) Malerus are hunters. Their economic condition is very poor. During the lean season, they do not have anything to eat and are forced to eat roots and leaves.

**3.8.2 The Commission recommends that in view of the low level of literacy, extreme economic backwardness, pre-agricultural level of technology, stagnant & diminishing population, and primitive characteristics of the people belonging to Maleru community (already recognized as a Scheduled Tribe) by virtue of their being hunters and living in forests and on hills and subsisting on forest produce including roots and leaves, the Maleru community from Karnataka may be included in the list of Primitive Tribal Groups (PTGs).**

### 3.9 Land Allotment and Distribution

3.9.1 Majority of our country's population lives in rural areas. Among Scheduled Tribes also more than 90% belong to rural areas. Agriculture is the basic economy in the rural areas and livelihood of the people in rural areas depends on agriculture as cultivators or as agricultural labourers. As per 2001 Census, more than 50% of the Scheduled Tribe population are engaged as cultivators and about 29% are agricultural labourers. The changing trends in occupational distribution of main workers among ST population and total general population from 1961 Census to 2001 Census is as given in the Table below: -

S.No.	Category of Workers	General					Scheduled Tribes				
		1961	1971	1981	1991	2001	1961	1971	1981	1991	2001
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)
1.	Culti-vators	52.78	43.38	41.53	39.74	33.10	68.18	57.56	54.43	54.50	50.90
2.	Agri. Labours	16.71	26.32	25.16	19.66	20.30	19.71	33.04	32.67	32.69	28.40
3.	House-hold Industry	06.38	3.55	3.99	02.56	3.90	02.47	01.03	01.42	01.04	1.80
4.	Other Workers	24.13	26.75	29.32	38.04	42.70	09.64	08.37	11.84	11.76	18.90

Source: M/o Tribal Affairs' Annual Report 2003-04

3.9.2 It may be recalled that soon after attainment of independence, land reforms were put into effect on a large scale with a view to eliminate intermediaries, enforcement of ceiling on holdings, distribution of ceiling-surplus land, vesting surplus land in the tenant,

conferment of ownership rights of ceiling-surplus land to the tenants, consolidation of holdings, compilation and updating of land records. The Dhebar Commission (1961) had observed that the schemes of land reforms were based upon land lords-tenant system and the tribal areas did not customarily have such a practice on a significant scale. In some States like Maharashtra and Gujarat, where a sizeable percentage of tribals were landless or marginal farmers, the land reforms were expected to help in the matter of acquisition of tenancy rights. However, on account of changes in the large and effective execution, much of the impact was lost. The result was that in some tribal areas about 15 to 30% of the land belonging to tenants went out of their hands. The other important reasons for the failure of the land reforms in the tribal areas were the ignorance of law by the tribals and the rights it conferred on them. As the poor tribals had no money to buy up tenancy, they were under the thumb of the land holders. A State-wise statement of distribution of ceiling-surplus land is given at **Annex.3.IX** .

3.9.3 There is a general impression that land being abundant in tribal areas, average per family holding is high among the tribals. This may have been true in the earlier times when tribal population was smaller and man-land ratio was more favourable. A great deal of variability among the tribes in different States was noticed in the 44<sup>th</sup> Round of National Sample Survey conducted during July 1988- June 1989. It revealed that in the central tribal belt, a household had, on an average 1.09 hectares against the average figure of 1.58 hectares being the highest in the Central belt and the lowest average being 0.46 hectare in the West Bengal. These figures are lower than the average holdings in North-eastern region where the regional average was 1.32 hectares, the maximum average being 4.02 hectares in Arunachal Pradesh and the minimum average being 0.59 hectare in Tripura. The percentage of landless households among tribals was somewhat higher than among the non-tribals, the respective figures being 20.5 per cent and 16.3 per cent. The percentage of tribal marginal households was less than the non-tribal marginal households that is respectively 40.6 percent and 51.7 per cent.

3.9.4 The NSS results also permit a comparison among the different ST communities. Among the Bhils, 52.4% in Gujarat, 45.5% in Madhya Pradesh and 62.4% in Maharashtra occupied prior positions among the landless in the Central tribal belt. On the other hand, nearly 45% the Gond of MP possessed a holding above 2.03 hectares. In the North-eastern region, the Tripuri (13.8%) fell in the highest landless category. The number possessing land more than 4 hectares was not significant; the majority fell in the category belonging to land owning between 1-4 hectares.

3.9.5 The Ceiling Laws were originally framed 38-48 years ago and in some cases those laws were amended as back as 28-33 years ago. However, the implementation of these laws has not been given due importance by the State Govts. Since inception till March, 2004 the total quantum of land declared surplus in the entire country was 73.36 lakh acres out of which about 64.97 lakh acres have been taken possession of by Government and 54.03 lakh acres have been distributed to 57.46 lakh beneficiaries of whom 36% belong to Scheduled Castes and 15% belong to Scheduled Tribes, the number of ST beneficiaries being 8.30 lakhs. An area of 8.69 lakh acres has been involved in litigation. The Commission recommends the following measures to be taken for distribution of the ceiling surplus lands amongst others, to the landless tribals:-

- (i) **There is a need to advise the State Govts. for early distribution of the ceiling surplus land to the landless tribals and also for early restoration of the lands which are in litigation in the courts by setting up Fast Track courts at district level and Mobile courts upto Tehsil levels.**

- (ii) **The State Govts. should also be advised to ensure that suitable entries about allotment of ceiling surplus lands to the tribals are made in the land records and that the actual possession has been given to the tribal allottees.**

3.9.6 The Commission has observed that in several cases of allotment of ceiling surplus land to the landless tribals, pattas of the land allotted to them have not yet been given to them and where pattas have been given, actual possession has not yet been given to the allottees. These deficiencies have resulted in sharp increase in agrarian disputes, which are finally taken to the courts. **The Commission, therefore, recommends that there is need to advise the State Govts. to ensure that:-**

- (i) **The pattas of the land are granted to the tribals who have been assigned lands by the Government or who have been cultivating the lands for years together say, for more than 10 years.**
- (ii) **A copy of Khasra Khatauni along with a map of the holdings should, on demand, be made available to every tribal family without charging any fee.**
- (iii) **The revenue records of the holdings i.e. the Khasra Khatauni and map etc. along with the details containing the names of the owners and number and area of holdings should be kept in the custody of Gram Panchayats to save the tribals from the exploitation by Patwaris by denying correct information to the tribals.**
- (iv) **Any entry in the Khasra Khatauni by way of mutation of land records should be made by the Patwaris with the approval of the Gram Panchayat, as is being done in the State of Madhya Pradesh.**

3.9.7 Consolidation of fragmented agricultural land holdings forms an integral part of the Land Reforms Policy. Successive Five Year Plans have accordingly been laying stress on consolidation of fragmented land holdings for planned development of villages and increased agricultural output. Consequently, many States had enacted legislations and had taken up the work relating to consolidation of land holdings. The States of Uttar Pradesh, Haryana and Punjab have achieved commendable success. In other States, consolidation operations were continued for some years but lost momentum thereafter. So far, an area of 1633.47 lakh acres has been consolidated all over the country. **The Commission recommends that the small holdings of the tribals should be brought at one place on a high priority basis to make them viable and economical for cultivation by making intensive application of various inputs.**

### **3.10 Land Alienation**

3.10.1 Notwithstanding the operation of anti-land alienation laws being in place for decades, legal and illegal transfer of tribal land has been taking place in various States. The State-wise information on the number of cases of alienation and restoration of tribal lands in March, 2005 has been given in the Statement at **Annex-3.X**. It will be seen from the Statement that out of total number of 3,75,164 cases filed in the Courts (involving an area of 8,55,282 acres), the number of cases disposed of by the Courts at the end of March, 2005 was 3,17,643 (i.e. 84.67%). Out of the total number of cases disposed of by the Courts (i.e. 3,17,643) 1,54,993 (i.e. 48.79%) were rejected and 1,62,650 (i.e. 51.20%) cases were decided in favour of tribals. Out of 1,62,650 cases decided in favour of tribals, land was restored to tribals in 1,58,297 (i.e.97.32%) cases. At the end of March, 2005, 57,521 cases

(i.e.15.33%) were pending in different courts. From the above analysis it appears that the disposal of tribal land alienation cases is fairly high as only over 57500 cases were pending out of over 375000 cases filed in various courts. However, the Commission has every reason to believe that all the tribals dispossessed of their land may not have moved the courts of law for restoration of their land due to their ignorance, lack of general awareness, and of course, poor resources. The above figures, therefore, do not represent the number of alienation cases in their entirety. The number of illegal and coercive transfers which are not included in the number of cases filed in the courts may also have taken a large toll of tribal lands.

3.10.2 A number of steps have been taken at the State and Central level to provide adequate protection to Scheduled Tribes on land and other resources. All the States in Fifth Scheduled Areas have enacted laws prohibiting transfer of tribal land to non-tribals with provision of restoration of lands to the tribals in case of unauthorized transfers. The details of these legislations in various States are given in **Annex.3.XI**.

3.10.3 The Dhebar Commission (1961) had gone into the circumstances leading to tribal land alienation. Some of their observations regarding reasons for land alienation were as follows:-

- (i) ignorance of tribal people;
- (ii) lacunae in the laws. [They had examined the Chota Nagpur Tenancy Act, 1908 and found a number of loopholes which enabled shrewd merchants and money-lenders to secure transfers in their favour];
- (iii) utilization of the machinery of the courts before which the tribal is more or less powerless;
- (iv) voluntary surrenders engineered by landlords taking advantage of the tribals' ignorance;
- (v) lack of adequate knowledge of conditions in tribal areas on the part of the authorities;
- (vi) complicated legislation;
- (vii) lack of sources of credit as an alternative to the money-lenders' usury.

3.10.4 The Dhebar Commission in their report had observed that there was an urgent need to scrutinize the legislations on transfer of tribal lands with a view to plugging the loopholes. That Commission observed that:

- (i) There should be a general prohibition of all transfers, whether by sale, mortgage, gift or lease under any kind of agreement or contract entered into by tribals in favour of non-tribals without the permission of the Deputy Commissioner or the Collector.
- (ii) There should be a bar against suits or applications against any order made by a Deputy Commissioner or a Collector and the courts of law should be precluded from taking cognizance of such transfers by sale, mortgage, gift or lease or any other agreement or contract unless such arrangement had been entered into with the previous permission of the Deputy Commissioner or the Collector.
- (iii) The Deputy Commissioner or the Collector should have powers suo moto or at the instance of the aggrieved tribal land-holders within a period of 12 years, to institute enquiries and restore possession of the land with or without payment of any compensation to the transferee.
- (iv) Surrender of all lands should be only to the State and the surrendered lands should be held by the State as a trustee.
- (v) A campaign should be launched to educate the tribals preferably through non-official agencies regarding laws or regulations made for their benefit.

- (vi) Requisite financial and legal assistance should be given to the tribals to take advantage of the concerned laws.

3.10.5 Many of the above-cited recommendations of Dhebar Commission had been accepted and incorporated in the States' anti-land alienation laws. Despite all the amendments in the laws, alienation of lands belonging to tribals to non-tribals continues unchecked. It has been noticed that in a large number of cases, the administrative agencies like the Deputy Commissioner or the Collector do not exercise adequate care and vigilance in permitting transfer. An assessment made in 1974 by a study team of the Ministry of Home Affairs had found that land alienation was principally accountable to (i) Legal transfer facilitated by casual and routine approach adopted by the authorities (ii) Benami transactions in the name of servants (iii) Transfers through collusive civil proceedings (iv) Transfers in the name of tribal women taken as wives or concubines by non-tribals (v) Informal transactions in which land remains in the name of original land owner, but he is reduced to the status of a share-cropper.

3.10.6 The Commission received a letter from Shri Harising Rathod, MP enclosing therewith a complaint from Shri Ram Bharose (ST) S/O Shri Badri Singh Village-Bhur Maholia, Tehsil- Khatima, District Udham Singh Nagar, Uttaranchal alleging that his land was transferred and registered illegally in the revenue record of the State Govt. (then Govt. of Uttar Pradesh) on 14.3.1978 in the name of one Shri Omesh Chander Gupta. The complainant approached this Commission for the restoration of his land to him. The matter was taken by the Commission with the District Collector, Udham Singh Nagar, who informed in October, 2005 that according to a general survey undertaken by the State Govt. of Uttaranchal, illegal transfers of land of STs to non-STs had been noticed in 77 villages of Tehsil Khatima alone and as many as 13173 non-ST persons were in illegal possession of the land belonging to tribals. It was stated that a large number of people belonging to Sikh and Sindhi communities had settled in Uttaranchal after partition who had purchased the tribal lands by sale agreements on stamp papers of Rs.5/- or Rs.10/- and that they were in continued possession of those lands. It was further stated that Assistant Collector was empowered to take action suo-moto or on an application from the tenant to remove forcibly these types of illegal possessions by non-ST persons of the tribal lands under Section 211 of Uttar Pradesh Land Laws (Amendment) Act, 1982 (which was enacted to amend the Uttar Pradesh Jamindari Abolition and Land Reforms Act, 1950). It was, however, added by the District Collector in his reply that any action to restore the lands to the tribals at such a large scale might result into law and order problem in the State and, therefore, there was a need for making a comprehensive policy or action plan for settling such land disputes between Scheduled Tribes and non-Scheduled Tribes. The Commission has also received complaints in ten more cases from Uttaranchal regarding illegal possession on tribal lands by non-tribals. There are several cases particularly of the Tharu tribe in Uttaranchal whose land is in the illegal possession of non-STs.

3.10.7 As per the direction of the Chairman a letter dated 27.2.06 was written in this regard to the Chief Secretary, Govt. of Uttaranchal, Dehradun for taking necessary action in this matter on urgent basis under Section 211 of UP Land Amendment Act, 1982. Since there was no reply from the State Govt. in this matter for two months a d.o. reminder dated 24.4.06 was sent to the Chief Secretary, Govt. of Uttaranchal at the J.S. level requesting him to furnish a detailed report in the matter. Again there was no reply for one and a half months from the State Govt and this matter was discussed by the Chairman with the Chief Secretary in detail in the state review meeting on 12.6.06 at Dehradun. Chief Secretary and the Secretary (Revenue) assured the Commission that the State Govt. of Uttaranchal had already taken cognizance of this problem and they were equally concerned. They further stated that any action in haste might result in law and order situation in the State and therefore a careful and

well-planned strategy had to be prepared by the State Govt. for tackling this menace. The State Govt. made a commitment for the restoration of the rightful ownership/possession of lands of the STs in District Udhamasingh Nagar and other places in the State. However, considering that the tribal lands in a number of villages of the said Tehsil had been alienated by the non-tribals, the Commission recommends that the Ministry of Tribal Affairs may advise the State Govt. of Uttaranchal to **take necessary action at an early date restore the lands illegally transferred to the non-tribals, to the tribals in exercise of the powers conferred by Section 211 of Uttar Pradesh Land Laws (Amendment) Act, 1982 (which was enacted to amend the Uttar Pradesh Jamindari Abolition and Land Reforms Act, 1950) which provides for suo-moto action by the Assistant Collector for forcible eviction for non-accrual of tenurial rights due to adverse possession of tribal land.**

3.10.8 **The Commission is further of the opinion that the Ministry of Tribal Affairs may also advise the State Govt. of Uttaranchal to consider registering suo-moto cases against those non-tribals who are in illegal possession of the tribal land, in terms of Section 3(1) (iv) and (v) of the SCs and the STs (Prevention of Atrocities) Act, 1989 and granting suitable compensation/relief to the tribals as per the scale as in the schedule referred to in Rule 12(4) of the SCs & STs (PAO) Rules, 1995.** The provisions of Section 3 (1) (iv) and (v) of the SCs and STs (POA) Act, 1989 provide that whoever, not being a member of a Scheduled Caste or a Scheduled Tribe (i) 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, and (ii) 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 Shall be punishable with imprisonment for a term, which shall not be less than six months but which may extend to five years and with fine.

3.10.9 The principal factors responsible for the tribal land alienation, in the opinion of the Commission, are as follows:-

- (i) The applications filed by the members of Scheduled Tribes for restoration of their alienated lands are routinely dealt with by administrative authorities resulting in rejection of their claims by trial courts.
- (ii) In certain cases, the tribal land is forcibly occupied by the non-tribals which forces the tribals to seek legal redress which either does not bring any relief to him or if at all any relief comes, it comes after many years of legal battle.
- (iii) The fact that the tribals in many cases are not in possession of Pattas or any other relevant documents is exploited by the non-tribals.
- (iv) Some village officers play mischievous role in manipulating the land records at the time of settlement of the land records or at any other times without the knowledge of the original tribal owner.
- (v) In certain cases non-tribals marry Scheduled Tribe women and thereby get access and ownership of tribal land, although a non-tribal in such situations does not get the status of a Scheduled Tribe as per the Government instructions in this regard.

3.10.10 The Commission would like to make the following recommendations to reduce, if not eliminate, the problem of alienation of tribal land:-

There is no doubt that the State Govts. have enacted laws to regulate the transfer of tribal land to the non-tribals. Most of these laws, however, have certain loopholes which help the unscrupulous and scheming non-tribals in getting the tribal land transferred to them against the spirit of these laws. **The Commission, therefore, recommends that all the State Govts. may be advised to undertake a thorough review of these laws with a view to plug the loopholes which are being misused by the unscrupulous non-tribals in getting the tribal lands transferred in their names.**

- (ii) Section 4 (m) (iii) of the PESA Act, 1996 makes a radical departure from the current paradigm in which the tribal people depend on the State for relief and they are not able to get relief because the officials are hand in glove with the vested interests. In terms of this Section, the responsibility now unequivocally vests in the Gram Sabhas which are endowed with the power to prevent alienation of land in the Scheduled Areas and to take appropriate action to restore any unlawfully alienated land of a Scheduled Tribe. As per this Act, the legislature of a State is barred from making any law inconsistent with the features given under Section 4 of the Act including Section 4(m) (iii) (referred to above). **The Commission, therefore, recommends that the State Govts. need to be advised to harmonize the provisions of the State laws with the provisions of the Section 4 of PESA Act including the one referred to above in respect of prevention of alienation of tribal land.**
- (iii) There is a need to make the laws more stringent to stop the illegal transfer of tribal lands to non-tribals. The competent authority to sanction transfer of tribal land to a non-tribal is generally the District Collector. It has been observed that this power is delegated by the District Collectors to the SDOs, who are generally not aware of the serious repercussions to the tribals arising from the transfer of their land. The Himachal Pradesh (Transfer of Land Regulation) Act, 1968 initially provided that no person belonging to any Scheduled Tribe shall transfer his interests in any land by way of sale, mortgage, lease, gift or otherwise to any person not belonging to such tribe except with the prior permission of the Deputy Commissioner of the concerned district. The Act as amended with effect from 4 January, 2003 now provides that no person belonging to Scheduled Tribe shall transfer his interest in any land including any constructed premises by way of sale, mortgage, lease, gift or otherwise to any person not belonging to such tribe except with the previous permission in writing of the State Govt. The amended Act further provides that the State Govt. before according such permission shall consult Gram Sabha and/or Panchayat at appropriate level. **The Commission recommends that the State Govts. which have enacted anti-alienation laws in respect of transfer of tribal land may be advised to make suitable amendments in their laws/Acts on the line of the amendments carried out in the Himachal Pradesh (Transfer of Land Regulation) Act, 1968 in January, 2003 making it mandatory to obtain the previous written permission of the respective State Govt. for transferring of any tribal land to a non-tribal (as has been referred to above). The Commission further recommends that pending suitable amendments in the respective Acts, the State Govts. may also be advised to issue suitable instructions to the District Collectors/Deputy Commissioners to ensure that the power of granting permission of transfer of a tribal land to non-tribal ( in case it has been vested in them) should in no situation be delegated by them (i.e. District Collectors/Deputy Commissioners) to the lower functionaries of the district.**
- (iv) A sizeable ST population lives outside the Scheduled Areas in bigger States like Andhra Pradesh, Gujarat, Madhya Pradesh, Maharashtra and Orissa. They are also

liable to be exploited and, therefore, they too need protection at par with STs living within the Scheduled Areas. **The Commission, therefore, recommends that there is also a need to advise the State Govts. to consider extending the special concessions given to members of Scheduled Tribes under PESA Act to the Scheduled Tribes residing outside the Scheduled Areas.**

- (v) It has been noticed that the actual restoration and possession of the land to the ST owner takes a long time even though the court judgment is in favour of the ST. This encourages the illegal owner of the land to delay matters and go in for appeal. **The Commission is of the view that the State Govts. should be advised to prescribe a reasonable timeframe within which the land should be handed over to the ST land owner.**
- (vi) **In agreement with the Dhebar Commission, (1961), this Commission also recommends that there should be a bar against suits or applications against any order made by a Deputy Commissioner or a Collector in favour of tribals. The law made by the Govt. of Orissa provides for appeal only to one revenue court. There is a need for incorporation of similar provisions in other State laws if no such provisions already exist.**
- (vii) **The State Govts. may be advised to register suo-moto cases against those who are found guilty of alienating the tribal land in their names in an illegal/fraudulent manner in terms of Section 3 (1) (iv) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 and, thereafter, to grant a suitable relief in cash to the tribals (whose land was alienated) in terms of Rule 12 (4) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Rules, 1995.**

3.10.11 The alienation of the tribal land is not limited to agricultural and habitational land. They have also been getting dispossessed of their forest land. According to one estimate, while 187 tribal districts cover 33.6% of the total geographical area of the country and the forest cover therein constitutes 60% of the total forest cover in the country. In other words, the tribal areas provide the bulk of forest cover and, therefore, pushing tribals out of forests in the name of further forestry operations would by no means be fair and just from human as well as economic point of view. The Dhebar Commission, 1961 had dwelt upon the relationship between tribals and forests. They observed that from times immemorial, the tribal people had enjoyed freedom to use the forest and this had given them a conviction that remains deep in their minds that forests belong to them. By about middle of the nineteenth century, the extension of the authority of the Government in these areas and exercise of close control over forest products disturbed the tribal economy and introduced psychological conflict.

3.10.12 According to the Tenth Five-Year Plan document, “development of 5000 forest villages and 2.5 lakh tribal families living therein continued to remain as one of the weakest links in the whole process of tribal development. The Tenth Plan will, therefore, take up the development of forest villages on priority basis and ensure extending benefits/services as in the case of revenue villages and reaching the comprehensive package with basic minimum services of food, safe drinking water, health care, primary education, approach roads and other infrastructural facilities”.

3.10.13 The Government has been taking a consistent view on the central theme of integrating the tribal population living in and around forests into every aspect of managing

forest. All policy statements including the Forest Policy, 1988 have been espousing the cause of tribal communities and emphasizing the need for putting these communities at the centre of any conservation measures, with special attention to (i) replacement of contractors by tribal cooperatives, (ii) protection, regeneration and optimum collection of minor forest produce with institutional arrangements for marketing of such produce, (iii) development of forest villages on par with revenue villages, (iv) family oriented scheme for improving the status of tribal beneficiaries and, (v) undertaking integrated area development programmes to meet the needs of tribal economy in and around forest areas. However, despite all the legislative/policy framework of the Ministry of Environment and Forests, the historical rights of the tribals living in the forests had not been recognized. It is with a view to redress the historical injustice to the tribal community and for clear assertion of their legal rights on the forest land that the Government has decided to formulate a comprehensive legislation. A Bill to this effect has been introduced by the Ministry of Tribal Affairs in Parliament. The Bill proposes to recognize and vest the forest rights and occupation of forest land to forest dwelling Scheduled Tribes. The basic features of this Bill have been referred to in Para 3.12 of this Chapter.

### **3.11 Scheduled Tribes (Recognition of Forest Rights) Bill, 2005**

3.11.1 Forest dwelling tribal people and forests are inseparable. One cannot survive without the other. The conservation of ecological resources by forest dwelling tribal communities have been referred to in ancient manuscripts and scriptures. The colonial rule somehow ignored this reality for greater economic gains and probably for good reasons prevalent at that time. After independence, in our enthusiasm to protect natural resources, we continued with colonial legislation and adopted more internationally accepted notions of conservation rather than learning from the country's rich traditions where conservation is embedded in the ethos of tribal life. The reservation processes for creating wilderness and forest areas somehow ignored the bona fide interests of the tribal community in respect of the legislative framework in the regions where tribal communities primarily inhabit. The simplicity of tribals and their general ignorance of modern regulatory frameworks precluded them from asserting their genuine claims to resources in areas where they depended upon. The modern conservation approaches also advocate exclusion rather than integration. It is only recently that forest management regimes have in their policy processes realized that forests have the best chance to survive if the tribal communities living in them participate in its conservation and regeneration measures.

3.11.2 It is a well known fact that the forest dwelling scheduled tribes have been residing on their ancestral land from times immemorial and that there exists a symbiotic relationship between the forest dwelling scheduled tribes (FDSTs) and the biological resources in India. They are integral to the very survival and sustainability of the forest eco-systems, including wild life. The non-recognition of the rights of the FDSTs over the land on which they have been living in forests since ages has been attracting public attention since pre-Independence period. The non-recognition of their rights have come to be erroneously looked upon as encroachers of forest lands and the threat of eviction has always been looming large in their psyche. Insecurity of tenure and fear of eviction from these lands where they have lived and thrived for generations are perhaps the biggest reasons why tribal communities feel emotionally as well as physically alienated from forests and forest lands. All these factors have resulted in historical injustice to them.

3.11.3 Inadequate implementation of the Provisions of the Panchayats (Extension to the Scheduled Areas) Act, 1996, by non-transfer of control/ownership over the natural resources, including the Minor Forest Produce to the local communities and by non-extension

of PESA Act to the entire Scheduled Areas, including forest areas, have further compounded their miseries. Although the provisions of the Panchayats (Extension to Scheduled Areas) (PESA) Act, 1996 gives the rights of ownership of MFP to the respective local communities, the collection and trade of most of the high value MFP is largely monopolized by the Corporations of the Forest Department of the States and poor FDSTs are just employed by the contractors only as wage earners.

3.11.4 The above-mentioned scenario relating to non-recognition of the rights of the scheduled tribes over the land on which they have been living for generations is in existence notwithstanding the Government taking a consistent view on the central theme of integrating FDSTs living in and around forests into every aspect of managing forest and all policy statements, including Forest Policy, 1988, circulars, guidelines and Govt. Orders issued by the Ministry of Environment and Forests have been espousing the cause of tribal communities and emphasizing the need for putting these communities at the centre of any conservation measures. It was in this background that the historical rights of the FDSTs have not been recognized despite all the legislative/policy framework of the Ministry of Environment and Forest, the Government (Ministry of Tribal Affairs) have decided to formulate a comprehensive Central legislation to redress the historical injustice done to the tribal communities and for clear assertion of their legal rights on the land. Accordingly, a Technical Support Group (TSG), comprising the representatives of the Ministries concerned and some reputed experts having rich experience and deep association with the cause of environmental protection and welfare of tribal people, was constituted, under the Chairmanship of Secretary (Tribal Affairs) to formulate the Scheduled Tribes and Forest Dwellers (Recognition of Forest Rights) Bill. Director General (Forests), Ministry of Environment & Forests was also one of the members of the Group. After a series of meetings of the TSG, a draft Scheduled Tribes (Recognition of Forest Rights) Bill, 2005 was formulated by the Ministry of Tribal Affairs and circulated amongst the Ministries concerned for their comments. A copy of the proposed Bill was also put on the website of the Ministry of Tribal Affairs inviting suggestions from members of public, tribal associations, NGOs working in the area of tribal development etc. The Bill has since been introduced in Parliament and referred to the Joint Select Committee of Parliament for examination.

3.11.5 Section 2 of the Bill deals with definitions of the key words appearing in the different sections of the Bill such as 'forest land', 'forest villages', 'Scheduled Areas' etc. Section 2 (h) of the Bill defines "minor forest produce". It says that 'minor forest produce' includes all non-timber forest produce of plant origin including bamboo, brush wood, stumps, cane, tussar, cocoons, honey, wax, lac, tendu or kendu leaves, medicinal plants and herbs, roots, tubers and the like.

3.11.6 The Bill in its present form in Section 4 seeks to recognize and vest Forest Rights to forest dwelling Scheduled Tribes, where they are scheduled. Such Forest Rights as defined in Section 3, are in respect of recognition of occupation of FDSTs on forest land and their habitat where they have been living for generations and include:

- (i) right to hold and live in the forest land under the individual or common occupation for habitation or for self-cultivation for livelihood by a member or members of a forest dwelling Scheduled Tribes;
- (ii) rights such as nistar, by whatever name called, and used in erstwhile princely States, Zamindari or such intermediary regimes;
- (iii) right of access to, use or dispose of minor forest produce;
- (iv) other rights of uses or entitlements such as grazing (both settled and transhumant) and traditional seasonal resource access of nomadic or pastoralist communities;

- (v) right of habitat and habitation for primitive tribal groups and pre-agricultural communities;
- (vi) rights for conversion of pattas or leases or grants issued by any local authority or any State Government on forest lands to titles;
- (vii) right to protect, regenerate or conserve or manage any community forest resource which they have been traditionally protecting and conserving;
- (viii) rights which are recognized under any State law or laws of any Autonomous District Council or Autonomous Regional Council or which are accepted as rights of tribals under any traditional or customary law of any State;
- (ix) any other traditional right customarily enjoyed by the forest dwelling Scheduled Tribes which are not mentioned in clauses (a) to (l) of the Bill (Section 3) but excluding the right of hunting.

3.11.7 Section 4 (2) of the Bill provides that the recognition and vesting of forest rights under this Act to forest dwelling Scheduled Tribes in relation to any State or Union Territory in respect of forest land and their habitat shall be subject to the condition that such tribes or tribal communities had occupied forest land before the 25<sup>th</sup> day of October, 1980 or such other date as the Central Government may, by notification in the Official Gazette, specify. Certain other provisions of this Section are:

- (i) A right conferred by Section 4 (1) shall be heritable but not alienable or transferable [sub-section (3)].
- (ii) Save as otherwise provided, no member of a forest dwelling Scheduled Tribe shall be evicted or removed from forest land under his occupation till the recognition and verification procedure is completed in such manner as may be prescribed [sub-section (4)].
- (iii) Where the forest rights recognized and vested under Section 4 (1) are in respect of land, such land in no case will exceed an area of 2.5 hectares per nuclear family of forest dwelling Scheduled Tribes [sub-section 5 (i)].
- (iv) The forest rights recognized and vested under sub-section (1) in the forest dwelling Scheduled Tribe shall (1) be exercised only for bonafide livelihood purposes and not for exclusive commercial purposes and, (2) include the responsibility of protection, conversion and regeneration of forests [sub-section (6)].

3.11.8 The duties of forest right holders have been defined in Section 5 of the Bill which include responsibility of not carrying out any activity that adversely affects the wild life, forests and biodiversity in the area including clearing of forest land or trees which have grown naturally on that land for any non-forestry purposes including re-afforestation. The forest right holders are also required to ensure that:

- (i) catchment areas, water sources and other ecologically sensitive areas are adequately protected;
- (ii) the habitat of forest dwelling Scheduled Tribe is preserved from any form of destructive practices affecting their cultural and natural heritage;
- (iii) any activity that adversely affects the wild life, forest and the biodiversity is intimated to the Gram Sabha and to the forest authorities;

- (iv) appropriate measures taken in the Gram Sabha to regulate access to community forest resource and stop any activity which adversely affects the wild life, forest and the biodiversity are complied with.

3.11.9 The authorities, including their functions, have been defined in Section 6 of the Bill. This Section, inter-alia, provides that:

- (i) The Gram Sabha shall be the authority to initiate any action for determining the extent of forest rights that may be given to the forest dwelling Scheduled Tribes within the local limits of its jurisdiction under this Act.
- (ii) A Sub-Divisional Level Committee shall examine the decision taken by the Gram Sabha.
- (iii) Any person aggrieved by the decision of the Gram Sabha may prefer an appeal to the Sub-Divisional Level Committee in such manner as may be prescribed and the Sub-Divisional Committee shall consider and dispose of such appeal.

Provided that no such appeal shall be disposed of against the aggrieved person, unless he has been given a reasonable opportunity to represent his case.

- (iv) There shall be constituted a District Level Committee with such composition and functions as may be prescribed to consider the record of forest rights prepared by the Sub-Divisional Level Committee for its final approval.
- (v) Any person aggrieved by the decision of the Sub-Divisional Committee may prefer an appeal to the District Level Committee in such manner as may be prescribed and the District Level Committee shall consider and dispose of such appeal. Provided that no such appeal shall be disposed of against the aggrieved person, unless he has been given a reasonable opportunity to represent his case.

3.11.10 Section 8 of the Bill provides for penalty for contravention of the provisions of the Act and also for the offences by Government authorities under this Act. It provides for a fine which may extend to one thousand rupees if any holder of any forest right conferred by or under the proposed Act or any other person (i) contravenes or abets the contravention of any of its provisions or, (ii) commits a breach of any of the conditions of the forest right vested or recognized under the Act, or (iii) engages in unsustainable use of forest or forest produce; or (iv) destroys wildlife, forests or any other aspect of biodiversity; or (v) fells trees for any commercial purpose. The Bill also provides for derecognition of the forest rights in case the offence is committed more than once. The Bill further provides that where any authority or member of such authority contravenes any provisions of this Act or any rule made thereunder shall be deemed to be guilty of an offence under this Act and shall be liable to be proceeded against and punished with imprisonment which may extend to thirty days or with fine which may extend to five thousand rupees, or with both. The penalties provided under other legislations including Indian Forest Act, 1927, the Forest Conservation Act, 1980 are not barred by this Act.

3.11.11 The National Commission for Scheduled Tribes welcomes the proposal of the Government to formulate a legislation to recognize the rights to hold and live in the forest land under the individual or common occupation for habitation or for self-cultivation for livelihood by a member or members of a forest dwelling Scheduled Tribe and several other

rights connected therewith. The Commission feels that the proposed Bill is a step in the right direction as it addresses the long standing and genuinely felt need of granting a secure and inalienable right to those communities whose right to life depends on right to forests. It is learnt that the Bill has since been introduced in the Parliament and referred to the Joint Parliamentary Committee (JPC) for further examination. The Commission is, however, pained to note that no formal consultation on such a major issue affecting the interests of Scheduled Tribes was made with it by the Ministry of Tribal Affairs in terms of Clause 9 of Article 338A of the Constitution.

### **3.12 Minor Forest Produce (MFP)**

3.12.1 It is universally recognized that the tribals for generations have been dependent on forests for their livelihood requirements. Studies have shown that Minor Forest Produce (MFP) account for 50 to 70% of the food requirements of certain tribal communities. They collect a variety of MFP for their own use and sell them in the market either for cash or kind. Traditionally, the tribals were forced to sell their MFP to private traders at very unremunerative prices. In order to overcome this problem, cooperative societies and corporations were set up to protect the tribals from exploitation. These corporations/cooperatives were meant to protect the tribals from their exploitation by middleman. These steps, however, have so far met with limited success only on account of a number of factors arising from inadequate working capital, imperfect organization, poor management, and lack of participation of Scheduled Tribes. The tribal corporations purchase forest produce from the tribals at reasonable prices and provide them with necessities like Ragi, rice, salt, kerosene, cloth etc. at fair prices. The LAMPS (Large- Size Multi-Purpose Societies) were also created during the Sixth Five Year Plan period for procurement of MFP and surplus agricultural produce, supply of essential commodities, agricultural inputs, provision of credit facilities for production and consumption either by converting the existing primary agricultural cooperative societies or by organizing new LAMPS at block levels so as to cover a population of at least 10,000 in a compact group of villagers with minimum coverage of 10,000 acres of agricultural land and annual short term credit potential of Rs.51.00 lakhs. This experiment also met only with a very limited success on account of LAMPS running into losses due to poor recovery of loans provided by the National Bank for Agricultural and Rural Development (NABARD) for further disbursement among the tribals.

3.12.2 The Tribal Cooperative Marketing Development Federation (TRIFED) was set up as an apex body of cooperatives by Government of India (under the administrative control of Ministry of Tribals Affairs) to ensure fair economic price for the produce grown/collected by the tribals and to check their exploitation by the vested interests. TRIFED has its network for collection, processing and marketing of forest and agricultural commodities of tribals. The management of the TRIFED has taken certain new initiatives in the recent past (i.e. 2002-2003) by way of shifting the focus from trading activities concerning procurement and sale to the marketing and development of tribal products. However, the TRIFED has not come up to the expectations of the Government both in its earlier role connected with procurement and sale of Minor Forest Produce and in its new role of market developers for tribal products in providing effective assistance to the tribals. The limited success of this organization is principally accountable to diverse factors including poor management. A diagnostic study commissioned by TRIFED in January, 2002 detailed the following reasons for the Federation's unsatisfactory performance:-

- (i) Organizational deficiencies, arising out of limited focus on procurement, lack of market intelligence, ad hoc approach to project execution and poor work culture.
- (ii) Systemic failure resulting from a lack of planning framework, monitoring procedures, and the ad hoc nature of purchase and selling operations.

- (iii) Operational weaknesses, brought about by poor storage facilities, high inventory costs, huge fixed expenses and unprofitable procurement activities.

3.12.3 The study, in view of the above factors, suggested that the TRIFED needed a complete overhaul. The performance of the TRIFED was also discussed in one of the meetings of this Commission and it was observed that another important reason for less effective performance of TRIFED was the procurement of Minor Forest Produce by them from the contractors/middlemen and not directly from the tribals as was envisaged by the Government while creating this organization. The Commission recommends that the Ministry of Tribal Affairs may take the following steps to rejuvenate the TRIFED:-

- (i) **TRIFED should purchase MFP through MFP Cooperative Societies and, under no circumstances, from the contractors/middlemen with a view to ensure fair and reasonable price to the tribals.**
- (ii) **TRIFED should continue to focus its activities on direct procurement of MFP and AP (Agricultural Produce) from the tribals and their sale and the marketing development of the tribal products should be left to the other agencies which are working in this field.**
- (iii) **Appropriate steps need to be taken to enhance the efficiency of TRIFED by periodic review of its performance, physical as well as financial to strengthen it to perform the basic duties assigned to it.**

3.12.4 **The Commission further recommends that the State Govts. where the Scheduled Tribes are sizeable in number may be advised to fix the minimum support price of all the MFP items to ensure that the tribals get fair price for those items and are saved from the exploitation by the middlemen. In case the TRIFED suffer losses in the procurement of MFP items on account of their fixed minimum support price, these losses should be compensated by the Central Govt. (Ministry of Tribal Affairs) in the larger interest of the tribals.**

3.12.5 The first formal proposal to confer ownership rights in respect of MFP to the Scheduled Tribes was passed in a Conference of Tribal and Forest Ministers held in 1976 as a part of the Tribal Sub-Plan strategy adopted during the Fifth Five Year Plan. Madhya Pradesh was the only State, which followed up this recommendation and formally declared that the tribal was the 'owner' of MFP. This decision was, however, operationalised only in case of tendu patta, which is a nationalized item through a Government resolution. No decision has been taken by the State in respect of other minor forest produce items namely- (i) Annato Seed, (ii) Bahera, (iii) Ban Kulthi, (iv) Clearing Nut, (v) Cocoons (Cut), (vi) Cocoons (Full), (vii) Dry Amla, (viii) Green Amla, (ix) Gum Karaya, (x) Hill Broom, (xi) Hill Grass, (xii) Honey, (xiii) J.C. Grass, (xiv) Laham Bark, (xv) Marking Nut, (xvi) Mahua Flower, (xvii) Myrobalan (Yellow), (xviii) Myrobalan (Black), (xix) Seed Lac, (xx) Shikakai, (xxi) Stic Lac, (xxii) Siali Leaves, (xxiii) Siali Leaf Plate, (xxiv) Soapnut, (xxv) Tamarind-Seeded, (xxvi) Tamarind-Deseeded, (xxvii) Tamarind Seed. No other State Govts. took any action in pursuance of the 1976 recommendations of the Government of India. The next major step was taken in 1996 with the enactment of the Provisions of Panchayats (Extension to the Scheduled Areas) Act, 1996 (PESA) which, inter-alia, envisages conferral of ownership under Section 4(m) (ii) which is reproduced below:-

“(m) while endowing Panchayats in the Scheduled Areas with such powers and authority as may be necessary to enable them to function as institutions of self-government, a State Legislature shall ensure that the

Panchayats at the appropriate level and the Gram Sabha are endowed specifically with the ownership of minor forest produce”

3.12.6 Most of the States have simply defined the MFP products as per Indian Forest Act, 1927. Only a few States like Gujarat and Maharashtra have made legal provisions regarding ownership of MFP in pursuance of the above-cited provisions of PESA Act, 1996. Gujarat has preferred to confer the ownership rights on district Panchayats in total disregard of the Gram Sabha which represents the collectivity of the tribal people in the Scheduled Areas. In Maharashtra, the ownership of MFP has been given to Gram Sabha and State Panchayats. The ownership of MFP in the Scheduled Areas leaving aside national parks and sanctuaries has been vested with the Panchayats. **The Commission recommends that the Fifth Schedule States may be advised to make legal provisions in their respective State Acts relating to Panchayats regarding conferring of ownership of MFP on the tribals in conformity with the provisions, both in letter and in spirit, of Panchayats (Extension to Scheduled Areas) Act, 1996.**

3.12.7 The issue about the definition of Minor Forest Produce will be resolved after the proposed Scheduled Tribes (Recognition of Forest Rights) Bill, 2005 (which has been referred to in more details in the previous para) is passed by the Parliament. The definition of MFP in that Bill includes tendu patta and bamboo.

3.12.8 As on date, the tribals are not entitled to collect the different items falling under the minor forest produce from the protected forests or forests covered under the wild life sanctuaries. **The Commission recommends that:**

- (i) **The tribals should be allowed to collect the minor forest produce from such forests also, which have been declared ‘protected’.**
- (ii) **The tribals should also be allowed to collect the fuel wood (i.e. dry wood) from the protected forests/wild life sanctuaries, as has been allowed by the Govt. of Madhya Pradesh.**

### **3.13 Safeguarding Rights of the Tribal Communities over Mineral Resources, Water Resources etc.**

#### **(a) Mineral Resources**

3.13.1 The interface between the tribal people and mining activities was first considered in the Tribal Sub-Plan strategy in 1974. The guidelines issued by the Government of India (MHA) and the Planning Commission acknowledged that adequate benefits from these projects had not flown to the tribals. These guidelines emphasized the need for identification of the zones of influence of the existing industries and also those likely to be established. It was further envisaged that the future policy should be so evolved that the local community became co-sharer in the benefits of mining and industrial activity in the region. In pursuance of this policy, the Union Government while clearing the Malanjkhand Copper Project in Madhya Pradesh in 1976 made it a pre-condition that a plan for the zone of influence shall be prepared and implemented as an integral part of the project. This policy was, however, not pursued systematically.

3.13.2 The issue was next considered in the formulation of National Mineral Policy, 1993 which acknowledged that the mineral bearing areas were also inhabited by tribal population and that the exploitation of mineral resources had not always contributed

adequately to their economic development. It was further acknowledged that a major thrust needed to be given for development of infrastructural facilities in mineral bearing areas following an integrated approach for mineral development, regional development and also social and economic uplift of the local population including tribal population. Although this policy of 1993 conceded that in grant of mineral concessions for small deposits in Scheduled Areas, preference shall be given to the Scheduled Tribes, no clear guidelines have been issued by the Government of India nor there are general provisions in this regard in the mineral concession rules. **The Commission recommends that there is need to issue clear guidelines for giving preference to Scheduled Tribes in the grant of mining concessions in Scheduled Areas.**

3.13.3 The next major attempt to deal with this issue was that of Bhuria Committee (1995) appointed by the Government of India in terms of Clause 3 of Article 243ZC of the Constitution to suggest suitable 'exceptions and modifications' while extending the provisions of Part IX A of the Constitution regarding Municipalities to the Scheduled Areas. The Committee recommended that in all industrial enterprises set up in the Scheduled Areas (other than small ventures), the community should be deemed to be the owner with 50% shares in its favour by virtue of its allowing the industry to use local resources and getting established. The Committee also called for the preparation of a Master Plan for the zone of influence, which should make specific provisions- financial, institutional and legal, for ensuring a place of honour to all those whose lands are taken or who are indirectly affected by the new economic activity; and integrating the economy of the people living in the zone of influence of the industry with the core economy, and no project hereafter should be cleared without such a Master Plan. No action appears to have been taken by the Government on the above-mentioned crucial recommendations of the Bhuria Committee with the result that all urban bodies, including most of the mining establishments in the Scheduled Areas constituted under the provisions of Part IX A of the Constitution have been functioning for more than a decade now without any authority of law for the simple reason that the provisions of Part IXA have not been extended to the Scheduled Areas. **The Commission recommends that the Deptt. of Mines should introduce a bill to give effect to the recommendations of the Bhuria Committee 1995 to the effect that in all industrial enterprises set up in the Scheduled Areas (other than small ventures), the community should be deemed to be the owner with 50% shares in its favour by virtue of its allowing the industry to use local resources and getting established.**

3.13.4 Section 4(d) of Provisions of Panchayats (Extension to Scheduled Areas) Act, 1996 accepts the competence of the Gram Sabha to 'safeguard and preserve..... community resources.....'. Moreover, specific provisions have also been made under sub-section (k) and (l) of Section 4 of this Act, which make it mandatory to consult Gram Sabha before granting prospecting license or mining lease for minor minerals in the Scheduled Areas. The Ministry of Mines (now the Department of Mines under the Ministry of Coal and Mines) had issued guidelines in this regard in 1997 which called for getting approval of Gram Sabha mandatory. No action appears to have been taken by the State Govts. on these guidelines except the State Government of Madhya Pradesh which have made necessary rules with reference to these guidelines in the Mines and Minerals (Regulation & Development) Act. The Government of Andhra Pradesh has amended the Mining Rules and made a clear provision that 'notwithstanding anything contained in this Act, no prospecting license or mining lease shall be granted in the Scheduled Areas to any person who is not a member of a Scheduled Tribes subject to the provision that the same shall not apply to an undertaking owned or controlled by the State or Central Government or a society which is composed solely of members of Scheduled Tribes. In its historic judgment in Samatha case, the Hon'ble Supreme Court held that "the State Govt. also stands prohibited to transfer by way of

lease or any other form known to law, the government land in Scheduled Area to a non-tribal person". While the mining leases in Andhra Pradesh have been cancelled, no action has been taken in other States in pursuance of the verdict of the Supreme Court, nor has the Government of India issued any directions or guidelines in this regard. The Commission recommends that there is need to issue instructions to all the State Govts., other than the Government of Andhra Pradesh:

- (i) **To comply with the judgement of the Hon'ble Supreme Court dated 11.07.1997 in Samatha vs. State of Andhra Pradesh and Others (CA No. 4601-02/1996) not to transfer by way of lease etc. the government land in Scheduled Areas to a non-tribal and that all such mining leases should be given to the tribals only.**
  - (ii) **The tribals should be given vocational training and financial assistance to enable them to be in a position to run the mining operations.**
  - (iii) **To make specific legal provisions in their Acts relating to mines and minerals making it mandatory for them to consult Gram Sabhas before grant of any lease about minor minerals.**
- (b) **Water Resources**

3.13.5 Apart from the general provisions concerning community resources under section 4(d) of the Panchayats (Extension to Scheduled Areas) Act, 1996, section 4 (j) envisages that 'Planning and management of water bodies shall be entrusted to Panchayats at the appropriate level'. The M.P. Panchayati Raj and Gram Swaraj Adhiniyam, 1993 mentions ten 'community resources' used in PESA Act as natural resources including land, water and forest within the area of the village. Jharkhand Panchayat Act has also adopted similar provisions. The Gram Panchayats in Madhya Pradesh have also been further endowed with powers regarding management of water resources, subject to general superintendence, control and direction of the Gram Sabha as cited below:

**129 (D):**

- (iii) to plan, own and manage minor water bodies up to a specified water area situated within the territorial jurisdiction.
- (iv) to lease out any water body up to a specified area for the purpose of fishing and other commercial purposes.
- (v) to regulate the use of water of rivers, streams, minor water bodies for irrigation purpose;

3.13.6 The intention of the law to empower the community has not been realized in the absence of any guidelines for the functioning of Gram Sabhas in accordance with their customs and traditions. **The Commission, therefore, feels that there is need to issue the guidelines to all the State Governments about safeguarding the rights of the tribal people over water and other resources in the Scheduled Areas.**

### **3.14 Health and Medical Services**

3.14.1 It is widely accepted that malnutrition among tribals is wide spread, which is largely attributable to abject illiteracy, environmental conditions, difficult terrain, traditional beliefs and customs and, above all, the non-availability of basic health services. The ill-

nourished tribals live in an environment, which has been degraded, and, as a result, diseases such as malaria, filaria, tuberculosis, and goiter are endemic in most of the tribal areas. The tribal people, however, in the course of their isolated existence, have developed alternative systems of medicines. They have a rich store of knowledge of various herbs, plants, insects and animals, which have medicinal value. These drugs and practices have sustained the tribal communities for generations. Now due to change in medical system, the modern method of medicine has also made inroads into the tribal areas. But the tribals being rooted to their culture, generally prefer to have their own system of medicine and only when they find that it is ineffective, they go in for the allopathic system of medicine. Once the tribals decide to make use of allopathic medicines, they face another problem, which relates to non-availability of doctors and other paramedical personnel. It is commonly known that posting of doctors and other paramedical staff in tribal areas are treated as punishment posting with the result that most of the posts in the centres and sub-centres are generally vacant in tribal areas. There are no private practitioners in these areas as it is not lucrative due to non-viability of this profession in the interior tribal areas.

3.14.2 There is a general lack of hygiene and sanitation which aggravates the health problems of the tribals and, therefore, on the whole, tribal people have a lower level of health as has been seen by various health indices like low birth-weight, life expectancy at birth, maternal mortality rate, infant mortality rate and prevalence of various communicable diseases, genetic disorders, alcoholism and drug addiction.

3.14.3 It has to be accepted that the traditional system of using herbal medicines and the tribal medicine man is not sufficient to take care of all health problems of the tribal people and they have to get access to the modern system of medicine. It is also true that more and more numbers of the tribals are taking to the allopathic and other systems of medicines. However, on account of several factors, health and medical care services are not easily accessible and affordable and, wherever they are available, tribals have not been able to take full benefit of these health services due to illiteracy, ignorance and innate shyness of tribal communities. In order to improve the situation, the delivery system and functioning of the health care institutions has to be fashioned in such a way as to conform to the unique conditions in tribal areas.

3.14.4 The norms for health care provide for setting up of a sub-center for a population varying between 3000-5000 depending upon terrain and location; a Primary Health Centre (PHC) for a population between 20,000-30,000 and a Community Health Centre (CHC) for every four PHCs. Keeping in view the far flung areas, forest land, hills and remote villages, where most of the tribal habitations are concentrated, the population coverage norms have been relaxed as under:-

Centre	Population Norms	
	Plain Area	Hilly/Tribal Area
Sub-Centre	5,000	3,000
Primary Health Centre	30,000	20,000
Community Health Centre	1,20,000	80,000
Multipurpose Workers (MPWs)	5,000	3,000

Source: Annual Report of Ministry of Health and Family Welfare 2004-05

3.14.5 **The Commission recommends that the above population norms may be further relaxed in respect of the hilly/tribal areas as follows:-**

S.No.	Name of the Centre	Existing Population Norms		Relaxed Norms for Plain Tribal Areas	Relaxed Norms for Hilly Tribal Areas
		Hilly Areas	Plain Areas		
1.	Sub-centre/Multipurpose workers	3, 000	5, 000	3, 000	1, 000
2.	Primary Health Centre	20, 000	30, 000	20, 000	10, 000
3.	Community Health Centre	80, 000	1,20, 000	80, 000	25, 000

3.14.6 The States have been advised to set up at least 7.5% of their annual targets in tribal areas. The State Governments have also been advised to give further relaxation for setting up Sub-Center/Primary Health Center in the case of tribal hamlets which are 5 kms. away from the existing Health and Family Welfare delivery point. The State Govts. have also been advised to introduce schemes for compulsory annual medical examination of Scheduled Tribe (as also of Scheduled Caste) population in rural areas. Under the Minimum Needs Programme, 21,513 Sub-Centers, 3610 Primary Health Centers and 604 Community Health Centers have been established in tribal areas as on 31.03.2003.

3.14.7 The following Centrally Sponsored Schemes and Central Sector Schemes are being implemented in areas inhabited by weaker sections particularly Scheduled Castes and Scheduled Tribes:

**(A) Centrally Sponsored Schemes:-**

- (i) **The National Vector Borne Diseases Control Programmes** approved in 2003-2004 by convergence of three ongoing programmes of Malaria, Filariasis, Kala-azar and inclusion of Japanese encephalitis and Dengue/DHF is proposed to be implemented by States/UTs with 50% Central Assistance for spraying insecticides, supply of anti-malarial drugs etc. including tribal areas under TSP. 100% assistance is provided to N.E. States dominated by tribal population as against 50% assistance to other States. The Enhanced Malaria Control Project (EMCP) with World Bank assistance covers 1045 tribal PHCs in all the districts of eight of the nine Fifth Schedule States namely- Andhra Pradesh, Chhatisgarh, Gujarat, Jharkhand, Madhya Pradesh, Maharashtra, Orissa and Rajasthan.
- (ii) **National Leprosy Eradication Programme** is being implemented in all the districts of the country for providing free diagnostic and treatment facilities. Leprosy services are now available in all the General Health care facilities including PHCs and Sub-Health Centers on all the working days of the week. These services are available to all the people including Scheduled Tribes. 100% assistance is provided to the States under this programme.
- (iii) **National Tuberculosis Control Programme** is being implemented with 100% central assistance for supply of anti-TB drugs, equipments etc. in tribal areas under TSP. Norms have been relaxed and following steps are being taken for facilitating service delivery in tribal areas:-

- (a) Providing STs and STLs for 2.5 lakh population against established norms of 5 lakhs;
  - (b) Opening of microscopic centers for 50,000 population against established norms of 1 lakh;
  - (c) Opening of more DOTs centres; and
  - (d) Provision to reimburse the travel claims of patients and attendants for taking treatment at DOTs centres.
- (iv) **National Programme on Control of Blindness** is being implemented with 100% assistance for strengthening of ophthalmic infrastructure training of personnel etc. in tribal and SC areas for treatment of eye ailments and control of blindness under TSP and SCP. Under this programme, schemes for non-recurring grant-in-aid to NGOs for setting up or expansion of eye care units in tribal-remote areas is being implemented to develop infrastructure for eye care in such areas.
- (v) **National AIDS Control Programme**, is being implemented with 100% assistance in tribal and SC areas.
- (B) Central Sector Schemes:-**
- (i) Due to poor economic condition of parents, the students belonging to SCs and STs community face great difficulty in purchasing textbooks. In order to overcome the difficulties, book banks in medical courses for students belonging to Scheduled Castes and Scheduled Tribes have been set up under purely centrally aided schemes in Central Institutions like PGIMER, Chandigarh; JIPMER, Pondicherry; AIIMS, New Delhi; University College of Medical Sciences, Delhi and Lady Harding Medical College, New Delhi etc.
  - (ii) The Central Institute of Psychiatry, Ranchi is providing health care facilities to the neighbouring areas of Ranchi pre-dominantly inhabited by tribal people in the Chhota Nagpur belt of Jharkhand. During the Tenth Plan Period, an amount of Rs.50.0 crores was allocated to the Institute. During 2004-2005, an amount of Rs.8.0 crores was allocated to meet expenses on medical services and strengthening of the Institute.
  - (iii) One of the reasons cited for tardy improvement in health status of the tribal population is poor and incomplete understanding about their health problems, both general and specific to certain tribes. In order to bridge this gap, the Indian Council of Medical Research, through its network of disease oriented National Institutes and Regional Medical Research Centres (RMRCs) has conducted several surveys and studies. ICMR has conducted various focused studies on general morbidities, genetic diseases and viral markers in tribal areas. Results of ICMR study showing prevalence of sickle cell anemia, thalassaemia and G-6-PD deficiency among primitive tribes of 7 districts at North Tripura and Dhalai districts in Tripura, Dindori district in Madhya Pradesh, Jaspur district in Chhattisgarh, Palamau and Sahibganj district in Jharkhand and Great Andamans and Onges district in A&N Island. Plan schemes on (i) research on diseases to which SC/ST are generally prone and (ii) medical care for remote and marginalized tribal and nomadic communities were in operation in 9<sup>th</sup> plan and are continuing during the 10<sup>th</sup> plan. Various steps have been taken to extend the outreach of health care services to the tribal population by involvement of local people for transfer of modern health technology as well as for adaptation of local technology.

3.14.8 The Commission recommends that the State Govts. may be advised to take the following measures to ensure proper medical facilities in tribal areas:-

- (i) A Health Guide should be made available for each village with a view to educate the tribals to avail of the modern system of medicine for treatment of such diseases for which their traditional system based on herbal medicines is not sufficient.
- (ii) Each village should have at least one trained birth attendant (i.e. dai) equipped with a delivery kit, aseptic liquid and scissors for cutting cords. She should be paid a fixed remuneration say Rs.250 per delivery attended by her plus Rs.100 towards the cost of the consumable materials used during the delivery.
- (iii) There is a need to devise a very credible and effective system of giving incentives to the doctors and the paramedical staff in the form of good accommodation, facilities for their children's education, out of turn promotions etc. to overcome their reluctance to work in the tribal areas.
- (iv) Awareness programmes about the benefits of family planning and information about various communicable diseases and genetic disorders should be launched through documentaries, advertisements, posters and lectures at regular intervals.
- (v) All the sub-centres should be located in Government buildings with residential accommodation for female/male health workers. These buildings should also have laboratory facilities for urine, albumin and sugar tests.
- (vi) Local ST girls and boys should be trained and given priority in appointment as multi-purpose male/female health workers.
- (vii) All CHCs should have operational theatres well equipped with requisite facilities.
- (viii) Arrangements should also be made to provide one ambulance vehicle in each CHC.
- (ix) The Primary Health Centre and the Community Health Centres should be delegated financial powers to purchase essential medicines in emergency cases.
- (x) On account of superstitious beliefs, ignorance and illiteracy, the tribals do not make use of the campaigns launched by the Government from time to time for polio vaccination of the infants as also of chicken-pox inoculations. There is, therefore, an urgent need to educate the tribals about the vital utilities of the programmes through block and district authorities with the help of the tribal leaders.
- (xi) To set up more Medical Colleges and Hospitals in tribal areas in which at least 50% of the seats should be filled from amongst candidates belonging to STs only,
- (xii) To make it mandatory for each doctor in the tribal areas (on completion of the course), to serve initially for a minimum period of three years in the tribal areas of the country.

- (xiii) **To provide concessions/ weightage/ incentives in the matter of promotion to such doctors and para-medical staff who have served in tribal areas for a minimum period of three years. They should also be given monetary incentives.**

### 3.15 Rural Housing

3.15.1 As per the provisional estimates made available by 2001 Census, the housing shortage in the rural areas is about 149 lakhs as compared to 137 lakhs housing shortage as per 1991 Census. Under the Indira Awaas Yojana, during the last three years, on an average, about 14-15 lakhs houses are being constructed every year whereas the annual requirement is about 30 lakhs houses per annum as per the 2001 Census. In addition to this, it is estimated that about 10 lakhs shelterless households are being added every year. Thus, against the total requirement of about 40 lakhs houses, only 14-15 lakhs houses are being constructed leaving a gap of about 25 lakhs houses every year in the rural areas.

3.15.2 The Ministry of Rural Development is implementing the Indira Awaas Yojana (IAY) with a view to providing financial assistance for shelter to the rural poor living below the poverty line (BPL). This scheme is being implemented since 1985-86 at national level with the objective of providing dwelling units free of costs to the below poverty line families living in rural areas mainly belonging to Scheduled Castes and Scheduled Tribes and freed bonded labourers. The number of dwelling units constructed during 2002-03, 2003-04 and 2004-05, the number of Scheduled Tribes benefited and their % age to the total under this scheme is as under:-

Year	Total number of dwelling units constructed	No. of Scheduled Tribes benefited	% age
2002-03	1,548,308	195,032	12.60%
2003-04	1,361,334	255,014	18.73%
2004-05	1,516,187	276,998	18.27%
2005-06			

3.15.3 This is a 100% subsidized centrally sponsored programme with the resources being shared between the Central Government and the respective State Govt. in the ratio of 75:25. The funds allotted to States/UTs under the scheme are distributed to the districts in proportion to the SC/ST population of the district to the total SC/ST population of the State and housing shortage. The ceiling on construction assistance under the IAY has been enhanced with effect from 1.4.2004 from Rs. 20,000 to Rs.25,000 per unit for the plain areas and from Rs.22,000 to Rs.27,500 for the hilly/difficult areas. The fund ceiling on upgradation of unserviceable kutch house to pucca/semi-pucca house has also been enhanced from Rs.10,000 to Rs.12,500 for all areas from the same date i.e. 1 April, 2004. As the need for upgradation of unserviceable kutch houses in the rural areas is acutely felt, with effect from 1.4.2004, upto 20% of total funds can be utilized for conversion of unserviceable kutch houses into pucca/semi-pucca houses and for providing subsidy to the beneficiary availing loan under the credit-cum subsidy scheme of rural housing. Further, in order to provide social security to women, the dwelling units are required to be invariably allotted in the name of a female member of the beneficiary household. Alternatively, it can be allotted in the name of both husband and wife.

3.15.4 Indira Awaas Yojana is being implemented through **District Rural Development Agencies (DRDAs)** (specially set up in each district of the country for implementation of the rural development programmes) or through Zila Parishads (ZP). On the basis of allocations made and targets fixed, the District Rural Development Agencies/Zila

Parishads decide Panchayat-wise number of houses to be constructed under IAY and intimate the same to the concerned Gram Panchayat. Thereafter, the Gram Sabha selects the beneficiary, restricting its number to the target allotted, from the list of eligible household. No approval of other authorities is required. However, the Panchayat Samities/Zila Parishads/DRDAs are provided with a list of selected beneficiaries for their information. At the field level, the block development machinery has been entrusted with the responsibility for implementing the programme at village level. Construction of sanitary latrines and the fuel efficient chulahs form integral part of houses constructed under IAY.

3.15.5 In addition to the assistance provided under the IAY, loan for construction of IAY houses or for upgradation of unserviceable kutcha houses can also be obtained from the Banks/other financial institutions if the concerned State Governments/DRDAs take the responsibility to coordinate with the financial institutions to make available the credit facilities to the interested beneficiaries. Further, to meet the housing requirement of economically weaker sections in rural areas and to improve the outreach of housing finance in rural areas, equity support to HUDCO is being provided. During the first two years of the Tenth Five Year Plan, the equity support to HUDCO by the Ministry of Rural Development was as under:-

<b>Year</b>	<b>Equity Support to HUDCO</b> (Rs. in crores)
2002-2003	50.00
2003-2004	10.00
2004-2005	5.00

3.15.6 From the year 1993-94, the scope of the Scheme (i.e. IAY) was extended to cover the non-SC and non-ST rural BPL poor subject to the condition that the benefits to non-SC/ST would not be more than 40% of the total IAY allocation. The benefits of the Scheme have also been extended to the families of ex-servicemen of the armed and paramilitary forces killed in action. 3% of the houses are reserved for the rural below the poverty line (BPL) physically and mentally challenged persons belonging to SCs/STs. As per the information received from the various States and UTs, about 10578 have so far been constructed for physically and mentally challenged persons under the scheme in the year 2005-2006.

3.15.7 Under the Credit-Cum-Subsidy Scheme, rural families having annual income upto Rs.32,000/- are provided subsidy upto Rs.10,000/- and a maximum loan of Rs.40,000/-. The DRDAs are responsible for making arrangements for loan for the beneficiaries from commercial banks/Regional Rural Banks, housing finance institutions etc. From the year 2002-2003, the Central allocation under the IAY and CCSS has been combined. Under the Scheme, 80% of the total funds are allocated for new constructions and the remaining 20% funds are allocated for upgradation of existing kutcha houses under this Scheme.

3.15.8 A National Mission for Rural Housing and Habitat has been set up by the Ministry of Rural Development to facilitate the induction of science and technology inputs, on a continuous basis, in the sector and to provide convergence to technology, habitat and energy-related issues in order to provide affordable shelter for all in the rural areas, within a specified time-frame, and through community participation. Towards this end, an Executive Council under the Chairmanship of the Minister of Rural Development and an Empowered Committee under the Chairmanship of Secretary (Rural Development) has been constituted. A Working Group has also been constituted by the Empowered Committee to specify the aims and objectives of the Mission, firm up specific time framework to achieve these aims and

objectives, formulate a road map to facilitate the entry of private capital in Housing development in the rural areas, shortlist the agencies which could undertake the task of preparing a techno-legal regime for rural planning.

3.15.9 The State-wise financial, and physical performance under Indira Awaas Yojana for the year 2005-2006 as on 22 February, 2006 with specific reference to Scheduled Tribes are given in the Statements at **Annex.3.XII & 3.XIII** respectively.

3.15.10 All the State Governments and UTs are required to send monthly and annual progress reports in respect of the physically and financial achievements under the IAY scheme. The proforma of these reports is such that all critical details like SC/ST component, coverage of women beneficiaries, provision of smokeless chulhas and sanitary latrines, coverage of physically handicapped beneficiaries etc. are indicated. Financial monitoring is an automatic, concurrent process carried out through examination of utilization certificates, audit reports etc. which form the basis for release of funds.

3.15.11 About 139 lakh houses have been constructed under IAY since inception of the scheme with an expenditure of Rs.25518.71 crores. During the financial year 2005-06, the central outlay under IAY was Rs.2750.00 crore with a target of 14.41 lakh houses. An amount of Rs.2732.40 crore has been allocated out of the outlay in 2005-06 against which an amount of Rs.2298.68 crore has been released so far to various districts of the States/UTs. The overall achievement against the total available funds is 56.67% on all-India basis as on 22.2.2006. A total of 14.41 lakh houses were to be constructed in the country under the IAY during 2005-06 against which 10.14 lakh houses were constructed which comes to about 70% of the total target for the year as on 31.1.2006. Out of 14.41 lakh houses constructed under the scheme during 2005-06, 5.6 lakh houses were allotted to SC/ST beneficiaries which comes to 60.95% of the total houses constructed as on 22.2.2006.

3.15.12 **The Commission would like to advise the Ministry of Rural Development to take the following steps to improve the performance of Indira Awaas Yojana: -**

- (i) **Utilization of funds under this Scheme has not been fully satisfactory in many of the States. This needs to be improved. Those States need to be advised to devise effective ways and means for better utilization of the resources under the scheme.**
- (ii) **The amount of construction assistance per dwelling unit may be enhanced from Rs.25,000/- to Rs.50,000/- per unit for plain areas and from Rs.30,000/- to Rs.75,000/- for hilly/difficult areas to offset the effect of escalation in the cost of construction materials during the last two years.**

### 3.16 Rural Roads

3.16.1 The availability of an efficient road network is pre-requisite for development of any activity in promotion of socio-economic advancement of any section of society living in rural areas specially the members of Scheduled Tribes who live in the remote areas, mostly in forests. One of the major reasons for lack of social services like health, education etc. and economic integration of the tribal areas with towns and cities have been the lack of roads in the remote tribal areas. The main objective relating to the road sector for the Tenth Plan is balanced development of the total network. The task would include widening of roads, improvement in riding quality and strengthening road safety measures and providing wayside amenities to cater to the growing demand for road services. In addition, 100 per cent rural connectivity with all-weather roads is a priority objective in national planning.

3.16.2 In order to give a boost to rural connectivity, a rural roads programme, the Pradhan Mantri Gram Sadak Yojana (PMGSY) was launched in October, 2000, as a 100 per cent centrally sponsored scheme. The primary objective of PMGSY is to provide connectivity by way of all-weather roads to the unconnected habitations in the rural areas so that habitations with a population of 1,000 and above are covered in three years (2000-2003). All unconnected habitations with a population of 500 persons and above are to be covered by the end of the Tenth Plan Period (2007). In respect of the hill States (North-East, Sikkim, Himachal Pradesh, Jammu and Kashmir, Uttaranchal) and the desert areas, the objective is to connect habitations with a population of 250 persons and above. The programme, as a related objective, also aims to achieve an equitable development of the rural roads network in different States/districts so as to fully exploit the latent potential for rural growth.

3.16.3 According to the latest figures made available by the State Govts., about 1.72 lakh unconnected habitations are to be covered under PMGSY in different States. The total number of rural habitations in the country, the total number of unconnected rural habitations and the total number of rural habitations eligible for being covered under the scheme is as given in the Table below:-

S. No.	Item	Total	Unconnected	Eligible under PMGSY			
				1000+	500-999	250-499	Total
1.	Rural Habitations	8,49,341	3,30,647	59,855	81,466	31,451	1,72,772
2.	Length of rural roads (Km.)	30,00,000 (approx.)	-	1,33,951	1,61,952	69,899	3,69,386

Source: Annual Report of the Ministry of Rural Development for the year 2005-06

3.16.4 The State-wise number of habitations, length to be covered and the coverage of unconnected habitations under the PMGSY in accordance with proposals cleared upto December, 2005 is as given in **Annex.3.XIV (A) & 3.XIV (B)**.

3.16.5 Based on a survey conducted after launching the scheme and the experience of the first three years with the average cost of constructions of PMGSY roads, the cost of the programme has been revised to Rs.1,32,000 crore, as against Rs.60,000 crore projected initially. A detailed analysis of the costs in 9 selected States (Andhra Pradesh, Gujarat, Himachal Pradesh, Karnataka, Madhya Pradesh, Mizoram, Orissa, Rajasthan and West Bengal) shows that the main reasons for the increase are provision of cross drainage and protection works in all cases, and higher embankments and larger roadway widths in some States.

3.16.6 Against projects of States valued at Rs.25410.84 crore cleared so far, the Ministry has released Rs.14641.44 crore till 31<sup>st</sup> December, 2005 and the States have reported expenditure of Rs.11674.30 crore. 28915 road works, out of 46213 road works approved, have been completed. The length of road works completed so far is 80558 Kms, out of 147343 Kms approved. Projects valued at Rs.7994.49 crore proposed by 17 States have been cleared during the year 2005-06 (upto December) compared to projects valued at Rs.2204.55 crore cleared during 2004-05. The State-wise details are as **Annex.3.XIV (C)**

3.16.7 In the Tenth Five-Year Plan documents prepared by the Planning Commission and in the Annual Report of the Ministry of Rural Development for the year 2004-2005, no

information has been furnished about the extent of development of road network in the tribal areas. **The Commission, therefore, recommends that:**

- (i) **The Ministry of Rural Development should prepare a detailed data State-wise about the tribal habitations which have not been so far provided with road connectivity and launch a time-bound programme for providing road connectivity in all the tribal areas by the end of the Tenth Plan period i.e. 2007 through intensive involvement of Town Area Committees, Panchayats, Municipalities, NGOs etc.**
- (ii) **To ensure that all approach roads to the tribal areas are converted into metalled roads and the interior Kutchra roads into CC roads and connected with the metalled approach roads by the end of the Tenth Five Year Plan i.e. 2007 to facilitate easy approach in these areas even during the rainy seasons**

### 3.17 Public Distribution System (PDS)

3.17.1 The Public Distribution System (PDS) in the country facilitates the supply of food grains to the poor at subsidized price. It is one of the most important initiatives of the Government of India to ensure food security to the poor people. This programme was started initially in the 60s to maintain buffer stocks of the food grains to meet the demand in the lean period of production. Till recently this scheme was available to all consumers without any target groups. It is now well recognized that the availability of food grains is not a sufficient condition to ensure food security to the poor. It is also necessary that the poor have sufficient means to purchase food. The capacity of the poor to purchase food can be ensured in two ways- by raising the incomes or supplying food grains at subsidized prices. While employment generation programmes attempt the first solution, the PDS is the mechanism for the second option.

3.17.2 The PDS in India is perhaps the largest distribution network of its kind in the world. This huge network can play a more meaningful role only if it ensures the availability of food to the poor households. The annual food subsidy involved in maintaining the system is huge. The food subsidy bill for 2002-03 is budgeted at Rs.21,200 crore, which works out to 5.2 per cent of total Central Government expenditure. The level of food subsidies as a proportion of total government expenditure has gone up from a level of 2.5 per cent or below in the early 1990s to more than 5 per cent today. The per capita food subsidy expenditure by the government in 2002-03 is estimated at around Rs.200 or Rs.17 per head per month.

3.17.3 The PDS, in its original form, was widely criticized for its failure to serve the below poverty line population, its urban bias, negligible coverage in the States with the highest concentration of the rural poor and lack of transparent and accountable arrangements for delivery. The increases in the minimum support prices effected over the years led to corresponding increase in the consumer prices in the PDS which adversely affected economic access of the poor to the PDS food grains. It was observed that in a system with access to all i.e. rich and poor alike, PDS subsidies reached the rich while the poor had to be satisfied with an inadequate quantity of the food grains. Realizing these deficiencies, the Government streamlined the system by issuing special cards to BPL families and selling food grains under PDS to them at specially subsidized prices with effect from 1 June, 1997.

3.17.4 Under this Targeted Public Distribution System (TPDS) each poor family was entitled to 10 kg. of food grains per month at specially subsidized prices on the basis of the number of families living below the poverty line. The non-BPL families were entitled to

food grains on the same pattern as in the existing PDS. The TPDS was expected to benefit about 60 million poor people. The identification of the poor is done by the States. The emphasis was on including only the really poor and vulnerable sections of society in the rural areas and slum dwellers and daily wagers in the informal sector (porters, rickshaw pullers and handcart pullers etc.) in the urban areas. From 1 April, 2000, the Government increased the quantum of food grains to BPL families from 10 kg. to 20 kg. per family per month at 50% of economic cost. The quantum of food grains for above poverty line was retained at the same level as June, 1997 but the Central Issue Prices (CIP) was fixed at 100% of economic cost from that date so that entire consumer subsidy could be directed towards the BPL population.

3.17.5 The number of BPL families increased with effect from 1 December, 2000 because the base was shifted from the population projections of 1995 to the population projections of the Registrar General of India as on 1 March, 2000. The change has resulted in increasing the number of BPL families to 65.2 million as against 59.6 million estimated when the TPDS was introduced. The allocation of food grains for the BPL category has thus increased to 147 lakh tons per annum.

3.17.6 In order to reduce the excess food grains stock with the FCI, the Government took the following measures under the TPDS from 12 July, 2001:-

- (i) The BPL allocation of food grains was increased from 20 kg. to 25 kg. per family per month. At Rs.4.15 per kg. for wheat and Rs.5.65 per kg. for rice, the CIP for BPL families is 48% of the economic cost.
- (ii) It was decided to allocate food grains to APL families at the discounted rate of 70% of the economic cost. The CIP of wheat was reduced from Rs.830 per quintal to Rs.610 per quintal and CIP of rice was reduced from Rs.1,130 per quintal to Rs.830 per quintal. In addition, 25 kg. of food grains was to be provided to the poorest of the poor families under the Antyodaya Anna Yojana at a highly subsidized rate of Rs.2 per kg. for wheat and Rs.3 per kg. for the rice.

3.17.7 Cumulatively, the off take under TPDS between April and June 2002 has been 23.54 lakh tons for rice and 16.09 lakh tons for wheat against 18.46 lakh tons and 9.87 lakh tons respectively for the corresponding period in 2001. Thus, there is a clear indication that off take under TPDS has improved at the national level. However, the situation is not uniform across states and there are certain States where conditions need to be improved. For instance, between April 2001 and March 2002, total off take of rice in Bihar was only 13.8 per cent of total allocation and in the case of wheat this was only 27.9 per cent.

3.17.8 It has been observed that a large number of ration cards are not genuine and a large quantity of supplies meant for Public Distribution System (PDS) particularly, in respect of kerosene oil land up in the black market. As long as these loopholes persist, the rural poor particularly STs, will continue to suffer. The press reports also point out to the poor quality of the food grains being supplied at the ration shops and frequent non-availability of food grains. **The Commission, therefore, is of the view that there is a need to devise effective ways and means to prevent black marketing of the PDS items of food grains to ensure adequate supply to the poor families. It would be appropriate if Panchayati Raj Institutions were involved in the supervision of fare price shops and also in identification of persons below the poverty line for entitlement of subsidized grains.**

### 3.18 Drinking Water Supply

3.18.1 One of the vital requirements for human resource development is an equitable access to the basic civic services to all sections of society, particularly to members of Scheduled Tribes who generally live in forests or isolated habitations. The Minimum Needs Programme (MNP) was launched during the Fifth Five Year Plan with the objective of providing basic services to all the sections of people. Initially, the programme had eight components- (i) Elementary Education, (ii) Rural Health, (iii) Rural Water Supply, (iv) Rural Electrification, (v) Rural Roads, (vi) Rural Housing, (vii) Environment Improvement of Urban Slums, and (viii) Nutrition. Later, the programme was widened with the inclusion of Adult Education, Rural Domestic Energy, Rural Sanitation and Public Distribution System. In this para we shall look at the progress made in meeting the basic needs of providing safe drinking water to the rural poor with particular reference to Scheduled Tribes.

3.18.2 Drinking Water Supply is a State subject, and the States and the Union Territories have been taking up projects and schemes for the provision of safe drinking water from their own resources. The Govt. of India supplements efforts made by the States by providing financial assistance to the State Govts. under the Centrally Sponsored Scheme namely, '**Accelerated Rural Water Supply Programme**' (ARWSP). Under this programme, 100% grants-in-aid is given to the States and Union Territories for implementing drinking water supply schemes in villages. The coverage norms of the scheme include (i) one Hand Pump or standpost for every 250 persons; and (ii) availability of water source in the habitations within 1.6 km. in the plains and 100 metres elevation in hilly areas.

3.18.3 **ARWSP** guidelines provide, inter-alia, that the States/UTs have to earmark a minimum of 10 per cent for Scheduled Tribes for taking up schemes exclusively for them. Diversion of funds to other sectors is not permitted. As per these guidelines, the first source of drinking water has to be provided in SC/ST localities and at the time of the implementation of the schemes, coverage of SC/ST habitations has to be given first preference and the highest priority so as to ensure that they have easy access to water supply facilities. This earmarking in the scheme has been built in to ensure a maximum coverage of SC/ST habitations.

3.18.4 The Tenth Plan accords the highest priority to providing the "Not Covered" (NC) habitations with sustainable and stipulated supply of drinking water. It is envisaged to cover all the rural habitations including those, which might have been slipped back to NC/PC category by the end of Ninth Plan. The Tenth Plan emphasizes the participatory approach where PRIs should be the key institutions for convergence of drinking water supply programmes at the ground level. Considerable success has been achieved in meeting drinking water needs of the rural population and 95.34% rural habitations are Fully Covered with stipulated level drinking water facilities. The Partially Covered habitations are 4.28%. The Not Covered habitations are about 0.38%. As per the latest report received from the States/UTs, the coverage status as on 1.11.2004 based on Comprehensive Action Plan (CAP) 1999 was as under:-

Type of coverage	No. of habitations	Percentage of total
Fully Covered (FC)	1367216	96
Partially Covered (PC)	50479	3.5
Not covered (NC)	4588	0.32
Uninhabited/urbanized	381	
<b>Total</b>	<b>1422664</b>	

3.18.5 During 2005-06 (upto 23.1.2006) the coverage status was as under:-

Type of coverage	No. of habitations	Percentage of total
Fully Covered (FC)	1373827	96.6
Partially Covered (PC)	44521	3.12
Not covered (NC)	3935	0.27
Uninhabited/urbanized	381	
<b>Total</b>	<b>1422664</b>	

A Table showing State-wise coverage of habitations regarding the position of rural water supply as on 1.11.2004 is given at **Annex.3.XV**

3.18.6 The strategy to achieve the Tenth Plan objectives can briefly be summarized as:-

- (i) Accelerating coverage of the remaining Not Covered and Partially Covered habitations, including those slipped back from Fully Covered to Partially and Not Covered categories, with safe drinking water systems.
- (ii) To tackle problems of water quality in affected habitations and to institutionalize water quality monitoring and surveillance systems.
- (iii) To promote sustainability, both of systems and sources, to ensure continued supply of safe drinking water in covered habitations.

3.18.7 Despite respectable coverage in terms of access to drinking water, proper upkeep of water supply schemes has been a problem. Many factors like sources going dry, increase in quality problems, systems becoming defunct due to poor maintenance, demand from other competing sectors like agriculture, industry, etc. pose threat to sustainability of drinking water supply schemes. As putting in place an effective operation and maintenance system called for huge investments and that the total estimated cost of Operation and Maintenance of the water supply networks created so far is estimated at Rs.6750 crore per annum, whereas the total funds being utilized for Operation and Maintenance (O & M) purposes under ARWSP were approx. Rs.450 crore only, reforms were introduced in 1999 as a part of the strategy to ensure sustainability of systems which meant a paradigm shift from supply-driven norms based on centralized form of funding to one based on the principles of demand-driven responsiveness, community leadership and decentralized mode of management.

3.18.8 Initially, the reforms were introduced in 67 pilot districts as Sector Reform Projects. Based on the experience gained, the reforms initiative was scaled up through out the country with the launching of **Swajaldhara** by the then Prime Minister in December, 2002. All the States across the country are now implementing Swajaldhara schemes. Under the Sector Reform and Swajaldhara, the individual water supply schemes are planned, designed, implemented, operated and maintained by the community through the village level committees. The community bears at least 10% of the capital cost and, after completion of the schemes, entire Operational and Maintenance (O & M) responsibility is that of the community. Up to 90% of the capital cost is borne by the Government of India. A major thrust of the reforms initiative in the rural water supply sector is on empowerment of Panchayati Raj system, for not only operating and maintaining drinking water schemes but also managing the entire rural water supply sector.

3.18.9 As per the guidelines issued in June 2003, Swajaldhara will have two Dharas. First Dhara (Swajaldhara-I) will be for a Gram Panchayat (GP) or a group of GPs or an intermediate Panchayat (at block/Tehsil level) and the second Dhara (Swajaldhara-II) will have a District as the project area. Funds under Swajaldhara are now allocated to the States/UTs and the allocated amount is intimated to the States/UTs. The States/UTs make district-wise allocation and furnish the details to the Department of Drinking Water Supply. State-wise allocation and releases under Swajaldhara for the year 2005-2006 may be seen at **Annex.3.XVI**.

3.18.10 The Hon'ble Prime Minister in his Independence Day Address on 15.8.2002 announced three programmes viz. Installation of one lakh Hand Pumps, providing drinking water facilities to one lakh Primary Schools and revival of one lakh traditional sources of water. The guidelines for implementation of the programmes have since been prepared and circulated to all the States. The programmes were to be completed in two years i.e. 2003-2004 and 2004-2005. The total cost involved was Rs.800 crores out of which Rs.80.00 crore (10%) was to be the community contribution. **The Commission recommends that the Department of Drinking Water Supply should ascertain the status of implementation of these programmes with specific reference to the areas covered by the tribal population and apprise the Commission of the position.**

3.18.11 **The Department of Drinking Water Supply is advised to get a survey conducted through the State Govts. regarding the tribal habitations in respect of the Scheduled Areas States and other States where tribal population is in large numbers, which have not yet been provided with drinking water and accordingly a chalk out a time-bound programme to provide safe drinking water in all these areas by the end of Tenth Plan period.**

3.18.12 **The Commission further recommends that** the Department of Drinking Water Supply may advise the State Govts. to make the following arrangements with respect to supplying safe drinking water to the tribal habitations by the end of 2007:

- (i) **All the tribal population in the plain areas should be provided the facility of hand pumps.**
- (ii) **Where it is not possible to install hand pumps for any reason, arrangements for making safe drinking water supply to the tribals living in those areas should be made by providing drinking water wells.**
- (iii) **Where it is not possible either to install hand pumps or dig wells, and where the natural sources of water like streams etc. are available, adequate steps should be taken to protect these water sources from pollution.**

### **3.19 Rural Electrification**

3.19.1 The rural electrification programme is one of the important components in rural development and as important as rural drinking water supply, health, nutrition, primary education, shelter and rural connectivity. The availability of power in rural areas will lead to economic development and its attendant spin-off benefits like food security, better health, literacy, etc. With this in view, the Government has been focusing on village electrification since the beginning of the planning process. While this has resulted in the electrification of around 86 per cent of the country's villages, the use of electricity in villages for productive and subsistence needs is still very limited. About 70 per cent of the rural households are yet to get electric connections and, therefore, power-based economic activities in the electrified villages are minimal. The actual benefits of the investments made in the rural electrification

programme can only be realized if the people are in a position to use electricity for their day-to-day activities as well as for cottage and village industry and commercial activity. Therefore, the second phase of the rural electrification programme, apart from seeking 100 per cent electrification, should also ensure more widespread use of electricity by the rural people in a time-bound manner. The existing definition of an electrified village is not in order as it does not meet the requirements of the rural people. The existing definition states that 'A village will be deemed to be electrified if electricity is used in the inhabited locality within the revenue boundary of the village for any purpose whatsoever.' This definition needs to be changed so as to declare a village as electrified only if a minimum number of households, say 50%, in that village are provided with electricity connections.

3.19.2 Around 80,000 villages in the country are yet to be electrified even on the basis of the current definition of village electrification. Thirteen States have declared 100 per cent electrification of their villages. The villages yet to be electrified are mostly in Assam, Arunachal Pradesh, Bihar, Jharkhand, Madhya Pradesh, Meghalaya, Orissa, Rajasthan, Uttar Pradesh, Uttaranchal and West Bengal. Of these 80,000 villages, it may be feasible to electrify only around 62,000 through the conventional grid expansion. The balance 18,000 villages are located in remote areas, hilly terrains, islands, deserts etc. and are also thinly populated. Such villages can be electrified more economically through decentralized and non-conventional energy sources like solar, wind, small hydro and biomass.

3.19.3 Several schemes are being implemented by the Govt. of India (Ministry of Power) for electrification of households of rural poor families below the poverty line including adivasi families. The details of these schemes are given in the succeeding paragraphs.

#### **Kutir Jyoti Programme**

3.19.4 This programme was launched in 1988-89 for extending single point light connections to households of rural poor families below the poverty line including adivasi families. This programme was merged into programme for 'Accelerated Electrification of One lakh villages and One crore households in May, 2004'. Under this programme, one time cost of internal wiring and service connection charges were provided by way of 100% grants to the States. The norms for grant per connection was changed from time to time as following:-

1988-90	Rs.180
1992-94	Rs.400
1996-1998	Rs.800 for un-metered connections and Rs.1000 for metered connections
March 2002	Rs.1500 Rs.1800 for special category States which include Jammu and Kashmir, Himachal Pradesh, Uttaranchal, Sikkim and North-Eastern States.

#### **Accelerated Rural Electrification Programme (AREP)-**

3.19.5 This scheme was introduced in the year 2003-04 under which interest subsidy of 4% is to be provided on loans availed by State Governments/Power Utilities from Financial Institutions like Rural Electrification Corporation (REC), Power Finance Corporation (PFC), Rural Infrastructure Development Fund (RIDF), National Agricultural Bank and Rural Development (NABARD) etc. for carrying out rural electrification programme. The assistance is limited to electrification of un-electrified villages, electrification of hamlets/dalit bastis/tribal villages and electrification of households in villages through both conventional and non-conventional sources of energy.

### **Accelerated Electrification of One lakh villages and One crore households-**

3.19.6 This scheme was launched in February, 2004 by merging the interest subsidy Scheme-AREP (Accelerated Rural Electrification Programme) and Kutir Jyoti Programme. Under this scheme, there is a provision for providing 40% grant from Govt. of India for rural electrification projects and the balance through loan assistance on soft terms from REC.

### **Rajiv Gandhi Grameen Vidyutikaran Yojana (RGGVY)**

3.19.7 This scheme, which was introduced in April, 2005, inter-alia, provides for free connection to BPL families including SC/ST and weaker sections of society. The scheme aims at electrifying all the villages and habitations and providing access to electricity to all households over a period of four years. Rural Electrification Corporation (REC) is the nodal agency for implementing this scheme. Till now, REC has received 417 proposals from 24 States, covering un-electrified as well as electrified villages (where rural households are un-electrified). Out of these, 191 projects have been approved. The total projects in operation under this scheme, as on date (i.e. by the end of January, 2006), are 186 which cover States of Andhra Pradesh, Bihar, Rajasthan, Uttar Pradesh, Uttaranchal and West Bengal. 191 projects cover 69.29 lakh rural households, out of which 45.15 lakh are BPL households including SC/ST and weaker sections of society. The detailed break up of BPL Households being covered under the projects sanctioned is given in the statement at **Annex.3.XVII**. The target is to electrify around 7.8 crore rural households. The target is to electrify around 7.8 crore rural households. More BPL households will be covered, once the proposals, which are under examination, or those which will be received are sanctioned.

## **3.20 Rural Sanitation**

3.20.1 The Central Rural Sanitation Programme (CRSP) was launched in 1986 with the objective of improving the quality of life of rural people and to provide privacy and dignity to the women. The programme provided 100% subsidy for construction of sanitary latrines for Scheduled Castes, Scheduled Tribes and landless labourers and subsidy as per the prevailing rates in the States for the general public. The guidelines stipulated that a minimum of 20% of the total funds should be earmarked for providing subsidy to individual households from SCs and STs below poverty line. Where the SC/ST population below poverty line was more than 20% of the total population, earmarking should be enhanced at least to match the percentage to the SC/ST population. The programme was supply-driven, highly subsidized and gave emphasis for a single construction model. Based on the feedback from various agencies, the programme was revised in March, 1991 to make some changes in the subsidy pattern and also to include village sanitation as one of the component. It was again revised in September, 1992 with a view to adopt an integrated approach for rural sanitation. Since its inception and upto the end of Ninth Plan, 94.5% lakh latrines were constructed for rural households under this scheme as well as corresponding State MNP. The total investment made has been Rs.61 crore under CRSP and Rs.1045 crore under the state sector MNP. This has led to only a marginal increase (only 1%) in the rural sanitation coverage. The CRSP was restructured in 1999 and was replaced by the Total Sanitation Campaign (TSC). The restructured scheme i.e. TSC moves away from the principle of State-wise allocation primarily based on poverty criterion to a "demand-driven approach". It also gives emphasis on school sanitation and hygiene education for changing the behaviour of the people from younger age itself. This programme is being implemented in 451 districts of the country. The project outlay for 451 TSC projects sanctioned so far is Rs.4413.19 crore. The central, state and beneficiary contribution are Rs. 2620.89 crore, Rs. 979.90 crore and Rs.812.40 crore respectively. During the year 2004-05, 50 projects were sanctioned.

3.20.2 It has come to the notice of the Commission that the construction of sanitary latrines in rural hamlets is not being done in a proper manner and in most of the cases, these latrines are not usable due to non-availability of the basic minimum facilities like water, connection with sewer, doors etc. **The Commission recommends that this programme of constructing of sanitary latrines in the rural areas should be implemented in a meaningful manner to ensure that the latrines are equipped with the basic minimum facilities. This has to be ensured by the State Govts. through a system of rigorous inspection before releasing the grants to the NGOs or other bodies entrusted with the work. The grants should be given only after complete satisfaction of the requisite quality of these latrines. The Commission also recommends that this programme should be given higher priority with focused attention on construction of sanitary latrines in the isolated tribal belts/pockets. There is also need for increased financial allocation to complete the programme in a time-bound manner by involving NGOs and local bodies.**

### 3.21 Rural Employment

3.21.1 As majority of tribals live in abject poverty, several schemes are being implemented by the Government for raising their status above the poverty line. These programmes are aimed at providing them with financial and other support for taking up self-employment and income-generation activities. In addition to the poverty-alleviation programmes, there are also several other schemes for providing basic amenities like housing, drinking water, etc. Under the Integrated programme of **Swarnajayanti Gram Swarozgar Yojana (SGSY)**, 50 per cent of benefits are earmarked along with SCs & STs. Under SGSY, 7.49 lakh ST swarozgaris, accounting for 13.2 per cent of the total number of swarozgaris, were benefited during the Ninth Plan.

3.21.2 Under the **Jawahar Gram Samridhhi Yojana (JGSY)**, which provides wage employment, 22.5 per cent of Plan allocations are earmarked for STs/SCs. During the Ninth Plan, 220 million man-days were provided for STs accounting for 15.9 per cent of total employment under this scheme. Under the Employment Assurance Scheme (EAS), which is open to all rural poor including STs, 308 million man-days were provided for STs, accounting for 20.8 per cent of the total employment under this scheme during the Ninth Plan. The two schemes of JGSY and EAS were brought under the purview of the mega scheme of **Sampoorna Grameen Rozgar Yojana (SGRY)** in September 2001. The SGRY focuses on generation of wage employment, creation of durable rural assets and infrastructure and provision of food security to the rural poor including STs. SGRY envisages to provide additional and supplementary wage employment and thereby to provide food security and improve nutritional levels by creating durable community, social and economic assets and infrastructural development in rural areas of the country. The programme is implemented through the three tiers of the Panchayati Raj Institutions (PRIs). 22.50% of the annual allocation of the district Panchayat and the Intermediate Panchayat and minimum 50% of the allocations made to the Gram Panchayats has to be spent for creation of need based village infrastructure in SC/ST habitations. These provisions are being enforced at the time of release of second instalment under the programme. In case of less utilization of funds under these two provisions, proportionate deduction is made at the time of the release of second instalment. The physical progress in terms of mandays generated for STs during the last four years is as under:-

Year	Total Mandays generated	Mandays generated for STs	% age of the ST Mandays in total employment/mandays generated

3.21.3.1 **The National Rural Employment Guarantee Act 2005 (NREGA)** which was notified on 7 September, 2005 guarantees 100 days of employment in a financial year to any rural household whose adult members are willing to do unskilled manual work. The Act has come into force initially in 200 districts in various States. The Act has been notified on 2 February, 2006 in the 200 districts (State-wise list of these districts attached as **3. Annex-XVIII** selected for implementation in the first phase. Notification for implementation of the Act with effect from 2<sup>nd</sup> February 2006 has been issued in respect of 183 districts. The remaining 17 districts include 3 districts of Jammu & Kashmir, 2 districts of Meghalaya and 12 districts from Maharashtra. The Act does not apply to Jammu & Kashmir in terms of Section 1(2) and the State Government has initiated action for extending the Act to the State of Jammu & Kashmir. In Meghalaya, due to the applicability of Model code of conduct in view of the bye-election to Tura Parliamentary constituency held on 16<sup>th</sup> February, 2006, the Act has been made applicable to Meghalaya from 1.4.2006. Maharashtra State has its own Employment Guarantee Act for the entire State since 1972. The State Government has decided to amend its own Act so that the entitlements of the workers under the Central Act are ensured in the State Scheme. The Central Govt. will share the expenditure in 12 identified districts of Maharashtra as per NREG Act. The Act would cover the entire country within a period of five years.

3.21.3.2 The basic objective is to enhance livelihood security in rural areas. The Act calls for the formulation of a **Rural Employment Guarantee Scheme (REGS)** by each State Govt. within six months of the commencement of the Act. Section 4 of the Act provides that until such a scheme is notified by the State Govt., the Annual or Perspective Plan of the **Sampoorna Grameen Rozgar Yojana (SGRY)** or the **National Food for Work Programme (NFFWP)**, whichever is in force in that area will be deemed to be the action Plan for the scheme for the purposes of the scheme. The scheme is being implemented as a Centrally Sponsored Scheme on a cost sharing basis between the Centre and the States. The Central Govt. will bear (i) The entire cost of wages for unskilled manual workers, (ii) 75% of the cost of material and wages for skilled and semi-skilled workers, (iii) Administrative expenses, as may be determined by the Central Govt. which will, inter alia, include the salary and the allowances of Programme Officers and their support staff and work site facilities, and (iv) Administrative expenses of the Central Employment Guarantee Council. The State Govt. will bear (i) 25% of the cost of material and wages for skilled and semi-skilled workers, (ii) Unemployment allowance payable in case the State Govt. cannot provide wage employment within 15 days of application, and (iii) Administrative expenses of the State Employment Guarantee Council.

3.21.3.3 The key agencies involved in the implementation of the scheme and their respective roles are as given below:

#### **Village Level**

- (i) **Gram Sabha:** The Act authorizes the Gram Sabha to recommend works to be taken up under the Scheme, to monitor and supervise these works, and to conduct social audits of its implementation.
- (ii) **Gram Panchayat:** It will be responsible for planning for works, registering households, issuing job cards, allocating employment, executing 50% of the works, and monitoring the implementation of the works at the village level. The job card is a legal document that entitles a person to ask for work under the Act and to get work within 15 days of the demand for work.

**Block Level**

- (i) **Intermediate Panchayat:** The Intermediate Panchayat will be responsible for planning at the Block Level. It can also be given the responsibility of executing works from among the 50% which are not to be executed by the Gram Panchayat.
- (ii) **Programme Officer:** A Programme Officer will be appointed at Block level with necessary support staff for facilitating implementation. The Programme Officer will not be below the rank of Block Development Officer.

**District Level**

- (i) **District Panchayats:** District Panchayats will be responsible for finalizing the District Plans and for monitoring and supervising the Employment Guarantee Scheme in the District.
- (ii) **District Programme Coordinator (DPC):** The DPC, will be responsible for the overall coordination and implementation of the scheme in the districts.
- (iii) **Implementation Agencies:** In addition to Panchayats, Line Departments, NGOs, and Central and State Government Undertakings, Self-Help Groups (SHGs) can also be identified as Implementing Agencies.

**State Level**

- (i) **State Employment Guarantee Council (SEGC):** A State Employment Guarantee Council (or 'State Council' for short) is to be set up by every State Government under Section 12 of NREGA. The SEGC shall advise the State Government on the implementation of the Scheme, and evaluate and monitor it.
- (ii) **Employment Guarantee Commissioner (EGC):** An officer not below the rank of Commissioner will be designated as the State Rural Employment Guarantee Commissioner responsible for ensuring all activities required to fulfill the objectives of the scheme.

**Central Level**

Ministry of Rural Development will be the nodal Ministry for the implementation of the scheme and it will set up a Central Employment Guarantee Council (or, 'Central Council' in short) which will be responsible for ensuring timely and adequate resource support to the States and to the Central Council. It will also prepare Annual Reports on the implementation of the Scheme and submit these to the Parliament.

3.21.3.4 **The Commission recommends that the Ministry of Rural Development, the nodal Ministry for monitoring the implementation of the Scheme should advise the State Govts. to maintain separate data regarding the beneficiaries of the Scheme belonging to STs. The Ministry of Rural Development in its Annual Reports on the status of implementation should also make a mention of the data of the ST beneficiaries (State-wise) along with other beneficiaries in the following format:**

S.No.	Name of the State	No. of districts covered under the Scheme	Population of STs in these districts	Total no. of beneficiaries under the Scheme in the State	No. & % age of ST beneficiaries under the Scheme	Total no. of mandays put in by ST beneficiaries

### 3.22 Other Welfare Schemes for Rural Scheduled Tribes

3.22.1 Under the National Old Age Pension Scheme, 2.4 million STs were covered during the Ninth Plan, accounting for 7.4 per cent of the total beneficiaries. Similarly, while 1 lakh ST families were benefited under the National Family Benefit Scheme accounting for 10.2 per cent, 4 lakh ST women were benefited under the National Maternity Benefit Scheme (NMBS) accounting for 7.4 per cent of the total beneficiaries during the Ninth Plan (NMBS now stands transferred to the Department of Family Welfare with effect from 2001-2002).

3.22.2 Some of the States and UTs have formulated schemes for providing financial assistance to the SC/ST parents for their daughters' marriages whose annual income is less than a prescribed limit. The Govt. of Madhya Pradesh has been implementing such a scheme since 1985-86 for providing financial assistance to the ST parents for conducting group marriages in which at least 5 pairs should have agreed for marriages. The scheme provides for the financial assistance @ of Rs. 1000 in each case to the parents of the ST bride forming part of the group marriage. This assistance is given only for the first marriage of the daughters of the ST parents. The income limit under the scheme of the ST parent is Rs. 12, 000 per annum. A similar scheme called 'Saubhagyawati' is also being implemented by the Govt. of Madhya Pradesh for marriages of the daughters of the parents belonging to the Scheduled Castes in which there is no restriction of these marriages being solemnized as part of group marriage, as in the case of Scheduled Tribes and in which the amount of financial assistance per case is Rs. 5, 000. The Commission fails to understand the rationale behind the decision of the Govt. of Madhya Pradesh to discriminate between Scheduled Castes and Scheduled Tribes for the purpose of providing assistance to the parents for their daughters' marriages. It is also not understandable as to why there is a restriction of group marriage in case of Scheduled Tribes while there is no such restriction in case of Scheduled Castes. It has been observed by the Commission that ST parents are not able to avail of the assistance under the scheme for the following reasons:

- (i) It is difficult for them to form a group of at least 5 pairs for organizing group marriages,
- (ii) The amount of financial assistance is very low, and
- (iii) The income ceiling for the parents of the ST girls is Rs. 12, 000 per annum which is also very low.

3.22.3 **The Commission recommends that the Ministry of Tribal Affairs should advise the Govt. of Madhya Pradesh**

- (i) **To have only one scheme which should provide for an equal amount of financial assistance both to the parents of SCs as well as STs. The existing quantum of financial assistance which is Rs.1,000 for ST parents and Rs.5,000 for SC parents should be increased to a minimum of Rs.10,000 both for SC and ST parents having regard to the existing cost of living.**
- (ii) **To do away with the existing restriction of group marriages in the case of Scheduled Tribes and the financial assistance should be made available on case to case basis and not on the basis of group marriages as in the case of Scheduled Castes.**
- (iii) **To increase the income limit under the scheme from Rs.12,000 per annum to double the amount of the annual income under BPL family.**

3.22.4 **The Commission further recommends that the Ministry of Tribals Affairs should advise the States and UTs, (which do not have any such scheme) to introduce a scheme for providing financial assistance of at least Rs. 10, 000 in each individual case to the parents of ST brides, whose (i.e. parents') annual income is double the amount of the annual income under BPL family. The States/UTs which have already such schemes in position may be advised to modify the schemes to increase the amount of financial assistance to a minimum of Rs. 10, 000 in each case to the parents of ST brides (in case the existing amount is less than Rs. 10, 000) and also to increase the income limit to double the amount of annual income under BPL family (again in case the existing income limit is less than that).**

### **3.23 Grants-in-Aid to State Tribal Development Cooperative Corporations (STDCCs) and other such Organizations**

3.23.1 Minor Forest Produce (MFP) is an important source of earning for tribals. For dealing with procurement and sale of MFP, most of the States have set up Tribal Development Corporations (TDCCs), Forests Development Corporations (FDCs) and Minor Forests Produce (Trading & Development) Federations (MFPTDFs). The Ministry of Tribal Affairs is implementing a scheme since 1992-93 under which 100% grants-in-aid is provided to these agencies for taking up collection of MFP items. The funds under this scheme are available to these Corporations for:

- (i) increasing the quantum of MFP handled by setting off operational losses, if need be;
- (ii) strengthening the share capital base of the Corporation for undertaking MFP operations, thereby increasing the quantum of MFP presently handled;
- (iii) setting up of scientific warehousing facilities, wherever necessary;
- (iv) establishing processing industries for value addition with the objective of ensuring maximum returns on the MFPs for the tribals;
- (v) giving consumption loans to tribals; and
- (vi) supplementing Research & Development (R&D) efforts.

3.23.2 The scheme covers all the States where MFP collections are being carried out by TDCCs, FDCs, MFPTDFCs or such similar bodies. The grants-in-aid under the scheme are provided against their proposals that meet the criteria prescribed by the Ministry of Tribal Affairs.

3.23.3 The allocation under the scheme for the Tenth Plan has been fixed at Rs.78.31 crores, which represents a considerable enhancement over to earlier plan allocations. The allocation under the scheme for the year 2005-06 was Rs.10.80 crore under BE against which an amount of Rs.12.84 crore was released during that year to different States requiring them to pass on the grants to the identified TDCCs etc.

3.23.4 Shri Buduru Srinivasulu, Member, National Commission for Scheduled Tribes had a review meeting with the Girijan Cooperative Corporation in the State of Andhra Pradesh at Vishakhapatnam on 12 August, 2005, established in the year 1956 for socio-economic upliftment of tribals in the State and, which serves around 4.2 million tribals as against the total tribal population of 5.3 million in the State. Based on the report furnished by the Hon'ble Member, this Commission makes the following recommendations for strengthening the functioning of the State Tribal Development Cooperative Corporations:

- (i) **To ensure food security to tribals, the Girijan Cooperative Corporation (GCC) has submitted a proposal to the Ministry of Tribal Affairs, Govt. of India for minimum Support Price mechanism for Minor Forest Produce to the tribals on par with agricultural farmers with a view to enable it to pay better prices to tribals even during adverse market conditions. The Ministry of Tribal Affairs may consider the proposal favourably with respect to GCC in particular and other STDCCs in general.**
- (ii) Minor Forest Produce is the only source of income to many tribals and they depend on this activity for their sustenance. However, procurement of MFP is not a continuous activity since the period from July to October is a lean period during which only meagre MFP can be harvested. **The Commission recommends that one of the thrust areas to get some employment for the tribals in the lean period could be value addition to MFP by establishing insitu Processing Centres for conversion of MFP into process products in all the divisional areas wherever MFP for conversion is freely available.**
- (iii) **DR supply points may be set up at more number of places, at least, within a radius of 5 to 6 kms. from the important tribal habitats. The Commission has observed that the DR depots are not adequately equipped. Some of the depot buildings are in thatched sheds without electrification. There is need to strengthen these depots in phased manner by taking up construction of pucca buildings.**

### **3.24 Scheme of Assistance to State Scheduled Tribes Finance and Development Corporations (STFDCs)**

3.24.1 The scheme of assistance to the State Scheduled Castes and Scheduled Tribes Finance and Development Corporations was introduced in the year 1978-79 as a centrally sponsored scheme . These Corporations were catering to the needs of both Scheduled Castes and Scheduled Tribes, however, with the formation of the Ministry of Tribal Affairs in October, 1999, the scheme has been bifurcated from the Ministry of Social Justice & Empowerment from April, 2000. At present Scheduled Tribes Finance and Development Corporations are functioning in States and UTs with a sizeable Scheduled Tribe population.

3.24.2 These Corporations act as guarantors and promoters for providing margin money loans and subsidy to the target groups. They play a useful role in the mobilization of finances for economic development of Scheduled Tribes living below the poverty line. The State Corporations mainly take up employment- oriented schemes in the areas of (i) Agriculture and allied sector (ii) Minor irrigation (iii) Trades and Services (iv) Transport and (v) Self Employment schemes. The Ministry of Tribal Affairs provides financial assistance to the State Corporations as 49% share capital investment, the remaining 51% being borne by the State Governments. The Corporations provide finance to the beneficiaries on very soft terms. These Corporations also organize training programmes for the upgradation of skills of the ST members in the field of agriculture, industry and services.

3.24.3 A person belonging to a Scheduled Tribe having income upto double the poverty line is eligible to get assistance under the scheme. The allocation made and the expenditure incurred under this scheme during the year 2002-03, 2003-04, 2004-05 and 2005-06 are as under:-

(Rs. In lakhs)

Sl.No.	Year	Allocation	Expenditure Incurred
1.	2002-2003	200.00	220.00
2.	2003-3004	379.00	379.00
3.	2004-2005	450.00	475.00
4.	2005-06	0.00	0.00

### 3.25 National Scheduled Tribes Finance and Development Corporation (NSTFDC)

3.25.1 The National Scheduled Tribes Finance and Development Corporation (NSTFDC) was set up in April, 2001 as a governmental company under Section 25 of the Companies Act, 1956 (A company not for profit) following the decision of the government to bifurcate the erstwhile National Scheduled Castes and Scheduled Tribes Finance and Development Corporation (NSFDC). It is a fully Government of India owned Undertaking under the Ministry of Tribal Affairs and is an apex organization for providing assistance for schemes / projects for economic development of Scheduled Tribes. It is located at Indira Gandhi Indoor Stadium, Indraprastha State, New Delhi – 110002. It has the following five Zonal Offices:

- |  |  |
|--|--|
| 1. National Scheduled Tribes Finance and Development Corporation, 103/79, Meera Marg, Mansarovar, Jaipur-302020                                  | 2. National Scheduled Tribes Finance and Development Corporation<br>RCC Building<br>Ist Floor (Near Bridge) Hengrabari Road, Dispur                    |
| 3. National Scheduled Tribes Finance and Development Corporation, 4 <sup>th</sup> Floor, Telugu Samkshema Bhavan, Masab Tank, Hyderabad-500028   | 4. National Scheduled Tribes Finance and Development Corporation,<br>2 <sup>nd</sup> Floor, Rajiv Gandhi Bhavan Parisar II, 35, Shyamala Hills, Bhopal |
| 5. National Scheduled Tribes Finance and Development Corporation,<br>Plot No.396, Ist Floor, Garage Chhak, Rajarani Nagar, Old Town, Bhubaneswar |  |

3.25.2 The broad objectives of NSTFDC include (i) identification of economic activities of importance to the Scheduled Tribes so as to generate employment and raise their level of income, (ii) upgradation of skills and processes used by the Scheduled Tribes through providing both institutional and on-the-job training, and (iii) providing financial support for meeting the working capital requirement of the Central/ State Government owned agencies and National Level Federations such as TRIFED, for undertaking procurement and/or marketing of minor forest produce / agricultural produces collected/grown by the Scheduled Tribes and /or related products/services.

3.25.3 The Corporation finances viable income generating schemes / projects through State Channelising Agencies (SCAs) for economic development of Scheduled Tribes and also gives grants ( through SCAs ) for undertaking training programmes for their skill and entrepreneurial development. As per the eligibility criteria, the annual family income of the beneficiary should not exceed double the poverty line income limit (presently Rs. 39,500 per annum for the rural areas and Rs. 54, 500 per annum for the urban areas). A list of State Channelising Agencies (SCAs) of NSTFDC is given in **Annex.3.XIX**

3.25.4 The Corporation provides the following loans for financing programmes for economic development of Scheduled Tribes:-

- (i) **Term Loan :** This loan is for schemes / projects upto Rs. 10 lakhs per unit / profit centre and covers 90% of the cost subject to the condition that SCAs

contribute their share of assistance as per the scheme and provide the required subsidy. The entire working capital requirement per unit / profit centre costing upto Rs. 1 lakh is treated as a part of the project cost. For unit / profit centre costing above Rs. 1 lakh, working capital requirement upto 30% of the cost of the schemes/projects, subject to a maximum of Rs. 3.00 lakhs is considered as the cost of the project. Promoter's contribution is not insisted upon the scheme / project costing upto Rs. 1 lakh. Only 2% of the promoter's contribution (as percentage of the cost of project) is required for schemes costing above Rs. 1.00 lakh, and upto Rs. 2.5 lakhs, 3% for schemes costing above Rs. 2.50 lakhs and upto Rs. 5.00 lakhs, and 5% for schemes costing above Rs. 5.00 lakhs. The rates of interest for this loan is 3% and 5% from SCAs upto Rs. 5.00 lakhs and above Rs. 5.00 lakhs respectively, and 6% and 8% respectively from the beneficiary / beneficiaries. The loan is to be repaid in quarterly / half-yearly instalments, as the case may be, within a maximum period of 10 years including suitable moratorium period.

- (ii) **Bridge Loan:** Bridge Loan is provided through SCAs to meet the gap in fund requirement of the schemes / projects against subsidy and capital incentives etc available to them. The rates of interest are the same as for the Term Loans.
- (iii) **Adivasi Mahila Sashaktikaran Yojana:** This is an exclusive highly concessional scheme for the economic development of Scheduled Tribes women beneficiaries. There is no ceiling on the allocation of funds for this scheme within the overall notional allocation of funds for each year made by NSTFDC. Under this Scheme, NSTFDC provides Term Loan upto 90% of the cost of the schemes/projects upto a maximum of Rs. 50,000 per unit / profit centre subject to the condition that the SCAs contribute their share of assistance as per this scheme and provide the required subsidy. The rates of interest are 2% per annum from the SCAs. The SCAs may charge maximum interest at the rate of 4% per annum from the ultimate women beneficiaries. The loan is to be repaid in quarterly / half-yearly instalments within a maximum period of 10 years including suitable moratorium period.
- (iv) **Working Capital Assistance :** It is provided as financial support for meeting the working capital requirement of the Central / State Governments owned agencies and national level federations such as Tribal Cooperative Marketing Development Federation of India Ltd. (TRIFED), for undertaking procurement and / or marketing of minor forest produces/agricultural produces collected/grown by the Scheduled Tribes and/or related products/services. Financial assistance is routed through the SCAs. NSTFDC charges interest @ 4% per annum from SCAs and, SCAs, in turn, may charge interest upto 7% per annum from the implementing agencies/ultimate beneficiaries. In case of financial assistance being provided directly to the Central / State / UT owned organizations, the interest is at the rate of 7% per annum. Repayment is required to be made in quarterly / half-yearly instalments within a maximum period of 10 years including suitable moratorium period.

3.25.5 The budgetary allocations and actual sanctions against them made by the Corporation during the years 2001-02, 2002-03, 2003-04, 2004-05 and 2005-06 are as given in the Table below:-

Financial Year	Budgetary Allocations	Actual Sanctions (NSTFDC's Share (Rs. In crores))		
		Income generating activities	Working Capital (Marketing support)/ Cash Credit Assistance	Total
2001-02	60.00	60.25	3.00	63.25

2002-03	80.00	93.98	5.00	98.98
2003-04	100.00	66.15	13.00	79.15
2004-05	100.00	68.06	5.00	73.06
2005-06	100.00	67.52	12.50	80.02
<b>Grand Total</b>	<b>440.00</b>	<b>355.96</b>	<b>38.500</b>	<b>394.46</b>

The year-wise details of the **gross funds disbursed** to the various agencies working for tribal development with reference to the actual sanctions indicated above is as given in the following Table:-

(Rs. In crores)

<b>Financial Year</b>	<b>Income generating activities</b>	<b>Working Capital (Marketing support)/Cash Credit Assistance</b>	<b>Total</b>
2001-02	27.51	-	27.51
2002-03	34.16	8.00	42.16
2003-04	22.73	13.00	35.73
2004-05	48.47	5.00	53.47
2005-06	51.06	8.50	59.56
<b>Grand Total</b>	<b>183.93</b>	<b>34.5 0</b>	<b>218.43</b>

3.25.6 It is noticed from the above two Tables that actual sanction of the loans has been below 80% of the budgetary allocation during last three years. Actual funds disbursements since inception of the Corporation (i.e. since 2001-02) is far below the total sanctioned amount and less than the budgetary allocation during the five year period from 2001-02 to 2005-06. Reason for less sanctioning can be understood, as processing and verification of the proposal takes time, but delay in disbursement or non-disbursement of sanctioned loan amount leads to indebtedness of the beneficiary, as he is forced to obtain personal loans from the market to meet margin money and other miscellaneous requirements relating to the project for which loan is sanctioned.

3.25.7 Information relating to actual recovery of loans sanctioned prior to bifurcation of the erstwhile NSC&STFDC and after setting up NSTFDC is not available. The Commission advises NSTFDC to furnish this information, year-wise, to the Commission as well as in their next Annual Report. The Commission held detailed discussions with CMD and other senior officers of the corporation in the month of April 2006 and emphasized that the creation of separate Finance & Development Corporation exclusively for Scheduled Tribes should have a distinct impact in delivering the benefits to them and in raising their economic and social standards. The Commission also observed that at the same time it was also necessary for corporation to ensure timely recovery of loans from beneficiaries. **The Commission recommends that the Ministry of Tribal Affairs should advise the State Govts. to ensure that the (State Channelizing Agencies (SCAs) under their control should examine the loan proposals to ensure the genuineness and viability of the schemes within reasonable period of time and forward the same to the National Scheduled Tribes Finance Development Corporation (NSTFDC) for timely release of the loan. SCAs should also devise ways and means to find out whether the loans sanctioned and released have been utilized by the beneficiaries for the purpose for which loan was sanctioned and whether they are in a position to repay the loans.**

3.25.8 On the request of the National Commission for Scheduled Tribes, the NSTFDC made a presentation before the Members and the officers of this Commission on 4 February, 2005 to apprise them of the various schemes being implemented by the Corporation. During interactions with the officers of the Corporation, the Commission

suggested that the NSTFDC should consider providing concession to the ST victims of atrocities in sanctioning of loans by providing relaxed eligibility criteria. The Commission felt that this would help the ST victims of the atrocities and their families to rehabilitate themselves. Based on the recommendations made by the Commission, the NSTFDC have advised all the SCAs on 18 March, 2005 to give priority under NSTFDC- assisted schemes to the victims of atrocities belonging to the Scheduled Tribes.

3.25.9 The Commission has observed that the members of Scheduled Tribes across the country are not aware of the various schemes being implemented by NSTFDC and, therefore, they are not in a position to avail of the benefits of these schemes. It has further been observed that the procedure for obtaining loan from the NSTFDC through the State Channelizing Agencies is very much complicated and most of the tribals are not in a position to avail of the benefits of taking loan on discount. **The Commission, therefore, recommends that:**

- (i) **NSTFDC may devise suitable ways and means to give adequate publicity in the tribal States about the schemes being implemented by them and also about the procedure to avail of the benefits under those schemes.**
- (ii) **The NSTFDC should also examine the possibilities of allowing the tribals to obtain the loans directly from the Banks at the rate of interest being charged by NSTFDC and providing interest subsidy to the concerned Banks to meet the gap in the rates of interest between NSTFDC and the Bank. In case the NSTFDC do not have funds to provide the said interest subsidy, the Ministry of Tribal Affairs should provide necessary funds to the NSTFDC.**

3.25.10 **The Commission recommends that the income eligibility criteria for availing of the loans under various schemes with respect to the family of the beneficiary should be raised to Rs. 1.5 lakh per annum for urban areas against the existing income limit of Rs. 54,500/- and to Rs. 1.00 lakh per annum for rural areas against the existing income ceiling of Rs. 39,500/-.**

3.25.11 It has been brought to the notice of the Commission, that taking the benefit of the innocence of the tribals, loans have been taken benami by non-tribals. The non-tribals skip away with the loan amount received from the Corporation and consequently poor and innocent tribal faces the brunt of the problem for non-repayment of loan. Besides, he is also liable to face criminal proceedings for non-repayment of loan which he had never received. **The Commission, therefore, recommends that NSTFDC as well as concerned SCA should carefully verify the genuineness of the tribal status of the loanees before sanctioning and releasing the loans to ensure that the benefits of the scheme reaches the real STs only and that the actual user of the scheme is a tribal only.**

### **3.26 Tribal Cooperative Marketing Development Federation of India Ltd. (TRIFED)**

3.26.1 The Tribal Cooperative Marketing Development Federation of India Limited known as TRIFED was set up by the Government of India, in the year 1987, as an apex. level Cooperative Federation with the following broad objectives:

- (i) To organize and plan the growth and development of natural products collected by tribals;
- (ii) To strive to ensure higher earning and larger employment opportunities of the tribal population;
- (iii) To ensure full utilization of natural products by improving their marketability;

- (iv) To boost up the economic and commercial viability of the TDCCs, FDCs and other State level agencies;
- (v) To arrange finances for its activities;
- (vi) To identify items of Minor Forest Produce (MFP) in different States/and promote their marketing.

3.26.2 TRIFED's Head Office is situated at NCUI Building, 2<sup>nd</sup> Floor, 3 Siri Institutional Area, August Kranti Marg, New Delhi and it operates throughout the country through its network of 12 Branch Offices/Field Offices. It has R&D Centre, which handles product development and R&D activities. It also promotes sale of tribal handicrafts/handlooms and organic foods through its various own sales outlets known as 'Tribes India'. It has also entered into tie-ups with various State emporia. In this way TRIFED is presently operating through 31 outlets – both its own outlets and the outlets being run on consignment basis which include Tribes Shop at 9, Mahdeo Road, (behind Parliament Street, New Delhi) and duty free shop at Indira Gandhi International Airport, New Delhi.

3.26.3 The basic mandate of TRIFED was to bring about socio-economic development of tribals of the country by institutionalizing the trade of natural products grown/ collected by them and providing marketing support to State Tribal Development Cooperative Corporations (STDCCs), State Forest Development Corporations (STDCs) and other State level Agencies engaged in procurement of such products from tribals to ensure fair prices and stop their exploitation by middlemen/ unscrupulous traders.

3.26.4 The price of minor forest produce (MFP) and Surplus Agricultural produce (SAP) are subject to fluctuations. For meeting the unforeseen contingencies of losses because of such fluctuations in the prices and to ensure remunerative prices to the tribal farmers for their produce, the Ministry of Tribal Affairs has been giving financial assistance to TRIFED to set off a part of such losses. Since its inception, TRIFED focused its activities mainly on procurement and sale of Minor Forest Produce (MFP) and Surplus Agricultural Produce (SAP) with the idea of providing remunerative prices to the tribals and also to help member Societies in disposing their stocks procured from tribals. The losses suffered by TRIFED in the operation of procurement and sale of MFP are compensated by the Central Govt. by providing financial assistance by way of grants under the scheme of "Price support to TRIFED". The scheme was initially launched during 1990-91 with an allocation of Rs.1.00 crore. The Tenth Plan outlay of the scheme is Rs.33.58 crores. During the year 2004-05 the entire approved outlay of Rs.6.00 crores was spent. The year-wise releases made under the scheme, since inception, are given below:-

(Rs. in lakhs)

<b>Year</b>	<b>Allocation</b>	<b>Expenditure</b>
1997-98	50.00	50.00
1998-99	100.00	100.00
1999-2000	500.00	297.00
2000-2001	400.00	400.00
2001-2002	400.00	400.00
2002-03	600.00	595.00
2003-04	600.00	600.00
2004-05	600.00	600.00
2005-06	400.00	400.00

3.26.5 In the year 2002-03, TRIFED reoriented its activities and shifted the focus from direct procurement & sales of MFP & AP commodities to its basic mandate of marketing development of tribal products. Under the new role, TRIFED has to basically

play the role of a service provider and market developer of tribal products. Under the new role, the Management has initiated a series of measures to focus the role of TRIFED towards that of a market developer for tribal products rather than undertaking trading activities of procurement and sales. Towards this end, the Federation has embarked upon the following projects on a limited scale keeping in view the expertise available in terms of skills, human and financial resources:

- (i) Implementation of Babasaheb Ambedkar Hastshilp Vikas Yojana (AHVY).
- (ii) Value addition of Sal/Siali leaves into moulded plates and bowls (Dona Pattals).
- (iii) Demonstration project on cultivation of safed Musli and Amla.
- (iv) Training to tribals of Karnataka State (LAMPS) for producing of AGMARK quality of honey.
- (v) Project for vocational training programme at Jagdalpur (Bastar).
- (vi) Nutrition Project on setting up of training & food processing centres in State of Karnataka, Jharkhand, Maharashtra & Orissa.
- (vii) Mobilization of self help groups across the country and arranging their livelihood Micro-Finance for their social and economic empowerment.

3.26.6 During the year 2005-2006, TRIFED undertook the following activities/projects involving tribals in:

- (i) income generation (Dona, Pattal, Hill Brooms),
- (ii) skill upgradation (Babasaheb Ambedkar Hastshilp Vikas Yojana (AHVY) projects, Dona Pattal and Hill Broom Making),
- (iii) training for scientific cultivation and harvesting (collection and harvesting of wild honey, scientific tapping of gum karaya, cultivation of Safed Musli and Stevia).

3.26.7 In the handicraft Sector and Marketing Development sector, the outlets of TRIBES India have been expanded and as a result, the sales during current year upto February, 2006 has reached Rs. 134 lakh as against the sales of Rs. 44.55 lakh during the participates in Exhibitions/ Melas etc. to promote tribal products. It also organizes Tribal Artisan Melas (TAMs) in which tribal artisans participate and exhibit their skills. TRIFED organized the first National Tribal Craft Expo, called "Aadishilp" in Delhi Haat in January, 2006 wherein about 56 artisans/groups/NGOs/ State Government organizations participated.

3.26.8 Under the existing system, the amount of financial assistance is directly given to the State Tribal Development Cooperative Corporations, and thereafter there is no monitoring by the Ministry of Tribal Affairs on the actual utilization of the funds for ensuring remunerative prices to the tribal farmers for their produce. **The Commission recommends that the Ministry of Tribal Affairs should evolve a monitoring mechanism to ensure proper utilization of the money given to the various State Tribal Development Cooperative Corporations for economic advancement of Scheduled Tribes.**

### 3.27 Delimitation of Parliamentary/Assembly Constituencies

3.27.1 In its meeting held on 15 June, 2005, the Commission noted that the Delimitation Commission had undertaken an exercise for delimitation of the Parliamentary and Assembly constituencies on the basis of 2001 Census. It was also brought to the notice of the Commission through reports published in the print media that certain tribal bodies in the State of Assam had been agitating against the decision of the Delimitation Commission to reduce the number of seats reserved for Scheduled Tribes in the State Assembly. The

Commission recalled that a number of tribal communities had been included in the list of Scheduled Tribes in respect of various States (including the State of Assam) vide the Scheduled Castes and Scheduled Tribes Orders (Amendment) Act, 2002. The 17 States in respect of which new communities were recognized as Scheduled Tribes vide this Act are- Andhra Pradesh, Arunachal Pradesh, Assam, Bihar, Goa, Gujarat, Himachal Pradesh, Karnataka, Jharkhand, Kerala, Manipur, Mizoram, Orissa, Sikkim, Tripura, Uttar Pradesh and West Bengal. As decided by the Commission, the matter was taken up with the Delimitation Commission. The Delimitation Commission was requested to take into consideration for the purpose of delimitation of the Parliamentary and Assembly constituencies the tribal communities which had been included in the list of Scheduled Tribes in the year 2002 and which had been shown against non-tribal categories in the Census report 2001.

3.27.2 The Delimitation Commission informed this Commission that they had to delimit the Parliamentary and Assembly constituencies of the country on the basis of 2001 Census figures as published by the Registrar General and Census Commissioner of India. That Commission further observed that for extending the benefits of reservation to the communities declared as Scheduled Tribes vide SCs & STs Orders (Amendment) Act, 2002 in Parliament and Legislative Assemblies, an enabling provision would be required to be made by the Parliament and that the Delimitation Commission could not on its own take into account any other unpublished figures for the purpose of delimitation. The observations of the Delimitation Commission have been brought to the notice of the Ministry of Tribal Affairs vide the Commission's letter dated 28 July, 2005. The Ministry has been requested to take necessary action on the advice of the Delimitation Commission for making an enabling provision in the Delimitation Act, 2002 so that the communities included in the ST categories after 2001 Census could also be taken into account for the delimitation of Parliamentary and Assembly constituencies. The Commission's letter stated that the next Census would be held in the year 2011 and if the delimitation of the Parliamentary and State Assembly constituencies took place only on the basis of figures of obtained from 2001 Census, the communities which have been included in the list of Scheduled Tribes subsequent to 2001 Census would not be counted for the purpose of delimitation for the next 6-7 years in any Parliamentary election, bye-election or State Assembly election etc. and they will continue to be deprived of the benefits of reservation on the basis of their population in the matter of delimitation. **The Commission recommends that the Ministry of Tribal Affairs should initiate action at an early date to draft a suitable bill for introduction in Parliament for making an enabling provision in the Delimitation Act, 2002 for taking into account for the purpose of delimitation of the constituencies with respect to Lok Sabha, State Assemblies and Panchayats such tribal communities which were recognized as Scheduled Tribes after 2001 Census and such other tribes which might be recognized in future subsequent to the submission of Census report(s) by the Registrar General and Census Commissioner of India.**

3.27.3 State-wise number of constituencies reserved for Scheduled Castes and Scheduled Tribes in respect of Lok Sabha and Legislative Assemblies is given in the Statement at **Annex.3.XX**. Another Statement showing State-wise number of elected representatives from amongst general category, Scheduled Castes, Scheduled Tribes and women at Gram Panchayat (GP), Intermediate Panchayat (IP) and District/Zila Panchayat (ZP) levels is placed at **Annex.3.XXI**.

### **3.28 Some successful cases dealt with in the Commission:**

Some of the important and successful cases relating to socio-economic development of STs in which the petitioners got timely relief due to intervention of the Commission are as follows:

- (1) A complaint dated 18.7.2005 was received from one Shri Dan Singh Meena S/o Shri Ghamandi Singh Meena, R/o Village Kachrodha, Tehsil Sapotra, District Karoli (Rajasthan). He stated that while he was called for counseling by the National Institute for the Mentally Handicapped, New Delhi for admission in Bachelor of Rehabilitation Therapy (BRT) Course on 14.7.2005 but he was placed in the general waiting list and denied admission in the said course, though there was one seat reserved for ST. This matter was taken up immediately with the NIMH Regional Centre, Lajpat Nagar, New Delhi by the Commission. The Institute vide its letter dated 27.7.2005 replied that Shri Dan Singh Meena was a resident of Rajasthan and had passed XIth and XII standards from the Board of School Education, Rajasthan and that as per the directions given by Guru Gobind Singh Indraprastha University, Delhi there was no reservation in this course for the ST candidate belonging to a State outside Delhi and that the same had been clearly mentioned in the prospectus also. On the basis of this reply a letter was sent to the Registrar, Guru Gobind Singh Indraprastha University, Delhi to attend a hearing fixed in this Commission on 5.8.05 in the chamber of Chairman. However, before meeting a letter dated 4.8.2005 was received from the University that the Director, NIMH, Lajpat Nagar had been given direction to admit Shri Dan Singh Meena for this course and the Vice-Chancellor has effected horizontal conversion of ST seat of Delhi-General to ST Seat of Outside Delhi. Meeting was attended by the Registrar of the University as well as Director of the Institute on 5.8.05 who confirmed the fact of admission of Shri Meena in their Institute. However, Chairman NCST made a suggestion that on the pattern of the case of Shri Dan Singh Meena GGSU University might consider making arrangements for offering vacant seats for ST candidates of Delhi category to the ST candidates of outside Delhi category in Academic/Technical & Professional Educational Institutions under the University. If after offering the vacant ST seats of Delhi ST Category to the outside Delhi ST category, there was still any vacancy, it could be offered to the SC or the General category candidates. In this regard a letter was written to the University. The suggestion was not accepted by Delhi University.
- (2) A complaint dated 9.2.05 was received from Ms. Teppal Sujee that she was being harassed by the IIT, Madras and was failed deliberately in B.Tech by the University by giving lower grades. Further she was forced to vacate the hostel of the Institute before 13.2.05. She requested for registration in the course so that she could continue the education without break and also allowed to continue in the hostel till her education was completed. The complaint was taken up with the Registrar, IIT, Madras on 09.2.05 itself. IIT, Madras vide their letter dated 25.2.05 replied that Ms.T. Sujee had been re-admitted in the Institute and permitted to continue in the Dual Degree (B.Tech & M.Tech.) programme in Electrical Engineering and also permitted to stay in the Hostel till the completion of her education. With the intervention of this Commission not only the tribal girl was saved from the harassment but she was also admitted in both the courses and allow to continue in the hostel.
- (3) A complaint dated 2.11.05 was received from Shri Bhai Halen Kujur, Ex-MLC Bihar, Jharkhand, Ranchi that one Shri Rahul Deep Kujur S/o Shri Agapit Kujur resident of Andaman & Nicobar Islands applied for admission in Birla Institute of Technology, Mesra, Ranchi (Jharkhand) under the scheme of reservation in Diploma/Degree Technical Courses in Electronic and Communication. He stated that since he did not appear in the Entrance test conducted by this Institute he was not given admission. It was further mentioned that due to the Tsunami in A&N.Islands, the candidates belonging to these Islands were exempted from All India Engineering Entrance

Exam, 2005 and therefore he should have been admitted in the said course without insisting upon the clearance of the Entrance Test. This matter was taken up immediately with the BIT, Mesra, Ranchi, (Jharkhand) who vide their letter dated 24.11.05 replied that their Institute was the member of AIEE Examination Scheme for different Engineering and Architecture under-graduate courses and that the Institute admitted the students only after the candidate qualified the AIEE Examination except those who were nominated by the Ministry of H.R.D. and intimation to that effect was received through the Directorate of Technical Education of the concerned States. As regard the case of Shri Rahul Deep Kujur who is the resident of A&N. Islands, he was not given admission because letter dated 25.10.05 sent by the Dy.Educational Adviser (NIT) exempting the candidates belonging to A&N Islands due to Tsumani from appearing in AIEE Examinations was received on 7.11.05. Immediately thereafter Shri Rahul Deep Kujur was advised to report on 11.11.05 with the documents for admission and he was admitted on the same day. Hence due to timely intervention of the Commission, the tribal student belonging to A&N.Islands was admitted in the Birla Institute of Technology, Mesra (Ranchi).

- (4) A complaint was received in February, 2006 from Ms. Tsering Choden, D/o Shri T.T. Wangdi, R/o D-637, Sarojini Nagar, New Delhi that she had passed out all the four previous semesters of LLB in LC-I and was admitted to the 5<sup>th</sup> semester in July 2005. After completion of 5<sup>th</sup> semester she was issued the admission ticket for the examination and she appeared in the same in the month of December, 2005. Last and final (6<sup>th</sup> semester) of the Course started from the 1.1.06 and she started attending classes. But to her shock and surprise, her name was struck off suddenly the rolls of 6<sup>th</sup> semester and she was asked by the PIC not to attend the classes in future because her attendance for appearing in the exam of 5<sup>th</sup> semester was short and the admission ticket was issued to her by mistake and she was to appear in the examinations of 5<sup>th</sup> semester again.

The Commission felt that if the attendance of the complainant was short, LC-I of University of Delhi should not have issued her the admission ticket for the examination of 5<sup>th</sup> semester. Since the decision of PIC (LC-I) appeared an after-thought without application of mind, the Commission took up this matter with the University immediately and called the PIC of LC-I for discussion with the Chairman on 20.2.06.

Meeting was attended by the PIC of LC-I, Dy. Registrar, Liaison Officer (SC/ST) and Asstt. Registrar etc. and on the basis of discussion it transpired that in some of the attendance registers containing the name of the complainant, absence was noted in pencil while the presence was marked in pen which created a doubt whether presence was marked on the date of actual attendance and any students could be favoured by erasing the absence marked in pencil by marking presence in ink. It was inferred that the attendance system being followed by LC-I was not fool-proof. The Commission felt that the records of attendance of the complainant in different subjects of the 5<sup>th</sup> Semester were not maintained properly. As regard the argument of the PIC that some students had gone to Delhi High Court against the short attendance in 5<sup>th</sup> semester and that they had highlighted the name of Ms. Choden also, the Commission desired the PIC to send to the Commission a copy of the writ petition filed by the students and any interim order passed by the High Court of Delhi putting a ban on declaration of the result of the complainant and also for her admission in the 6<sup>th</sup> semester.

The Commission did not get any information from LC-I for almost one month and with a view to decide this case expeditiously so that the career of ST girl student was

not spoiled, the Commission again fixed the meeting on 17.3.06 calling the PIC, Vice-Chancellor and Registrar of Delhi University for discussion. This case was discussed with the PIC, LC-I and Asstt. Registrar in the chamber of Chairman and after a detailed discussion it was pointed out to the PIC that the admission card was issued by the LC-I to the complainant after a well-considered decision when she made an application to them after the display of the first list where her name was included in the list of detainees. The argument of LC-I that her name was removed from the list of detainees by the computer was neither tenable nor logical. Since the issue of admit card by the LC-I to the complainant was a well-considered decision and not by mistake, it was pointed out to the PIC as well as the Asstt. Registrar that the decision of the LC-I asking the complainant not to attend the classes of the 6<sup>th</sup> semester was purely an after-thought and they could not go back on their earlier stand of permitting her to appear in the examinations of 5<sup>th</sup> semester. In addition it was also pointed out that the method of attendance adopted by LC-I was also not fool-proof and it was always prone to tampering. In these circumstances the Commission asked the PIC to furnish reply on the affidavit **clearly mentioning whether the complainant could be admitted in the 6<sup>th</sup> Semester or not**. She was also told that while five students e.g. Sunita Singh, Ajay Pratap, Sudhir Aggarwal, Mary J. Ngurnumawii and Vinod Gupta having percentage of attendance less than 55% were allowed to sit in the exam of the 5<sup>th</sup> semester and promoted to 6<sup>th</sup> semester, why Ms. Choden was not allowed to continue her study in the 6<sup>th</sup> semester. The PIC, LC-I was asked to furnish a reply on the affidavit on all the above points within 15 days.

On the basis of proceedings held in the chamber of Chairman on 20.2.06 and 17.3.06, PIC, LC-I referred this matter to the Attendance Committee of LC-I to review the case of Ms. Choden and after considering all the facts and circumstances the Committee allowed her to proceed to 6<sup>th</sup> term of LLB Course. This information was sent by the PIC vide her letter dated 25.4.06 which was also confirmed by the complainant. Thus with the timely intervention and detailed investigation by the Commission, the career of an ST girl student who was on the verge of the completing her LLB course was saved from being ruined.

- (5) A complaint dated 11.8.06 was received from Shri Vinay Kumar, Prop., M/s Hariom Indane Distributor, BHINMAL, District Jalore (Raj) that he was allotted a Gas Agency by the Indian Oil Corporation under Marketing Plan 1985-86 in ST quota in Bhinmal city which started functioning w.e.f. 18.4.05. Since he was having 275 customers and his refill load was of 300 cylinders only, his agency was continuously running in losses and therefore requested for the transfer of the customers from the RMV of Bharat Petroleum Corporation functioning in the same city. Case was discussed in the meeting taken by the Chairman on 10.1.06 with the DGM (LPG Sales) and RLM (NR) of BPCL. Keeping in view the financial difficulties faced by the complainant and also in view of the spirit under which the Gas Agency is allotted to the weaker sections under SC/ST quota for their socio-economic development it was decided and agreed by the officers of BPCL that all the customers on list of BPCL in Bhinmal would be given option to transfer to the Indian Oil Corporation and a copy of the list of the customers would also be given to the petitioner. In the absence of any reminder from Shri Vinay Kumar, the Commission has every reason to presume that the necessary action has been taken by the BPCL and now he has got a sufficient number of customers and his Gas Agency is functioning in profit.
- (6) A complaint dated 22.2.05 was received from Shri F.B.Singh Markam, President, Azavs, District Sidhi, Madhya Pradesh that a Post-Matric hostel for ST students was built up in Gram Panchyat, Nodia, District Sidhi which was about 6 km. away from

the City/Distt. Head quarters and as a result the students were facing a lot of difficulties not only in the matter of travelling but also due to the fact that the hostel was not having any basic facilities of health, drinking water etc. It was requested that this hostel may be set up near the city so that the ST students may not face difficulties. This case was taken up with the Collector, Sidhi who vide his letter dated 14.11.05 informed that the alternate arrangements of 25 rooms for the Post-matric tribal students had been made in new Diet hostel building, Sidhi.

- (7)(a) Hon'ble Chairman, National Commission for Scheduled Tribes visited Paschim Medinipur Distt., West Bengal on 19.11.2005 with a view to review the on going developmental works for Scheduled Tribes in these places. Another review meeting was held in the Commission with the District Magistrate on 20.12.2005 in the Commission to know the progress made on the decisions taken in the meeting on 19.11.2005. The gist of the discussions with District Magistrate, item-wise are as follow:

**Health**

- (i) The total area of Belpahari is 500 sq. kms. As there is no health center between Belpahari and Amlasole. While the distance between two places is more than 40 kms., there is no facility for the delivery of the women. As per the Govt. guidelines, one Primary Health Centre is to be set up against the population of 3000 persons in rural areas. At present there are only three Primary Health Centers in the area which are not sufficient to meet the requirement of medical facilities. There is need for setting up at least two more primary health centers in the area due to heavy pressure of patients on PHC of Belpahari. There is a proposal to upgrade the present block health centre at Belpahari from 50 beds to 60 beds. The Commission stated that this proposal of up-gradation of this hospital should be got through at the earliest and similarly the proposal for setting up of 10-bed hospital at Odulchua may be approved by the Govt. of West Bengal at the earliest. Chairman desired that the present norms for setting up Primary Health Centers need to be relaxed in respect to the tribal areas. keeping in view their remoteness from the cities and towns particularly when the metalled roads are also not available for taking the patients to the cities in emergency. It was found during the visit of the Chairman that there is a proliferation of leprosy cases among the tribal people. With a view to prevent the further spread of this disease among the tribals and also for its treatment and eradication, awareness campaign may be launched by the State Govt. The efforts made by Dr. M.G. Mandal by initiating on his own programme for the replacement of the limbs of the some leprosy cases is appreciable and the Govt. should make similar arrangement on permanent basis. Similarly the incidence of Malaria is also very high among the tribals in the area and there is need to take various remedial steps to prevent the spread of the disease. Blood test of the malaria affected people should be conducted, chlorination of the drinking water should be done and the lava oil should be sprinkled on water along with fogging of area from time to time.

**Land**

- (ii) 15 Patta holders have been given possession to the land in Amlasole on 7.12.2005 and two other persons could not be given possession as they had shifted their residence to Jharkhand. However, the Chairman observed that the majority of the tribal people in Belpahari Block were landless. It was suggested that a survey should be conducted by the Govt. of West Bengal and the land may be allotted to them. It was pointed out that similarly the lands of the tribal people are not sufficiently irrigated. D.M. informed that in Khaudrahai Irrigation Scheme there was some objection of the Forest Department. The Chairman desired that the scheme should be implemented without

further delay for the irrigation of the tribal lands and in addition other sources of irrigation should be explored at suitable places by the State Govt.

### **Education**

- (iii) At Kankrajhore, the honorarium of the Sahayakas has now been paid for 16 months because they are below the minimum age prescribed by the State Govt. Chairman desired that the minimum age may be reduced keeping in view the un-employment problem which is more serious in the poverty-stricken tribal areas. There are hundreds of young tribal persons who are reasonably educated also and therefore the minimum age prescribed by the State Govt. for engaging Sahayakas is not logical and the same should be lowered by the State Govt. for the welfare of the tribal people. At Belpahari there are 171 Primary Schools and 19 upper Primary schools. The numbers of the schools in the area is inadequate against the total area of the Gram Panchayats. Therefore, new schools should be opened. Similarly there should be timely payment of scholarships to the tribal students. As per the existing arrangement, the scholarships are disbursed to the tribal students in the months of December / January which is against the procedure and defeats the very purpose of granting scholarships. In order to provide financial help to the poor tribal students in time, the scholarship amount should be disbursed to them at the time of admission in July so that they may pursue the education without any kind of financial constraint.

### **Drinking Water**

- (iv) There are 7991 tubewells in the Medinipur District and 229 tubewells in Belpahari. Similarly, in Medinipur there 9776 dug wells and 220 dug wells in Belpahari. It was informed that 17 villages in the Belpahari Block get their drinking water from a common source and there is no arrangement for providing the safe drinking water to these tribal villages separately. Chairman desired that the arrangement for providing drinking water to all these villages made by the State Govt. of West Bengal and the report may be submitted.

### **TSP**

- (v) There should be a proper monitoring and training under all the scheme cover in TSP and a motivation campaign may be launched by the State Govt.

### **Electrification**

- (vi) It was reported by the D.M. that 188 villages have been electrified in the district and the remaining will be electrified in 1966. 167 villages have not been electrified in the Belpahari. The Chairman desired electrification of the remaining villages will be taken up by the State Govt. in a time bound manner and this task can be performed by the solar energy by single point connection. Similarly the hostels in the tribal areas may be provided this solar light.

### **Hostel**

- (vii) There are four Ashram hostels at Binpur II (Belpahari) Block out of which three are for primitive tribal students and one is for ST boys. Besides four ashram hostels, there are 13 schools having hostels and all the facilities of electrification, drinking water, sanitation and mosquito net etc. As many as 876 students at Binpur – II are getting hostel facilities and the hostel quota for the ST students is 635. Chairman desired that more girls hostels needs to be created.

**Indira Awas Yojana**

- (viii) D.M. reported that under this scheme, 222 houses had been constructed. Chairman informed that as the several tribals were still houseless, a survey should be conducted and the houses should be allotted to them at an early date.

**Food Supply**

- (ix) D.M. informed that the Antodiya Yojana and Annapoorna Yojana were in vogue. 3706 families under the Antodiya programme and 153 under the Anpurna Yojana were covered. It was stated that keeping in view the size of the area, the number of the tribal people covered under this scheme was very less and after survey it needed to be increased so that the benefit of the scheme may be made available to the poor needy tribals. Under the Grain Gola / Grain Bank Scheme, the Govt. provide grains to the needy poor SC/ST people in the situation when they do not have any money to purchase and the beneficiary returns the money after some time. The Chairman desired that regular food supply may be ensured to the tribals by taking up regular monitoring. The steps should be taken to increase the number of the MR dealers from tribal community.

**Atrocities**

- (x) District Magistrate informed that five cases of atrocities under SCs/STs (POA) Act 1989 had been detected and the same were subjudice. He stated that he would inform how many cases of them pertained to the ST peoples. It was further reported by the D.M. that the relief / compensation amount to the victim of atrocities had not been sanctioned as the cases were subjudice. The Chairman observed that in the States of Karnataka, 50% compensation was given to the victims at the time of the registration of FIR and the balance amount thereafter. Similarly, in the State of M.P., 50% amount of the compensation was given by the State Govt, to the victim at the time of filing of chargesheet and the balance amount was given later. Chairman accordingly suggested that the State Govt. of West Bengal should also follow the system of payment to the victims of atrocities on the patterns followed in Karnataka & M.P and as per the procedure laid down in the SCs and STs (POA) Rules, 1995.

**Road Connectivity**

- (xi) Under the Prime Minister's Gram Sarak Yojana, the population norms for construction of the roads in the tribal villages may be relaxed. It was also suggested that survey should be conducted by the District Magistrate to expand the network of the metalled roads as this area was naxal-affected and from the point of view of safety of people, metalled roads were necessary.

**Socio Economic Development**

- (xii) The various schemes for the socio- economic development of the tribal people under agriculture, animal husbandry, fertilizers, land reforms and leveling of land etc. should be taken up by the State Govt.

**Compensation**

- (xiii) Claims of 78 Lodha Savar families whose goats died immediately after the purchase under the TSP programme should be settled at the earliest and it should be ensured that such incidents do not take place in future.

**Employment**

- (xiv) The Rojgar Guarantee Yojana has not been implemented by the State Govt. and the same should be taken up. The tribal people were not getting employment as per their population. Since there were many posts under categories B,C & D in the District,

the information may be furnished by the District administration to the Commission as to how many of these vacancies were reserved for STs, and the backlog should be cleared by launching a special drive.

#### **MFP**

- (xv) Since the MFP is a major source of earning for the tribals, a proper arrangement for its collection and purchasing the same at the fair price either by the State Govt. or by the Van Samiti should be made by the State Govt. immediately and the operation of the middlemen or the touts in the purchase of the minor forest produce should be eliminated completely to ensure that the poor tribals were not exploited. In Medinipur district, the self-help groups particularly those promoted by the tribal women should be encouraged and the ST Finance & Development Cooperation should take necessary steps in this direction. With a view to give impetus to the transportation facilities in the tribal areas, the taxi loans should be granted to the tribal people under Raftar Yojana and in addition they should also be provided with necessary permits for plying these taxis.

#### **Energy Development**

- (xvi) West Medinipur District is a backward area and for the purpose of setting up of industries, special incentives should be granted to the tribals in Belpahari block. Subsidies for employment and development should be granted to the poor tribals and the criteria for setting up industry should be relaxed to make it more attractive.
- (7)(b) District Magistrate, Paschim Medinipur vide his letter dated 31.01.2006 sent an action taken report as follows on the minutes of the meetings held on 19.11.2005 and 20.12.2005 (referred to above).

#### **Health**

- (i) Proposal for 60 bedded hospital at Belpahari and 10 bedded hospital at Odolchua, accepted by the State Government. As regards norms of setting up Sub-Centres, population and distance criteria is fixed by Government of India and copy of minutes sent to Principal Secretary, Health Department, Government of West Bengal for taking up at State level. For Malaria, steps had been taken by CMOH and blood slide collections were being done regularly.

#### **Land**

- (ii) Survey had been started to distribute further land. Meanwhile, more than 1000 SC/ST families were distributed patta in Garbeta-II block. Khandakhali irrigation scheme was being taken up by Forest Department.

#### **Education**

- (iii) Matter of relaxation of age of contractual teachers for SSK and MSK has been sent to Secretary, Panchayat & Rural Development Department for taking up at State level. Scholarship have been distributed in the year 2005-06 upto 31.01.2006. 7975 pre-matric scholarship and 730 post-matric scholarship were disbursed to the tribal students.

#### **Drinking Water**

- (iv) Estimate had been prepared for 17 villages for providing drinking water sources and issue had already been taken up by Panchayat Samiti.

#### **TSP**

- (v) Proper monitoring and campaign had already started.

**Electrification**

- (vi) Priority was being given to Banspahari G.P. for electrification by Power Grid Corporation. Solar lighting had been installed in Amlasole and other 5 villages in January, 2006. Solar light had also been installed in ST Hostels.

**Hostel**

- (vii) The Matter regarding opening of more Girls Hostels had been taken up with BCW Department.

**IAY**

- (viii) Survey of homeless persons had started.

**Food & Supplies**

- (ix) At present there are 13 Tribal M.R. Dealers in this district. Matter had been taken up with State Government for increasing number of tribal M.R. Dealers and to fix a quota.

**Atrocities**

- (x) As regards payment of relief to the victims of atrocities immediately after the incident the matter had been taken up with Principal Secretary, BCW Department, Government of West Bengal.

**Road Connectivity**

- (xi) As regards relaxation of population norms under PMGSY for construction of roads in tribal areas, since the matter pertained to Central Government, a reference had been made to Secretary, Panchayat & Rural Development Department accordingly.

**Socio-Economic Development**

- (xii) Special schemes had been taken up under RSVY and NFFWP. National Rural Employment Guarantee Assurance Scheme was being started from 02.02.2006.

**Compensation**

- (xiii) A Special meeting was held with New India Assurance, Ghatsila, who informed that claims were to be settled by Divisional Office, Jamshedpur, New India Assurance Company and they had engaged private investigator to look into the claims. They had been asked to expedite matter. Concerned Bank has been asked to cooperate with New India Assurance.

**SC/ST vacancies**

- (xiv) Vacancy report are as follows for Groups B, C & D:

<b>Group</b>	<b>ST vacancies</b>
<b>B</b>	<b>Nil</b>
<b>C</b>	<b>5</b>
<b>D</b>	<b>3</b>

As regards other officers of the District, it was indicated that the roster was maintained by the different Departments and Directorates at state level like L&LR Department, BCW Department, Health Department, Panchayat Department etc. which was communicated to the District Officers of the concerned departments vide P.O.-cum-DWO's office Memo No. 108(5)-BCW Mid(W) dated 25.01.2006.

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## Demographic Statistics: 2001 Census

Sl.No	State	Total Population 1991	Total Population 2001	Decadal Growth (%)	ST population 1991	ST population 2001	Decadal Growth (%)	% age of STs in the State to total State population 2001 Census	% age of STs in the State to country's total ST population 2001 Census
1	2	3	4	5	6	7	8	9	10
	India	838,583,988	1,028,610,328	22.66	67,758,380	84,326,240	24.45	8.2	-
1.	Andhra Pradesh	66,508,008	76,210,007	14.59	4,199,481	5,020,104	19.64	6.6	5.96
2.	Arunachal Pradesh	864,558	1,097,968	27.00	550,351	705,158	28.13	64.2	0.84
3.	Assam	22,414,322	26,655,582	18.92	2,874,441	3,308,570	15.10	12.4	3.92
4.	Bihar	86,374,465 *	82,998,509	-	6,616,914 *	758,351	-	0.9	0.90
5.	Chhattisgarh	@ @	20,833,803	-	@ @	6,616,596	-	31.8	7.85
6.	Goa	1,69,793	13,47,668	55.21	376	566	50.53	-	0.07
7.	Gujarat	41,309,582	50,671,017	22.66	6,161,775	7,481,160	21.41	14.8	8.87
8.	Harayana	16,463,648	21,144,564	28.43	-	-	-	-	-
9.	Himachal Pradesh	5,170,877	6,077,900	17.54	218,349	244,587	12.02	4.0	0.29
10.	Jharkhand	**	26,945,829	-	**	7,087,068	-	26.3	8.40
11.	Karnataka	44,977,201	52,850,562	17.51	1,915,691	3,463,986	80.82	6.6	4.11
12.	Kerala	29,098,518	31,841,374	9.43	320,967	364,189	13.47	1.1	0.43
13.	Madhya Pradesh	66,181,170@	60,348,023	-	15,399,034@	12,233,474	-	20.3	14.51
14.	Maharashtra	78,937,187	96,878,627	22.73	7,318,281	8,577,276	17.20	8.9	10.17
15.	Manipur	1,837,149	2,166,788	17.94	632,173	741,141	17.24	34.2	0.88
16.	Meghalaya	1,774,778	2,318,822	30.65	1,517,927	1,992,862	31.29	85.9	2.36
17.	Mizoram	689,756	888,573	28.82	653,565	839,310	28.42	94.5	1.00
18.	Nagaland	1,209,546	1,990,036	64.53	1,060,822	1,774,026	67.23	89.1	2.10

19.	Orissa	31,659,736	36,804,660	16.25	7,032,214	8,145,081	15.83	22.1	9.66
20.	Punjab	20,281,969	24,358,999	20.10	0	-	-	-	-
21.	Rajasthan	44,005,990	56,507,188	28.41	5,474,881	7,097,706	29.64	12.6	8.42
22.	Sikkim	406,457	540,851	33.06	90,901	111,405	22.56	20.6	0.13
23.	Tamil Nadu	55,858,946	62,405,679	11.7	574,194	651,321	13.43	1.0	0.77
24.	Tripura	2,757,205	3,199,203	16.03	853,345	993,426	16.42	31.1	1.18
25.	Uttaranchal	\$ \$	8,489,349	-	\$\$	256,129	-	3.0	0.30
26.	Uttar Pradesh	139,112,287 \$	166,197,921	-	287,901 \$	107,963	-	0.1	0.13
27.	West Bengal	68,077,965	80,176,197	17.77	3,808,760	4,406,794	15.70	5.5	5.23
28.	Andaman & Nicobar Island	280,661	356,152	26.19	26,770	29,469	10.08	8.3	3.03
29.	Chandigarh	642,015	900,635	40.28	0	-	-	-	-
30.	Dadra & Nagar Haveli	138,477	220,490	59.22	109,380	137,225	2.46	62.2	0.16
31.	Daman & Diu	101,586	158,204	55.73	11,724	13,997	19.39	8.8	10.20
32.	Delhi	9,420,644	13,850,507	47.02	0	NST	-	-	-
33.	Lakshadweep	51,707	60,650	17.30	48,163	57,321	19.01	94.5	0.07
34.	Pondicherry	807,785	974,345	20.62	0	-	-	-	-
35.	J&K	-	10,143,700	-	-	1,105,979	-	-	-
	<b>Total</b>	<b>838,583,988</b>	<b>1,028,610,328</b>	<b>-</b>	<b>67,758,380</b>	<b>84,326,240</b>	<b>-</b>	<b>-</b>	<b>-</b>

Source: Census of India 2001

\* Indicate population of undivided Bihar

@ Indicate population of undivided M.P.

\$ Indicate the population of undivided Uttar Pradesh

\*\* Population figures of Jharkhand included Bihar @ @ Population figures of Chhattisgarh included in M.P.

\$\$ Population figures of Uttaranchal included in Uttar Pradesh

Note: States like Chhattisgarh, Jharkhand and Uttaranchal were created in the year 2000 after reorganization of the States of Madhya Pradesh, Bihar and Uttar Pradesh.

**FLOW OF FUNDS FROM STATE PLAN OUTLAYS TO TSP DURING THE NINTH  
FIVE YEAR PLAN (1997-2002)**

(Rs. in crores)

S.No.	States/UTs	% age of STs (1991 Census)	State Plan Outlay	Flow to TSP	% age to figure in Column 4
(1)	(2)	(3)	(4)	(5)	(6)
1.	Andhra Pradesh	6.3	13691.44	502.6	3.7
2.	Assam	12.8	6048.6	640.7	10.6
3.	Bihar	7.7	5978.4	1771.3	29.6
4.	Gujarat	14.9	32100.0	3841.9	12.0
5.	Himachal Pradesh	4.2	7488.0	640.6	8.6
6.	Jammu & Kashmir	11.0	2072.3	288.1	13.9
7.	Karnataka	4.3	30334.0	429.3	1.4
8.	Kerala	1.1	9205.0	140.7	1.6
9.	Madhya Pradesh	23.3	16337.3	3366.3	20.6
10.	Maharashtra	9.3	35674.8	2741.6	7.7
11.	Manipur	34.4	1363.9	515.1	37.8
12.	Orissa	22.2	13057.5	3484.4	26.7
13.	Rajasthan	12.4	20766.0	1469.8	7.1
14.	Sikkim	22.4	603.7	116.3	19.3
15.	Tamil Nadu	1.0	25151.7	264.4	1.1
16.	Tripura	31.0	1588.0	592.2	37.3
17.	Uttar Pradesh	0.2	46791.0	217.1	0.6
18.	West Bengal	5.6	26259.6	883.2	3.4
19.	Andaman & Nicobar Islands	9.5	1795.0	238.7	13.3
20.	Daman & Diu	11.5	195.1	9.3	4.8
	Total	8.1	296911.2	22314.2	7.6

**N.B.** (i) The requisite figures with respect to the States of Chhattisgarh, Jharkhand and Uttaranchal are not available.  
TSP is not applicable in other States/UTs

## Annex 3.III

## Flow of funds to Tribal Sub-Plan (TSP) from State Plan outlays

(Rs. in crores)

S.No	State/UT (% age of STs)	State Plan Outlay		TSP Allocation		% age of TSP Allocation to Plan outlay		Actual Exp. under TSP		% age of TSP exp. to the actual allocation under TSP	
		2002-03	2003-04	2002-03	2003-04	2002-03	2003-04	2002-03	2003-04	2002-03	2003-04
	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)
1.	Andhra Pradesh	10100.00	10970.46	585.03	731.19	5.79	6.67	464.24	617.28	79.35	84.42
2.	Assam	906.78	872.97	102.19	98.38	11.27	11.27	96.49	98.38	94.42	100
3.	Chattisgarh	1851.71	2847.22	782.00	1028.85	42.24	36.13	648.49	871.42	82.92	84.69
4.	Jharkhand	2651.94	2935.85	1461.38	1523.71	55.11	51.90	-	-	-	-
5.	Karnataka			130.67	130.09	-	-	105.96	99.04	81.09	76.13
6.	Kerala (1.14)	3750.00	4350.00	85.00	88.58	2.26	2.25	79.48	27.10	93.50	30.59
7.	M.P. (20.3)	4799.77	5901.75	818.84	899.41	17.24	15.24	686.72	777.01	83.27	84.02
8.	Manipur	550.00	590.00	279.58	N.A.	-	-	222.28	N.A.	79.50	N.A.
9.	Orissa (22.1)	2550.00	2714.50	706.17	665.0263	27.69	24.00	706.17	665.03	100	100
10.	Rajasthan	-	-	263.0542	-	-	-	259.8556	-	98.78	-
11.	T. Nadu (1.0)	5751.5296	7000.1316	59.4103	86.06	1.03	1.23	34.29	84.9958	57.72	98.65
12.	Tripura (31.1)	-	-	169.7809	173.50183	-	-	161.5516	174.0373	95.15	100
13.	Uttar Pradesh (0.01)	7250.00	7728.00	5.9417	6.00	0.00195	0.0776	4.8203	6.24	81.14	More than 100
14.	West Bengal	6307.00	3633.63	177.0559	129.61	2.81	3.57	143.4431	81.04	N.A.	N.A.
15.	A & N Islands	-	-	43.8260	64.2540	-	-	35.7580	59.7562	81.59	92.99
16.	Daman & Diu	-	-	1.1975	1.0472	-	-	1.1967	1.0403	99.93	99.34

N.B. The requisite information in respect of the State of Bihar, Gujarat, Himachal Pradesh, J& K, Maharashtra, Sikkim, Uttaranchal has not been available

## Annex 3.IV

**Expected flow of funds from the plan budget allocations of the Central  
Ministries/Departments to TSP during the year 2005-06**

(Rupees in Crores)

Sr. No.	Central Ministry/Department	BE 2005-06	8% of the BE to be earmarked under TSP
(1)	(2)	(3)	(4)
	<b>Part-A</b>		
1.	Agriculture & Cooperation	4209.32	336.75
2.	Agriculture Research & Education	1150.00	92.00
3.	Animal Husbandry & Dairying	669.08	53.53
4.	Agro & Rural Industries	859.00	68.72
5.	Posts	354.00	28.32
6.	Telecommunications	158.61	12.69
7.	Information & Technology	929.30	74.34
8.	Culture	551.12	44.09
9.	Environment & Forests	1234.91	98.79
10.	Food Processing Industries	180.00	14.40
11.	Health	2881.77	230.54
12.	Ayurveda, Yoga & Naturopathy, Unani, Siddha & Homeopathy (AYUSH)	345.00	27.60
13.	Family Welfare	6424.00	513.92
14.	Elementary Education & Literacy	12531.76	1002.54
15.	Secondary & Higher Education	2710.50	216.84
16.	Women & Child Development	3875.29	310.02
17.	Information & Broadcasting	528.00	42.24
18.	Non Conventional Energy Sources	599.75	47.98
19.	Panchayati Raj	50.00	4.00
20.	Planning	75.00	6.00
21.	Power	3000.00	240.00
22.	Road Transport & Highways	12120.36	969.63
23.	Rural Development	18334.00	1466.72
24.	Land Resources	1396.00	111.68
25.	Drinking Water Supply	4750.00	380.00
26.	Science & Technology	1240.00	99.20
27.	Scientific & Industrial Research	846.00	67.68
28.	Biotechnology	445.00	35.60
29.	Small Scale Industries	408.91	32.71
30.	Textiles	1150.00	92.00
31.	Tourism	786.00	62.88
32.	Urban Development	2080.33	166.43
33.	Urban Employment & Poverty Alleviation	500.00	40.00
34.	Water Resources	621.00	49.68
35.	Youth Affairs & Sports	438.99	35.12
36.	Labour & Employment	219.48	2.65
<b>Part-A</b>	<b>Total of Plan Funds</b>	<b>88652.48</b>	<b>7077.29</b>
Part-B	Non-Plan component of Food & Public Distribution	26496.23	2119.70
	<b>Total of funds</b>	<b>115148.71</b>	<b>9196.99</b>
Part-C	Ministry of Tribal Affairs	1509.74	1509.74
	<b>Grand Total of A, B &amp; C</b>	<b>116658.45</b>	<b>10706.73</b>

Source: Annual Report 2005-06 Ministry of Tribal Affairs

## Annex 3.V

## Release and Expenditure of SCA to TSP during the first three years of Tenth Plan Period

(Rs. in Lakhs)

S.No.	Name of State/UT	Opening Balance Tenth Plan	2002-03			2003-04			2004-05			Unspent Balance
			AR	ER	UB	AR	ER	UB	AR	ER	UB	
1	2	3	4	5	6	7	8	9	10	11	12	13
1.	A.P.	16.83	2732.80	2732.80	0.00	2459.52	2459.52	0.00	2459.52	2266.32	193.20	210.03
2.	Assam	3256.63	3058.99	2391.36	667.63	2753.09	4844.06	2090.97	2064.82	2590.13	525.31	130.98
3.	Bihar	8.60	556.56	645.52	88.96	500.90	500.00	0.90	250.45	-	250.45	170.99
4.	Gujarat	869.08	3930.91	3162.25	768.66	3743.09	3035.58	707.51	3537.82	5951.97	2414.15	68.90
5.	H.P.	75.64	643.53	643.53	0.00	612.79	579.09	33.70	750.87	631.57	119.30	77.36
6.	J &K	366.31	971.94	971.94	0.00	925.50	918.28	7.22	874.75	894.33	19.58	353.95
7.	Karnataka	72.85	771.33	790.53	19.20	694.19	747.84	53.65	899.97	625.55	274.42	274.42
8.	Kerala	270.86	273.70	348.45	74.75	260.62	355.36	94.74	319.35	379.30	59.95	41.43
9.	M.P.	1316.11	7833.22	8793.98	960.76	7458.93	7814.28	355.35	9139.70	6268.91	2870.79	2870.79
10.	Maharashtra	629.26	3723.83	2466.17	1257.66	3351.45	1572.86	1778.59	3351.45	-	3351.45	7016.96
11.	Manipur	83.49	761.96	458.03	303.93	725.55	676.18	49.37	685.76	456.82	228.94	665.73
12.	Orissa	228.49	6495.30	6437.00	58.30	6184.94	6014.75	170.19	7578.63	5095.23	2483.40	2483.40
13.	Rajasthan	449.91	3649.50	2631.69	1017.87	3284.60	4231.36	946.76	3284.60	3258.59	26.01	547.03
14.	Sikkim	24.42	108.02	108.02	0.00	102.86	97.22	5.64	126.04	971.22	28.82	10.04
15.	Tamil Nadu	261.37	323.32	116.48	206.84	290.99	107.32	183.67	377.25	713.83	336.58	315.30
16.	Tripura	52.80	1041.03	810.82	230.21	991.29	1169.68	178.39	1214.66	733.09	481.57	586.19
17.	U.P.	26.51	32.10	46.61	14.51	30.57	25.40	5.17	37.45	17.61	19.84	37.01
18.	West Bengal	191.94	2202.57	2202.57	0.00	1982.31	1982.31	0.00	1982.31	1973.68	8.63	183.31
19.	Uttaranchal	172.93	92.91	181.73	88.82	88.47	126.28	37.81	83.62	65.74	17.88	64.18
20.	Jharkhand	2144.83	5870.24	5269.26	600.98	5283.22	6505.37	1222.15	5283.22	-	5283.22	6806.88
21.	Chhattisgarh	349.30	4626.18	4128.55	497.63	4405.13	4935.85	530.72	5397.76	3923.40	1474.36	1790.57
22.	A &N	384.20										384.20
23.	D & Diu	183.36										183.36
<b>Grand Total</b>		<b>10394.74</b>	<b>49700.00</b>	<b>45337.29</b>	<b>4362.72</b>	<b>46130.01</b>	<b>48698.59</b>	<b>2568.58</b>	<b>49700.00</b>	<b>35943.29</b>	<b>13756.71</b>	<b>25945.58</b>

Source: Ministry of Tribal Affairs

\*Note: Total allocation is Rs.49700 lakhs out of which an amount of Rs.4970 lakhs (10% of the total) will be utilized for the purpose of extending incentives to States for effective implementation of TSP as indicated in part IV (iv) of the revised guidelines on SCA to TSP issued on 02.05.2003

Abbreviations AR- Amount Released, ER- Expenditure Reported UB- Unspent Balance

## Annex 3.V

## Release and Expenditure of SCA to TSP during the first three years of Tenth Plan Period

(Rs. in Lakhs)

S.No.	Name of State/UT	Opening Balance Tenth Plan	2002-03			2003-04			2004-05			Cumulative Unspent Balance
			AR	ER	UB	AR	ER	UB	AR	ER	UB	
1	2	3	4	5	6	7	8	9	10	11	12	13
1.	A.P.	16.83	2732.80	2732.80	0.00	2459.52	2459.52	0.00	2459.52	2266.32	193.20	210.03
2.	Assam	3256.63	3058.99	2391.36	667.63	2753.09	4844.06	-2090.97	2064.82	2590.13	-525.31	1307.98
3.	Bihar	8.60	556.56	645.52	-88.96	500.90	500.00	0.90	250.45	0.00	250.45	170.99
4.	Gujarat	869.08	3930.91	3162.25	768.66	3743.09	3035.58	707.51	3537.82	5951.97	-2414.15	-68.90
5.	H.P.	-75.64	643.53	643.53	0.00	612.79	579.09	33.70	750.87	631.57	119.30	77.36
6.	J &K	366.31	971.94	971.94	0.00	925.50	918.28	7.22	874.75	894.33	-19.58	353.95
7.	Karnataka	72.85	771.33	790.53	-19.20	694.19	747.84	-53.65	899.97	625.55	274.42	274.42
8.	Kerala	270.86	273.70	348.45	-74.75	260.62	355.36	-94.74	319.35	379.30	-59.95	41.43
9.	M.P.	1316.11	7833.22	8793.98	-960.76	7458.93	7814.28	-355.35	9139.70	6268.91	2870.79	2870.79
10.	Maharashtra	629.26	3723.83	2466.17	1257.66	3351.45	1572.86	1778.59	3351.45	0.00	3351.45	7016.96
11.	Manipur	83.49	761.96	458.03	303.93	725.55	676.18	49.37	685.76	456.82	228.94	665.73
12.	Orissa	-228.49	6495.30	6437.00	58.30	6184.94	6014.75	170.19	7578.63	5095.23	2483.40	2483.40
13.	Rajasthan	449.91	3649.50	2631.69	1017.87	3284.60	4231.36	-946.76	3284.60	3258.59	26.01	547.03
14.	Sikkim	-24.42	108.02	108.02	0.00	102.86	97.22	5.64	126.04	97.22	28.82	10.04
15.	Tamil Nadu	261.37	323.32	116.48	206.84	290.99	107.32	183.67	377.25	713.83	-336.58	315.30
16.	Tripura	52.80	1041.03	810.82	230.21	991.29	1169.68	-178.39	1214.66	733.09	481.57	586.19
17.	U.P.	26.51	32.10	46.61	-14.51	30.57	25.40	5.17	37.45	17.61	19.84	37.01
18.	West Bengal	-191.94	2202.57	2202.57	0.00	1982.31	1982.31	0.00	1982.31	1973.68	8.63	-183.31
19.	Uttaranchal	172.93	92.91	181.73	-88.82	88.47	126.28	-37.81	83.62	65.74	17.88	64.18
20.	Jharkhand	2144.83	5870.24	5269.26	600.98	5283.22	6505.37	-1222.15	5283.22	0.00	5283.22	6806.88
21.	Chhattisgarh	349.30	4626.18	4128.55	497.63	4405.13	4935.85	-530.72	5397.76	3923.40	1474.36	1790.57
22.	A &N	384.20										384.20
23.	D & Diu	183.36										183.36
<b>Grand Total</b>		<b>10394.74</b>	<b>49700.00</b>	<b>45337.29</b>	<b>4362.72</b>	<b>46130.01</b>	<b>48698.59</b>	<b>-2568.58</b>	<b>49700.00</b>	<b>35943.29</b>	<b>13756.71</b>	<b>25945.58</b>

Source: Ministry of Tribal Affairs

\*Note: Total allocation is Rs.49700 lakhs out of which an amount of Rs.4970 lakhs (10% of the total) will be utilized for the purpose of extending incentives to States for effective implementation of TSP as indicated in part IV (iv) of the revised guidelines on SCA to TSP issued on 02.05.2003

Abbreviations AR- Amount Released, ER- Expenditure Reported UB- Unspent Balance Minus (-) sign before a figure indicate excess expenditure incurred by State/UT

## Release of Grants and Expenditure Under Article 275(1) of the Constitution During Tenth Plan

(Rs. in Lakhs)

S.No	Name of State/UT	Opening Balance Tenth Plan	2002-03			2003-04			2004-05			Cumulative Unspent Balance
			AR	ER	UB	AR	ER	UB	AR	ER	UB	
1	2	3	4	5	6	7	8	9	10	11	12	13
1.	A.P.	1130.97	2160.30	2160.30	0.00	1785.00	1367.80	417.20	2300.46	271.50	2028.96	3577.13
2.	Assam	11.15	1023.40	891.53	131.88	668.87	519.48	149.39	1155.00	311.72	843.28	1135.70
3.	Bihar	3826.76	209.00	452.18	-243.18	209.00	209.00	0.00	229.90	0.00	229.90	1911.83
4.	Gujarat	-112.56	2250.00	180.67	2069.33	2280.00	2756.97	-476.97	2515.00	603.16	1911.84	3391.64
5.	H.P.	-26.73	80.00	173.71	-93.71	80.00	192.63	-112.63	109.36	88.65	20.71	-212.36
6.	J & K	272.74	318.00	351.07	-33.07	367.00	282.81	84.19	398.70	467.73	-69.03	254.83
7.	Karnataka	767.76	904.35	1057.30	-152.95	797.00	1446.42	-649.42	957.88	770.00	187.88	153.27
8.	Kerala	167.76	588.00	114.51	473.49	158.00	124.38	33.62	161.56	268.01	-106.45	568.42
9.	M.P.	764.57	4052.32	405.32	0.00	3821.58	3536.00	285.58	5173.57	4187.35	986.22	2036.37
10.	Maharashtra	3624.16	2925.00	1719.95	1205.05	2672.00	3838.50	-1166.50	2939.20	0.00	2939.20	6601.91
11.	Manipur	468.82	424.55	595.98	-171.43	253.00	230.00	23.00	253.00	230.00	230.00	343.39
12.	Orissa	6389.50	3641.60	1211.89	2429.71	2830.00	2656.05	173.95	4346.98	4344.22	2.76	8995.92
13.	Rajasthan	520.72	224.48	1854.54	369.94	2070.00	1009.65	1060.35	2200.00	442.26	1757.74	3708.75
14.	Sikkim	-49.03	83.00	83.00	0.00	33.00	33.00	0.00	45.20	26.30	18.90	-30.13
15.	Tamil Nadu	188.40	210.00	127.76	82.24	250.00	144.70	105.30	287.40	0.00	287.40	663.34
16.	Tripura	192.50	665.50	334.50	331.00	313.00	523.00	-210.00	428.30	463.00	-34.70	278.80
17.	U.P.	83.11	27.00	57.00	-30.00	27.00	0.00	27.00	36.82	11.72	25.10	105.21
18.	West Bengal	0.00	1543.00	1543.00	0.00	1763.00	1763.00	0.00	1987.30	1866.03	121.27	121.27
19.	Ar. Pradesh	-16.42	300.00	280.00	20.00	200.00	200.00	0.00	273.72	220.00	53.72	57.30
20.	Meghalaya	695.46	555.00	30.00	525.00	50.55	50.55	0.00	759.50	305.25	454.25	1674.71
21.	Mizoram	0.00	240.00	240.00	0.00	240.00	25.36	214.64	488.41	264.00	224.41	439.05
22.	Nagaland	0.00	0.00	0.00	0.00	0.00	0.00	0.00	529.58	0.00	529.58	529.58
23.	Jharkhand	4041.71	2808.00	2679.01	128.99	2208.00		2208.00	2428.80	0.00	2428.80	8807.50
24.	Chhattisgarh	748.69	2689.50	1423.11	1266.39	2089.00	2588.27	-499.27	2858.56	1729.98	1128.58	2644.39
25.	Uttaranchal	124.99	78.00	128.11	-50.11	128.00	24.41	103.59	135.80	0.00	135.80	314.27
<b>Grand Total</b>		<b>23815.03</b>	<b>30000.00</b>	<b>21741.44</b>	<b>8258.57</b>	<b>25293.00</b>	<b>23521.98</b>	<b>1771.02</b>	<b>33000.00</b>	<b>16870.88</b>	<b>16129.12</b>	<b>48072.09</b>

Source: Ministry of Tribal Affairs

Abbreviations AR- Amount Released, ER- Expenditure Reported, UB- Unspent Balance Minus (-) sign before a figure indicate excess expenditure incurred by State/UT

## Release of Grants and Expenditure Under Article 275(1) of the Constitution During Tenth Plan

(Rs. in Lakhs)

S.No.	Name of State/UT	Opening Balance Tenth Plan	2002-03			2003-04			2004-05			Unspent Balance
			AR	ER	UB	AR	ER	UB	AR	ER	UB	
1	2	3	4	5	6	7	8	9	10	11	12	13
1.	A.P.	1130.97	2160.30	2160.30	0.00	1785.00	1367.80	417.20	2300.46	271.50	2028.96	3577.13
2.	Assam	11.15	1023.40	891.53	131.88	668.87	519.48	149.39	1155.00	311.72	843.28	1135.70
3.	Bihar	3826.76	209.00	452.18	243.18	209.00	209.00	0.00	229.90	-	229.90	1911.83
4.	Gujarat	112.56	2250.00	180.67	2069.33	2280.00	2756.97	476.97	2515.00	603.16	1911.84	3391.64
5.	H.P.	26.73	80.00	173.71	93.71	80.00	192.63	112.63	109.36	88.65	20.71	212.36
6.	J & K	272.74	318.00	351.07	33.07	367.00	282.81	84.19	398.70	467.73	69.03	254.83
7.	Karnataka	767.76	904.35	1057.30	152.95	797.00	1446.42	649.42	957.88	770.00	187.88	153.27
8.	Kerala	167.76	588.00	114.51	473.49	158.00	124.38	33.62	161.56	268.01	106.45	568.42
9.	M.P.	764.57	4052.32	405.32	0.00	3821.58	3536.00	285.58	5173.57	4187.35	986.22	2036.76
10.	Maharashtra	3624.16	2925.00	1719.95	1205.05	2672.00	3838.50	1166.50	2939.20	-	2939.20	6601.91
11.	Manipur	468.82	424.55	595.98	171.43	253.00	230.00	23.00	253.00	230.00	230.00	343.39
12.	Orissa	6389.50	3641.60	1211.89	2429.71	2830.00	2656.05	173.95	4346.98	4344.22	2.76	8995.92
13.	Rajasthan	520.72	224.48	1854.54	369.94	2070.00	1009.65	1060.35	2200.00	442.26	1757.74	3708.75
14.	Sikkim	49.03	83.00	83.00	0.00	33.00	33.00	0.00	45.20	26.30	18.90	30.13
15.	Tamil Nadu	188.40	210.00	127.76	82.24	250.00	144.70	105.30	287.40	-	287.40	66.30
16.	Tripura	192.50	665.50	334.50	331.00	313.00	523.00	210.00	428.30	463.00	34.70	278.80
17.	U.P.	83.11	27.00	57.00	30.00	27.00	-	27.00	36.82	11.72	25.10	105.21
18.	West Bengal	0.00	1543.00	1543.00	0.00	1763.00	1763.00	0.00	1987.30	1866.03	121.27	121.27
19.	Arunachal Pradesh	16.42	300.00	280.00	20.00	200.00	200.00	0.00	273.72	220.00	53.72	57.30
20.	Meghalaya	695.46	555.00	30.00	525.00	50.55	50.55	0.00	759.50	305.25	454.25	1674.71
21.	Mizoram	0.00	240.00	240.00	0.00	240.00	25.36	214.64	488.41	264.00	224.41	439.05
22.	Nagaland	0.00	0.00	0.00	0.00	0.00	0.00	0.00	529.58		529.58	529.58
23.	Jharkhand	4041.71	2808.00	2679.01	128.99	2208.00		2208.00	2428.80		2428.80	8807.50
24.	Chhattisgarh	748.69	2689.50	1423.11	1266.39	2089.00	2588.27	499.27	2858.56	1729.98	1128.58	2644.39
25.	Uttaranchal	124.99	78.00	128.11	50.11	128.00	24.41	103.59	135.80		135.80	314.27
<b>Grand Total</b>		<b>23815.03</b>	<b>30000.00</b>	<b>21741.44</b>	<b>8258.57</b>	<b>25293.00</b>	<b>23521.98</b>	<b>1771.02</b>	<b>33000.00</b>	<b>16870.88</b>	<b>16129.12</b>	<b>48072.09</b>

Source: Ministry of Tribal Affairs

Abbreviations AR- Amount Released, ER- Expenditure Reported, UB- Unspent Balance

Statement showing PTG-wise amount released during 2003-04 and 2004-05

S. No.	Name of the State	Name of the PTG	Amount Released (Rs. in lakhs)				Amount released for LIC coverage during 2004-05	No. of heads of families to be insured	
			2003-04		2004-05				
			State Govt.	NGO	State Govt.	NGO			
1.	Andhra Pradesh						60.00	12,000	
		1	Chenchu	31.1	8.92	132.646	27.713		
		2	Gadaba	25.7	34.64	0	0		
		3	Khond and Khorja	64.20	0	0	0		
		4	Kolam	44.79	0	0	0		
		5	Konda Reddy	26.45	10.00	0	35.641		
2.	Chhattisgarh	1	Abuj Maria	30.01	91.45	224.370	0	40.00	8000
		2	Baiga						
		3	Birhor						
		4	Hill Korwa						
		5	Kamar						
		6	Sahariya						
		7	Bharia	0	0	0	0		
3.	Gujarat	1	Kolgha	0	0	0	0	25.00	5000
		2	Kathodi	0	0	0	0		
		3	Kotwalia	40.00	0	91.5	0		
		4	Padhar	0	0	0	8.50		
		5	Siddi	0	0	0	0		
4.	Karnataka	1	Jenu Kuruba	36.90	25.57	8.00	9.973	10.00	2000
		2	Koraga			7.00	0		
5.	Kerala	1	Cholanaikan	0	0	4.00	0	2.5	500
		2	Kadar	0	0	0	0		
		3	Kattunayakan	0	0	3.00	0		
		4	Kurumba	0	0	4.00	0		
		5	Koraga	0	0	1.5	0		
6.	Madhya Pradesh	1	Saharia	60.21	73.51	106.86	26.788	100.00	20000
		2	Baiga	17.45	0	38.31			
		3	Bharia	16.58	0	31.32	0		
7.	Maharashtra	1	Katkari/kathodi	88.08	13.11	187.371	27.629	70.00	14000
		2	Kolam	0	0	0			
		3	Maria Gond	170.00	0	0			
8.	Manipur	1	Maram Naga	0	0.52	0	11.54	10.00	2000
9.	Orissa	1	Chuktia Bhunjia	150.00	19.60	67.4	0	12.5	2500

		2	Birhor						
		3	Bondo						
		4	Didayi						
		5	Dongria-Khond						
		6	Juang						
		7	Kharia						
		8	Kutia Khond						
		9	Lanjia Saura						
		10	Lodha						
		11	Mankirdia						
		12	Paudi Bhuyan						
		13	Saura						
10.	Rajasthan	1	Saharia	10.00	0	50.00	18.15	12.50	2500
11.	Tamil Nadu	1	Irular	10.00	0	38.0	0	40.00	8000
		2	Kattunayakan	0	0	34.00	0		
		3	Kota	0	0	9.9	0		
		4	Kurumba	0	0	5.2	0		
		5	Paniyan	0	0	2.00	0		
		6	Toda	0	0	6.00	0		
12.	Tripura	1	Riang	85.00	0	60.00	0	25.00	5000
13.	Uttranchal/ U.P.	1	Buksa	0	0	33.63	0	2.50	500
		2	Raji	0	0				
14.	West Bengal	1	Birhor	11.05	61.86	0	0	15.00	3000
		2	Lodha			38.17	0		
		3	Toto			0	0		
15.	A & N Islands	1	Great Andamanese	0	0	200.00	0	0	0
		2	Jarawa	0	0				
		3	Onge	0	0				
		4	Sentinelese	0	0				
		5	Shom Pen	0	0				
16.	Jharkhand	1	Asur	0	135.80	66.641	213.359	5.00	1000
		2	Birhor	0				0	0
		3	Birjia	0					
		4	Hill Kharia	0					
		5	Korwa	0					
		6	Mal Paharia	0					
		7	Parhaiya	0					
		8	Sauria Paharia	0					
		9	Savar	0					

**Release of financial assistance and expenditure reported under Central Sector Scheme of Development of Primitive Tribal Groups (PTGs) during 2001-02, 2002-03, 2003-04 & 2004-05**

(Rs. in lakhs)

S.No	Name of Implementing Agency States/NGOs	Amt. Released during 2001-02	Expn. Reported during 2001-02	Amt. Released during 2002-03	Expn. Reported during 2002-03	Amt. Released during 2003-04	Exp. Reported during 2003-04	Amt. Released during 2004-05	Expn. Reported during 2004-05	Cumulative Unspent Balance
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)
1	Govt. of Andhra Pradesh & TRI	262.27	262.27	120.00	120.00	202.85	109.05	190.80	0.00	284.60
2.	Govt. of Bihar	0.00	0.00	0.00	0.00	0.00	0.00	5.00	0.00	5.00
3.	Govt. of Chhattisgarh	0.00	0.00	188.05	178.05	30.01	30.01	264.37	40.00	234.37
4.	Govt. of Gujarat	300.00	300.00	20.00	9.44	40.00	0.00	116.50	0.00	167.06
5.	Govt. of Jharkhand	0.00	0.00	0.00	0.00	0.00	0.00	110.00	0.00	110.00
6.	Govt. of Karnataka	96.94	96.94	80.00	0.00	36.90	0.00	25.00	25.00	116.90
7.	Govt. of Kerala	0.00	0.00	3.45	3.45	0.00	0.00	15.00	0.50	14.50
8.	Govt. of Madhya Pradesh	0.00	0.00	128.87	128.87	284.19	284.19	293.21	293.21	0.00
9.	Govt. of Maharashtra	31.36	0.00	100.00	0.00	288.00	0.00	107.00	0.00	526.36
10.	Govt. of Manipur	0.00	0.00	5.16	5.16	0.00	0.00	10.00	0.00	10.00

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)
11.	Govt. of Orissa	50.36	26.84	58.50	0.00	150.00	48.72	55.00	0.00	238.30
12.	Govt. of Rajasthan	0.00	0.00	90.23	54.52	10.00	10.00	62.50	0.00	98.21
13.	Govt. of Tamil Nadu	49.54	48.28	45.00	45.00	10.00	10.00	176.50	0.00	177.76
14.	Govt. of Tripura	86.31	86.31	15.74	15.74	85.00	85.00	29.81	29.81	0.00
15.	Govt. of West Bengal	50.00	50.00	15.00	15.00	11.05	11.05	53.17	53.17	0.00
16.	Govt. of Uttaranchal	23.48	15.48	10.00	10.00	0.00	0.00	33.63	0.00	41.63
17.	Govt. of Uttar Pradesh	100.00	100.00	0.00	0.00	0.00	0.00	2.50	0.00	2.50
	<b>Grand Total</b>	<b>1,050.26</b>	<b>986.12</b>	<b>880.00</b>	<b>585.23</b>	<b>1,148.00</b>	<b>588.02</b>	<b>1,549.99</b>	<b>441.69</b>	<b>2,027.18</b>

## Statement Showing the Distribution of Ceiling Surplus Land

(Area in acres)

Sl No.	States/UTs	Area declared surplus	Area taken possession of	Area distributed to indiv. beneficiaries	Total No. of beneficiaries	ST beneficiaries	
						Area	No.
1	2	3	4	5	6	7	8
1.	Andhra Pradesh	789910	646521	582188	525663	119469	84653
2.	Assam	613405	575337	545875	445862	58986	42365
3.	Bihar	415447	390752	306964	379528	39978	43050
4.	Gujarat	226043	161716	146578	33312	31579	14047
5.	Himachal Pradesh	316556	304895	6167	6259	245	329
6.	Jammu & Kashmir	455575	450000	450000	450000	NA	NA
7.	Karnataka	268478	164675	123412	33727	4338	1250
8.	Kerala	141427	96851	68745	166814	7248	8990
9.	Madhya Pradesh	298763	260323	186942	74705	73379	82138
10.	Maharashtra	708098	650031	613965	135301	97378	29268
11.	Manipur	1830	1685	1682	1258	97	72
12.	Orissa	180301	168035	158030	141155	66228	52264
13.	Rajasthan	611912	570290	463547	82441	50239	11769
14.	Tamil Nadu	202795	194118	183670	145608	275	205
15.	Tripura	1995	1944	1598	1424	448	359
16.	Uttar Pradesh	366147	335525	260509	300163	951	450
17.	West Bengal	1394180	1304185	1088445	2759791	224778	523908
18.	D & N Haveli	9406	9305	6851	3353	6795	3321

Source: Annual Report of the Ministry of Rural Development for the year 2004-05

Figures for the States of Bihar, Madhya Pradesh and Uttar Pradesh includes the figures of newly creates States of Jharkhand, Chhatisgarh and Uttaranchal respectively.

## State-wise number of cases on alienation and restoration of tribal land

(As on March, 2005)

S.No.	State	No. of cases filed in the Court	Area (in acres)	Cases disposed of by the Court	Area (in acres)	Cases Rejected	Area (in acres)	Cases decided in favour of Tribals	Area (in acres)	Cases in which land was restored to Tribals	Area (in acres)	Cases Pending in Court	Area (in acres)
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)	(14)
1.	Andhra Pradesh	65875	287776	58212	256452	31737	150227	26475	106225	23383	94312	7663	31324
2.	Assam	2042	4211	50	19	-	-	50	19	50	19	1992	4192
3.	Bihar*	86291	104893	76518	95151	31884	49730	44634	45421	44634	45421	9773	9742
4.	Gujarat	47926	140324	40400	120691	119	497	40281	120194	39503	118259	7526	19633
5.	Himachal Pradesh	NEGLIGIBLE											
6.	Karnataka	42582	130373	38521	115021	16687	47159	21834	67862	21834	67862	4061	15352
7.	Madhya Pradesh**	53806	158398	29596	97123	29596	97123	NR	NR	NR	NR	24210	61275
8.	Maharashtra	45634	NR	44624	99486	24681	NR	19943	99486	19943	99486	1010	NR
9.	Orissa	1431	1712	594	816	152	204	442	612	212	455	837	896
10.	Rajasthan	651	2300	240	774	53	187	187	587	187	587	411	1526
11.	Tripura	28926	25295	28888	25274	20084	18366	8804	6908	8551	6732	38	21
	Total	375164	855282	317643	810807	154993	363493	162650	447314	158297	433133	57521	143961

\*Figures of Bihar include those of Jharkhand

\*\* Figures of Madhya Pradesh include those of Chhatisgarh

NR- Not Received

**Annex.3.XI****DETAILS OF LAWS AGAINST TRIBAL LAND ALIENATION CURRENTLY IN FORCE IN THE VARIOUS STATES**

<b>S.No.</b>	<b>State</b>	<b>Legislations in force</b>	<b>Main Features</b>
<b>(1)</b>	<b>(2)</b>	<b>(3)</b>	<b>(4)</b>
1.	Andhra Pradesh	Andhra Pradesh (Scheduled Areas) Land Transfer Regulation, 1959	The Act as amended in 1970-1971 and 1978 prohibits transfer of immoveable property belonging to STs in the Scheduled Areas to anybody other than the members of STs or to a tribal cooperative. It also provides for eviction of illegal transfers after due inquiries by competent authorities. It is unfortunate that in spite of such a law in position, the non-tribals own more than half the land in the Scheduled Areas of the State, legally or illegally. The existing protection available in Scheduled Areas also needs to be extended to STs living outside Scheduled Areas.
2.	Assam	Assam Land Revenue Regulations, 1886 as amended in 1881	Chapter X of the Regulation creates tribal belts and blocks. Transfer, exchange and lease of land in these blocks is restricted in the interest of tribals by prohibiting transfer of Patta-land from a tribal to any other landowner within a protected belt or block to a non-eligible person. An amendment made in the Act in 1964 placed an embargo on registration on transfer, exchange, lease, agreement or settlement if it appears to the registering authority that the transaction has been effected in contravention of the provisions of Chapter X. The Act was further amended in 1990 to provide for penal provisions both for the transferor and transferee of land in a belt or block if the transfer of such land was affected in any way in contravention of the provisions of Chapter X. In Karbi, Anglong and North Cachar districts where Autonomous Councils have been formed, the community owns or controls land and individual ownership of land is limited.
3.	Gujarat	Bombay Land Revenue Code of 1879 as amended in 1961 and 1980	The Bombay Land Revenue Code of 1879 was amended in 1961 and two new sections 73 (A) and 79 (A) were introduced, the former imposing a ban on transfer of land without the permission of the Collector and the latter providing for summary eviction of unauthorized occupation of tribal land. The Code was further amended in 1980 and four new sections viz. 73(AA), 73(AB), 73(AC) and 73(AD) were inserted with a view to impose fresh restrictions on transfer of land held by members of ST communities. Section 73(AA) bans transfer of land belonging to

			members of Scheduled Tribe without the previous sanction of the Collector. Section 73(AB) allows attachment of occupancy of a tribal land by the State Govt. bank or cooperative society in the event of default in the payment of loan, but the Collector has to approve before occupancy is sold to a non-tribal. Section 73(AB) further makes it obligatory on a transferee to submit documents containing the sanction of the Collector at the time of the registration of transfer.
4.	Jharkhand	(a) Chotanagpur Tenancy Act, 1908 (b) Santhal Parganas Tenancy (Supplementary Provisions) Act, 1949 (c) Bihar Scheduled Areas Regulation, 1969	Jharkhand has two major divisions (i) Chotanagpur division and, (ii) Santhal Parganas division. In the matter of land, the Chotanagpur division is governed by the Act at SI No. (a). The main provision relating to STs is contained in Section 46 of this Act which places restrictions on transfer of rights in lands by raiyats. The Santhal Parganas division is governed by the Santhal Parganas Tenancy Act, 1949. In 1949, Bihar Tenancy Act of 1855 was supplemented by Bihar Act (XIV) of 1949 and the Act at SI No.(b). Sub-section (1) of Section 20 of the Santhal Parganas Tenancy (Supplementary Provisions) Act, 1949 disallows transfer of a land-holding by sale gift, mortgage, will, lease or other any contract or agreement by a raiyat unless the rights to transfer has been recorded in the record-of-right (ROR). Its sub-section (2) allows such transfer provided it is from an ST landowner to another ST belonging to the pargana or taluka in which the holding is situated. The Act at SI No.(c) applies to all Scheduled Areas in the State.
5.	Himachal Pradesh	The Himachal Pradesh (Transfer of Land Regulation) Act, 1968	There is no problem of land alienation from tribals to non-tribals or restoration thereof, because the Himachal Pradesh (Transfer of Land Regulation) Act, 1968 prohibits transfer of land from tribals to non-tribals. Section 3(1) of the Act provides that no person belonging to any Scheduled Tribe shall transfer his interest in any land by way of sale, mortgage, lease, gift or otherwise to any person not belonging to such tribe except with the prior permission of the Deputy Commissioner of the concerned district. Now this has been made more effective. The Act has been amended with effect from 4 January, 2003. The amended Act provides that no person belonging to Scheduled Tribe shall transfer his interest in any land including any constructed premises by way of sale, mortgage, lease, gift or otherwise to any person not belonging to such tribe except with the previous permission in writing of the State Government. The amended Act further provides that the State Govt. before according such permission shall consult Gram Sabha and or Panchayats at the appropriate level.

6.	Karnataka	Karnataka SCs & STs (Prohibition of Transfer of Certain Lands) Act No.2 of 1979	This Act prohibits alienation of land but it covers only land assigned by the State Govt. <b>The Commission is of the opinion that it should be extended to cover all the lands held by the STs.</b> The Act also provides for restoration of alienated land to the SCs or STs as per rules governing it. Under this Act, the Assistant Commissioner has been power to decide the matter relating to land transfer. In case it is not practicable to restore the land, the Government may grant such land to any of the SCs or STs in accordance with rules relating to grant of land. Whosoever acquires any assigned land without the previous permission of the Government will be punishable with imprisonment upto six months or with a fine upto Rs.2000/- or with both. All the offences under this Act are cognizable.
7.	Kerala	Kerala Scheduled Tribes (Restriction of Transfer of Lands and Restoration of Alienated Lands) Act, 1975	The Act came into force from 1 June, 1982 and rules were framed in 1986. Section 4 of this Act provides that land belonging to tribal person can be transferred to non-tribals only with the prior permission of District Collector. In spite of this Act, tribal land alienation continues mostly in Wayanad district and Attappadi region of Palakkad district. Hon'ble High Court of Kerala directed the State Govt. to come out with a solution to the problem of tribal land alienation. Accordingly, in supersession of Act, 31 of 1975, the State Govt. passed the Kerala Restriction on Transfer and Restoration of Land to Scheduled Tribes Act, 1999. This Act contained a provision that non-tribals who had acquired tribal land and were using the same for agricultural purposes, would be entitled to retain 2 hectores of the illegally possessed tribal land for their use. This provision was criticized as it was felt that this would deprive a large number of poor tribals of their land. These provisions (of 1999 Act) were struck down in August, 2000 by Hon'ble High Court of Kerala and the State Govt. directed to implement the original Act of 1975. Against this Order of the Hon'ble High Court of Kerala, the Govt. of Kerala has filed an SLP in the Supreme Court and the Hon'ble Supreme Court vide Order dated 12.12.2000 stayed the High Court Order. The appeal is still pending in the Hon'ble Supreme Court.
8.	Madhya Pradesh	(i) Madhya Pradesh Land Revenue Code, 1959 (ii) Madhya Pradesh Land Distribution Regulation Act, 1964	The Madhya Pradesh Land Revenue Code of 1959 repealed the various Tenancy Laws including the M.P. Land Revenue Code, 1954. Section 153 of the Code protects against alienation of tribal land. Transfer of tribal land is possible only with the written permission of the Collector. Further, the land belonging to Scheduled Tribe cannot be either attached or sold in execution of a decree or order.

			The Madhya Pradesh Land Distribution Regulation Act, 1964 is in force in the Scheduled Areas of the State.
9.	Maharashtra	(i) Maharashtra Land Revenue Code, 1966 (ii) Maharashtra Restoration of Lands to Scheduled Tribes Act, 1974	The Act contains provisions preventing alienation of tribal lands to non-tribals without the permission of Collector. The Act was amended by an Ordinance issued on 6.7.1974 to provide for restoration of tribal lands alienated in contravention of sub-Section 2 of Section 36 of the Code of 1966. The benefit of restoration has been extended to cover the whole State and is not limited to the Scheduled Area. Following the Ordinance, the State Govt. enacted another legislation called the Maharashtra Restoration of Lands to Scheduled Tribes Act, 1974 to provide for restoration of tribal land alienated legally or illegally from 1957 onwards, in and outside the scheduled and notified areas. This Act further provides that if the transfer of occupancy of a tribal land has taken place in favour of a non-tribal who was rendered landless by reason of acquisition of his land for a public purpose, only half the land involved in the transfer shall be restored to the tribal.
10.	Manipur	Manipur Land Revenue and Land Reforms Act, 1960	Under Section 158 of the Act, no land belonging to STs can be transferred to non-STs without permission of Deputy Commissioner. The Act, however, is not applicable to hill areas as hill area tribals are not covered.
11.	Meghalaya	Meghalaya Transfer of Land (Regulation) Act, 1971	In Meghalaya, the land is owned by the community and elders of the clans recognized by the unwritten customary laws and usage. However, to safeguard against alienation of land belonging to STs, the Meghalaya Transfer of Land Act, 1971 has been enacted. The Act provides for non-transfer of land from a tribal to a non-tribal.
12.	Mizoram	Mizo District (Transfer of Land) Act, 1963	Mizoram is a non land recorded State where jhuming is widely practice. It is vitally important to take measures for allotment of lands to the inhabitants for permanent cultivation and ownership of land. In order to provide for the control over transfer of land in the Mizo District (then under Assam), an Act named The Mizo District (Transfer of Land) Act, 1963 was enacted to restrict the transfer of land from tribal to non-tribal.
13.	Orissa	(i) Orissa Scheduled Areas Transfer of Immovable Property (By Scheduled Tribes) Regulation, 1956 (ii) Orissa Land Reforms Act, 1960	Under Regulation 2 of 1956, the competent authority has been empowered to initiate proceedings suo-moto or on an application filed by any interested party and restore land to the tribal, in case it was illegally alienated. It also empowers the competent authority to evict the persons in unauthorized occupation of land belonging to STs and to impose penalty and rigorous imprisonment for the

			<p>offenders. Regulation 2 of 1956 was amended in 1996-97 to prevent illegal alienation of land in Scheduled Areas. The amended Regulation provides that the tribals should retain at least 1 acre with them. In view of the enactment of the “Provisions of the Panchayats (Extension to Scheduled Areas) Act, 1996”, the State Govt. has further amended Regulation 2 of 1956 by vesting powers to Gram Panchayat to settle and monitor restoration and possession of tribal land, summary trial of offences and to make such offences cognizable.</p> <p>2. The Orissa Land Reforms Act, 1960 as amended from time to time prohibits transfer of land of Scheduled Tribes living outside Scheduled Areas.</p>
14.	Rajasthan	<p>(i) Rajasthan Tenancy Act, 1955</p> <p>(ii) Rajasthan Land Revenue Act, 1956</p>	<p>The Act [at Sl. No.(i)] contains special provisions under sections 42, 43 and 46A and 49A. As per the former two sections, transfer by sale, gift, bequest, mortgage to a person who is not a member of Scheduled Tribe has been prohibited. As per the latter two sections, sub-letting or exchange between members of ST and non-ST is not permissible. No land belonging to Scheduled Tribes can be transferred to non-tribals without permission from the competent authority. Sections 183B and 183C enable summary ejection of trespassers of land held by members of STs on pain of eviction and monetary penalty. These sections further provide that the trespasser can be punished with imprisonment upto 3 years and a penalty upto Rs.20,000/-. The minimum imprisonment is one month.</p> <p>2. While, on the one hand, the Rajasthan Tenancy Act does not permit transfer of land belonging to STs to non-STs, a separate set of rules make it legally possible for all land owners (STs or non-STs) alike to convert their agricultural land into residential and commercial categories and be able to sell it to a third party. These rules are Rajasthan Land Revenue Allotment, Conversion and Regularization of Agricultural Land for Residential and Commercial Purposes in Urban Areas Rules, 198,1 and the Rajasthan Land Revenue Conversion of Agricultural Land for Non-Agricultural Purposes in Rural Areas Rules, 1992. It is evident that the latter nullify the former. This lacuna needs to be addressed to by the State Govt.</p> <p>3. Section 91 of Rajasthan Land Revenue Act, 1956 has been amended to authorize the Tehsildar to suo-moto proceed against trespassers into ST land.</p>

15.	Sikkim	-	The Government of Sikkim does not have Land Reforms Act excepting the Land Policy adopted by the Maharaja of Sikkim under Revenue Order No.1 of 1917 and as reintroduced in the State in 1956. This Act has been protected by Article 371F of the Constitution. The existing land policy restricts the alienation of land belonging to Bhutia and Lepcha communities to non-tribal and is sufficient to meet the interest of tribals.
16.	Tamil Nadu	Tamil Nadu Land Reforms Act	In Tamil Nadu there is no specific law to prevent alienation and restoration of tribal land. However, under TN Land Reforms Act, the land assigned to a tribal is not transferable for 10 years and during this period it can be mortgaged but not sold. If a tribal wants to sell his land he can sell it only to a tribal and that to with the permission of the competent authority.
17.	Tripura	Tripura Land Revenue and Land Reforms Act, 1960	This Act imposes restriction on transfer of land from tribals to non-tribals. Section 18(3) of the Act provides that tribal lands transferred to non-tribals after 1.1.1969 are to be restored to the tribals.
18.	Uttar Pradesh	U.P. Land Laws (Amendment) Act, 1982 which was enacted to amend the Uttar Pradesh Zamindari Abolition and Land Reforms Act,1950	In Uttar Pradesh, there is a complete restriction on transfer of land by STs to non-STs without the permission of the Collector under the UP Zamindari Abolition and Land Reforms Act, as amended up to 1986. Section 210 and 204 were amended to provide for suo-moto action for forcible eviction for non-accrual of tenurial rights due to adverse possession of tribal land. The law provides penalties to those who are encroaching upon the lands of the tribals, which ranges from 3 years imprisonment and a fine of Rs.3000/-. There is continuous updating of land records in tribal areas of UP. The amending Act of 1982 has never been applied been locked up in a writ case in Allahabad High Court (Swarn Singh vs. State Govt.) since 23.9.1981. In the present Uttranchal which was a part of UP land grabbing is wide spread in Tharu & Buxa area. The law enacted in 1982 has never been implemented.
19.	West Bengal	West Bengal Land Reforms Act, 1955 as amended	Chapter 11-A of the Act prohibits alienation of tribal land and provides for the restoration.

## Annex.3.XII

## Indira Awaas Yojana/Samagra Awaas Yojana/Credit -cum -Subsidy Scheme –State-wise Financial Performance 2005-06

Position as on 22 February, 2006

(Rs. in lakhs)

S.No.	Name of the States/UTs	Opening Balance as on 1.4.2004	Allocation		Total	Release		Total	Total Available Amount	Expenditure made on STs
			Central Share	State Share		Central Share	State Share			
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)
1.	Andhra Pradesh	1520.07	24399.42	8133.14	32532.56	24398.90	8132.97	32531.87	34051.94	2329.43
2.	Arunachal Pradesh	564.30	949.43	316.48	1265.91	551.59	183.86	735.45	1299.75	581.56
3.	Assam	3924.08	20994.23	6998.08	27992.31	11196.61	3732.20	14928.81	18852.89	6863.00
4.	Bihar	50861.53	72020.72	24006.91	96027.63	54272.15	18090.72	72632.87	123224.40	1198.30
5.	Chhatisgarh	277.44	3773.17	1257.72	5030.89	3674.19	1224.73	4898.92	5176.36	1219.72
6.	Goa	1.54	150.28	50.09	200.37	136.95	45.65	182.60	184.14	177.55
7.	Gujarat	538.60	11966.03	3988.68	15954.71	10990.37	3663.46	14653.83	15192.43	2980.16
8.	Haryana	146.04	1680.04	506.01	2240.05	1628.64	542.88	2171.52	2317.56	0.00
9.	Himachal Pradesh	188.60	592.56	197.52	790.08	538.22	179.41	717.63	906.23	35.73
10.	Jammu & Kashmir	43.59	1840.52	613.51	2454.03	1202.73	400.91	1603.64	1647.23	0.00
11.	Jharkhand	4557.28	6423.93	2141.31	8565.24	5471.58	1823.86	7295.44	12752.72	4404.13
12.	Karnataka	4075.59	9400.43	3133.48	12533.91	7515.26	2505.09	10020.35	14095.94	1395.37
13.	Kerala	872.15	5227.51	1742.50	6970.01	5169.28	1723.09	6892.37	7764.52	288.25
14.	Madhya Pradesh	1086.70	7504.14	2501.38	10005.52	6869.12	2289.71	9158.83	10245.53	2742.23

15.	Maharashtra	806.65	14714.56	4904.85	19619.41	12577.28	4192.43	16769.71	17576.36	2995.09
16.	Manipur	197.87	824.15	274.72	1098.87	309.22	103.07	412.29	610.16	704.69
17.	Meghalaya	105.14	1435.38	478.46	1913.84	697.59	232.53	930.12	1035.26	879.08
18.	Mizoram	56.72	305.89	101.96	407.85	301.29	100.43	401.72	458.44	305.06
19.	Nagaland	45.40	949.84	316.61	1266.45	501.68	167.23	668.91	714.31	1084.37
20.	Orissa	3692.10	14149.75	4716.58	18866.33	13947.18	4649.06	18596.24	22288.34	3311.53
21.	Punjab	46.98	2077.71	692.57	2770.20	1314.39	438.13	1752.52	1799.50	0.00
22.	Rajasthan	769.70	6013.11	2004.37	8017.48	5650.30	1883.43	7533.73	8303.43	1094.40
23.	Sikkim	69.39	181.66	60.55	242.21	125.77	41.92	167.69	237.08	61.51
24.	Tamil Nadu	357.47	9768.97	3256.32	13025.29	9409.66	3136.55	12546.21	12903.68	251.45
25.	Tripura	42.35	1849.42	616.47	2465.89	1647.14	549.05	2196.19	2238.54	793.10
26.	Uttar Pradesh	4062.35	32348.75	10782.92	43131.67	29019.26	9673.09	38692.35	42754.70	61.89
27.	Uttaranchal	640.64	1621.77	540.59	2162.36	1414.43	471.48	1885.91	2526.55	150.79
28.	West Bengal	3325.86	19518.40	6506.13	26024.53	19316.98	6438.99	25755.97	29081.83	2137.97
29.	A & N Islands	310.50	309.46	0.00	309.46	0.00	0.00	0.00	310.50	61.85
30.	Dadra & Nagar Haveli	10.22	51.56	0.00	51.56	0.00	0.00	0.00	10.22	8.75
31.	Daman & Diu	4.35	23.07	0.00	23.07	0.00	0.00	0.00	4.35	0.47
32.	Lakshadweep	0.11	20.00	0.00	20.00	20.00	0.00	20.00	20.11	14.82
33.	Pondicherry	124.74	154.14	0.00	154.14	0.00	0.00	0.00	124.74	0.00
	<b>Total</b>	<b>84226.05</b>	<b>273240.00</b>	<b>90893.91</b>	<b>364133.91</b>	<b>229867.76</b>	<b>76615.93</b>	<b>306483.69</b>	<b>390709.74</b>	<b>37972.25</b>

Source : Annual Report of the Ministry of Rural Development for 2005-2006.

**Indira Awaas Yojana/Samagra Awaas Yojana/Credit-cum-Subsidy Scheme – State-wise Physical Achievements 2005-2006**

Position as on 22 February, 2006

(Unit in Nos.)

Sl. No.	Name of the States/UTs	Houses Completed				Total
		Annual Target	Scheduled Caste	Scheduled Tribes	Others	
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1.	Andhra Pradesh	130130	36230	12509	35765	84504
2.	Arunachal Pradesh	4603	-	2732	0	2732
3.	Assam	101790	18893	26099	35035	80027
4.	Bihar	384111	111235	5588	89600	206423
5.	Chhatisgarh	20124	718	1930	1374	4022
6.	Goa	801	9	34	381	424
7.	Gujarat	63819	4840	15843	8814	29497
8.	Haryana	8960	3324	0	1776	5100
9.	Himachal Pradesh	2873	684	137	604	1425
10.	Jammu & Kashmir	8924	0	0	1525	1525
11.	Jharkhand	34261	13326	23730	15848	52904
12.	Karnataka	50136	15094	4986	13694	33774
13.	Kerala	27880	10578	1196	8922	20696
14.	Madhya Pradesh	40022	8046	10183	8521	26750
15.	Maharashtra	78478	12092	11695	14424	38211
16.	Manipur	3996	29	3456	180	3665
17.	Meghalaya	6959	140	3074	82	3296
18.	Mizoram	1483	0	1338	0	1338
19.	Nagaland	4605	0	7308	0	7308
20.	Orissa	75465	16149	11084	16960	44193

21.	Punjab	11081	5298	0	934	6232
22.	Rajasthan	32070	11637	4313	8399	24349
23.	Sikkim	881	153	260	377	790
24.	Tamil Nadu	52101	21775	636	14454	36865
25.	Tripura	8967	445	922	492	1859
26.	Uttar Pradesh	172527	70962	255	46178	117395
27.	Uttaranchal	7863	4499	1066	8769	14334
28.	West Bengal	104098	35074	10321	27295	72690
29.	A & N Islands	1238	0	0	55	55
30.	Dadra & Nagar Haveli	206	0	83	0	83
31.	Daman & Diu	92	0	5	1	6
32.	Lakshadweep	80	0	25	0	25
33.	Pondicherry	617	35	0	90	125
	<b>Total</b>	<b>1441241</b>	<b>401265</b>	<b>160808</b>	<b>360549</b>	<b>922622</b>

**Source : Annual Report of the Ministry of Rural Development for 2005-2006.**

**State-wise and category-wise Unconnected Habitations to be covered under PMGSY in different States**

S. No.	Name of the State	Total No. of Habitations	No. of Unconnected Habitations	Eligible Unconnected Habitations			Total to be covered under PMGSY
				1000+	500-999	250-499	
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
1.	Andhra Pradesh	67401	2679	167	417	396	980
2.	Arunachal Pradesh	3880	2654	43	105	267	415
3.	Assam	22963	15786	6149	4196	2799	13144
4.	Bihar	42286	24321	11717	6203	0	17920
5.	Chattisgarh	29544	24202	2604	6313	3644	12561
6.	Goa	369	55	0	20	35	55
7.	Gujarat	35282	8127	472	2288	1493	4253
8.	Haryana	6745	23	0	2	0	2
9.	Himachal Pradesh	16997	11340	262	853	2379	3496
10.	J & K	9270	3946	785	942	1065	2792
11.	Jharkhand	35769	21036	2622	4178	3896	10696
12.	Karnataka	56682	4608	156	118	602	876
13.	Kerala	14864	440	117	303	18	438
14.	Madhya Pradesh	55719	34771	5804	10645	2043	18492
15.	Maharashtra	56663	6892	203	794	754	1751
16.	Manipur	2905	1142	71	187	340	598
17.	Meghalaya	5362	2752	9	150	597	756
18.	Mizoram	790	392	47	114	124	285
19.	Nagaland	1049	127	21	32	41	94
20.	Orissa	49018	28299	3850	6738	3805	14393
21.	Punjab	13579	920	103	433	0	536
22.	Rajasthan	40436	20729	2906	6073	2036	11015
23.	Sikkim	901	410	16	138	164	318
24.	Tamil Nadu	62919	5318	577	1825	238	2640
25.	Tripura	8132	3803	203	706	1182	2091
26.	Uttar Pradesh	141534	61554	8839	15358	87	24284
27.	Uttaranchal	16810	8654	171	667	1767	2605
28.	West Bengal	51472	35667	11941	11668	1679	25288
	<b>Total</b>	<b>849341</b>	<b>330647</b>	<b>59855</b>	<b>81466</b>	<b>31451</b>	<b>172772</b>

Source: Annual Report of the Ministry of Rural Development for the year 2005-06

**State-wise Road Length required to connect unconnected habitations of different categories under PMGSY**

S.No.	Name of the State	Length required (in Km) for habitations of population			Total Length to be covered under PMGSY (in Km.)
		1000+	500-999	250-499	
(1)	(2)	(3)	(4)	(5)	(6)
1.	Andhra Pradesh	668	1668	990	3326
2.	Arunachal Pradesh	303	854	1954	3112
3.	Assam	7900	6671	4416	18987
4.	Bihar	26687	6664	0	33351
5.	Chattisgarh	12213	14709	10634	37556
6.	Goa	0	40	50	90
7.	Gujarat	1038	4027	2387	7453
8.	Haryana	0	26	0	26
9.	Himachal Pradesh	1734	3389	7709	12832
10.	J & K	3454	2722	2236	8412
11.	Jharkhand	5298	8943	7204	21445
12.	Karnataka	103	397	1367	1866
13.	Kerala	116	323	21	460
14.	Madhya Pradesh	25131	31403	3730	60264
15.	Maharashtra	633	1961	1774	4369
16.	Manipur	355	633	1143	5715
17.	Meghalaya	31	553	2078	2662
18.	Mizoram	236	948	837	2021
19.	Nagaland	280	478	231	988
20.	Orissa	7946	13652	7776	29376
21.	Punjab	205	774	0	979
22.	Rajasthan	7063	19468	5417	31948
23.	Sikkim	78	541	488	1107
24.	Tamil Nadu	1426	3552	281	5259
25.	Tripura	260	1205	1516	2980
26.	Uttar Pradesh	16300	22300	125	38725
27.	Uttaranchal	1299	4251	4880	19429
28.	West Bengal	13192	9803	657	23652
	<b>Total</b>	<b>133951</b>	<b>161952</b>	<b>69899</b>	<b>369386</b>

Source: Annual Report of the Ministry of Rural Development for the year 2005-06

## Proposals under PMGSY cleared during the financial year 2005-06

S.No.	Name of the State	Total			Habitations
		Value (Crores)	No.	Length (Km)	
(1)	(2)	(3)	(4)	(5)	(6)
1.	Andhra Pradesh	369.24	607	2638.84	607
2.	Arunachal Pradesh	106.22	64	340.04	72
3.	Assam	927.01	486	2060.51	1278
4.	Bihar	405.04	140	1245.4	320
5.	Chhattisgarh	1035.73	990	4467.5	2248
6.	Gujarat	121.38	370	763.72	395
7.	Haryana	84.25	26	361.93	149
8.	Himachal Pradesh	269.04	210	1234.71	579
9.	Karnataka	212.00	190	1273.26	925
10.	Madhya Pradesh	1114.02	1190	5605.65	1900
11.	Meghalaya	30.05	30	93.101	28
12.	Orissa	880.42	740	3096.82	1170
13.	Rajasthan	976.17	1578	5462.12	1784
14.	Tripura	39.58	7	80.92	-
15.	Uttar Pradesh	1007.76	2301	4230.69	2932
16.	Uttaranchal	102.87	79	595.47	213
17.	West Bengal	313.71	132	999.32	915
	<b>Total</b>	<b>7994.49</b>	<b>9140</b>	<b>34550.00</b>	<b>15515</b>

Source: Annual Report of the Ministry of Rural Development for the year 2005-06

**State-wise coverage of habitations regarding the position of rural water supply  
as on 1.11.2004**

Sl.No.	State/UT	Status of habitations			
		NC	PC	FC	Total
(1)	(2)	(3)	(4)	(5)	(6)
1.	Andhra Pradesh	0	0	69732	69732
2.	Arunachal Pradesh	245	656	3397	4298
3.	Assam	301	10691	59563	70555
4.	Bihar	0	0	105340	105340
5.	Chhattisgarh	0	0	50379	50379
6.	Goa	0	7	388	395
7.	Gujarat	0	52	30217	30269
8.	Haryana	0	0	6745	6745
9.	Himachal Pradesh	0	6891	38476	45367
10.	Jammu & Kashmir	678	2640	7866	11184
11.	Jharkhand	0	0	100096	100096
12.	Karnataka	0	5618	51064	56682
13.	Kerala	0	7573	2190	9763
14.	Madhya Pradesh	0	0	109489	109489
15.	Maharashtra	346	23743	61841	85930
16.	Manipur	0	0	2791	2791
17.	Meghalaya	13	404	8219	8636
18.	Mizoram	0	112	695	807
19.	Nagaland	41	690	794	1525
20.	Orissa	0	0	114099	114099
21.	Punjab	906	1198	11345	13449
22.	Rajasthan	2785	0	91161	93946
23.	Sikkim	0	74	1605	1679
24.	Tamil Nadu	0	0	66631	66631
25.	Tripura	0	0	7412	7412
26.	Uttar Pradesh	0	0	243508	243508
27.	Uttaranchal	34	274	30666	30974
28.	West Bengal	0	0	79036	79036
29.	A & N Islands	0	102	402	504
30.	Dadra & Nagar Haveli	19	41	456	516
31.	Daman & Diu	0	0	32	32
32.	Delhi	0	0	219	219
33.	Lakshadweep	0	10	0	10
34.	Pondicherry	0	108	159	267
35.	Chandigarh	0	0	18	18
	Total	5368	60884	1356031	1422283
	Percentage	0.38	4.28	95.34	100.00

NC: Not Covered, PC: Partially Covered, FC: Fully Covered

Source: Annual Report of the Ministry of Rural Development for the years 2004-2005

**Swajaldhara Scheme (2005-2006) Amount Released During 2005-06 (As on 24.01.2006)****Rs. in lakh**

Sl.No.	State/UT	Allocation	Amount Released
1.	Andaman & Nicobar	25.01	0
2.	Andhra Pradesh	3,045.35	2280.18
3.	Arunachal Pradesh	933.61	0
4.	Assam	1,571.29	0
5.	Bihar	2,232.74	1442.81
6.	Chandigarh	0	0
7.	Chattisgarh	750.970	247.12
8.	D & N Haveli	16.67	0
9.	Daman & Diu	0	0
10.	Delhi	12.5	0
11.	Goa	28.05	0
12.	Gujarat	1,629.73	1222.31
13.	Haryana	511.69	383.72
14.	Himachal Pradesh	1,250.82	787.45
15.	Jammu & Kashmir	2,900.60	2175.46
16.	Jharkhand	805.61	0
17.	Karnataka	2,253.99	1690.49
18.	Kerala	784.65	0
19.	Lakshadweep	0	0
20.	Madhya Pradesh	2,200.27	1650.26
21.	Maharashtra	4,019.88	0
22.	Manipur	320.93	0
23.	Meghalaya	366.77	0
24.	Mizoram	262.58	0
25.	Nagaland	270.91	203.16
26.	Orissa	1,807.40	1355.55
27.	Pondicherry	12.50	0
28.	Punjab	530.53	0
29.	Rajasthan	4,580.72	2686.78
30.	Sikkim	112.53	0
31.	Tamil Nadu	1,730.13	1,297.60
32.	Tripura	325.1	0
33.	Uttar Pradesh	3,608.10	0
34.	Uttaranchal	834.12	625.59
35.	West Bengal	1,938.90	0
	<b>Total</b>	<b>41,674.65</b>	<b>17,801.36</b>

Source: Annual Report of the Ministry of Rural Development for the year 2005-06

**State-wise Break -up of BPL Households Covered under the Electrification Projects under Implementation (As on 16.1.2006)**

<b>Sl.No.</b>	<b>Name of the State</b>	<b>Total No. of rural households to be electrified</b>	<b>Of which total no. of BPL households to be electrified</b>	<b>% age of BPL households being covered</b>
1.	Andhra Pradesh	653430	523128	80
2.	Arunachal Pradesh	3510	2565	73
3.	Assam	62132	44548	71
4.	Bihar	771655	771655	100
5.	Chattisgarh	132006	82269	62
6.	Gujarat	199032	151162	75
7.	Haryana	205646	92948	45
8.	Himachal Pradesh	2531	647	25
9.	Jammu & Kashmir	35115	17491	49
10.	Karnataka	1319939	631828	47
11.	Kerala	227320	122187	53
12.	Madhya Pradesh	601765	327457	54
13.	Maharashtra	278409	216217	77
14.	Manipur	15663	10645	67
15.	Mizoram	15177	5907	38
16.	Nagaland	24056	14417	59
17.	Orissa	27316	17297	63
18.	Punjab	69125	25004	36
19.	Rajasthan	947054	649685	68
20.	Uttar Pradesh	1104105	644678	58
21.	Uttaranchal	88475	65679	74
22.	West Bengal	145918	97847	67
	<b>Total</b>	<b>6929379</b>	<b>4515261</b>	<b>65</b>

**List of Districts identified for implementation of National Rural Employment Guarantee Act (NREGA) in first Phase**

<b>S. No.</b>	<b>State</b>	<b>Name of the Districts</b>
1.	Andhra Pradesh	(1) Adilabad,(2) Anantpur,(3) Chittoor,(4) Cudappah(5) Karim Nagar, (6) Khammam,(7) Mahbubnagar,(8) Medak,(9) Nalgonda, (10) Nizamabad, (11) Rangareddy,(12)Vizianagaram,(13) Warangal
2.	Arunachal Pradesh	(1) Upper Subansiri
3.	Assam	(1) Bongaigaon,(2) Dhemaji,(3) Goalpara,(4) Karbi Anglong, (5) Kokrajhar, (6) North Cachar Hills,(7) North Lakhimpur
4.	Bihar	(1) Araria,(2) Aurangabad,(3) Bhojpur,(4) Darbhanga,(5) Gaya, (6) Jamui, (7) Jehanabad,(8) Kaimur (Bhabua),(9) Katihar, (10) Kishanganj,(11) Lakhisarai,(12) Madhubani,(13) Monghyr, (14) Muzaffarpur,(15) Nalanda,(16) Nawadah,(17) Patna,(18) Purnea (19) Rohtas,(20) Samastipur,(21) Sheopur(22) Supaul,(23) Vaishali.
5.	Chhattisgarh	(1) Bastar,(2) Bilaspur,(3) Dantewada,(4) Dhamtari,(5) Jaspur (6) Kanker,(7) Kawaradha,(8) Korla,(9) Rajgarh,(10) Rajnandgaon, (11) Sarguja.
6.	Gujarat	(1) Banaskantha,(2) Dangs,(3) Dohad,(4) Namada,(5) Panch Mahals, (6) Sabarkantha.
7.	Haryana	(1) Mohindergarh,(2) Sirsa.
8.	H.P.	(1) Chamba,(2) Sirmaur.
9.	J&K	(1) Doda,(2) Kupwara,(3) Poonch.
10.	Jharkhand	(1) Bokaro,(2) Chatra,(3) Dhanbad,(4) Dumka,(5) Garhwa, (6) Giridih, (7) Godda,(8) Gumla,(9) Hazaribagh,(10) Jamtara, (11) Kodarma, (12) Latehar,(13) Lohardagga,(14) Pakur, (15) Palamau,(16) Ranchi, (17) Sahebganj,(18) Saraikela, (19) Simdega,(20) Singhbhum West.
11.	Karnataka	(1) Bidar,(2) Chitradurga,(3) Davanagere,(4) Gulbarga,(5) Raichur.
12.	Kerala	(1) Palakkad,(2) Wayand.

13.	Madhya Pradesh	(1) Balaghat,(2) Barwani,(3) Betul,(4) Chattarpur,(5) Dhar,(6) Dindori, (7) Jhabua,(8) Khandwa,(9) Mandla,(10) Satna,(11) Seoni,(12) Shahdol, (13) Sheopur,(14) Shivpuri,(15) Sidhi,(16) Tikamgarh,(17) Umaria, (18) West Nimar/ Khar gone.
14.	Maharashtra	(1) Ahmednagar,(2) Amravati,(3) Aurangabad, (4) Bhandara,(5) Chandrapur,(6) Dhule,(7) Gadchiroli,(8) Gondya,(9) Hingoli,(10) Nanded,(11) Nandurbar,(12) Yawatmal.
15.	Manipur	(1) Tamenlong
16.	Meghalaya	(1) South Garo Hills,(2) West Garo Hills.
17.	Mizoram	(1) Lawngtlai,(2) Saiha
18.	Nagaland	(1) Mon
19.	Orissa	(1) Bolangir,(2) Boudh,(3) Deogarh,(4) Dhenikanal,(5) Gajapati (6) Ganjam, (7) Jharsuguda,(8) Kalahandi, (9) Keonjhar,(10) Koraput,(11) Malkangiri, (12) Mayurbhanj (13) Nabarangpur,(14) Nuapada,(15) Phulbani, (16) Rayagada,(17) Sambalpur,(18) Sonepur,(19) Sundergarh.
20.	Punjab	(1) Hoshiarpur.
21.	Rajasthan	(1) Banswara,(2) Dungarpur,(3) Jhalawar,(4) Karauli,(5) Sirohi,(6) Udaipur.
22.	Sikkim	(1) North Sikkim.
23.	Tripura	(1) Dhalai.
24.	Tamil Nadu	(1) Dinidigul,(2) Nagapattinam,(3) Sivagangai,(4) South Arcot/ Cuddalore, (5) Tiruvannamalai,(6) Villupuram.
25.	Uttranchal	(1) Chamoli,(2) champawat,(3) Tehri Garhwal.
26.	Uttar Pradesh	(1) Azamgarh,(2) Banda,(3) Barabanki,(4) Chandauli,(5) Chitrakoot,(6) Fatehpur,(7) Gorakhpur,(8) Hamirpur,(9) Hardoi,(10) Jalaun,(11) Jaunpur,(12) Kaushambi,(13) Kushinagar,(14) Lakhimpur Kheri,(15) Lalitpur,(16) Mahoba,(17) Mirzapur,(18) Pratapgarh,(19) Raebareli, (20) Sitapur,(21) Sonbhadra,(22) Unnao.
27.	West Bengal	(1) 24 South Parganas,(2) Bankura,(3) Birbhhum,(4) Jalpaiguri,(5) Malda, (6) Mushidabad,(7)Purulia,(8) South Dinajpur,(9) West Midnapur, (10) West/ North Dinajpur.

## List of State Channelising Agencies (SCAs) of NSTFDC

No.	Name and Address of the SCA	No.	Name and Address of the SCA
1.	A.P. Scheduled Tribes Coop Finance Corpn. Ltd. Ist Floor, Telugu Samkshema Bhavan, Masab Tank, Hyderabad-500028	10.	The Jharkhand State Tribal Co-operative Dev. Corpn. Ltd, Balihar- Road, Morabadi, Ranchi-834008
2.	Andaman & Nicobar Island Integrated Development Corporation Ltd., New Marine Dry Dock/Workshop Complex, P.B.No.180, Port Blair-744101	11.	Karnataka Scheduled Castes & Scheduled Tribes, Development Corporation Ltd 9 <sup>th</sup> & 10 <sup>th</sup> Floor, Visweshwaraiah Mini Tower Dr. Am bedkar Veedhi, Bangalore-560001
3.	Arunachal Pradesh Industrial & Finance Dev. Corporation, (Near A.O.C.), Itanagar-791111	12.	Kerala state Development Corporation for Scheduled Castes & Scheduled Tribes Ltd, Town Hall- Road, Thrissur-680020
4.	Assam Plain Tribes Development Corpn. Ltd. Ganeshguri Chariali, Dispur Guwahati-781005	13.	Lakshdweep Development Corporation Ltd., G-406, Panampilly Nagar, Ernakulam, Cochin-682036
5.	Dadra & Nagar Haveli, Daman & Diu SCs/STs Other Backward Classes & Minorities Financial & Devp. Corpn. Ltd, 2 <sup>nd</sup> Floor, Rightwing, Old DIC Office, PWD Complex, Silvassa-396230	14.	Manipur Tribal Development Corporation Ltd. Lamphelpat, Imphal-795004
6.	Goa State SC & Backward Classes Development Corporation, 4 <sup>th</sup> Floor, Patto Centre, EDC Complex, Near KTC Bus Stand Panaji-403001	15.	M.P. Adivasi Vitta Aivam Vikas Nigam, Rajiv Gandhi Bhavan ParisarII, 35 Shyamala Hills, Bhopal-462002
7.	Gujarat Tribal Development Corporation, Block No.10, 2 <sup>nd</sup> Floor, Dr. Jivraj Mehta Bhavan, Gandhinagar	16.	Chief Executive Officer, Mizoram Khadi & Village Industries Board, "Zorum" Zarkawat, Aizwal-796007
8.	Himachal Pradesh Scheduled Castes & Scheduled Tribes Development Corporation, Jain Bhawan, Hospital Road, Solan-173212	17.	Mizoram Urban Cooperative Development Bank Ltd., Lalsawmliani Building (Top Floor), Zarkawat, Aizwal-796001
9.	J &K Scheduled Castes, Scheduled Tribes & Backward Classes Development Corporation, Ramesh Market, Shastri Nagar, Jammu-180004	18.	Nagaland Industrial Devp. Corpn. Limited, IDC House, P.B. No.5, Dimapur-797112

**List of State Channelising Agencies (SCAs) of NSTFDC (Contd.)**

<b>No.</b>	<b>Name and Address of the SCA</b>	<b>No.</b>	<b>Name and Address of the SCA</b>
19.	Nagaland state Cooperative Bank Ltd., Post Box No.151, Dimapur-797112	27.	Uttaranchal Bahudeshiya Vitta Evam Vikas Nigam, 6-A, Rest Camp, Near Prince Hotel, Dehradun-248001
20.	Orissa Scheduled Castes & Scheduled Tribes Dev. & Finance Coop. Corpn. Ltd., Lewis Road, Bhubaneswar-751014	28.	U.P. Scheduled Castes and Scheduled Tribes Finance and Development Corp., B-912, Sector-C, Mahanagar, Lucknow-226006
21.	Rajasthan Scheduled Castes & Scheduled Tribes Finance & Development Co-op. Corporation, Nehru Sahkar Bhavan, Central Block, IIIrd Floor, Bhawani Singh Road, Jaipur-302002	29.	Chhattisgarh Rajya Antyavsiyee Sahkari Vitta Aivam Vikas Nigam, R-12, Anupam Nagar, Near T.V. Tower, Raipur
22.	Shabari Adivasi Vitta Va Vikas Mahamandal Maryadit, Adivasi Vikas Bhavan, 3 <sup>rd</sup> Floor, Ram Ganesh Chowk, Old Agra Road, Nasik-422002	30.	Tribal Co-operative marketing Development Federation of India Ltd. (Trifed) NCUI Building, IInd Floor, 3, Siri Institutional Area, August Kranti Marg, New Delhi-110016
23.	Sikkim Scheduled Castes, Tribes & Backward Classes Dev. Corpn. Ltd., Bhanupath, Gangtok-737101	31.	Girijan Co-Operative Nigam Ltd. East Point Colony, Vishakhapatnam-530017
24.	Tripura Scheduled Tribes Co-op. Development Corpn. Ltd., Supari Bagan, Drishna Nagar, P.O. Lake Chowmuhani, Agartala-799001	32.	The managing Director, Meghalaya Cooperative Apex Bank Limited, M.G. Road, Shillong-793001
25.	Tamilnadu Adi Dravidar Housing & Development Corpn. Limited, Tamil Nadu Housing Board Shopping Complex, 2 <sup>nd</sup> Floor, Thirumangalam (Anna Nagar)-600101	33.	The managing Director, Bihar state Scheduled Castes Co-Op. Development Corporation Ltd., 4 <sup>th</sup> Floor, Biscomaun Tower, Patna-800001
26.	West Bengal SCs & STs Development & Finance Corporation, (2 <sup>nd</sup> Floor) 135- A, Biplabi Rashbehari Basu Road, Kolkatta-700001		

**Number (State-wise) of Constituencies reserved for members of Scheduled Tribes and Scheduled Castes in Lok Sabha and Legislative Assemblies**

S.No.	State/UT	Lok Sabha				Legislative Assembly			
		Total	Gen.	SC	ST	Total	Gen.	SC	ST
1.	Andhra Pradesh	42	34	6	2	294	240	39	15
2.	Arunalchal Pradesh	2	2	0	0	60	1	0	59
3.	Assam	14	11	1	2	126	102	8	16
4.	Bihar	40	33	7	0	243	204	39	0
5.	Chattisgarh	11	5	2	4	90	46	10	34
6.	Goa	2	2	0	0	40	39	1	0
7.	Gujarat	26	20	2	4	182	143	13	26
8.	Haryana	10	8	2	0	90	73	17	0
9.	Himachal Pradesh	4	3	1	0	68	49	16	3
10.	Jammu & Kashmir	6	6	0	0	87	80	7	0
11.	Jharkhand	14	8	1	5	81	44	9	28
12.	Karnataka	28	24	4	0	224	189	33	2
13.	Kerala	20	18	2	0	140	126	13	1
14.	Madhya Pradesh	29	20	4	5	230	155	34	41
15.	Maharashtra	48	41	3	4	288	248	18	22
16.	Manipur	2	1	0	1	60	40	1	19
17.	Meghalaya	2	2	0	0	60	5	0	55
18.	Mizoram	1	0	0	1	40	1	0	39
19.	Nagaland	1	1	0	0	60	1	0	59
20.	Orissa	21	13	3	5	147	91	22	34
21.	Punjab	13	10	3	0	117	88	29	0
22.	Rajasthan	25	18	4	3	200	143	33	24
23.	Sikkim	1	1	0	0	32	18	2	12
24.	Tamil Nadu	39	32	7	0	234	189	42	3
25.	Tripura	2	1	0	1	60	33	7	20
26.	Uttar Pradesh	80	63	17	0	403	314	89	0
27.	Uttaranchal	5	4	1	0	70	55	12	3
28.	West Bengal	42	32	8	2	294	218	59	17
<b>Union Territory</b>									
29.	Andaman & Nicobar Islands	1	1	0	0	0	0	0	0
30.	Chandigarh	1	1	0	0	0	0	0	0
31.	Dadra & Nagar Haveli	1	0	0	1	0	0	0	0
32.	Daman & Diu	1	1	0	0	0	0	0	0
33.	Delhi	7	6	1	0	70	57	13	0
34.	Lakshadweep	1	0	0	1	0	0	0	0
35.	Pondicherry	1	1	0	0	30	25	5	0
<b>Total</b>		<b>543</b>	<b>423</b>	<b>79</b>	<b>41</b>	<b>4120</b>	<b>3017</b>	<b>571</b>	<b>532</b>

## State-wise Number of Panchayati Raj Institutions in Three Tiers and its Elected Representatives Showing Breakup into SC, ST and Women as on 1.4.2005

## (A) Elected Members of Panchayats

S. No.	Name of State/UT	Gran Panchayat (GP)						Intermediate Panchayat (IP)						District Panchayat (DP)					
		No. of G.P.	No. of elected representatives					No. of I.P.	No. of elected representatives					No. of D.P.	No. of elected representatives				
			Gen.	SC	ST	Women	Total		Gen.	SC	ST	Women	Total		Gen.	SC	ST	Women	Total
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)	(14)	(15)	(16)	(17)	(18)	(19)	(20)
1.	Andhra Pradesh	21913	160386	31243	16662	68736	208291	1095	10938	2586	1093	4919	14617	22	812	196	87	364	1095
2.	Arunachal Pradesh @	1747	**	**	**	**	6260	150	**	**	**	**	1615	15	**	**	**	**	138
3.	Assam	2489	14060	782	778	7851	15620	203	1236	80	86	746	1402	20	236	19	18	117	273
4.	Bihar	8471	96513	18650	866	40553	116029	531	9661	1859	91	4065	11611	38	966	187	9	410	1162
5.	Chattisgarh	9139	56481	15532	52198	41913	124211	146	1259	318	1062	906	2639	16	152	30	112	95	274
6.	Goa	190	982	0	0	457	982	***	***	***	***	***	***	2	33	0	0	17	33
7.	Gujarat	13819	56028	9895	17290	40985	83213	225	1953	265	550	1393	2768	25	390	39	115	275	544
8.	Haryana	6034	42800	11846	0	18356	54646	114	1879	551	0	842	2430	19	247	67	0	109	314
9.	Himachal Pradesh	3037	12657	4898	994	6822	18549	75	1108	437	113	562	1658	12	165	65	21	87	251
10.	Jharkhand	3746	*	*	*	*	*	211	*	*	*	*	*	22	*	*	*	*	*
11.	Jammu & Kashmir	2683	#	#	#	#	#	#	#	#	#	#	#	#	#	#	#	#	#
12.	Karnataka	5659	31051	14871	7499	35922	53421	175	1335	583	288	1375	2162	27	379	158	54	339	591
13.	Kerala	991	6802	1487	169	4801	8458	152	803	188	18	629	1009	14	165	33	4	105	202
14.	Madhya Pradesh	22029	119313	32585	56458	106491	208356	313	2476	682	1139	2159	4297	45	286	78	122	248	486
15.	Maharashtra	28553	118996	26824	31826	77548	178132	349	1902	447	528	1407	2877	33	931	225	267	658	1423
16.	Manipur	166	1025	38	48	611	1111	***	***	***	***	***	***	4	36	1	2	22	39
17.	Orissa	6234	49568	14930	23049	31414	87547	314	3498	1025	1704	2188	6227	30	496	139	219	296	854
18.	Punjab	12445	33280	15580	0	27108	48860	140	1141	526	0	813	1667	17	130	60	0	89	190
19.	Rajasthan	9189	70027	24129	20126	39450	114282	237	3434	968	855	1908	5257	32	653	191	164	364	1008
20.	Sikkim	159	571	39	263	322	873	***	***	***	***	***	***	***	4	50	6	36	2992
21.	Tamil Nadu	12618	51155	19301	821	26181	71277	385	3384	1369	47	1770	4800	29	341	139	3	173	483

22.	Tripura	537	2757	876	157	1895	3790	23	100	78	15	106	193	4	28	22	4	28	54
23.	Uttar Pradesh	52028	293868	83443	207	230865	377518	813	25530	7743	17	18580	33290	71	1025	313	0	788	1338
24.	Uttaranchal	7227	237793	5378	703	18041	243874	95	1807	241	44	1133	2092	13	193	28	5	119	226
25.	West Bengal	3360	22586	13645	3472	11497	39703	333	3669	2383	604	1923	6656	18	314	202	51	156	567
26.	Andaman & Nicobar	67	498	0	0	261	498	7	42	0	0	25	42	1	20	0	0	10	20
27.	Chandigarh	17	135	27	0	55	162	1	11	4	0	6	15	1	7	3	0	3	10
28.	D & N Haveli	11	4	2	118	45	124	***	***	***	***	***	***	1	0	0	12	4	12
29.	Daman & Diu	10	33	1	12	17	46	***	***	***	***	***	***	1	12	0	3	10	15
30.	Lakshadweep	10	0	0	49	30	49	***	***	***	***	***	***	1	0	0	14	8	14
31.	Pondicherry	98	*	*	*	*	*	10	*	*	*	*	*	*	*	*	*	*	*
	<b>Total</b>	<b>234676</b>	<b>1479369</b>	<b>346002</b>	<b>233765</b>	<b>838227</b>	<b>206588</b>	<b>6097</b>	<b>77166</b>	<b>22333</b>	<b>8210</b>	<b>47455</b>	<b>10923</b>	<b>537</b>	<b>8067</b>	<b>220</b>	<b>1322</b>	<b>4923</b>	<b>1170</b>
							<b>2</b>						<b>4</b>			<b>1</b>			<b>8</b>

Meghalaya, Mizoram & Nagaland have Traditional Councils  
NCT of Delhi- Panchayati Raj system is yet to be revived  
#=Has not adopted the Constitution (73<sup>rd</sup> Amendment) Act, 1992  
@ Excluding Tirap District

\* Elections to the Local bodies are yet to be conducted

\*\*\*=Intermediate Panchayat does not exist (2 Tier)

\*\*=Panchayat Elections held on 2/4/03 except in Tirap District. Detailed information is awaited

## Chapter-4

### RESETTLEMENT AND REHABILITATION OF DISPLACED TRIBALS

#### 4.1 Introduction

4.1.1 With the attainment of the Independence, the need for accelerating the pace of planned development in various sectors of the economy started gaining momentum and with this, the pressure to acquire land at various places for construction of dams, hydel projects, industries, mines also started building up in tribal areas and tribal people had to provide the land for the major part for the simple reason that through a natural co-incidence, the tribal people have been sitting on the top of reservoirs of mineral resources and living in the catchments of streams and rivers possessing enormous irrigation and power potential. As a result of acquisition of their lands under the Land Acquisition Act, 1894, a large number of tribal population is displaced and deprived of their houses and also of their means of livelihood. As the acquisition of the tribal land is for 'public purpose' (as laid down in the Land Acquisition Act, 1894), it may not be proper to question the rationale of such acquisitions, but while doing so, the Government cannot overlook the trauma of those who suffer the consequences of such acquisitions. It is, therefore, necessary to prescribe guidelines for providing relief, rehabilitation and resettlement of those who are displaced in the process.

4.1.2 The National Human Rights Commission in its 2000-01 Annual Report had taken the view that resettlement and rehabilitation of persons displaced due to acquisition of land for various projects should form part of the Land Acquisition Act itself or a separate appropriate legislation should be formulated for this purpose. That Commission further observed that such a step was necessary for the reasons that the rehabilitation and resettlement package incorporated in the law will ensure systematic rehabilitation and resettlement of the affected people, help avoid litigation, cut down project cost and cost overruns and will ensure provision of relief before actual acquisition of land. **This Commission, in agreement with the National Human Rights Commission, recommends the formulation of a suitable central legislation either separately or as a part of the Land Acquisition Act, 1894 to ensure systematic rehabilitation and resettlement of persons likely to be displaced on acquisition of their lands for various development projects. This will ensure adoption of a uniform resettlement and rehabilitation packages by all the State Govts.**

4.1.3 The Commission further recommends that pending enactment of the central legislation and similar legislations by the State Govts., there is need to advise the State Govts. to the effect that the resettlement and rehabilitation packages in respect of all the State Govts. should, inter alia, provide that:

- (i) **The displaced persons are given land for land, which should be of the similar quality and of equal legal status as that of the land previously occupied by them with a view to enable them to take care of their present needs and future development. In case the affected persons express desire for compensation in cash or kind, they should be so compensated under appropriate guarantees.**
- (ii) **To ensure stable livelihood to all members of displaced tribal families, each adult person of that family should be allotted 5 acres of irrigated land in the new place of settlement, while also ensuring that all allottees from one family are given land at one place.**

4.1.4 The Commission has observed that the issues relating to resettlement and rehabilitation of the displaced tribals are taken up by the concerned State Governments after the process of acquisition of the tribal lands has been completed and this gives rise to a number of problems naturally leading to severe discontentment among the tribal land oustees. **The Commission, therefore, recommends that the State Govts. should further be advised to ensure that:**

- (i) **The resettlement and rehabilitation of the tribals likely to be displaced from their lands is finalized to their satisfaction before the process of acquisition of their lands is initiated.**
- (ii) **The rate of compensation for the land to acquire should be determined on the basis of the market value of the land prevailing at the time of acquisition and not on the basis of transaction rates of the old registries of the lands in the area, which may have occurred several years ago. Another component which should go into the determination of rates of compensation is the fact that the agricultural land was being acquired for setting up industrial projects and therefore, the cost of the land will be much more and therefore, this increased value of the land should also be taken into account to determine the rates of compensation.**
- (iii) **While acquiring the tribal lands for industrial purposes, steps should be taken to ensure that the likely displacement of the tribal families is minimal and where such displacement is unavoidable, the State Governments should also ensure while framing the resettlement and rehabilitation policies that the displaced tribal families are resettled in tribal belts where other tribal communities are residing with view to protect their cultural heritage.**
- (iv) **To issue suitable instructions to the effect that the owners of the industries shall give preference to the members of the affected tribal families (i.e. whose lands were acquired) for running tea shops, snack bars, giving licenses for operating canteens in the premises of the industrial plants etc.**
- (v) **To make it mandatory for the upcoming industries in newly acquired areas to ensure that, over and above the compensation and the allotment of replacement land, at least one person of each displaced tribal family is given a suitable job in the industrial/mining etc. project within a reasonable period of time.**
- (vi) **In case the displaced tribal family had land in more than one village before acquisition, suitable job should be given to one person each against acquisition of their land in each village.**

4.1.5 The Commission has observed that there are several tribal families which have been assigned lands and which they have been cultivating for several years but unfortunately, have not been granted the pattas of those lands. The Commission is of the opinion that it would be highly unfair and unjust not to treat them on par with those who holds pattas of the lands assigned to them for the purpose of payment of compensation for acquisition of their lands. **The Commission, accordingly, strongly recommends that the State Govts. may be advised to ensure that the tribal families which have been assigned lands by the Government and which is being cultivated by them for the past many years say, for 10 years or more and for which those tribal families have not been granted pattas should also be treated on par with the holders of pattas or those who are having ancestral landed properties for the purposes of payment of compensation for their lands proposed to be acquired for development purposes.**

## **4.2 Polavaram and Pulichintala Irrigation Projects in Andhra Pradesh**

4.2.1 It was brought to the notice of the Commission that the Govt. of Andhra Pradesh had approved the construction of two irrigation Projects at Polavaram and Pulichintala spread over several districts having Scheduled Areas and affecting a large number of tribal population in those districts. It was decided by the Commission to have a look at the proposal of the State Govt. with particular reference to the policy for relief, rehabilitation and resettlement of tribal persons displaced or likely to be displaced by the two Projects. Shri Buduru Srinivasulu, Member of the Commission visited the State of Andhra Pradesh from 13 November to 17 November, 2005. On 17 November, 2005, the Hon'ble Member discussed the matter with the senior officials of the Department of Irrigation and Department of Tribal Welfare, Govt. of Andhra Pradesh on the impact of the proposed irrigation Projects.

4.2.2 In his report submitted to the Commission, the Hon'ble Member has stated that the Indira Sagar (Polavaram) Project would affect a total of 298 settlements out of which 276 are in Andhra Pradesh, 4 in Chhatisgarh and 18 in Orissa. The estimated number of families that would be affected by the Projects is 47,911 out of which 44,574 are in Andhra Pradesh, 2335 in Chhatisgarh and 1,002 in Orissa. Out of these, ST families that would be affected are 21,109 in Andhra Pradesh, 1,294 in Chhatisgarh and 913 in Orissa. In terms of percentage, the ST families that would be affected will be 48.67%. As regards, Pulichintala Project, a total of 6,058 families would be affected and out of these families, 778 belong to Scheduled Tribes i.e. 13% of the total. The report further says that the officials of Department of Irrigation, Govt. of A.P. had informed that the State Govt. had framed a comprehensive relief package for the Project Affected Families (PAFs)/Project Displaced Persons (PDPs) under the Resettlement and Rehabilitation Policy, 2005 which offers a better package than that offered by the National Resettlement & Rehabilitation Policy, 2003.

4.2.3 The documents given to the Hon'ble Member by the State Govt. indicate that the Indira Sagar (Polavaram) Project (on river Godavari) is conceived as a multipurpose project conferring irrigation benefits to an extent of 2.91 lakh hactres in the upland areas of West Godavari, Krishna, East Godavari and Visakhapatnam districts, water supply for industries in Visakhapatnam Township and Steel Plant, besides domestic water supply to towns and villages en route and generation of hydel power with an installed capacity of 960 MW, development of pisciculture and providing recreation benefits and diversion of 2.266 TM cumecs (80 TMC) of Godavari waters to Krishna river. The Pulichintala Project is proposed to be constructed on Krishna river in between Nagarjuna Sagar and Prakasam barrage. This Project is mainly aimed at providing long term relief to the farmers in the Krishna delta, who are facing problem with reduced water supplies from the Prakasam Barrage especially during the transplantation period i.e. June and July months of every year on account of rapid development of command area under Nagarjuna Sagar Project in Andhra Pradesh and similar projects of Krishna river in the upper reaches in Karnataka and Maharashtra States.

## **4.3 Resettlement & Rehabilitation of the Affected Families of Sardar Sarovar Project**

4.3.1 The Commission had requested the Ministry of Water Resources to apprise it of the present status of the relief and rehabilitation provided to the affected families of the Sardar Sarovar Project. A brief write-up sent by the Ministry of Water Resources on the resettlement and rehabilitation of the oustees of this Project, inter alia, reveals that Sardar Sarovar Project is one of the largest multi-purpose and inter-state joint venture water

resources development projects in India. It the terminal project on the river Narmada with the dam located in Gujarat. Being an inter-state Project, all the four States namely Gujarat, Madhya Pradesh, Maharashtra and Rajasthan are sharing the benefits and the cost of the Project as per the provision made under Narmada Water Dispute Tribunal (NWDT) Award. The height of the dam above average bed level is 122 meters. 1450 MW of power will be generated from the River Bed Power House, located underground on the right bank and Canal Head Power House which will be shared among the State of Madhya Pradesh, Maharashtra and Gujarat in the ratio of 57:27:16. In Gujarat, 17.92 lakh ha. of land spread 12 districts, 62 talukas, which include 339 villages covering a total population of 4.5 million will get benefit of irrigation. The Project will also provide irrigation to about 2.51 lakh ha of arid area of Jallor and Badmer districts of Rajasthan. The ground water availability will increase on the peripheral areas in Madhya Pradesh and Maharashtra which will help in improving the lift irrigation facilities around the reservoir of peripheral areas.

**4.3.2 Land affected:** The total land coming under submergence is around 37533 ha spread over the three States of Gujarat, Maharashtra and Madhya Pradesh i.e. 7112 ha in Gujarat, 9599 ha in Maharashtra and 20822 ha in Madhya Pradesh. The State-wise different category of land coming under submergence are as given below:-

<b>(Land in Hectares)</b>					
<b>Sr. No.</b>	<b>Type of land</b>	<b>States</b>			<b>Total</b>
		<b>Gujarat</b>	<b>Maharashtra</b>	<b>Madhya Pradesh</b>	
1.	Cultivated Land	1877	1519	7883	11279
2.	Forest Land	4166	6488	2731	13385
3.	Other Land including river bed	1069	1592	10208	12869
	<b>Total Land</b>	<b>7112</b>	<b>9599</b>	<b>20822*</b>	<b>37533</b>

\* In Madhya Pradesh the area may change to some extent on verification at field level.

**4.3.3 Villages and Families Affected:** The project will affect 244 villages in the States of Gujarat, Maharashtra and Madhya Pradesh. Out of these 244 villages, only 4 villages are getting fully submerged, which include Rohana village in Madhya Pradesh and Gadher, Vadgam and Mokhadi villages in Gujarat. The rest are partially submerged villages. The villages in Gujarat, Maharashtra and M.P. are being affected both due to pondage and back water effect corresponding to 1 in 100 year flood about 51,447 families would be affected due to submergence and back water effect at full height of dam (FRL EL 455 ft.). State-wise break up of affected villages and number of affected families (PAFs) are given below:-

<b>States</b>	<b>Villages Affected</b>			<b>Families to be rehabilitated including major sons/daughters</b>
	<b>Full</b>	<b>Partial</b>	<b>Total</b>	
M.P.	1	191	192	43021
Maharashtra	-	33	33	3698
Gujarat	3	16	19	4728
<b>Total</b>	<b>4</b>	<b>240</b>	<b>244</b>	<b>51447</b>

**4.3.4 Affected ST Population:** A large percentage of the affected population are tribals, being 100 percent in Maharashtra and 97.4 percent in Gujarat. In Madhya Pradesh, 29 percent population belong to Scheduled Tribes and 12% belong to Scheduled Tribes. Since tribals form a large proportion of population being displaced, utmost care has been

taken to protect the tribal culture, their life styles and traditions while designing and evolving of the resettlement and rehabilitation programme. In Madhya Pradesh, most of the tribals are “Bhilalas” and “Bhils” in Maharashtra they mainly belong to “Tadvi” & “Vasava” groups and in Gujarat they belong to Tadvi, Rathwa, Dugribhil, Vasava and Nayaka.

**4.3.5 Resettlement and Rehabilitation Principles:** Considering the socio-economic background of the population and the need for improving the living conditions of the affected people, the three state Governments have formulated and announced their policies for R&R which are more liberal than the provision envisaged in the NWDT Award. These policies are being liberalized from time to time as and when necessity arises. As per the liberalized policy, the Govt. of Maharashtra are now allotting 1 ha. agricultural land free of cost to each landless oustee, major sons and unmarried major daughters of all category of PAP's besides a subsistence allowance of Rs.4500/- per PAP. Moreover in Maharashtra, compensation of land and house acquired will be paid to PAF's and land will be allotted free of cost. The Government of Madhya Pradesh has increased the rehabilitation grant from Rs.11,000/- to Rs.18,700/- for SC/ST/Landless agricultural labourers/small and marginal farmers and from Rs.5,500 to Rs.9,350/- for other labourers and landless families. The liberalization has also been made to purchase the productive assets. Accordingly, the amount to purchase the productive assets has been increased from Rs.29,000/- to Rs.49,300/- for SC/ST/Landless agricultural labourer and from Rs.19,500/- to Rs.33,150/- for other labourers and landless families. All the benefits of the existing Government Welfare Schemes such as Integrated Rural Development Programme(IRDP), Training rural Youth for Self-Employment (TRYSEM), Tribal Sub-Plan (TSP), Khadi and Village Industries Board (KVIB) etc., applicable to economically weaker sections in the submergence villages are being extended to the project affected families at rehabilitation sites also. The details of the rehabilitation policy as per NWDT Award and States' liberalized policies are as given in **Annex 4.1.**

**4.3.6** The information furnished by the Ministry of Water Resources reveals that in Gujarat, out of 19, 875 Project Affected Families (PAFs), 11,709 families have already been resettled and 8166 families are yet to be settled. In Maharashtra out of the total of 2675 Project Affected Families, 2501 families have already been resettled and 174 families are yet to be settled. As regard, Madhya Pradesh out of a total of about 28, 897 Project Affected Families, about 18,943 families have been settled and 9954 families are yet to be settled. Thus, out of a total of 51,447 Project Affected Families in respect of all the three States, 33,153 families have already been resettled and 18,294 families have yet to be settled. This data is as on 31.01.2006. The Commission cannot but express concern on the slow process of resettlement of the Project Affected Families having regard to the fact that 75% of the Project Affected Families are Scheduled Tribes. The Commission, therefore, notes with grave concern that as on 31.1.2006, 18,294 families are yet to be resettled.

**Commission's visit to Indore and Vadodara to see and discuss the issues related to resettlement and rehabilitation of the Project oustees**

**4.3.7** The Commission received a large number of representations from the tribal oustees of the Sardar Sarovar Project complaining about lack of adequate and proper resettlement and rehabilitation arrangements by the State Govts. of Madhya Pradesh, Maharashtra and Gujarat. Shri Kunwar Singh, Chairman and Shri B. Srinivasulu, Member, NCST visited the tribal areas of Dhar, Badwani and Jhabua districts of Madhya Pradesh from 10-13 April, 2005. They also visited the affected families of Gujarat and Maharashtra States and the rehabilitation sites where the project oustees had been resettled or were proposed to be resettled in Madhya Pradesh and Gujarat on 13 and 14 April, 2005. Commission also held discussions on the subject with the officers of Badwani, Dhar and Jhabua district and the

district authorities of Vadodara district (Gujarat State) in which oustees from M.P. State had been, and proposed to be, resettled. Officers from Narmada Valley Development Authority (NVDA) of M.P. State and Rehabilitation Commissioner, Gujarat State also accompanied the Commission during the visit. After returned from the site visit, the Commission held discussions with the representatives of NVDA, Narmada Control Authority and officials of Tribal Welfare Department of State of Madhya Pradesh on 29 April, 2005 at Indore. It was revealed during the discussions that the Tribal Welfare Department of M.P. State was not involved in the resettlement issue, although the affected families mostly belonged to Scheduled Tribes and that some of the tribal oustees from Madhya Pradesh were being resettled in Gujarat. Chairman advised the Tribal Welfare Department not to disown its responsibility towards needs and problems of the tribal families. NVDA officials stated that officers from Tribal Welfare Department of the State have been taken on deputation to NVDA. Chairman observed that this was not enough to fulfill the responsibility of the Tribal Welfare Department. After conclusion of his visit, Chairman addressed a communication to the Chief Minister, Madhya Pradesh on 19 July, 2005 advising him, inter alia, to take early steps with reference to the following points:-

- (i) State Government should stop giving cash compensation for the land acquired, especially to the tribals. All oustees should be given cultivable lands and house, plots and other requisite facilities as admissible.
- (ii) The current cut off dates in all three States should be rationalized and the date when actual rehabilitation takes place should be taken as the cut off date.
- (iii) The resolutions already passed by the Gram Sabha be respected and acted upon. The consultation with the Gram Sabha must be taken before land acquisition and rehabilitations, as per provision in the Constitution for regulation in the Scheduled Areas.
- (iv) All 'undeclared' but eligible families have to be enlisted urgently and given their due entitlements. A task force, similar to the one constituted by Maharashtra Govt. may be constituted to determine how many families are undeclared in M.P., especially in the interior Adivasi villages which are quite inaccessible, which have no governmental services of any kind and where land records are outdated. The Task Force in M.P. as in the case of Maharashtra must have members of the Government as well as representatives of the people affected by the project.
- (v) The complete list of families claimed to have been rehabilitated and those yet to be actually resettled on allotted sites should be made public in each affected village and also on the WEBSITE of the Govt. to maintain transparency.
- (vi) As soon as possible a fair and impartial survey may be conducted to determine the extent of tapu-affected families and work initiated quickly to rehabilitate them and give them proper access. If access cannot be provided such families should be resettled at safe and useful lands.
- (vii) The dam height should not be raised till all affected people are rehabilitated as per the order of Hon'ble Supreme Court and Policy in this regard.

4.3.8 In his above referred d.o. letter to the C.M., Madhya Pradesh, the Chairman, NCST also stated that apart from the above, the Grievance Redressal Authority set up under the directions of the Hon'ble Supreme Court of India for looking into the grievances of the project oustees was also not given proper attention in timely redressal of the grievances due

to lack of sensitivity among its officials. Further, the Tribal Welfare Department was not involved in the entire process though the affected families most belong to Scheduled Tribes and that mere nominating an official from the Tribal Welfare Department on deputation to NVDA was not enough for redressal of the grievances of the tribals. It was stated that the Tribal Welfare Department, the Revenue Department and the Water Resources Department of the State Govt. should be associated of the rehabilitation process as also in review of the progress of the construction vis-à-vis resettlement. The Commission was not apprised of the action taken on the above-mentioned points which emerged during the meeting of the Commission with the officials of the Tribal Welfare Department, NVDA and Narmada Control Authority. The Commission expresses its unhappiness on the indifference of the State Govt. to the vital issues related to rehabilitation and resettlement of the project oustees with particular reference to their continued non-response to the suggestions/observations made by the Commission and recommends that **the Govt. of Madhya Pradesh may be advised to place the entire matter relating to the resettlement and rehabilitation of the project oustees in respect of the State of Madhya Pradesh before the Tribal Advisory Council and apprise the Commission of the Council's views and the action taken thereon.**

**4.3.9 The Commission also recommends that the State Govts. of Gujarat, Madhya Pradesh and Maharashtra may be advised to take urgent action for early resettlement of the balance of 18,294 Project Affected Families and to prepare a time bound programme for their resettlement and rehabilitation. These State Govts. also need to be advised to identify the number of tribal families (State-wise) out of the balance families of 18,294 which are yet to be resettled and rehabilitated and also about the action taken by the respective State Govts. for their (i.e. tribals) early settlement in realization of the hard fact that the Scheduled Tribes belong to the most vulnerable section of the society and any further delay to resettle the displaced/ affected tribal families will not only aggravate their livelihood problems but also create the problem of their survival.**

#### **4.4 Kalinga Nagar (Orissa) Visit of the Commission**

4.4.1 The National Commission for Scheduled Tribes was shocked to learn from the media reports about the death of 12 tribals in police firing on 2 January, 2006 at Kalinganagar of district Jajpur, Orissa. The press reports revealed that a crowd of over 1000 persons most of them belonging to Scheduled Tribes had assembled the place of incident to protest against construction of boundary walls by Tata Steel Company on a piece of land acquired by the State and sold to the Company for setting up two steel plants and that the trouble had arisen on account of fears of displacement looming large in their minds and the failure of the State Govt. to provide them suitable compensation to their satisfaction and also in making adequate arrangements for their rehabilitation. The Commission could not but feel gravely concerned on hearing such disturbing news and immediately addressed a letter to the Chief Secretary, inter-alia, seeking detailed information particularly in regard to the circumstances leading to police firing, details of monetary relief given/announced to the kith and kin to the deceased and to the injured, arrangements made for the treatment of the injured, whether any magisterial inquiry had been ordered by the State Govt. into the incident and action taken by the State Govt. to evolve a uniform policy of rehabilitation of the tribals displaced or likely to be displaced as suggested by the Chairman of this Commission earlier during his discussion with the senior officers of the State Govt. on 17 September, 2005. The State Govt., inter-alia, informed the Commission vide its letter dated 12 January, 2006 that:

- (i) The land acquisition process at Kalinganagar was started in the year 1990 and most of the land acquisition work was completed in 1996 and that private land was acquired

in 12 villages after obtaining the consent of the landowners under Section 11(2) of the Land Acquisition Act, 1894.

- (ii) After prolonged discussions, it was decided by the Tata Company to take up the ground levelling work on 2 January, 2006. Apprehending opposition, the necessary police arrangements were made.
- (iii) The police first resorted to tear gas and then lathi charge, followed by use of rubber bullets to disperse the mob. These did not work and, seeing no alternative, the Executive Magistrate ordered firing to disperse the assembly.
- (iv) 12 persons were killed and 25 injured in the police firing. The State Govt. had announced payment of ex-gratia of Rs.5.00 lakhs to the next- of- kin of the deceased and Rs.50,000 of cash assistance to every injured person. This was apart from the treatment in the hospitals at the cost of the Government.
- (v) The State Govt. had decided to employ one person each from the families of the deceased, either in Government or public sector undertakings.
- (vi) The State Govt. had announced judicial inquiry into the incident by a sitting judge of the Hon'ble High Court of Orissa.
- (vii) The State Govt. had constituted a Group of Ministers to go into details of all the existing Resettlement and Rehabilitation policies to review them and to furnish the recommendation within one month.

4.4.2 Shri Kunwar Singh, Chairman and Smt. Prem Bai Mandavi, Member (NCST) accompanied with Joint Secretary and other officers of the Commission visited the State from 11 to 13 January, 2006. On the evening of 11 January, 2006, the Hon'ble Chairman and Hon'ble Member visited SCB Medical College Hospital, Cuttack to know about the health conditions of the injured tribals and the treatments being given to them and met all the 18 injured tribals admitted in the various wards of the Hospital. All the injured under treatment expressed their satisfaction over the medical attention being paid to them and stated that they were getting free treatment. Hon'ble Chairman also met the four injured police persons admitted in the same Hospital. This was followed by detailed discussion with Principal, SCB Medical College, Supdt. of the Hospital and the attending doctors who were suggested to ensure that the tribals who were undergoing treatment were not discharged from the Hospital unless and until they had fully recovered.

4.4.3 On 12 January, 2006 the Hon'ble Chairman and Member and the officers of the Commission visited Kalinganagar of Jajpur district to enquire into the incident of police firing. The team first visited the firing spot at Nuagaon and enquired from the police officials about the incident. The District Magistrate and Supdt of Police explained in detail about the circumstances leading to the police firing. From the firing spot, the Hon'ble Chairman and Member along with the officers proceeded to Ambagadia village, where mass cremation of all the 12 tribals, killed in police firing, had been done in the afternoon of 4.1.2006. Hon'ble Chairman and Member paid floral tributes to the deceased. Thereafter the Hon'ble Chairman and Member visited the tribal villages and met the family members of all the 12 deceased persons to know about their family condition. Chairman intimately interacted with them and consoled them. The soothing words of Chairman acted as applying healing balm to the family members suffering from the trauma of the loss of their dear ones in the police firing. During the interactions, the family members while ventilating their grievances, inter-alia, stated that unless the Government fulfilled their demands including raising the payment of ex-gratia amounts to Rs.20.00 lakhs and cash assistance to every injured to Rs.10.00 lakhs, total ban on displacement in Kalinganagar, allotment of 5.00 acres of agricultural land to the persons already displaced, release of their 3 leaders namely Rabindra Jarika, Rajendra Tomsou and Chakradhar Halda who were in jail, they would not stop the agitation and would

continue blockade of Daitari-Paradeep Express Highway. As per their version, they had gone to work site to stop the work undertaken by the Tata Steel Limited in a peaceful manner because their earlier demands regarding payment of compensation towards acquisition of land had not been fulfilled. The Commission was further informed that of the 12 deceased persons, 3 were females and 1 was a boy of 12 years age named Govinda, who was reading in Class-VII. The Commission also noted that the economic conditions of all the families of the deceased were very poor and most of the deceased were the bread-earners of their families.

4.4.4 Shri Syama Gagrai, one of the 18 injured tribals, who had sustained bullet injuries in his abdomen and was subsequently shifted from SCB Medical College Hospital, Cuttack to AIIMS, New Delhi for better treatment. Shri Gagrai died on 11.3.2006 morning while undergoing treatment at AIIMS. The Govt. of Orissa has announced an ex-gratia compensation of Rs.5.00 lakhs to the family of Shri Gagrai consisting of his old mother (70), one unmarried brother (25) and one unmarried sister, and employment to one eligible adult member of the family. With the death of Shri Gagrai, the total death toll of tribals in Kalinga Nagar incident has gone up to 13.

4.4.5 During the field visits, the tribals also alleged that land settlement in the area had not been done since long, due to which their right over the land, under their possession had not been established. They also expressed their discontentment over the compensation paid to them earlier for acquisition of land. Some tribals also stated why the industries were not set up immediately when their land was acquired. They further alleged that all the displaced persons had not yet been provided jobs in the industries set up in Kalinganagar as promised to them. They also stated that they should be given compensation as per the present market value of the land.

4.4.6 Before leaving Kalinganagar, Hon'ble Chairman held discussions with the new Collector and District Magistrate and Supdt. of Police, Jajpur who had recently joined on transfer of the earlier District Collector and District Magistrate, and Supdt. of Police immediately after the incident of police firing. During the discussions the District Magistrate, inter-alia, mentioned that out of 12 Industries, 3 Industries namely Nilachal Ispat Nigam Limited (NINL), MISL and Visa Industries Limited had become operational, Jindal Stainless Limited had started trial production and K.J. Ispat Ltd. would start operating soon. During discussions with the District Magistrate on 12 January, 2006, Chairman, NCST was, inter alia, informed that a number of industries set up in Kalinga Nagar area had not provided the employment to all the displaced families. The position regarding the number of displaced tribal families and the number of displaced families offered jobs in the Industries in Kalinganagar area, is as given in the Table below:

Sl. No.	Name of Industry set up in Kalinganagar	No. of displaced families so far	No. of displaced families employed so far
1.	Nilachal Ispat Nigam Ltd. (NINL)	639	182-direct and permanent employment and 134 indirectly employed through contractors
2.	MISL	53	47
3.	Jindal Stainless Ltd.	59	12
4.	Visa	23	Nil
5.	Rohit	12	Nil
6.	Common Corridor	28	Nil

4.4.7 On 13.1.2006 Hon'ble Chairman held meeting with the senior officers of the State Govt., prominent among them being Development Commissioner; Principal Secretaries, Home; Industries and Revenue Departments; Commissioner-cum-Secretary; SC/ST Development Department; Managing Director; IDCO; Director General of Police and Additional DG of Police, HRPC, Orissa in the Conference Hall of the State Secretariat at Bhubaneswar. Chairman expressed deep concern over the incident of police firing leading to death of 12 (now 13) tribals and stated that it could have been averted, had the State Govt. taken timely steps by holding dialogue with the tribals on their demands. The observations made by the Chairman included the following:-

- (i) The State Govt. should formulate a uniform and comprehensive Resettlement and Rehabilitation policy after consulting the tribal leaders and the experts working on the problems relating to displacement. MoU should contain 20% of the project cost for the development of the displaced persons and should contain categorical provisions about the Rehabilitation and Resettlement package and the R&R policy should not go against the interest of the displaced tribals and should ensure their livelihood by providing them land in lieu of land, and job. He cited the example of Rajasthan Government where the compensation paid towards acquisition of land was much higher than the prevailing market rate, due to which people were coming forward, suo moto, to give their land for Industries.
- (ii) The Commission noted that no physical possession of the land was taken by the State Government after the acquisition of the land during 1992 and 1996 and the tribals continued to cultivate the lands even after the process of acquisition had been completed and that this was the main reason of the trouble on the day of the incident.
- (iii) During his interactions with the family members of the deceased, Chairman, NCST received allegations of chopping of palms etc. of some of the deceased during postmortem. He requested the State Govt. to look into these allegations and find out the truth.
- (iv) The State Govt. should conduct an immediate survey in the area and tribals should be given the rights of ownership and title over the permissible encroachment to enable them to get compensation in the event of their land being acquired for development purposes.
- (v) There should be a time limit on submission of report by the judicial inquiry and its terms of reference should be expanded to also find out the reason behind the incident.

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## Annex.4.I

**SARDAR SAROVAR PROJECT (SSP)  
REHABILITATION POLICY AS PER NWDT AWARD AND STATES LIBERALISED POLICIES**

S. No	Item	NWDT Award	Madhya Pradesh	Gujarat	Maharashtra
1.	Definition of oustee	An oustee shall mean any person who, since at least one year prior to the date of publication of notification u/s 4 of the Land Acquisition Act, has been ordinarily residing or cultivating land or carrying on any trade, occupation or calling or working for gain in the area likely to be submerged permanently or temporarily.	Any person who has been ordinarily residing or carrying on any trade or vacation for his livelihood on the date of publication of notification u/s 4 of the Land Acquisition Act or has been cultivating land for at least three years prior to such notification in an area which is likely to come under submergence whether temporarily or permanently because of the project or is otherwise required for the project.	Same as under NWDT Award Clause XI-1(2)	Same as under NWDT Award Clause XI-1(2)
2.	Family	A family shall include husband, wife and minor children and other persons dependent on the head of the family, e.g. widowed mother.	A family shall mean and include husband, wife and minor children and other persons dependent on the head of the family e.g. widowed mother, widowed sister, unmarried sister, unmarried daughter or old father.	Same as under NWDT Award Clause XI-1(3)(ii)	Same as under NWDT Award Clause XI-1(3)(ii)
3.	LAND ALLOTMENT				
	a) Landed Ousteas	Every displaced family from whom more than 25% of its land holding is acquitted shall be entitled to and be allotted irrigable land for the extent of land acquitted form it subject to the prescribed ceiling in the State concerned and a minimum of 2 hectored (5 acres) per family, the irrigation facilities being provided by the State in whose territory the allotted land is situated. This land shall be transferred to the oustee family if it agrees to take it. The price charged for it would be as mutually agreed between Gujarat and the concerned State. Of the price to be paid for the land a sum equal to 50% of the compensation payable to the oustee family for the land acquired from it will be set off as an initial installment of payment. The balance cost of the allotted land shall be recovered from the allottee in 20 yearly installments free of interest. Where land is allotted in Madhya Pradesh or	1. Land equivalent to that acquired with a minimum of 2 ha and maximum of 8 ha and also Govt. assistance in providing irrigation by wells/tube wells or any other method if land not irrigated. If irrigation is not possible, minimum 4 ha will be allotted. Development of dry land would be subsidized by the Govt. to the extent of 75% of the cost involved. 2. (a) For families of all SC/ST and other categories with land holding upto 2 ha. Grant-in-aid would be paid to cover the gap if any, between the amount of compensation and the cost of allotted land in full. For other owing land from 2 to 8 ha. Will be eligible for an additional amount of Rs.2000/- per ha. Or 50% of the difference in cost of allotted land and the compensation received. Whichever is less. (b) Oustee has two choice: I. He can opt for cash compensation for his submerged land.	1. Land equivalent to that acquitted with a minimum of 2 ha and maximum limited to State ceiling. Joint holders are also eligible for land equal to his share subject to a min. of 2 ha. Joint holders and major sons will be considered as co-sharer of acquired land. Irrigation facilities to be provided by the State. 2. Where agricultural land is purchased by the oustees' family through committee, the difference, if any, in price of land so purchased and the amount of compensation shall be paid as an ex-gratia.	1. Land equivalent to that acquired with a minimum of 2 ha. And maximum limited to State ceiling Joint holders are also eligible for land equal to his share subject to a minimum of 2 ha. Irrigation facility to be provided by the State. 2. The land is allotted to the oustee free of cost.

		Maharashtra, all recoveries for the allotted land shall be credited to Gujarat.	<p>II. He can opt for compensation in the form of land. He will be entitled for 50% amount of compensation in cash and remaining 50% amount will be adjusted against the cost of the allotted land. Remaining cost of allotted land will be recovered in 20 yearly installments as loan due from third year. Loan will be interest free.</p> <p>(c) The GOMP allotted agricultural land to the eligible PAFs from the land bank. On refusal PAFs can avail the Special Rehabilitation package (SRP) to purchase land of their choice.</p> <p>(d) The PAFs will have exemption from stamp duty and registration fee on purchase of land to the extent of the amount they received as compensation Rehabilitation Grant and SRP</p>	3. The outstee/encroacher who have received compensation of land has an option to contribute 50% of his compensation as initial installment towards the cost of allotted land and rest of the amount of the cost of land to be repaid in 20 years, yearly interest free installments or contribute 100% compensation towards the cost of allotted land and the difference between the price of the allotted land and compensation could be treated as ex-gratia towards occupancy price. In other categories, i.e. landless agricultural labourer, encroacher (who has not received compensation) and their major sons are given full ex-gratia amount towards the cost of allotted land.	
	b) Encroacher Oustees	No land allotment benefit provided	<p>a) They will be treated as landed oustees subject to two conditions.</p> <p>i. Encroachment must be on or before 14.4.87. ii. Allotment of agricultural land will be 1 ha. or 2 ha. Only subject to the size of encroachment coming under submergence</p> <p>Encroachers will be entitled to get compensation for land under submergence</p>	Encroachers prior to 1 year of Notification under Sec. 4 of the Act are entitled for 2 ha. of land and compensation for the balance encroached land as ex-gratia	2 ha of land and compensation as ex-gratia payment for the balance land encroached upto 31.3.78. Later encroachers will be treated as landless and will get 1 ha. Agriculture land.
	c) Landless oustees	No provision for land allotment	No. land. According to liberalized R&R policy of GOMP letter No. 12/1/27/2/98/1286 dated 4.12.2001 which in over & above NWDT award, all landless agricultural oustees will get Rs.49300 each for productive assets while other landless will get Rs.33150.	2 ha of land to landless Agricultural labourers only.	1 ha of land if oustee moves with others.
	d) Major sons of above all categories of oustees	<p>* Every major sons will be treated as separate family</p> <p>* No provision for land allotment</p> <p>* Major sons of landed PAFs are entitled for 2 ha of land as per the decision of Hon'ble Supreme Court dated 15.3.2005.</p>	Every Major sons/unmarried major daughters will be treated as separate family. There eligibility will be 18 years of age one year prior to the date of notification under Section-4 of LAQ. They will be entitled to cash compensation according to the category to which they belong.	2 ha of land to each major sons of all category of oustees with 1/1/87 as cut-off date for major sons.	Every Major sons/unmarried major daughters will be treated as separate family. There eligibility will be 18 years of age one year prior to the date of notification under Section-4 of LAQ.

			* Major sons of landed PAFs will be allotted 2 ha of land as per the decision of Hon'ble Supreme Court dated 15.3.2005.		They will be entitled to get 1 ha of land.  Supreme Court judgement is not application to GOM.
4.	House Plot	Free of cost allotment of house plot to each oustee family measuring 18.29 x 27.43 m (60x90) including major sons.	(a) Developed residential plot will be given to the oustee families and their Major sons/unmarried daughter. 1. 502 sqm(60x90) for rural area coming under submergence. 2. 222.95 sqm(40x60) only for urban area coming under submergence.  (b) Cash Compensation in lieu of house plots Rs.50,000/- 2. As per decision of NCA's 72 meeting held on 8.9.04.	1. Residential plot of 502 sq.m. would be given free of charge to the oustee families and their major sons. 2. Free ready made core house to the oustee families and their major sons.	1. Residential plot of 502 sq.m. would be given free of charge to the oustee families and their major sons and unmarried major daughters. 2. Free Mangalore tiles and bamboos.
5.	Rehabilitation Grant, Grant-in-aid, Subsidy	Resettlement/rehabilitation grant @ Rs.750/- per family inclusive of transportation charges.  Grant-in-aid upto Rs.500/-	The GOMP has further liberalized the R&R policy dated 4.1.2001 which is over and above NWDT Award. Accordingly, the scale of grant-in-aid for rehabilitation will be as follows:  <u>Rehabilitation Grant</u>  All agricultural landless labourers/SC/ST labourers, small and marginal farmer @ Rs.18700 each. All other labourers & land less families @ Rs.9350 each.  <u>Productive Assets</u>  • Rs.49300/- SC/ST PAFs and Landless agricultural Labourer. Rs. 33150/- all other landless PAFs.	Subsistence Allowance  Each family will be paid subsistence allowance at Rs.15/- per day for 25 days in a month for a period of one year after resettlement.  Rs. 750/- per family with an increase of 8% per year worked out with January, 80 as base, as resettlement grant.  Grant-in-aid upto Rs.500/- as per NWDT Award.  Rs.7000/- to purchase productive assets to all category of oustees and their major sons.	Subsistence Allowance  Each family will be paid subsistence allowance at Rs.15/- per day for 25 days in a month for a period of one year after resettlement.  Rs. 750/- per family with an increase of 8% per year worked out with January, 80 as base, as resettlement grant.  Grant-in-aid upto Rs.500/-as per NWDT Award.  The above benefits at SI.2 will be provided to all category of oustees and their major sons and un-married major daughters.
6.	Transportation Grant	Transportation charges to be met out of resettlement/rehabilitation grant of Rs.750/-	Free transport will be provided by the project. In case this facility is not availed of, a lump sum relocation grant will be paid.	Free transport will be provided by State Govt.	Free transport will be provided by State Govt.

7.	Acquisition of Private land/Houses which get isolated or physically cut-off	Not dealt with	Would be acquired and owners treated as oustees	Would be acquired and owners treated as oustees	Would be acquired and owners treated as oustees.
8.	<b>Compensation</b>	As per Land Acquisition Act in operation at the time of acquisition	Compensation for land on the basis of price of similar land in adjacent command areas.	As per Land Acquisition Act as amended from time to time.	As per Land Acquisition Act as amended from time to time.
	(a) Land				
	(b) Houses	As per Land Acquisition Act.	Replacement value of House.	As per Land Acquisition Act.	As per Land Acquisition Act.
9.	Civic Amenities	<ol style="list-style-type: none"> <li>1. One primary school (3 rooms) for every 100 families.</li> <li>2. One Panchayat Ghar for every 500 families.</li> <li>3. One dispensary for every 500 families.</li> <li>4. One seed store for every 500 families.</li> <li>5. One children's park for every 500 families.</li> <li>6. One village pond for every 500 families.</li> <li>7. Drinking water well with trough for every 50 families.</li> <li>8. One tree platform for every 50 families</li> <li>9. One religious place of worship for every 500 families.</li> <li>10. Each colony should be linked to main road by roads of appropriate standards.</li> <li>11. Electrification, water supply, sanitary arrangements etc.</li> </ol>	<ol style="list-style-type: none"> <li>1. Drinking water well/tube-well with trough.</li> <li>2. Link and approach road and drains.</li> <li>3. Electricity</li> <li>4. Dispensary</li> <li>5. Primary School</li> <li>6. Panchayat Bhawan-cum-Community Hall.</li> <li>7. Play ground/Children's Park</li> <li>8. Cattle shed</li> <li>9. Place of Worship</li> <li>10. Threshing ground</li> <li>11. Seed Store</li> <li>12. Tree Platform</li> <li>13. Cremation &amp; burial ground</li> <li>14. Pond, wherever feasible</li> <li>15. Social amenities for each municipal town viz. water supply, sanitary arrangements etc.</li> <li>16. Any other facility such as middle school which was existing in the affected village and its improvement.</li> <li>17. Ear marking of pasture land and its improvement.</li> </ol>	As per NWDT Award.	<ol style="list-style-type: none"> <li>1. One Primary school (3 rooms) for 100 families.</li> <li>2. One Panchayat Ghar for 500 families.</li> <li>3. Samaj Mandir (cultural centre) for 500 families.</li> <li>4. One health dispensary for 500 families.</li> <li>5. One seed store for 500 families.</li> <li>6. One children's park for 500 families.</li> <li>7. One village pond for 500 families.</li> <li>8. Drinking water well with trough for 50 families.</li> <li>9. Approach and internal roads.</li> <li>10. One tree platform for every 50 families.</li> <li>11. Play ground for School (1 Acre for Primary and 2 Acre for secondary).</li> <li>12. Electricity supply</li> <li>13. Open gutters</li> <li>14. Public Latrines.</li> <li>15. Open place for collection of animals.</li> <li>16. Khalwadi (Threshing platform).</li> <li>17. S.T. Stand.</li> <li>18. Grazing Land.</li> <li>19. Open Place for Bazar.</li> <li>20. Cremation/burial ground.</li> </ol>

10.	Other facilities	Nil	<ol style="list-style-type: none"> <li>1. Where the option of interest free loan is not availed, the family would be assisted to the extent of a grant-in-aid of Rs.1000/- per ha. per year for 2 years.</li> <li>2. Age relaxation of 2 Yrs. In Class III posts under the Govt. service.</li> <li>3. All welfare schemes being run at the site of displacement will be implemented at relocation sites also.</li> </ol>	<ol style="list-style-type: none"> <li>1. Special schemes for rehabilitating Dungi Bills in their marriage circles.</li> <li>2. Priority in allotment of tank bed land.</li> <li>3. A non-agriculturist family i.e. Trader, Shopkeeper, Artesian, are given financial assistance upto Rs.5000/- at the new site for resettling at the new location. He is also provided floor area equal to that lost at new site for carrying out the trade. The differential price is treated as ex-gratia.</li> <li>4. All ongoing welfare schemes will be implemented at relocation sites also.</li> </ol>	<p>Relocation would be given priority in public employment subject to meeting minimum qualifications and subject to age relation upto 3 years. Also attempt would be made to absorb as many oustees as possible in project works.</p> <ol style="list-style-type: none"> <li>1. Priority in Class-III &amp; IV posts Reservation in project establishment.</li> <li>2. 50% reservation in ITI.</li> <li>3. 5% reserved for PAPs children in Class-III &amp; IV posts in all Govt./Semi Govt. Organisations and local authority.</li> <li>4. House building advance. <ul style="list-style-type: none"> <li>i) Landholder Rs.8000/-</li> <li>(ii) Landless labourers Rs.4000/-</li> </ul> </li> <li>5. Priority in allotment of tank bed land as per existing state policy.</li> <li>6. All ongoing welfare schemes will be implemented at relocation sites also.</li> </ol>
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## CHAPTER-5

### EDUCATIONAL DEVELOPMENT OF SCHEDULED TRIBES

#### 5.1 Introduction

5.1.1 The evolution of human civilization is the story of stupendous advance of knowledge of art, literature, science and philosophy. In fact, knowledge is the power which propels the machine of civilization and gives man the power to translate his dreams and ambitions into reality, and the only way to acquire knowledge-whether it is knowledge of science or art or literature or any other discipline is the education. Over the time, facilitating and providing education has become one of the most important functions of the State. For the underprivileged sections of the society like the members of Scheduled Castes and Scheduled Tribes who have been subjected to deprivation of their legitimate rights over centuries, education alone is the most important tool of their empowerment. Within the broad spectrum of views on education, from the narrow concept of schooling and skill formation to the broad vision of growth and development of a person in life within the society-mentally and spiritually- education is a continuous learning process through various stages of the development of a person, as an individual or as group adjustment with the society at large, earning and spending of the income and participation in civil affairs.

5.1.2 Education, therefore, provides the most vital input in human resource development. It is the most effective and crucial tool of empowering people- the primary vehicle by which economically and socially marginalized sections of society can be empowered to lift themselves from the existing levels of poverty. Unless these underprivileged sections of society receive the minimum education, they cannot exercise the civil, political, economic and social freedom as enshrined in the Constitution of India. As India, the largest democracy of the world, houses the largest number of the underprivileged, the role of education as a means of their social and economic upliftment cannot be ignored. India's social structure has been such that Scheduled Castes and Scheduled Tribes were always the target of exploitation and subjugation because of illiteracy, poverty, superstition and ignorance. The framers of the Constitution were acutely aware of the need to promote education amongst all and especially amongst weaker sections of the society. As these groups of population constitute about 25% of the total population of the country, the makers of the Constitution suggested special measures for development of these communities. Their concern found expression in the form of special provisions/safeguards in Article 46, 15(4), 29(2), and 350A of the Constitution of India to promote the educational development of weaker sections of the society, particularly the Scheduled Castes and the Scheduled Tribes.

5.1.3 The Directive Principles of the State Policy include universal education to all children of the age of 14 years (Article 45) and special provisions (Article 46) for promotion of educational and economic interests of the weaker sections of the people and, in particular of the Scheduled Castes and the Scheduled Tribes. Article 15(4) provides that the State shall make special provisions for the advancement of the socially and educationally of backward classes of citizens or the Scheduled Castes and Scheduled Tribes. Article 29(2) provides that no citizen shall be denied admission into any educational institution maintained by the State or receiving aid out of the State funds on the grounds of only of religion, race, caste, language or any of them. In Article 350A, the State Governments and the local authorities have been directed to take steps to provide adequate facilities for instruction in the mother tongue at the primary stage of education to children belonging to linguistic minorities groups.

## 5.2 Literacy among Scheduled Tribes

5.2.1 Literacy is one of the most important indicators of the socio-economic and political development of the society. Acute economic deprivations and social disabilities accentuate the problem of illiteracy amongst Scheduled Castes/Scheduled Tribes. However in the case of STs, the main problems arise from lack of communication and accessibility of their habitations, scattered population, lack of adequate institutional infrastructure, dearth of qualified local instructors and the variety of tribal dialects that make the problem of illiteracy more difficult. The ST literacy rate which was 29.6% in 1991 increased to 47.1% in 2001 registering an increase of 17.5%. The male and female literacy rate of ST was 59.71% and 34.76% respectively in 2001. The Scheduled Tribe female literacy rate was lowest in Bihar i.e. 15.54% whereas in Rajasthan it was 4.42% in 1991 which increased to 26.16% in 2001. In the North-Eastern region of the country which has large population of Scheduled Tribes, Mizoram has the second highest literacy rate in the country and on the other hand Arunachal Pradesh has the lowest literacy rate in the North-East region.

5.2.2 There is no doubt that there has been a visible increase in the literacy rates of STs during the last four decades. However, the gap between the literacy rates of Scheduled Tribes and those of the general population still persists. According to 1991 Census, there were only 29.60% literate among STs in comparison to 52.21% of general category. Further, in 2001, there were 47% Scheduled Tribe literates as against the 65.38% of general population. Thus, it seems that there has been a gradual increase in the ST literacy rates. But, it is far below from the literacy rates of other communities. The Table below gives a comparative picture of literacy rates for last four decades between Scheduled Tribe and non-Scheduled Tribe population in the country:-

		<b>Total</b>	<b>Male</b>	<b>Female</b>
1971 Census	General	29.45%	39.45%	18.69%
	ST	11.30%	17.63%	4.85%
	Difference	18.15%	21.82%	14.00%
1981 Census	General	36.23%	46.29%	24.82%
	ST	16.35%	24.52%	8.04%
	Difference	19.88%	22.37%	16.00%
1991 Census	General	52.21%	64.13%	39.29%
	ST	29.60%	40.65%	18.19%
	Difference	22.61%	23.48%	21.01%
2001 Census	General	65.38%	75.85%	54.16%
	ST	46.84%	59.00%	34.42%
	Difference	18.54%	16.85%	19.74%

5.2.3 The female literacy rate among tribals during the period 1991 to 2001 increased from 18.19% to 34.76% which is lower by approximately 20% as compared to literacy rate of the females of the general population. The State-wise literacy rates of Scheduled Tribes on the basis of Census 2001 is at **Annex 5.I**. There is no doubt that there is increase in the female literacy rate during the last decade but it has not reached the desired level and, therefore, there is need to step up the efforts in this direction. Despite various incentives to accelerate the dissemination of education among the tribal children, there is no much improvement in the literacy rates. Some of the special reasons which account for the lower literacy rates among tribal girls and boys and suggestions to increase the same are as follows:-

- (i) The Scheduled Tribes are the vulnerable groups of the society. Barring the tribal communities of Northeastern region, there is a widespread feeling among the tribals

particularly those belonging to PTGs that education makes their boys defiant and insolent and alienates them from the rest of their society and the girls turn modern or go astray. In some cases educated boys cut off their ties with their families and villages after getting education and good employment. Therefore, some of these tribal groups vehemently oppose the spread of education among them. Besides, some of their superstitions and myths also play vital part. Some tribal groups believe that their Gods shall be angry, if they send their children to schools run by 'outsiders'.

- (ii) Another factor responsible for lack of interest shown by the tribals in getting education is related to their very poor economic conditions. Since most of the tribal people are living in abject poverty under subsistence economy, it is not easy for most of them to send their children to schools as it makes them lose them (i.e. children) in their struggle for survival. Almost all the tribes whether food gatherers, hunters, fisherman, shifting-cultivators, or settled agriculturists lack enough food to maintain the family for the whole year. Education is, therefore, luxury to them, which they can hardly afford. Each school going child in a tribal family is an economic unit and contributes to the family income. It may be mentioned that according to present system of education, any economic benefit a tribal child can bring to his family will be only after ten or fifteen years of schooling. The parents, therefore, have neither the patience nor the foresight to wait for such a long period. **The Commission, therefore, recommends that the State Govts. may be advised to launch awareness programmes in the tribal areas, through NGOs and social activists, to inform the tribal parents about the importance of education and the benefits which flows out of it to induce them to send their children to schools.**
- (iii) School teachers play an important role in the growth of education. Most of primary schools run in tribal areas are run by a single teacher. In case he takes leave due to illness or for any other domestic reason, there is no teacher left in the school with the result the education of the children suffers. Moreover, most of the teachers employed for imparting education to the tribal children show little appreciation of tribal ways of life, traditions and value systems etc. **The Commission recommends that one more teacher should be posted in all the single teacher schools in tribal areas.**

5.2.4 The Commission further recommends the following steps to be taken for increasing the level of literacy/education among the tribal boys and girls:-

- (i) The Central Ministries/Departments and State Govts earmark funds under Tribal Sub-Plan for taking up various activities for socio-economic development of Scheduled Tribes including imparting education to them. It has, however, been observed that the major part of the funds relating to educational development of Scheduled Tribes, as also other areas are not utilized or released to the implementing agencies. There is also a tendency on the part of the State Govts. to divert the funds to other areas. **It is, therefore, necessary that the State Govts. are advised to ensure the release of funds to the implementing agencies for activities identified for socio-economic development of Scheduled Tribes including the imparting of education to tribal children and also to avoid diversion of funds meant for education to other areas.**
- (ii) **The State Govts. may be advised to open primary schools in tribal areas with a view to arrest the dropout among ST children and also to open more girls hostels in low female literacy pockets.**

- (iii) **There should be atleast one school of excellence such as Kendriya Vidyalaya or Navodya Vidyalaya or Eklavya Model Residential School etc. in each block of a district.**
- (iv) **The State Govts. may be also advised to appoint teachers from the tribal communities itself having knowledge of local dialect or to create a separate cadre of teachers for tribal areas with some incentives. As there is already shortage of teachers in the schools in tribal areas, the teachers in these schools should be exempted not only from the enumeration duties at the time of Census operations but also from other survey duties.**
- (v) **The Commission has observed that the residential schools and hostels for ST students are not being properly maintained and even the basic minimum facilities like drinking water, sanitation, toilets and bathrooms are not available. The Commission, therefore, recommends that the State Govts. should ensure that these schools and hostels are properly maintained and the requisite facilities are available in proper shape. The Commission further recommends that the quality of the food as also its quantity being served to the children in the residential schools and hostels should be improved.**
- (vi) **The State Govts. may be advised to draw up a time bound programme to improve the level of ST female literacy by opening more and more schools in tribal areas and by providing attractive incentives to the parents of the girls for sending them to the schools, apart from the existing incentives which are being given to the ST children in the form of free textbooks, uniforms, stationery, school bags, cooked food through mid-day-meal Scheme etc.**

5.2.5 Education as a subject figures in the Concurrent List of the Constitution of India and, therefore, the school education is basically the responsibility of the State Govts. The Central Govt., however, supplements the supports the initiatives taken by various State Govts. At the Central level, there are two Ministries which are mainly concerned with formulation and implementation of schemes and programmes in relation to education. These are the Ministry of Human Resource Development (Deptt. of Elementary Education & Literacy, and, Deptt. of Secondary & Higher Education) and the Ministry of Tribal Affairs. Some of the major schemes being implemented by the Deptt. of Elementary Education & Literacy have been briefly touched upon in the paragraphs which follow.

### **5.3 National Policy on Education**

5.3.1 The National Policy on Education enunciated in 1986 lays special emphasis on the removal of disparities and equalization of educational opportunities by attending to the special needs of those who have been deprived so far. This Policy focuses attention on the following points with respect to educational development of Scheduled Tribes:

- (i) Priority in opening primary schools in tribal areas.
- (ii) Need to develop curricula and devise instructional materials in tribal languages at the initial stages with arrangements for switching over to regional languages.
- (iii) Promising ST youth to be encouraged to take up teaching in tribal areas.
- (iv) Ashram schools/Residential Schools on a large scale in tribal areas to be opened.
- (v) Incentive schemes to be formulated for the STs, keeping in the view their special needs and life style and customs.

- (vi) Anganwadis, non-formal and adult education centers to be opened on priority basis in tribal areas.
- (vii) The curriculum at all stages for educational development to be designed to create awareness about the rich cultural identity of the tribal people and also their enormous creative talent.

5.3.2 The National Policy on Education (NPE) 1986, as modified in 1992 emphasizes the following three- pronged objectives:-

- (i) Universal access and enrolment.
- (ii) Universal retention of children up to 14 years of age, and
- (iii) Substantial improvement in the quality of education to enable all children to achieve essential levels of learning.

5.3.3 The National Policy on Education, as modified in 1992, also envisages improvement and expansion of education in all sectors, elimination of disparities in access and laying greater stress on improvement in the quality and relevance of education at all levels, including technical and professional education. It also emphasizes that education must play a positive role in correcting social and regional imbalances, empowering women and in securing a rightful place for the disadvantaged, linguistic groups and minorities. Gross Enrolment Ratio (given in the Table below) which indicates the number of children enrolled in elementary education in the age-group 6-14 years has increased from 32.1 in 1950-51 to 86.06 in the year 2003-2004:-

Year	Primary (I-V)			Upper Primary (VI-VIII)			Elementary (I-VIII)		
	Boys	Girls	Total	Boys	Girls	Total	Boys	Girls	Total
1950-51	60.6	24.8	42.6	20.6	4.6	12.7	46.4	17.7	32.1
2003-04	94.67	87.77	91.37	84.00	66.62	75.76	90.58	81.10	86.06

(Source: Annual Report 2004-05, Ministry of HRD)

## 5.4 National Programme of Nutritional Support to Primary Education

5.4.1 The National Programme of Nutritional Support to Primary Education (NPSPE), popularly known as the **Mid-day Meals (MDM) Scheme** was launched on 15 August, 1995 with the following objectives:-

- (i) To boost universalisation of Primary Education by increasing enrolment, retention and attendance, and
- (ii) To improve nutritional status of students of primary classes

5.4.2 The programme which initially covered children of primary stage (Classes I to V) in government, local bodies and government-aided schools, was expanded in October, 2002 to cover children studying in Education Guarantee Scheme (EGS) and Alternative and Innovative Education (AIE) Centres, also. Central assistance under the above Scheme was provided for the following two items:-

- (i) Free foodgrains @ 100 grams per child per school day where cooked meal was served, and 3 kg. foodgrains per child per month where foodgrains were being distributed.

- (ii) Subsidy for transport of foodgrains from nearest FCI Depot to the Primary School-subject to a maximum of Rs.50 per quintal.

5.4.3 To enable States to implement the MDM programme better, they have been permitted to meet certain other requirements under the programme (besides foodgrains and transport subsidy) from various other Centrally assisted schemes. In addition, the Planning Commission has asked State Govts. to earmark a minimum 15 per cent of additional Central assistance under PMGY from financial year 2004-05 for meeting cooking cost under the Mid-Day Meal Scheme.

5.4.4 Though all States were expected to move rapidly towards provision of cooked meals under the programme, many States were facing difficulty in providing cooked meals to children due to financial constraints. Because of inability of most of the State Govts. and local bodies to provide requisite funds, the cooked Meal Programme could not be universalised even upto 2004. Therefore, it became imperative to revise the scheme. Under the revised Scheme, effective from September, 2004, the Central Government is now providing assistance to the States to meet the cooking cost also @ Re. 1 per child, per school day. The programme is benefiting about 11 crore primary school children in the country. The main objectives of the revised scheme are-

- (i) To boost universalisation of Primary Education (Classes I-V) by improving enrolment, attendance, retention, and learning levels of children, especially those belonging to disadvantaged sections,
- (ii) To improve nutritional status of students of primary stage, and
- (iii) To provide nutritional support to students of primary stage in drought-affected areas during summer vacation also.

5.4.5 The programme aims to provide wholesome cooked/processed food through local bodies/authorities such as Panchayats and Nagar Palikas. Where such arrangements are not available, food grains (wheat/rice) at the rate of 3 kg per student per month are distributed to the targeted children subject to a minimum attendance of 80 percent.

5.4.6 A National-level Steering-cum-Monitoring Committee (NSMC) has been constituted to oversee management and monitoring of the programme at the national level. State Governments have also been advised to constitute similar committees at State, district and block levels to ensure smooth implementation of the programme with good quality.

5.4.7 The guidelines of the Scheme have been modified so as to enable reputed NGOs and other such organizations to participate in the implementation of the programme. In this regard, ISKCON, Bangalore had already initiated a cooked meal programme and is currently serving 1573 children of primary classes studying in 78 primary schools in the rural Bangalore district of Karnataka. Another 8 NGOs are also serving meals to about 40,000 children in the same State. Other States and UTs should also encourage reputed NGOs/Voluntary agencies willing to undertake the work under the Mid-day Meals Scheme on the pattern of Karnataka Government decision.

5.4.8 As in December, 2004 the scheme was under full implementation in 20 States and all 7 Union Territories, and under partial implementation in 8 States namely- Assam, Bihar, Goa, J & K, Punjab, Jharkhand, Uttar Pradesh and West Bengal. These 8 States have also decided to universalise the cooked Meal Programme forthwith.

## 5.5 Shiksha Karmi Project

5.5.1 The Shiksha Karmi Project (SKP) aims at universalisation and qualitative improvement of primary education in remote, arid and socio-economically backward villages of Rajasthan to all the children in the age group of 6-14 years with primary attention to girls. In this Project, 74% of the students are from SCs/STs & OBCs. This Project identifies teacher absenteeism as a major obstacle in achieving the goal of universalisation of elementary education. It was realized that a primary school in a remote village, with a non-resident teacher often tended to become dysfunctional, and both parents and children failed to relate to such an institution, leading to high dropout rates. Under the SKP, regular teachers are replaced by local teachers who are less qualified but especially trained. To overcome the basic lack of qualifications, Shiksha Karmis (SKs) are given intensive training through induction programme as well as periodic refresher courses. The Government of Rajasthan is implementing the Project through the Rajasthan Shiksha Karmi Board (RSKB) with community participation and assistance from voluntary agencies.

5.5.2 During the first phase of the SKP (1987-1994), an amount of Rs.21.12 crore was spent, which was shared between the Swedish International Development Agency (SIDA) and the Government of Rajasthan on a 90:10 basis. In the second phase of SKP (July 1994-June 1998), a total expenditure of Rs. 72.21 crore was incurred and shared between SIDA and the Govt. of Rajasthan on 50:50 basis. After an in-depth evaluation of the project, the Department for International Development (DFID) of the United Kingdom agreed to share the cost of Phase –III of the Project on a 50:50 basis with the Government of Rajasthan with effect from July, 1999. Phase-III of SKP has already been implemented from July, 1999 to June 2003, as per the terms and conditions of the proposed agreement. An expenditure of Rs.240 crore was incurred on Phase-III. Extension of Phase-III of SKP for a further period of two years, i.e. July 1, 2003 to June 31, 2005 with an outlay of Rs.96.35 crore to be contributed by DFID, UK and GOR on the revised funding norms of 75:25, respectively, has been approved by Government of India.

5.5.3 The SKP has emerged as a unique instrument of human resource development. It has enabled rural youth, with inherent talent and potential to blossom into confident para-professionals with self-respect and dignity. A significant number of children covered by the Shiksha Karmi Schools are from among SCs/STs. The success of Shiksha Karmi Project has brought to it national and international recognition. **The Commission recommends that keeping in view the successful functioning of the Shiksha Karmi Project in Rajasthan, other educationally backward States where the education level among STs is still poor may be advised to start similar Project for benefit of children belonging to Scheduled Tribes.**

5.5.4 As on December 31,2004, SKP was functioning in 32 districts, 150 blocks and 3,650 villages in Rajasthan. There are 3,646 day schools, 71 upper primary schools and 54 Shivamba Shivirs, with an enrolment of 2.76 lakh children.

5.5.5 During 2004-05, the Department of Elementary Education & Literacy released Rs.39.04 crore against DFID share which is over and above the unspent balance of Rs.10.67 crore available with SKP as on April 1, 2004. SKP has reported an expenditure of Rs.20.74 crore (tentative) against DFID share up to December, 2004

## 5.6 Kasturba Gandhi Balika Vidyalaya (KGBV)

5.6.1 The Government of India has launched a new scheme called Kasturba Gandhi Balika Vidyalaya for setting up upto 750 residential schools with boarding facilities at elementary level for girls belonging predominantly to the SC, ST, OBC and Minorities in difficult areas. The schools are proposed to be set up in Educationally Backward Blocks (EBBs) where, as per Census data of 2001, the female literacy is below the national average and gender gap in literacy is more than the national average. This scheme will particularly cover the areas with concentration of tribal population, SC, OBC and Minority population, or areas with the large number of small and scattered habitations that do not otherwise qualify for an elementary school. In view of the targeted nature of the scheme, minimum 75 per cent of the enrolment shall be reserved for girls from SC, ST, OBC or minority communities and for the remaining 25 per cent, priority would be accorded to girls from families below poverty line.

5.6.2 The pattern of financing is 75:25 ratio of sharing between the Centre and the States during the Tenth Five-Year Plan. The scheme is being implemented in the States of Andhra Pradesh, Arunachal Pradesh, Bihar, Jharkhand, Gujarat, Haryana, Himachal Pradesh, Karnataka, Jammu and Kashmir, Madhya Pradesh, Chattisgarh, Maharashtra, Manipur, Meghalaya, Orissa, Punjab, Rajasthan, Tamil Nadu, Tripura, Uttar Pradesh, Uttaranchal and West Bengal. A provision of Rs.489 crore has been made for the Tenth Plan and Annual Plan allocation for the year 2004-05 was Rs.100 crore. Nearly 715 KGBVs have been approved by Department of Elementary Education and Literacy involving an amount of Rs.167.50 crore for the year 2004-05.

## 5.7 Sarva Shiksha Abhiyan

5.7.1 The Scheme of Sarva Shiksha Abhiyan (SSA), evolved from the recommendations of the Educational Ministers' Conference held in October, 1998 to pursue universal elementary education in a mission mode was launched by the Government of India in 2001. The Scheme is a historic stride towards achieving the long cherished goal of Universalisation of Elementary Education (UEE) while bridging social, regional and gender gaps in the society. The programme emphasizes upon the education of the girl child particularly.

- (i) Focus on girls, especially belonging to SC/ST communities and minority groups.
- (ii) Free textbooks for girls.
- (iii) Special coaching/remedial classes for girls and a congenial learning environment.
- (iv) Teachers' sensitization programmes to promote equitable learning opportunities.
- (v) Special focus for innovative projects related to girls' education.
- (vi) Recruitment of 50% female teachers.

5.7.2 The assistance under the programme of Sarva Shiksha Abhiyan was on a 85:15 sharing arrangement between the Central Government and the State Government during the Ninth Plan, at 75:25 during the Tenth Plan, and at 50:50 thereafter. The goals of this Scheme were/are:-

- (i) All 6-14 age children in school/EGS centre/bridge course by 2003;
- (ii) All 6-14 age children complete five year primary education by 2007;
- (iii) All 6-14 age children complete eight years of schooling by 2010;

- (iv) Focus on elementary education of satisfactory quality with emphasis on education for life;
- (v) Bridge all gender and social category gaps at primary stage by 2007 and at elementary education level by 2010;
- (vi) Universal retention by 2010.

5.7.3 The programme covers the entire country, except the Goa. During 2004-05, Annual Work Plans of 598 districts were approved under the scheme. The programme seeks to open new schools in habitations which do not have schooling facilities and strengthen the existing school infrastructure through provision of additional classrooms, toilets, drinking water, maintenance grant and school improvement. Existing schools with inadequate teacher strength are provided additional teachers under the programme and the capacity of the existing teachers will be built up by extensive training, provision of grant for developing teaching-learning material and development of academic support structure. The programme also seeks to provide computer-aided education even in rural areas. The approach is community-owned and the village education plans prepared in consultation with Panchayati Raj Institutions from the basis of district elementary education plans. The Sarva Shiksha Abhiyan covers the entire country, with a special focus on educational needs of girls, Scheduled Castes and Scheduled Tribes and other children in difficult circumstances.

5.7.4 The implementation of SSA in the first two years of the Tenth Plan has been a significant development in the field of education. There has been a particular emphasis in these two years to ensure inclusion of all out-of-school children in the field of education. The focus has been on improving the existing infrastructure of regular schools as well as on alternate strategies for mainstreaming children who have been left out of the schooling process due to various reasons. As a result of all these interventions, the estimated number of out-of-school children has come down from 2.3 crore in the beginning of 2003-04 to 81 lakh as on September 30, 2004, (as per estimates of the States/UTs).

5.7.5 More than 3 lakh additional teachers have been recruited across the country under SSA to ensure appropriate pupil-teacher ratios. A majority of primary school teachers in the country are receiving an annual round of in service training of 10-20 days duration. More than 60,000 academic resource centres have been established at the block and cluster levels to provide academic support to primary and upper primary teachers and schools as a follow-up to the teacher training programmes.

5.7.6 The Commission has observed that the National Policy on Education 1986, as amended in 1992, inter alia, provides for opening of a primary school within 1 k.m. walking distance from the SC/ST habitations up to 200 population. No norms have been fixed for opening of middle and higher secondary schools. **The Commission recommends that there should be at least one middle school in tribal areas within a radius of three kilometers and at least one higher secondary school within a radius of five kilometers in tribal areas.**

5.7.7 The objective of SSA is to make all the children educated throughout the country. However, the existing two tier system of education in the country through CBSE and through State Boards of Education is not aimed at giving them uniform quality of education. Each State Board has its own syllabus, books, course contents educational infrastructure and standard of examination. Most of the ST students do not have access to schools affiliated to CBSE. Students pursuing CBSE pattern are in advantage for taking admissions in institutes of higher studies and for joining organized services. **Therefore, the Commission is of the view that educational pattern and pattern of examination should**

**be same throughout the country so that ST students who generally join Govt. schools in the local areas are not put to disadvantage and are able to compete for admissions in institutes for higher studies.**

**5.8** Some of the other Special provisions for SCs & STs have been incorporated in the existing schemes of the Department of Elementary Education and Literacy in pursuance of the National Policy of Education 1986 as revised in 1992, inter alia, include the following:-

- (i) **Relaxed norms for opening primary/middle schools:-** A primary school to be set up within 1 km. walking distance from habitations of population upto 200 instead of habitations having the population of 300.
- (ii) **Abolition of tuition fees** in Govt. schools in all the States at least upto the upper primary level i.e. upto VIII Class. In fact, most of the States have abolished tuition fees for SCs/STs students upto the senior secondary level.
- (iii) **Incentives like free textbooks, uniforms, stationery, schools bags etc.** for these students.
- (iv) **District Primary Education Programme (DPEP):** The thrust of the scheme is on disadvantaged groups like girls, SCs/STs, working children, urban deprived children, disabled children, etc. There are specific strategies for girls and SCs/STs; however, physical targets are fixed, in an integrated manner, including coverage of these groups as well. According to a study conducted by the National Institute of Education Planning & Administration (NIEPA), 74,811 schools in DPEP districts had more than 60 per cent students belonging to SC/ST communities.
- (v) **Mahila Samakhya (MS):** It addresses traditional gender imbalances in educational access and achievement. This involves enabling women (especially from socially and economically disadvantaged and marginalized groups) to address and deal with problems of isolation and lack of self-confidence, oppressive social customs and struggle for survival, all of which inhibit their empowerment.
- (vi) **National Programme for Education of Girls at Elementary Level (NPEGEL):** The NPEGEL under the existing scheme of Sarva Shiksha Abhiyan (SSA) provides additional components for education of girls belonging to under-privileged/disadvantaged groups at the elementary level. The Scheme is being implemented in Educationally Backward Blocks (EBBs) where the level of rural female literacy is less than the national average and the gender gap is above the national average, as well as in blocks of districts that have at least 5 per cent SC/ST population and where SC/ST female literacy is below 10 per cent based on 1991 census.
- (vii) **Jan Shiksha Sansthan (JSS):** This aims at educational, vocational and occupational development of the socio-economically backward and educationally disadvantaged groups of urban/rural population particularly neo-literates, semi-literates. SCs/STs, women and girls, slum dwellers, migrant workers etc.
- (viii) **Central Institute of Indian Languages (CIIL):** The Central Institute of Indian Languages, Mysore, has a scheme for the development of Indian languages through

research, developing manpower and production of materials in modern Indian languages, including tribal languages.

- (ix) **Kendriya Vidyalayas (KVs):** Here, 15 per cent and 7.5 per cent seats are reserved for SCs and STs, respectively, in fresh admissions. No tuition fee is charged from Scheduled Castes and Scheduled Tribe students up to class XII.
- (x) **Navodaya Vidyalayas(NVs):** Reservation of seats in favour of children belonging to SCs and STs is provided in proportion to their population in the concerned district, provided that no such reservation will be less than the national average of 22.5 per cent (15 per cent for SCs and 7.50 per cent for STs) and a maximum of 50 per cent for both the categories (SCs and STs) taken together. These reservations are interchangeable and over and above the students selected under open merit.
- (xi) **National Institute of Open Schooling (NIOS):** The SC/ST students are given concession in admission fees to the extent of Rs.200/- for bridge courses, Rs.250/- for secondary courses and Rs.300/- for senior secondary courses.
- (xii) **Under the Scheme of Strengthening of Boarding and Hostel Facilities for Girls students of Secondary and Higher Secondary Schools** cent per cent financial assistance is given to Voluntary Organizations to improve enrolment of adolescent girls belonging to rural areas and weaker sections. Preference is given to educationally backward districts particularly those pre-dominantly inhabited by SCs/STs and educationally backward minorities.
- (xiii) **Scholarship for talented SC/ST students:** Out of 43,000 scholarships at the secondary stage for talented children from rural areas, 13,000 scholarships are awarded to SC/ST students subject to fulfillment of criteria laid down.
- (xiv) **National Talent Search Scheme:** This scheme is being operated by NCERT for pursuing courses in science and social science up to doctoral level and in professional courses like medicine and engineering up to second-degree level subject to fulfillment of the conditions. Out of 1,000 scholarships, 150 scholarships are reserved for SC students and 75 for ST students.
- (xv) **National Institute of Educational Planning and Administration (NIEPA):-** Educational development of Scheduled Castes and Scheduled Tribes is an area of major concern of NIEPA. It carries out a number of studies relating to educational programmes and schemes for Scheduled Castes and Scheduled Tribes. It has also been generating material relating to educational institutions and development of Scheduled Caste and Scheduled Tribe students.
- (xvi) **Schemes being operated by University Grants Commission for benefit of SCs/STs:-**
  - (a) UGC provides financial assistance to universities/deemed universities for the establishment of SC/ST cells in universities to ensure effective implementation of reservation policy for SCs and STs. The UGC has established SC/ST Cells in 113 universities, including Central universities to ensure proper implementation of the reservation policy. The Standing Committee on SCs/STs monitors and reviews the work undertaken by the universities/colleges.

- (b) As per the reservation policy, UGC has earmarked 15% and 7.5% reservation for SCs and STs, respectively, in appointments, both in teaching and non-teaching posts, admissions, hostel accommodation, etc., in universities/colleges, professional and technical educational institutions administered by the Central Government. State universities follow the reservation policy as prescribed by respective State Governments. UGC has been issuing guidelines/directives/instructions from time to time for implementing reservation policy of the Government of India.
  - (c) Apart from reservation, there is also relaxation in the minimum qualifying marks for admission for SC/ST candidates.
  - (d) UGC provides financial assistance for Remedial Coaching to SC/ST students. It provides financial assistance to the existing coaching centres to prepare SC/ST candidates for the National Eligibility Test (NET) conducted by UGC/CSIR.
  - (e) UGC has created a Central Pool Database of eligible SC/ST candidates and recommends their candidature for teaching positions in order to fulfill the prescribed reservation quota in universities and colleges.
  - (f) UGC has reduced minimum percentage of marks required for appearing in the NET examination to 50 per cent at master's level for ST students.
- (xvii) **Engineering Colleges:** The higher educational institutions administered by the Central Government, including IITs, IIMs, Regional Engineering Colleges, Navodaya Vidyalayas (NVs), Kendriya Vidyalayas (KVs) etc., provide reservation to the extent of 15% and 7.5% for SCs and STs students respectively. Apart from reservation, there is also relaxation in the minimum qualifying marks for admission for SC/ST students. Seats are also reserved in hostels. However, in institutions run by the State Governments, the reservation percentages varies as per the State Government's policy.
- (xviii) **IITs** have a scheme under which ST students, who fail to qualify in the entrance examination, are admitted to the preparatory courses run by IITs and those, who qualify at the end of the preparatory courses, are offered admission.

## 5.9 Growth of Enrolment

5.9.1 The enrolment rates of ST girl and boy students have showed a progressive trend along with the rest of the population. The study on enrolment conducted by the Ministry of Human Resource Development has showed that the better pace of progress maintained by STs is at primary level i.e. cent-percent, and, at Middle and Higher levels, the percentage of enrolment rates has declined. A Statement showing the Gross Enrolment Ratio on the basis of age groups (6-11), (11-14) and (6-14) in respect of ST students for the year 2003-04 is as given in the **Annex. 5.II. Gross Enrolment Ratio** is defined as the percentage of the enrolment in Classes I-V and V-VIII and/or I-VIII to the estimated child population in the age group of 6 to below 11 years and 11 to below 14 years and/or 6 to 14 years respectively.

5.9.2 It was brought to the notice of the Commission that adequate number of ST candidates were not available in the University of Delhi for B Pharma/ D Pharma and other courses for Delhi category and as a result, ST seats meant for Delhi candidates remained vacant and these seats were not offered to ST candidates from non-Delhi category students.

This resulted in a large number of ST candidates from non-Delhi category being denied admission. The matter was taken up with the Registrar of University of Delhi requesting him to issue instructions to the effect that seats meant for ST candidates should be inter -hanged between Delhi and non-Delhi category candidates, when sufficient number of ST candidates in Delhi category were not available with a view to fill the full quota of reservation meant for them. The University of Delhi replied that the matter was considered by the competent authorities and after in depth consideration it was decided that admission in B Pharma and D Pharma courses should be made as per the policy of admission of the University of Delhi and Delhi Government. It was also mentioned that the University of Delhi had only one college of Pharmacy which belong to the Govt. of NCT of Delhi and as per Delhi Government Policy, 85% of the seats reserved for the students of Delhi and 15% for outside Delhi region students and that in case no ST student was available, the vacant seat reserved for ST was filled from SC students as per the guidelines approved by the University of Delhi. This position was also brought to the notice of Department of Personnel & Training who advised this Commission to take up the matter with the Ministry of Human Resource Development and accordingly the Commission wrote to the Ministry of Human Resource Development on 25 August 2005. It has also brought to the notice of the Commission that a number of seats meant for Scheduled Tribes in MBBS courses are not filled as the ST candidates do not obtain the minimum qualifying percentage of marks in the screening tests, which is 40%. **The Commission recommends that the Ministry of Human Resource Development should advise the Govt. NCT of Delhi and Delhi University to modify their existing policy/ instructions to provide for:**

- (i) **To fill up the vacant seats in B Pharma/ D Pharma courses or other course reserved for ST candidates for the Delhi region from amongst the ST candidates belonging to non-Delhi region in the event of sufficient number of ST candidates in Delhi region being not available.**
- (ii) **The existing arrangement of filling the vacant seat reserved for ST candidates from SC candidates from Delhi region should be stopped forthwith.**

## 5.10 Drop-out rates at Primary, Elementary and Secondary Stages

5.10.1 The problem of dropouts happens to be a common feature amongst STs. A comparative review of dropouts as indicated in the Table below, show that there is a wide gap between STs and other communities.

	(Class 1-V)			Class 1-VIII			Class 1-X		
Category	1980-81	1989-90	2003-04	1980-81	1989-90	2003-04	1980-81	1989-90	2003-04
General	58.70	48.08	31.47	72.70	63.40	52.32	82.46	71.34	62.69
ST	75.66	63.81	48.93	86.71	80.10	70.05	91.18	86.00	79.25

Source: Selected Educational Statistics, 2003-04, M/o HRD

5.10.2 From the above Table, it is clear that the dropouts among STs are higher at all levels in comparison to other communities. To arrest this trend, a number of educational programmes have been launched by the State Govts. Although education is in the concurrent list of the Constitution and school education is basically the responsibility of State Govts, a number of initiatives has been taken by the Central Govt. to boost up the education development of Scheduled Tribes. In this regard, various programmes like Sarva-Shiksha Abhiyan (SSA) and its components – District Primary Education Programme (DPEP), National Programme of Nutritional Support to Primary Education (NPNSPE), which have been briefly referred to in the preceding paragraphs, are some of the Centrally Sponsored Schemes for supporting the initiatives taken by the State Govts to provide education to children in the age group of 6-14 years besides mainstreaming out-of-school children and

dropouts. These schemes have several interventions to tackle the persistent problem of low literacy and higher dropout ratio of all children belonging to the Scheduled Tribe communities. A number of steps have been taken by the Central Govt. to strengthen the educational base of the Scheduled Tribes. To increase literacy, the Government has taken a number of measures such as opening of schools/educational institutions near the areas predominantly inhabited by the tribals, reservation of seats for STs in educational institutions, relaxation of standards for admission to institutions of higher learning, incentives like free-education, scholarship, Mid-day meals, free uniforms, books and stationery, conducting coaching classes for competitive examinations and admission in technical courses, provision of hostels etc. These steps have contributed a great deal in raising the educational level of Scheduled Tribes. However, the ST communities still have a long way to go before they can come up to the level of the other communities in the field of education. The State-wise drop out rates of ST students in Classes I-V, I-VIII and I-IX for the year 2003-2004 is given in the following Table:-

States/UTs	Classes 1-V			Classes I-VIII			Classes I-IX		
	Boys	Girls	Total	Boys	Girls	Total	Boys	Girls	Total
1	2	3	4	5	6	7	8	9	10
Andhra Pradesh	63.29	68.47	65.76	76.80	82.49	79.33	82.81	87.57	84.83
Arunachal Pradesh	48.58	48.37	48.48	68.07	68.12	68.09	75.88	77.70	76.69
Assam	61.30	53.20	57.80	71.80	75.26	73.25	77.92	75.63	76.94
Bihar	62.28	59.51	61.22	81.71	84.39	82.84	88.14	90.41	89.05
Chhattisgarh*	-	-	-	-	-	-	-	-	-
Goa	-	-	-	-	-	-	-	-	-
Gujarat	36.18	43.10	39.35	66.45	68.66	67.41	80.21	82.93	81.45
Haryana	-	-	-	-	-	-	-	-	-
Himachal Pradesh	10.87	10.79	10.83	14.07	26.69	20.29	44.65	48.31	46.41
Jammu & Kashmir	43.48	39.16	41.76	41.77	50.35	45.45	73.07	77.65	75.03
Jharkhand*	-	-	-	-	-	-	-	-	-
Karnataka	4.88	4.96	4.92	53.81	56.80	55.19	59.62	63.92	61.61
Kerala	6.13	9.46	7.75	33.49	37.54	35.45	56.86	49.71	53.43
Madhya Pradesh	35.26	38.91	36.89	56.80	61.61	58.80	71.23	79.28	74.51
Maharashtra	34.42	42.82	38.38	59.12	65.14	61.91	70.51	82.44	76.18
Manipur	38.77	54.99	46.96	62.11	60.91	61.56	78.98	78.98	78.98
Meghalaya	56.76	54.43	55.60	76.32	76.21	76.27	87.22	86.12	86.76
Mizoram	55.57	54.82	55.21	64.58	62.59	63.64	71.90	66.98	69.55
Nagaland	35.36	34.49	34.95	60.88	57.58	59.34	66.81	67.90	67.33
Orissa	59.58	63.19	61.20	76.49	76.56	76.52	83.30	84.01	83.58
Punjab	-	-	-	-	-	-	-	-	-
Rajasthan	52.19	38.31	47.80	70.42	79.63	74.00	78.77	87.04	81.53
Sikkim	25.25	-1.13	12.60	58.18	40.44	49.74	76.94	71.79	74.52
Tamil Nadu	16.82	12.00	15.37	48.76	3.54	32.73	66.68	55.08	61.49
Tripura	58.06	61.25	59.56	79.75	82.04	80.82	85.71	87.38	86.47
Uttar Pradesh	25.68	19.40	23.11	34.03	31.75	33.07	46.01	60.69	52.11
Uttaranchal*	-	-	-	-	-	-	-	-	-
West Bengal	67.76	51.55	62.41	84.89	78.68	83.05	80.72	71.60	78.80
A&N.Islands	0.58	5.47	2.97	24.16	28.02	26.03	60.10	41.60	51.52
Chandigarh	-	-	-	-	-	-	-	-	-
D&N. Haveli	28.17	45.01	35.99	43.54	65.37	53.42	76.77	82.78	79.45
Daman & Diu	-3.88	3.48	-0.41	26.01	38.65	31.81	76.41	77.06	76.69
Delhi	78.66	82.72	80.62	79.62	81.42	80.49	77.81	79.81	78.83
Lakshadweep	0.00	1.10	3.03	-10.66	8.12	-1.38	48.04	37.55	42.98
Pondicherry	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
<b>India</b>	<b>49.13</b>	<b>48.67</b>	<b>48.93</b>	<b>69.04</b>	<b>71.43</b>	<b>70.05</b>	<b>77.92</b>	<b>81.16</b>	<b>79.25</b>

Source: Selected Educational Statistics 2003-2004, Ministry of HRD, Deptt. of Secondary and Higher Education

\*Dropout rates are shown combined with the respective parents State.

5.10.3 The data given in the above Table read with similar data in respect of Scheduled Castes as given in **Annex. 5.III** and the all-India dropout rates as given in **Annex.5.IV** reveals that the drop out rate among the SCs and the STs during the year 2003-2004 was 36.56% and 48.93% respectively at the primary stage of education against the all-India drop out rate of 31.47%. The drop out rate for SCs and the STs at the middle stage of education during the same period was 59.42% and 70.05% respectively against the all-India drop out rate of 52.32%. The drop out rate among SCs/STs in Classes I to X, was still higher compared to the all-India dropout rate i.e. it was 73.13% in case of SCs and 79.25% in case of STs against the all-India dropout rate of 62.69% during the same period. The drop out rates in respect of ST students in States like Andhra Pradesh, Arunachal Pradesh, Assam, Bihar, Gujarat, Orissa, Rajasthan, Tripura, West Bengal, Manipur and Meghalaya at all levels of school education was higher than the national drop out rate. It has been further found that the drop out rates of STs have decreased from 62.5% in 1991 to 48.9% in the year 2003-2004 in Primary classes. The rate of drop out which was 78.6% in 1990-1991 has come down to 70.05% in the upper primary classes. Similarly the drop out rates which was 85.0% in 1990-1991 in the secondary classes decreased to 79.25% in 2003-2004.

5.10.4 The data given above reveals that the all-India drop out rates in Classes I-V, I-VIII and I-X is 31.47%, 52.32% and 62.69% respectively against which the drop out rates among the ST children respectively is 48.93%, 70.05% and 79.25%. The gap between the all-India drop out rates and the drop out rates among the ST children is still very wide and, therefore, the developmental efforts of the Government need to be further strengthened and intensified to bridge this gap. **The Commission recommends the following measures to be taken to arrest the drop out rates among the ST children at various stages of school education as also the higher education:-**

- (i) The conditions of the ST hostels in various States have not been found to be satisfactory. It has been noticed that even the basic facilities like drinking water, sanitation, light, cooking gas etc. are not available in adequate quantities. **It is, therefore, necessary that the Ministry of Tribal Affairs should advise the State Govts. to take up corrective steps to provide the basic facilities in the ST hostels to ensure retention of students at the Middle and Higher Secondary levels of school education.**
- (ii) It has been observed that a considerable number of hostels are functioning in the rented buildings, which do not have basic facilities. The Commission has also noticed during the field visits in tribal areas that the seat capacity of hostels for ST girls as also of boys is much less than the demand. **The Commission, therefore, is of the opinion that the Ministry of Tribal Affairs should advise the State Govts. to frame a time- bound programme to construct more hostel buildings with all the requisite facilities of light, water, electricity, kitchen, library etc. under the Centrally Sponsored Scheme for Construction of Hostels for ST Girls and Boys to attract students belonging to ST communities and to ensure their retention in the schools.**
- (iii) **There is need to make the learning a joyous experience and in order to do this, it is essential to take help of the Distance Education System through visual media i.e. T.V. films etc. specially in the schools in rural far flung tribal areas.**
- (iv) The basic reason behind the drop out of ST students can be attributed to the poor economic condition of the family and this situation compels the tribals to utilize their children as an economic unit to bring some income to the family. **It is also necessary**

**that some economic incentives are given to such parents of the children whose income is below the poverty line with a view to wean them away from the compulsion of using their children as economic units instead of sending them to schools.**

- (v) There can be no doubt that mothers play a great role in shaping and moulding the thought processes and thereby the future of their children. Unaware of the importance of education in the modern age, the mothers of the tribal children living in forests or far flung areas shy away from sending their children to schools. **It is, therefore, necessary that the parents, particularly the mothers are made aware of the importance of education in making their children self-dependent and also effectively contributing to the income of the family. This can be easily achieved by launching awareness programmes in tribal areas through NGOs etc.**
- (vi) A considerable number of vacancies of Teachers lie vacant particularly in the remote and rural areas where the population of STs is sizeable. This adversely affects the enrolment and thereby promotes drop out among the ST children. **The Ministry of Tribal Affairs should advise all the concerned State Govts./UT Administrations to fill up the vacancies of teachers by evolving schemes of giving various incentives such as decent accommodation, medical facilities etc. to teachers and also by ensuring that the posts of teachers in schools in tribal areas are filled, as far as possible, by appointing teachers from amongst local tribal candidates.**
- (vii) In most of the cases one of the reasons for dropouts is the repeated failure of tribal children in a class. **This can be cured by identifying weak and below average tribal students and making arrangements for providing them extra coaching at no cost to them either on the holidays or at night. The Ministry of Tribal Affairs may be advised to write to concerned State Govts. to make the necessary arrangements in this regard by providing some cash incentives to the teachers.**
- (viii) One of the major constraints in the dissemination of education among STs is that their parents resort to seasonal migration to other places in search of livelihood during the period from April to middle of June and this is the period for the examination of the children. When the parents move out of their habitations to other places, they have to take their studying children along with them as they can't leave them back. This necessitates the dropout of the children. This seasonal migration problem is particularly prevalent of the States of Orissa, Madhya Pradesh, Rajasthan, Andhra Pradesh and Chhattisgarh which have sizeable number of ST population (all these States being the Scheduled Area States). **The Commission recommends that the respective State Govts. may be advised to formulate suitable schemes for board and lodging of the studying children of those ST families who decide to temporarily migrate to other places in search of their livelihood and who agree to leave their children back to enable them to continue their studies and complete their examinations. Alternatively, these State Govts. may be advised to make special arrangements for conducting special examinations of the ST children when they return to their original habitations from the places of their temporary migration. This will help the successful ST children to be promoted to the next higher classes.**
- (ix) The dropout among the tribal boys is particularly high at middle and secondary level of education. The enrolment and retention of ST girls upto secondary level is very essential for uplifting the economic status of tribal families, but due to poverty parents

are reluctant to send their children, particularly girls, to schools. The following measures are suggested to increase enrolment and retention of ST boys and girls in schools:

- (a) Financial assistance should be provided right at the time of the admission itself towards admission fees, books, copies and stationery material, school dress and washing expenses/ material for the dress. For this purpose, State Govts. should make necessary arrangements much before the start of academic session.
- (b) Pre-matric stipend should be disbursed regularly, keeping in view the daily requirement of the students- day scholars or hostellers, as the case may be, so that the children feel encouraged to attend school on regular basis.
- (c) Additional incentives in the form of cash award should also be granted to each student having more than 75% attendance plus the work done in the school note books. Besides, those students who secure 60% or above marks in the examinations should also be given cash awards.
- (d) Scheme of Mid -day meals should be extended up to matric level for at least ST girls student. This will provide huge relief to the family of the ST girl students.
- (e) Special coaching in English, Math, Physics, Chemistry, Commerce and Economics should also be imparted to students in XI and XII classes. This will help them in taking admission in the colleges of general as well as professional courses.

5.11 Apart from the Ministry of Human Resource Development (The Department of Elementary Education and Literacy), the Ministry of Tribal Affairs being the nodal Ministry of socio-economic and educational development of Scheduled Tribes runs several schemes/programmes for educational development of Scheduled Tribes which may be categorized into two sections namely- (i) Centrally Sponsored Schemes under which matching (50:50) assistance is given to States, and (ii) Central Sector Schemes under which 100% grants are provided to States and UTs.

### **5.11.1 Centrally Sponsored Schemes**

#### **(i) Post Matric Scholarships Scheme (PMS)**

5.11.1.1 The Post Matric Scholarships Scheme (PMS), which has been in operation since 1944-45, is one of the most important schemes for the educational development of Scheduled Tribe students to pursue higher studies. Under the scheme, financial assistance is provided to ST students studying in Post-Matriculation levels to enable them to complete their education. The scheme covers professional, technical as well as non-professional and the non-technical courses at various levels as also the correspondence courses including distance education. The value of the existing scholarships includes maintenance allowances, reader charges for visually handicapped students, escort and transport allowance for physically handicapped students, study tour charges, thesis typing/printing, book allowance to students pursuing correspondence courses and compulsory non-refundable fees charged by the educational institutions.

5.11.1.2 On the persistent demand and request of the general public and their representatives, findings of the evaluation studies and on the recommendation of working groups constituted for empowering the SCs/STs during the 10<sup>th</sup> Five Year Plan, the rates of

maintenance allowance, other allowance and income ceiling have been revised upwardly from 50% to 100% and are applicable from 1.4.2003. As per the revised scheme, maintenance allowance for hostel residents is between Rs.235/- p.m. to 740/- per month and for day scholars from Rs.140/- p.m. to Rs.330/- p.m., depending upon the level of courses. The prescribed annual income ceiling under the scheme is upto Rs.1.00 lakh, which has been linked with the consumer price index number (CCPI) for industrial workers for October, 2002. The Commission would like to state that the above ceiling and the amount of scholars for various categories of courses were fixed more than three years ago. There has been steady erosion of the purchasing powers of the people on account of inflationary pressure and, therefore, there is a genuine need to raise the income ceiling as well as the quantum of scholarships under this scheme to make them conform to the current situations. **The Commission recommends that:**

- (i) **The income ceiling in respect of the parents of the students for the purpose of grant of the Post-Matric Scholarship may be raised from Rs.1 lakh to 2.5 lakh per annum and the amount of scholarship may be upgraded from Rs.235 to Rs.500 and from Rs.740 to Rs.1000 in respect of students residing in hostels and from Rs.140 to Rs.500 and from Rs.330 to Rs.750 in respect of day scholars.**
- (ii) **The tribal students who are day scholars but who reside in rented accommodation should be treated on par with hostellers and the amount of scholarship in their case also should be equal to that of hostellers.**

5.11.1.3 The Commission has observed that the State Govts. have also schemes for providing scholarships to tribal students at pre-matric levels and that some of the State Govts. (such as the State Govt. of Uttranchal) have kept an income ceiling of Rs. 2,500/- per month in respect of the parents of the tribal children studying in Class IX and X. **The Commission recommends that the Ministry of Tribal Affairs should advise all the State Govts./ UT Administrations which are operating such schemes to abolish the income ceiling in respect of the parents of all the tribal children studying in Classes from I to X.**

5.11.1.4 The scholarship is available for the full duration of the course and is paid on an annual basis and is subject to the satisfactory performance of the student and his/her would conduct.

5.11.1.5 Under the scheme, the State Govts. and UT Administrations receive 100% assistance from the Ministry of Tribal Affairs over and above, the committed liability of the respective State Govts./UT Administrations, which is required to be borne by them from their own budgetary provisions. The committed liability is equal to the actual expenditure incurred in the last year of the preceding Five Year Plan. Accordingly, the expenditure incurred in the last year of the 9<sup>th</sup> Five Year Plan i.e. 2001-2002 has become the committed liability of the States/UTs, which is required to be borne by them during each year of the 10<sup>th</sup> Five Year Plan period. The North-eastern States have, however, been exempted from making their own budgetary provisions towards committed liability from 1997-98 and the entire expenditure under the scheme in respect of them is borne by the Government of India (Ministry of Tribal Affairs).

5.11.1.6 In the 10<sup>th</sup> Five Year Plan, the scheme has been merged with the schemes of Book Banks and Upgradation of Merit and the allocation for the combined scheme have been fixed at Rs.383.09 crore. For the year 2005-06, allocation for the Post Matric Scholarship was Rs. 229.65 crore at BE stage and Rs.210.15 crore at RE stage. Rs.181.83 crore has been released to the States from whom complete proposals were received. The State-wise

coverage of the beneficiaries and the amount of central assistance released during the years 2002-2003 to 2005-2006 is given at **Annex.5.V**.

**5.11.1.7 The Commission has observed that most of the tribal parents are not aware of this Scheme and therefore, there is a need to give wide publicity about this Scheme in the tribal areas of the country to ensure that more and more ST students will come forward to pursue higher and technical courses. Ministry of Tribal Affairs may also advise all the States which have sizeable number of tribals that each Tribal Welfare Deptt. of these States should develop their own website to disseminate information about various schemes including the Post-Matric Scholarship Scheme. These websites should also provide link with the website of the Ministry of Tribal Affairs.**

**5.11.1.8 It has been brought to the notice of the Commission that the disbursement of Post-Matric Scholarship is delayed due to non release of funds both from the Govt. of India (i.e. over and above the committed liability of the State Govts.) and the State Govts. The Commission, therefore, recommends that the Ministry of Tribal Affairs should ensure the timely release of the funds to the State Govts. over and above their committed liability. The Ministry should also issue instruction to the State Govts. that requisite funds to the district authorities up to the committed liability is released in time to ensure timely disbursement of these scholarships to the ST students. The State Govts. may be also advised to explore the possibilities of disbursing the scholarship money to the students through their Bank Accounts.**

**5.11.1.9 The Commission further recommends that on the lines of the Scheme for providing free coaching facilities to ST students to enable them to compete in various civil service examinations, the Ministry of Tribal Affairs should also consider providing financial assistance to ST students for providing pre-admission coaching in various disciplines relating to Management and Technical courses. On similar lines, the State Govts. may be advised to provide pre-admission coaching to tribal students for taking admission in various professional courses.**

**(ii) Book Banks Scheme**

**5.11.1.10 Many tribal students selected in professional courses find it difficult to continue their education for want of books on their subjects, as they are often expensive. With a view to reduce the dropout ratio from such professional institutes/universities, this Scheme is being implemented for providing assistance to bright tribal students who lack the necessary resources. The objective of the Scheme is to provide ST students, pursuing professional courses, access to the latest books and to reduce the dropout ratio of tribal students from such courses.**

**5.11.1.11 The scheme is open to all medical (including Indian Systems of Medicine & Homeopathy) engineering, agriculture, veterinary, polytechnics, law, chartered accountancy, business management, bio-sciences subjects, where students from tribal communities receiving Post-Matric Scholarships are studying. Its salient features include the following:-**

- (i) The purchase of books for the “Book-Banks” is restricted to the prescribed textbooks only.**
- (ii) One set of books is purchased for two students of all professional courses except in respect of post-graduate courses and chartered accountancy where one set is purchased for each student.**

- (iii) The books making one set in each course is decided by an Expert Committee constituted by the State Government for each course.
- (iv) The life period of each set of books is fixed at 3 years.
- (v) The central assistance to States/UT Administrations for setting up Book Banks is limited to the following ceiling or actual cost of the set, whichever is less:

No.	Courses	Cost of one set (one set for two students)
<b>I.</b>	<b>Degree Courses</b>	
	(i) Medical	Rs.7,500/-
	(ii) Engineering	Rs.7,500/-
	(iii) Veterinary	Rs.5,000/-
	(iv) Agriculture	Rs.4,500/-
	(v) Polytechnics	Rs.2,400/-
<b>II</b>	<b>Post Graduate Courses</b> in Business Management, Law and Bio-Sciences	5000/- (one set per student)

- (vi) The scheme provides Rs.2000/- or the actual cost whichever is less for the purchase of steel almirah, transportation costs etc. The books are provided to the University/College concerned and are issued to the students for the academic year.

5.11.1.12 The expenses under this scheme are shared between the Centre and the State on 50:50 basis. However, in respect of UT Administrations cent per cent grants are given by the Ministry of Tribal Affairs. In the Tenth Five Year Plan, the scheme has been merged with the schemes of Post Matric Scholarships and Upgradation of Merit and the allocation for the combined scheme has been fixed at Rs.383.09 crore.

5.11.1.13 The scheme in its present form permits giving one set of books for two students in all degree level professional courses and one set per student in case of Post-Graduate Courses in Medical, Engineering, Business Management, Law and Bio-Sciences and Chartered Accountancy. The former position inhibits carrying on of independent studies by the students. This handicap needs to be addressed to and removed. **The Commission accordingly recommends that each student in respect of Post-Graduate professional courses also should be provided one set of books as in the case of Degree Courses.**

### (iii) Upgradation of Merit of ST Students

5.11.1.14 This scheme was introduced during the 7<sup>th</sup> Five Year Plan. Its objective is to upgrade the merit of ST students by providing them remedial and special coaching in Classes IX to XII, and also to provide special coaching to prepare students for competitive examinations for entry into professional courses like engineering and medicine. The special features of the scheme include the following:-

- (i) The State Government/UT Administration selects certain schools in different districts/towns with hostel facilities and also showing excellence in performance of students from Class IX to XII examination. The Ministry of Tribal Affairs fixes the total number of awards for each State annually.

- (ii) The coaching starts from Class IX in the identified schools and continues till the awardees complete Class XII.
- (iii) Coaching is provided in linguistic science, mathematics as well as special coaching for competitive examinations for admission to professional courses.
- (iv) While selecting students, the aim is to include at least 30% girl students and 3% disabled students from tribal community.
- (v) A package grant of Rs.15,000/- per student per year is provided which includes the honorarium to be paid to the Principal or experts imparting coaching and to also meet incidental charges.
- (vi) Students with disabilities are provided additional grants.
- (vii) This is a central sector scheme and 100% assistance is provided to the States and UTs for implementation of the scheme.

5.11.1.15 In the 10<sup>th</sup> Five Year Plan, the scheme has been merged with the Schemes of Post Matric Scholarships and Book Banks and the allocation for the combined scheme has been fixed at Rs.383.09 crore. For the year 2005-2006, the entire allocation of Rs. 1.00 crore under the Upgradation of Merit scheme was released to the State Govts./ Administrations and 658 students were benefited from the scheme. The State-wise coverage of beneficiaries and the amount released during the year 2002-2003 to 2005-06 is at **Annex.5.VI**

(iv) **Scheme for Construction of Hostels for ST Girls and Boys**

5.11.1.16 The Scheme for construction of girls Hostels was started during the Third Plan period. A separate Scheme for Construction of Hostels for Scheduled Tribe Boys was launched in 1989-90. Both the schemes were merged into one scheme during 10<sup>th</sup> Five Year Plan. The scheme has proved very useful for spreading education among ST girls and boys. The main objective of the scheme is to promote literacy among tribal students by providing hostel accommodation to such tribal students who are not in a position to continue their education because of their poor economic condition, and remote location of their villages.

5.11.1.17 The Scheme covers the entire population in the country and is not area specific. The cost sharing between the Centre and the States is in the ratio of 50:50. In the case of Union Territories, the central support is 100%. The salient features of the Scheme are:

- (i) The Scheme provides for the extension of existing hostel buildings and construction of new hostels for the middle, secondary, college, university levels of education.
- (ii) The hostel buildings may be constructed at any place within or outside the tribal sub-plan area but is to be provided to tribal students only.
- (iii) State Government provides the land for the building free of cost.
- (iv) The Scheme does not provide recurring expenditure for the running of the hostels.
- (v) The maintenance of the hostels and regulation of its use is done by the State Government.

5.11.1.18 The combined allocation made for both the schemes during Ninth Five Year Plan was Rs. 73.30 Crore. The allocation for the scheme was increased significantly from the Third Plan to the Ninth Plan. The total allocation under the Scheme in the 10<sup>th</sup> Five Year Plan is Rs. 134.24 crore. During 2005-06, Rs. 14.00 crore was allocated out of which Rs.9.92 crore (till 20-2-06) was released for 13 Boys and Girls Hostels for STs to the States of Madhya Pradesh, Karnataka, Arunachal Pradesh, Maharashtra, West Bengal, Manipur and University of Punjab, Chandigarh. The details of grants-in-aid released and hostels sanctioned to various State Governments/UT Administrations and Universities during the last five years are at **Annex – 5.VII.**

5.11.1.19 The Table at Annex.VII indicates the number of hostels alongwith the number of seats during the year 2002-03, 2003-04, 2004-05 and 2005-06. In the Annual Reports of the Ministry of Tribal Affairs, no information is available about the total number of hostels for girls ever since the inception of this Scheme in the Third Plan period (which was later on merged with the Scheme for construction of hostels for ST boys). Similarly, no information is available about the total number of hostels constructed for ST boys since 1989-90 when the Scheme was started. **The Commission recommends that the Ministry of Tribal Affairs in their next Annual Reports should furnish State-wise information about the total number of hostels constructed under the Scheme separately for boys and girls alongwith sanctioned seat capacity of each hostel. The Commission further recommends that the norms for admission into the hostels should be suitably relaxed in case all the seats are not utilized with reference to the normal eligibility requirements.**

5.11.1.20 **The Commission has observed during its field visits in tribal areas that the seats capacity of hostels particularly for ST girls is much less than the requirement and this is one of the major reasons for less enrolment and increased dropout of girl students, finally leading to low female literacy among STs. The Commission, therefore, recommends that there is an urgent need of construction of more hostels for ST girls.**

(v) **Scheme for Establishment of Ashram Schools in TSP Areas.**

5.11.1.21 This scheme was started in 1990-91. The main objective of the scheme is to promote and extend educational facilities in Tribal Areas on the pattern of the old gurukul type of education. The scheme covers all Tribal Sub Plan areas of the country spread over 21 States and 2 Union Territories.

5.11.1.22 The cost sharing under the scheme between the Centre and States is in the ratio of 50:50. In the case of Union Territories, the Ministry of Tribal Affairs provides the entire fund under the scheme. The salient features of the scheme are as given below:

- (i) This scheme provides funds for the construction of school buildings from the primary standard to the senior secondary stage and also provides for the upgradation of the existing primary level Ashram schools.
- (ii) Under the scheme, besides school buildings, the construction of students hostels and staff quarter are also undertaken. The State Government provides the land for the Ashram Schools free of cost.
- (iii) A grant is also provided for other non-recurring items of expenditure like the purchase of furniture, equipments, sets of books for the school and hostel library etc.
- (iv) Only the capital cost is provided under the scheme. The recurring expenses are to be met by the State Governments.

- (v) The location of new schools and admission policy is so decided as to give priority to ST girls and children of PTGs, migrant STs, labour and nomadic Scheduled Tribes.

5.11.1.23 A sum of Rs. 44.86 crore was allocated in the Ninth Plan. The allocation for the Tenth Five Year Plan has been fixed at Rs. 78.30 crore. For the year 2005-06, allocation was Rs. 6.00 crore out of which Rs. 5.50 crore (till 20.2.06) had been released for construction of Ashram school buildings to the State Governments of Gujarat, Madhya Pradesh, and Karnataka. The details of grants released and Ashram Schools sanctioned during 2002-03 to 2005-06 are at **Annex – 5.VIII**.

5.11.1.24 As in the case of Scheme for construction of Hostels for girls and boys, no information is available in any of the Annual Reports of the Ministry of Tribal Affairs (upto 2005-06) about the total number of Ashram school buildings constructed so far since the inception of the Scheme in 1990-91. **The Commission accordingly advises the Ministry of Tribal Affairs that they should furnish the total number of Ashram schools (State-wise) functioning in the 21 TSP States and 2 Union Territories. The Commission finds that as on date, no information is available about the functioning of the Ashram schools, the facilities available in them and the quality of the teaching, mess facilities etc. The Ministry of Tribal Affairs should, therefore, get a suitable evaluation study conducted regarding the functioning of the Ashram schools in the 21 TSP States and 2 Union Territories through the Tribal Research Institutes.**

**(vi) Grants to Tribal Research Institutes**

5.11.1.25 This scheme is being implemented since the First Five Year Plan. It has three components:

- (i) Grants-in-aid to Tribal Research Institutes on 50:50 sharing basis between Centre and the States.
- (ii) Award of Research Fellowships on 100% grant basis in various aspects of tribal development (for doctoral and post-doctoral programmes), and
- (iii) Supporting projects of all India or inter-State nature, under which 100% grant is provided to the institutes/ research organizations/ universities for conducting research and evaluation studies, seminar/ workshop and publication of literature related to tribal development.

5.11.1.26 The component of the Scheme relating to grants to Tribal Research Institutes provides grants to 16 Tribal Research Institutes set up in various States/UT (Andhra Pradesh, Assam, Chhattisgarh, Gujarat, Jharkhand, Kerala, Madhya Pradesh, Maharashtra, Manipur, Orissa, Rajasthan, Tamil Nadu, Tripura, Uttar Pradesh, West Bengal and UT of Andaman & Nicobar). These are involved in conducting research and evaluation studies, seminars, workshops on various subjects relevant to tribals, providing training and orientation to State Government officials and giving support to State Governments for preparation of Tribal Sub-Plans. Most of the Institutes have tribal museums for the exhibition of tribal artifacts. Under the scheme, 100% grant is given to the Union Territory of Andaman & Nicobar Islands for running and maintaining this Institute.

5.11.1.27 Under the component relating to award of Research Fellowships in various aspects of tribal development (doctoral/ post-doctoral), grants are given to Research Fellows on a 100% basis to students/ scholars, who are registered with a University for working on tribal development programmes/ problems. The rates of fellowship for doctoral and post-doctoral courses are Rs. 2,800/- and Rs. 3,200/- per month respectively. In addition, an

annual contingency grant of Rs. 10,000/- is also provided.

5.11.1.28 Under the component relating to supporting projects of all India or inter-State nature, 100% grants are provided for research and evaluation projects. Grants up to Rs. 2.50 lakh per project for a period of 8-12 months are given to NGOs, Government institutions and Universities which conduct research/ evaluation studies. Grants are also provided for organizing seminars/ workshop and also for publication of books relating to tribal matters.

5.11.1.29 The Ministry of Tribal Affairs has also introduced a scheme for monitoring and evaluation of the working of this project. Under this scheme, projects are supported by the Ministry on 100% basis.

5.11.1.30 The Ministry of Tribal Affairs has got documentary films made on various aspects of tribal life, including their cultures, traditions, education, socio-economic development and welfare schemes of the Ministry. The idea is to document the tribes in a scientific and well-researched manner broadly comprising demographic, historical, socio-cultural details, economic conditions, folk dances, etc. so as to keep these as a reference record in the Ministry and also to disseminate the information to the general public. The documentaries produced by the Ministry are being telecast by Doordarshan on a weekly basis under the programme titled Janjatiya Darpan.

#### 4.11.2 Central Sector Schemes

##### (i) Scheme for grants-in-aid to Voluntary Organizations working for the welfare of Scheduled Tribes:

5.11.2.1 The scheme of grant- in- aid to NGOs was started in 1953-54. The prime objective of the Scheme is to provide for an overall improvement and development of the Scheduled Tribes through voluntary efforts working in the field of education, health and sanitation, in addition to need-based socio-economic upliftment efforts and other relevant activities deemed appropriate and of direct benefit to the target group. Under the Scheme 100% grants are provided to the NGOs on their application in a prescribed format, duly recommended by the concerned State Govt.

5.11.2.2 The NGOs are required to maintain separate accounts in respect of the grants released to them, which are open for inspection by all appropriate officers/ agencies of the Government. The NGOs are also required to get their accounts of grants-in-aid audited by the chartered accountant, and submit a complete set of copies of one audited statement of accounts as prescribed by the Ministry. The grants are released in two installments every year subject to the satisfactory performance of the NGO.

5.11.2.3 More than 900 projects are being implemented by the Ministry of Tribal Affairs through voluntary organizations, which are working for the welfare of the Scheduled Tribes. A wide spectrum of projects, which are of direct benefit to the tribals, are considered under this scheme. The projects include residential schools, non-residential schools, hostels, mobile dispensaries, computer training units, shorthand and typing training units, Balwadis/crèches (in areas not covered by the ICDS programme) libraries and audio-visual units for dissemination of vital information relevant to the welfare of Scheduled Tribes. In the residential schools, the students are providing free board and lodging facilities. The cost of uniforms, books, stationery and other incidental charges are also met from the Scheme. The teachers and the others like the warden, accountant, attending doctor and other supporting staff are also paid an honorarium for the grant-in-aid. The organizations running the school can run in a building either owned by them are higher. The rent or the maintenance charges of the building are paid from the grant-in-aid. The non-residential schools have a variable number of students. For a school of 100 students, the approximate amount of the assistance

provided to an implementing voluntary organization is Rs. 10.00 lakh per annum. As regards, hostel component, the Scheme aims at providing hostel facilities to such tribal students who have completed their primary or secondary education from their schools near their villages but cannot pursue further education due to non-availability of college facilities near the village and high cost involved in accommodation in cities. The amount of grant-in-aid provided to organization to run a hostel of 100 students is approximately Rs. 10.00 lakh per annum. Mobile dispensaries provide medical facilities to tribals living in isolated villages/ hamlets. The grant is generally restricted to 90% of the approved total cost of the project; the balance 10% being borne by voluntary organizations. The allocation for the Scheme in the 9<sup>th</sup> Plan was Rs. 92.09 crore. The annual allocation and expenditure made by the Ministry of Tribal Affairs under the scheme during the 10<sup>th</sup> Plan Period is given below:

(Rs. in crore)

Year	Budget BE	Allocation RE	Expenditure
2002-03	30.50	30.50	30.53
2003-04	30.50	25.64	30.03
2004-05	30.50	29.50	29.30
2005-06	23.40	23.40	14.66*

Source: Annual Report of the Ministry of Tribal Affairs 2005-06

5.11.2.4 In the Tenth Five Year Plan, this Scheme has been merged with the “Coaching and Allied Scheme” and the Scheme of “Special Incentive to NGOs”. The name of the merged Scheme is “Grant-in-aid to NGOs working for the welfare of STs including coaching and allied and award for exemplary service. The allocation for grants-in-aid to the NGO segment of the merged Scheme for the year 2005-06 was Rs. 23.40 crores.

5.11.2.5 The Coaching & Allied component of the Scheme for STs, which was launched in 1974-75, provides for free coaching facilities to ST students through Pre-Examination Training Centres to help them to compete in various competitive examinations with an all-India recruitment character for various posts held by UPSC, State Public Service Commissions, SSC, recruitment boards, public sector undertakings and other Central Government agencies. State Governments/UT Administrations/Universities and private coaching institutes run the Pre-Examination Training Centres (PEC). The funds are provided on a per unit basis. The Universities/private institutions are provided assistance to the extent of 100% on a contractual basis, while State run institutions are provided 50% assistance from the Ministry of Tribal Affairs. The scheme provides for stipends up to Rs.500/- per month to the outstation students and Rs.150/- per month for local students for taking coaching at the pre-examination training centres.

5.11.2.6 A Selection Committee selects the candidates for PEC on the basis of an interview. Each Centre can coach not more than 40 candidates who have obtained at least 50% marks in the qualifying examination. The Scheme is open to only those ST candidates whose income (if in employment) or their parents’ income from all sources does not exceed Rs.44,500/- per annum. **The Commission is of the opinion that the existing income ceiling is not realistic having regard to the increase in the cost of living over the last couple of years and, therefore, recommends that this income ceiling with respect to the candidates (if in employment) or their parents should be raised at least to Rs.1.00 lakh per annum.**

5.11.2.7 The coaching institutes are required to monitor the programme continuously and submit quarterly progress report in prescribed formats to the State Government/UT Administration and the Ministry of Tribal Affairs.

5.11.2.8 The Ministry has formulated a scheme/detailed guidelines for strengthening the infrastructure and capacity building of such organizations which have established themselves in the field of welfare of Scheduled Tribes and have been providing exemplary service. Under the scheme, organizations declared as Established Voluntary Agency (EVA) by the Ministry or such organization having received grant, from the Ministry for five or more years are provided grants up to Rs.10.00 lakhs for infrastructure building in such areas where no such facilities exists, even on a rental basis. **The Commission recommends that:**

- (i) **Only such NGOs which have considerable experience and good reputation should be given grants for running the pre-examination coaching centres in the tribal areas for tribal candidates (wherever such Centres are being run by NGOs).**
- (ii) **As far as possible, these NGOs which are given grants for running the pre-examination coaching centres should be located in the tribal areas.**
- (iii) It has been brought to the notice of the Commission that an NGO is given grant under the scheme and with the help of the grant, the concerned NGO creates an infrastructure for running the pre-examination centres and the next year that NGO is not given grant. This results in the total wastage of the grants given in the previous year. It has also come to the notice of the Commission that such infrastructure/buildings are utilized by these NGOs for residential purposes. **The Ministry of Tribal Affairs, therefore, should ensure that the selection of NGOs at the initial stage itself is made very carefully and judicially and once an NGO with established reputation is selected, further grants should not be stopped to that NGO unless non-satisfactory performance or any other complaint is received by the Ministry about that NGO. The Ministry of Tribal Affairs should also take steps to take over the infrastructure/building created by an NGO with the help of grants given by the Ministry in case the grant to that NGO is stopped by the Ministry in the subsequent year/years on account of bad performance or any other complaint.**

5.11.2.9 During the year 2004-05, Ministry released Rs.58.76 lakhs for the benefit of 2482 tribal candidates to the State-run Pre-Examination Coaching Centres of Chhattisgarh, Karnataka, Madhya Pradesh, NCT of Delhi, Gujarat, Assam and Andhra Pradesh and 3 NGOs-one each from Madhya Pradesh, Mizoram and Delhi. The HN Bahuguna University, Srinagar, Garhwal, Uttaranchal was also sanctioned Rs.2.67 lakhs for importing coaching to 45 tribal candidates. The Scheme was transferred to the Ministry of Tribal Affairs in the year 2000-01. The allocation for the coaching and allied segment of the merged Scheme for the year 2005-06 was Rs. 1.05 crore.

- (ii) **Scheme of setting up of Educational Complexes in Low Literacy Pockets for Development of Women's Literacy:**

5.11.2.10 The scheme was introduced in 1993-94 for 136 districts with a less than 10% literacy rate among ST females. It is implemented through NGOs, institutions set up by Government as autonomous bodies and registered co-operative societies.

5.11.2.11 The primary objective of the scheme is promotion of education among tribal girls in the identified low literacy districts of the country. The secondary objective of the Scheme is to improve the socio-economic status of the poor and illiterate tribal population through the education of women.

5.11.2.12 The scheme covers 136 districts having women literacy below 10% (as per 1991 Census) spread over 14 States namely- Andhra Pradesh, Arunachal Pradesh, Bihar, Chhattisgarh, Gujarat, Jharkhand, Madhya Pradesh, Orissa, Rajasthan, Tamil Nadu, Uttar Pradesh, Uttaranchal and West Bengal. The scheme also covers entire PTG population irrespective of women literacy percentage. The Ministry of Tribal Affairs provides 100% funding under this Scheme. Some of the salient features of this Scheme include:

- (i) The educational complexes are established in rural areas of notified districts and have classes I to V with a provision for upgradation up to Class XII provided they have sufficient accommodation for classrooms, hostels, a kitchen, gardening and for sport facilities.
- (ii) The educational complexes impart not only formal education to tribal girls but also train the students in agriculture, animal husbandry and many other vocations and crafts to make them economically strong.
- (iii) The teaching from classes I to III is done in the tribal dialects of the area and women teachers with proficiency in tribal dialect are engaged as teachers.
- (iv) The strength of students for each class is fixed at 30. However, a maximum of 10 more students, if available, in the locality are admitted as day scholars.
- (v) Recurring grants are provided to run the educational complexes @ Rs.9000/- per student per year. This includes the expenses on accommodation, food, clothing, payment of salary to teachers etc.
- (vi) The students are provided 2 sets of uniforms, one set of books every year, besides free food and medicine during their stay in the educational complex.
- (vii) Besides, the students' parents are paid an incentives of Rs.50/- per month, for sending their girls to school.
- (viii) Non-recurring grants of Rs.1000/- per student, as a one-time grant for five years, is also given for providing cots, mattresses, utensils and other items of furniture.
- (ix) Each educational complex has one headmistress, one teacher for each class, one music/arts/crafts teacher per 100 students, one part time doctor for the whole complex and one cook for each group of 100 students, one helper and one ayah besides one watchman and one part time sweeper for the complex.

5.11.2.13 A sum of Rs.44.74 crore has been allocated for the scheme for the Tenth Five Year Plan period. The allocation for the year 2005-2006 was fixed at Rs.6.00 crore out of which Rs. 3.78 crore (till 20.02.2006) was released to the NGOs running educational complexes in Andhra Pradesh, Chhattisgarh, Gujarat, Orissa and West Bengal.

**(iii) Vocational Training in Tribal Areas:**

5.11.2.14 The Scheme was launched in 1992-93. The main aim of this scheme is to develop the skill of the tribal youth for a variety of jobs as well as for self-employment. It also aims to improve their socio-economic conditions by enhancing their income.

5.11.2.15 The Scheme covers all the States and Union Territories. It is not an area specific scheme, the condition being that free vocational training facilities are extended only to tribal people. Under the scheme 100% grants are provided to the States, Union Territories and other associations implementing the scheme. The salient features of the scheme are:

- (i) This Scheme is implemented through the State Governments/UT Administrations, institutions or organizations set up by government as autonomous bodies, educational and other institutions like local bodies and cooperative societies and NGOs.
- (ii) Under the programme, while no predefined cost heads are stipulated, at the project formulation stage, each implementing agency is required to submit a detailed project proposal in a prescribed format clearly bringing out the programme modalities and individual expenditure heads. While approving the projects, the extent of support to each component of the project is indicated.
- (iii) Each vocational centre may cater to five vocational courses in traditional skills depending upon the employment potential of the area. Each tribal boy/girl is trained in two trades of his/her choice, the course in each trade being for a duration of three months. Each trainee is attached at the end of six months to a master craftsman in a semi-urban/urban area for a period of six months to enhance his/her skill by practical experience. There is provision for a monthly stipend and grant for raw material for the trainees.
- (iv) The agencies running the vocational training centres are required to arrange for a loan and subsidy either through the ITDP or through any other agency for enabling each successful trainee to start his/ her new job.
- (v) The agencies are given grants-in-aid to run the VTCs either in rented buildings or in a building owned by the organization. The rate of rent allowed per month is fixed at a maximum up to Rs. 8000 and a maintenance grant in case the building is owned by the organization/ agency, is fixed @ 10% of the rent allowed per month.
- (vi) Each VTC is provided financial assistance for the purchase of training equipments to run the courses in five trades as decided by the agency concerned once in five years @ 2.40 lakh per VTC.
- (vii) The recurring grant to run the VTCs is Rs. 13,500 per trainee per year. Each VTC should have one chief instructor/ foreman, four trade instructors, one workshop attendant, one watchman, one peon, one part-time sweeper and one accountant. Each trainee in the centre is provided a stipend of Rs. 350.00 per month and raw material at Rs. 1200 per annum.

5.11.2.16 The allocation made in the Ninth Plan for the scheme was Rs.30.25 crore against which Rs.18.45 crore were released by the Ministry of Tribal Affairs to the State Governments and NGOs implementing the scheme. The allocation of the scheme for the Tenth Five Year Plan is Rs.67.12 crore (Rs.33.56 crore for State Governments and the same amount for NGOs). The allocation for the year 2005-06 under this Scheme was Rs.5.40 crore (Rs.4.00 crore for States and Rs. 1.40 crore for NGOs) against which Rs.2.47 crore was released to State Governments. The Commission fails to understand the reasons for release of only 40-50 percent of the actual allocations to the State Govts. This scenario, in the opinion of the Commission, might be due to lack of adequate awareness about this scheme

among the ST population. The Ministry of Tribal Affairs should, therefore, advise the State Govts. and the NGOs to make intensive and wide publicity through mass media and other channels to inform the tribal people throughout the country about the benefits under the scheme so that the tribals living in the remote and isolated pockets could also avail of the benefits of the scheme. This scenario, in the opinion of the Commission, might be due to lack of adequate awareness about this scheme among the ST population. **The Commission, therefore, recommends that the Ministry of Tribal Affairs should advise the State Govts. and NGOs to make intensive and wide publicity through mass media and other channels to inform the tribal people throughout the country about the benefits under the scheme so that the tribals living in the remote and isolated pockets could also avail of the benefits of the scheme.** The details of grants released to State Govts. and UT Administrations during 2002-2003 to 2005-2006 are given at **Annex.5.IX.**

5.11.2.17 The number of Vocational Training Centres supported by the Ministry of Tribal Affairs during the first four years of the 10<sup>th</sup> Five Year Plan are as given below:-

Year	No. of VTCs
2002-2003	65
2003-2004	45
2004-2005	48
2005-2006	35

**(iv) Rajiv Gandhi National Fellowship (RGNF)**

5.11.2.18 This scheme has been started from the year 2005-06 with the objective of providing fellowships in the form of financial assistance to ST students to pursue higher studies such as M.Phil and Ph.D. The scheme covers all Universities/ Institutions recognized by the University Grants Commission (UGC). The salient features of the scheme include the following:

- (i) Under the scheme, 667 fellowships will be provided to the ST students each year.
- (ii) The maximum duration of the fellowship is 5 years.
- (iii) Under the scheme, fellowships are provided to ST students to enable them to pursue higher studies such as M.Phil and Ph.D.
- (iv) Scheme will be implemented by UGC on behalf of the Ministry of Tribal Affairs.
- (v) There will be no restrictions as regard to the minimum marks in the Post Graduation Examination.

5.11.2.19 The rate of fellowship for JRF and SRF will be at par with the UGC fellowship as amended from time to time. Presently these rates are as follows:

- (i) Fellowship @ Rs. 8,000/- p.m. for initial two years (JRF)  
@ Rs. 9,000/- p.m. for remaining tenure (SRF)
- (ii) Contingency for Humanities and Social Sciences @ Rs. 10,000/-p.a. for initial two years  
@ R. 20,500/-p.a. for remaining tenure
- (iii) Contingency for Sciences @ Rs. 12,000/- p.a. for initial two years  
@ Rs. 25,000/-p.a. for remaining tenure
- (iv) Departmental @ Rs.3,000/- p.a. per student to the host institution for

assistance	providing infrastructure
(v) Escorts/ Reader Assistance	@ Rs. 1,000/- p.m. in cases of physically and visually handicapped candidates

5.11.2.20 A sum of Rs. 7.95 crore has been allocated under the scheme during the current year 2005-06. UGC has been requested for advertising the application and, after finalisation of the selection, grant will be released to UGC.

(v) **Exchange of Visits by Tribals**

5.11.2.21 The Scheme was introduced in 2001-02, to encourage and to enable ST people who generally live in isolation visit other parts of the country for a period of 10-12 days so that they get exposure to more developed areas of the country. The groups consisting of about 10 members nominated by the concerned State Government/ Union Territory visit a region/ State identified by the State/ UT. It is hoped that by such visits the tribals would enable themselves to improve their perspective and also help create awareness about the developments taking place in the country. The Ministry of Tribal Affairs bears the entire expenditure on such visits subject to the norms fixed for the purpose.

## 5.12 National Overseas Scholarship Scheme for Higher Studies Abroad

5.12.1 This is a non-plan scheme which is in operation since 1954-55 and grants are given to the selected candidates on cent per cent basis directly by the Ministry of Tribal Affairs through the Indian Mission. It aims at providing assistance to the SC/ST students selected for pursuing higher studies (Masters, Doctoral and Post-Doctoral level) in the specified fields of engineering, technology and science only. Under the scheme, assistance upto 9 ST candidates and 1 candidate belonging to the Primitive Tribal Group (PTG) are awarded the scholarship annually for pursuing Master's and Post-Doctoral level courses. The scholarship is not awarded for pursuing bachelor degree courses. The salient features of the scheme include the following:

- (i) The scholarship is awarded to ST candidates (one member from each family) below 35 years of age on the date of advertisement possessing at least 2 years work experience for the Masters programme; a Masters degree with a minimum of 50% marks and 2 years research/ teaching/ work experience for an M.Phil. course and the same educational qualification for a Ph.D. and 5 years teaching/ research/ professional experience in a relevant field for Post Doctoral studies, provided the total income of the employed candidate or his/ her parents/ guardians does not exceed Rs. 18,000/- per month.
- (ii) The candidates are required to arrange admission to a university/ institute abroad on their own within 3 years from the date of communication of selection.
- (iii) The awardees are provided a maintenance allowance of US\$ 8,200 per annum which they may supplement up to US\$ 2400 per annum, by undertaking research/ teaching assistantship. In the event of earnings beyond this limit, the Indian Mission may reduce the maintenance allowance granted under the scheme correspondingly.
- (iv) The awardees on return to India have to remain in India for at least 5 years.

5.12.2 Four annual "Passage Grants" to ST and PTG candidates are also available under this scheme. The Passage Grants are open throughout the year to such candidates who are in receipt of a merit scholarship for post-graduate studies, research or training abroad

from a foreign University/Government or under any other scheme, where the cost of passage is not provided. The scheme provides grants for to and fro passage from India and back by economy class.

5.12.3 This scheme was transferred to the Ministry of Tribal Affairs in November 2000. The allocation for the year 2005-06 was Rs. 80.00 lakh to meet the expenses of those scholars who were sponsored during the previous years and are yet to complete their courses of studies.

### 5.13 Eklavaya Model Residential Schools

5.13.1 With the objective of providing quality education to the tribal students, it was decided during 1997-98 to utilize a part of the funds under Article 275 (1) of the Constitution of India, for setting up of 100 Model Residential Schools from Class VI to Class XII in different States, to enable tribal students to avail the facility of reservation in higher and professional educational courses as well as in higher levels of jobs in the Government and various public sector undertakings. These 100 schools have been sanctioned to 24 States. In these schools, 50% seats are earmarked for girl students and 3% of the total seats are earmarked for physically and mentally challenged students.

5.13.2 The schools are to be operated in each State through an autonomous society formed for this purpose. In order to provide a uniform pattern of education in those schools and enable their students to compete effectively for higher education programmes (medical, technical etc.), an initiative has been taken to introduce the Central Board of Secondary Education (CBSE) syllabus in these schools and affiliate these schools to the CBSE. These schools have been envisaged on the lines of Navodaya Vidyalayas. Govt. of India provides 100% assistance both for building and running the schools.

5.13.3 The Ministry of Tribal Affairs provides Rs.250 lakh for construction of the school building and associated infrastructure. Grants up to a maximum of Rs.30 lakh depending on the number of students is also provided for meeting the recurring expenses for each school. During the year 2005-06, Rs.49.32 crore was released to various States for EMRSs. In all so far, a sum of Rs.246.25 crore has been released to States for EMRS, which includes Rs.201.65 crore for building (non-recurring) and Rs.44.60 crore to meet recurring expenses.

5.13.4 These schools are in different stages of being established. Of these, 68 EMRSs are operational in 13 States namely- Andhra Pradesh, Chhattisgarh, Gujarat, Himachal Pradesh, Karnataka, Kerala, Madhya Pradesh, Maharashtra, Orissa, Rajasthan, Tamil Nadu, Tripura and West Bengal. There are a total of 16,079 students in these Schools, which have become islands of academic excellence in the school education for ST children. State-wise details of students in such schools along with funds released to various States since 1997-98 for establishment of these schools is given at **Annex.5.X**.

5.13.5 The Commission has observed that one of the major constraints in successful implementation of this Scheme is that the State Govts. often do not release the funds in time to the implementing agencies. **The Commission, therefore, recommends that the Ministry of Tribal Affairs should take up the matter with the respective State Govts. and impress upon them the need to release the funds to the implementing agencies in time to ensure that the various components of scheme do not suffer in any way on account of delay in release of funds.**

5.13.6 **The Commission further recommends that there is a genuine need to increase the number of Eklavaya Modal Residential Schools in States/UTs which have sizeable number of ST population and that the 32 Residential Schools under the Scheme (out of**

**the total of 100 sanctioned for various States) which are not yet functional, should be made functional at an early date.**

5.13.7. **The Commission also recommends that there is a need to open more and more Govt. Schools of Excellence and Central Schools in tribal areas to ensure that all meritorious ST students are accommodated/ admitted in these schools. Besides reputed Public Schools should also be encouraged to open schools in tribal areas.** PSUs generally encourage opening of Public Schools and Kendriya Vidyalayas in their residential complex and provide financial and infrastructure support for the schools. Students having studied and being groomed in such schools will be able to compete well with the general students in due course.

#### **5.14 Reservation in admissions in institutions such as public schools and other schools, hospitals etc. receiving various types of concessions from the Government, in awarding Fellowships, and in allotting seats in Hostels**

5.14.1 The reservation policy has so far been implemented on the basis of the executive instructions issued by the Government of India from time to time. The erstwhile National Commission for Scheduled Castes and Scheduled Tribes in its earlier reports had been emphasizing the need for early enactment of a Reservation Act, which would systematize the implementation of reservation policy.

5.14.2 In December, 2004 Department of Personnel & Training sent a copy of the Draft Bill requesting this Commission for its comments. The Commission sent its comments on the Bill in December, 2004. The Commission also sent its comments to Rajya Sabha Secretariat after the Bill was introduced in Rajya Sabha. The comments sent by the Commission included the following with respect to educational development of Scheduled Tribes:-

- (i) **The scope of reservation should be extended not only to Primary and Secondary Schools and other Educational Institutions owned and aided by the Government (as had been proposed in the Bill) but also to such public schools and other schools, and institutions such as hospitals etc. which though not funded by the Government had received/continue to receive concessions from the Government in respect of acquisition of lands, buildings or other concessions respecting recognition/affiliation in regard to running of those institutions like electricity, water, provision of public transport etc.**
- (ii) **There should be 7.5% reservation for Scheduled Tribes in awarding fellowships and/or in granting scholarships in the schools, colleges, Universities, Educational and Technical Institutions etc.**
- (iii) **7.5% of seats in the hostels attached to Schools, Colleges, Educational and Technical Institutions should be reserved in favour of Scheduled Tribes.**

5.14.3 The National Commission for Scheduled Tribes reiterates the above three recommendations as a part of this Report.

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## State-wise Literacy Rates of Scheduled Tribes – Census-2001

S. No.	State/UT	ST Literacy Rates								
		RURAL			URBAN			TOTAL		
		Persons	Males	Females	Persons	Males	Females	Persons	Males	Females
1	2	3	4	5	6	7	8	9	10	11
1.	Andhra Pradesh	35.43	46.09	24.48	56.39	66.16	45.99	37.04	47.66	26.11
2.	Arunachal Pradesh	45.04	54.33	35.83	77.39	85.92	69.05	49.62	58.77	40.56
3.	Assam	61.29	71.29	51.04	86.75	92.43	80.62	62.52	72.34	52.44
4.	Bihar	25.91	37.57	13.30	65.67	74.18	55.28	28.17	39.76	15.54
5.	Chattisgarh	50.95	63.96	38.21	71.71	82.87	59.77	52.09	65.04	39.35
6.	Goa	44.59	55.17	31.43	61.44	67.88	54.55	55.88	63.49	47.32
7.	Gujarat	46.45	58.06	34.60	61.76	71.01	51.78	47.74	59.18	36.02
8.	Haryana	-	-	-	-	-	-	-	-	-
9.	Himachal Pradesh	64.78	77.18	52.50	87.19	92.03	81.15	65.50	77.71	53.32
10.	J & K	35.74	46.44	23.88	70.37	79.01	59.34	37.46	48.16	25.51
11.	Jharkhand	38.08	51.67	24.38	67.80	77.83	57.38	40.67	53.98	27.21
12.	Karnataka	45.26	56.92	33.32	64.57	74.39	54.34	48.27	59.66	36.57
13.	Kerala	63.65	70.20	57.28	81.21	84.96	77.70	64.35	70.78	58.11
14.	Madhya Pradesh	40.01	52.51	27.24	57.23	67.47	45.89	41.16	53.55	28.44
15.	Maharashtra	52.31	64.52	39.88	74.18	82.98	64.70	55.21	67.02	43.08
16.	Manipur	65.09	72.44	57.58	80.94	87.94	74.28	65.85	73.16	58.42
17.	Meghalaya	56.36	58.72	53.97	86.67	88.95	84.58	61.34	63.49	59.20
18.	Mizoram	82.00	86.11	77.71	96.77	97.55	96.01	89.34	91.71	86.95
19.	Nagaland	62.55	67.09	57.72	88.70	91.63	85.60	65.95	70.26	61.35
20.	Orissa	36.13	50.35	22.07	58.12	69.80	45.77	37.37	51.48	23.37
21.	Punjab	-	-	-	-	-	-	-	-	-
22.	Rajasthan	43.70	61.23	25.22	60.79	75.74	42.97	44.66	62.10	26.16
23.	Sikkim	65.37	72.32	58.03	84.89	89.32	80.59	67.14	73.81	60.16
24.	Tamil Nadu	38.41	47.19	29.48	58.60	66.56	50.68	41.53	50.15	32.78
25.	Tripura	55.46	67.19	43.35	91.97	94.45	89.26	56.48	67.97	44.60
26.	Uttar Pradesh	32.99	46.71	18.34	51.10	60.61	39.54	35.13	48.45	20.70
27.	Uttaranchal	61.65	75.29	47.36	85.91	91.55	79.48	63.23	76.39	49.37
28.	West Bengal	42.35	56.60	27.88	58.67	68.57	48.20	43.40	57.38	29.15
29.	A & N Islands	65.82	72.68	58.62	93.71	97.01	89.49	66.79	73.61	59.58
30.	Chandigarh	-	-	-	-	-	-	-	-	-
31.	D & N Haveli	38.94	53.82	24.60	69.18	81.54	56.73	41.24	55.97	26.99
32.	Daman & Diu	62.83	73.95	51.05	65.72	75.34	55.40	63.42	74.23	51.93
33.	Delhi	-	-	-	-	-	-	-	-	-
34.	Lakshadweep	84.71	91.26	78.18	87.90	93.29	82.64	86.14	92.16	80.18
35.	Pondicherry	-	-	-	-	-	-	-	-	-
	<b>India</b>	<b>45.02</b>	<b>57.39</b>	<b>32.44</b>	<b>69.09</b>	<b>77.77</b>	<b>59.87</b>	<b>47.10</b>	<b>59.17</b>	<b>34.76</b>

## Gross Enrolment Ratio of ST Students in Classes I-V, VI-VIII and I-VIII as on 30 September, 2003

S. No.	States/UTs	2003-2004								
		Classes I-V (6-11 years)			Classes VI-VIII (11-14 yrs.)			Classes I-VIII (6-14 yrs.)		
		Boys	Girls	Total	Boys	Girls	Total	Boys	Girls	Total
1	2	3	4	5	6	7	8	9	10	11
1.	Andhra Pradesh	81.85	77.20	79.57	87.94	62.17	75.71	83.15	74.13	78.76
2.	Arunachal Pradesh	99.76	89.96	94.99	91.87	65.21	77.30	97.77	82.54	90.11
3.	Assam	66.21	70.02	68.02	94.93	95.34	95.11	73.90	76.45	75.10
4.	Bihar	88.04	79.54	84.78	66.18	40.11	55.04	84.17	71.47	79.19
5.	Chattisgarh	110.41	111.98	111.15	99.75	83.76	92.30	107.43	104.32	105.95
6.	Goa	-	-	-	-	-	-	-	-	-
7.	Gujarat	92.05	100.48	95.90	77.74	67.58	72.90	87.88	90.33	89.01
8.	Haryana	-	-	-	-	-	-	-	-	-
9.	Himachal Pradesh	119.23	123.79	118.68	99.89	94.24	97.20	111.41	112.02	111.70
10.	J & K	83.80	65.23	74.68	48.59	31.10	40.29	70.60	52.96	62.05
11.	Jharkhand	94.89	76.50	86.03	91.56	67.94	80.63	94.26	74.98	85.03
12.	Karnataka	92.80	91.61	92.22	106.63	88.79	98.05	96.82	90.80	93.91
13.	Kerala	116.65	116.13	116.40	99.74	93.54	96.71	110.30	107.60	108.99
14.	Madhya Pradesh	95.12	70.97	83.03	77.32	57.05	68.15	90.65	67.95	79.55
15.	Maharashtra	105.97	105.02	105.52	90.46	75.91	83.39	100.91	95.10	98.15
16.	Manipur	130.07	122.89	126.82	77.51	67.88	72.77	112.63	103.68	108.34
17.	Meghalaya	95.05	98.94	96.97	63.71	73.67	68.70	84.81	90.49	87.62
18.	Mizoram	122.74	117.36	120.11	77.74	69.02	73.21	105.47	97.46	101.45
19.	Nagaland	72.40	64.17	68.31	48.72	42.26	45.46	64.07	56.31	60.19
20.	Orissa	96.24	94.14	95.27	76.11	58.92	68.14	92.24	87.09	89.86
21.	Punjab	-	-	-	-	-	-	-	-	-
22.	Rajasthan	94.89	87.84	91.61	82.03	48.42	66.88	91.69	78.46	85.58
23.	Sikkim	131.31	137.83	140.94	71.14	84.76	78.08	109.90	118.50	114.23
24.	Tamil Nadu	121.78	84.01	103.73	120.50	115.36	117.98	121.39	93.95	108.16
25.	Tripura	128.52	119.56	124.21	65.76	53.68	59.81	106.43	95.63	101.19
26.	Uttar Pradesh	75.06	53.32	64.67	73.88	37.90	56.71	74.72	48.87	62.37
27.	Uttaranchal	89.33	99.50	94.21	86.36	86.28	86.32	88.33	94.99	91.53
28.	West Bengal	74.02	72.45	73.28	61.49	38.49	49.85	70.99	63.38	67.33
29.	A & N Islands	118.19	78.20	95.23	95.16	64.09	77.89	108.84	72.72	88.36
30.	Chandigarh	-	-	-	-	-	-	-	-	-
31.	D & N Haveli	100.22	92.98	96.70	101.65	64.96	84.50	100.63	85.46	93.32
32.	Daman & Diu	109.98	118.22	113.71	90.98	79.47	85.63	102.85	103.22	103.02
33.	Delhi	-	-	-	-	-	-	-	-	-
34.	Lakshadweep	113.94	99.82	106.89	103.26	90.79	97.22	109.46	96.16	102.91
35.	Pondicherry	-	-	-	-	-	-	-	-	-
	<b>India</b>	<b>94.66</b>	<b>87.77</b>	<b>91.37</b>	<b>84.00</b>	<b>66.62</b>	<b>75.76</b>	<b>90.58</b>	<b>81.10</b>	<b>86.06</b>

Source: Selected Educational Statistics 2003-2004, Min. of HRD, Deptt. of Secondary and Higher Education

**Dropout Rates in respect of Scheduled Castes in Classes I-V, I-VIII and I-X as on 30 September, 2003**

**2003-2004**

S. No.	States/UTs	Classes 1-V			Classes 1-VIII			Classes 1-X		
		Boys	Girls	Total	Boys	Girls	Total	Boys	Girls	Total
1.	1	2	3	4	5	6	7	8	9	10
2.	Andhra Pradesh	44.09	46.12	45.09	63.41	68.87	66.05	71.18	75.93	73.41
3.	Arunachal Pradesh	21.88	32.26	26.98	54.55	50.00	52.54	60.00	58.82	59.26
4.	Assam	58.58	52.83	56.00	67.28	67.64	67.44	72.56	68.87	70.90
5.	Bihar	46.88	45.42	46.36	83.37	84.68	83.85	89.31	91.46	90.02
6.	Chhattisgarh*	-	-	-	-	-	-	-	-	-
7.	Goa	34.88	31.21	33.10	43.12	41.90	42.53	57.56	59.40	58.52
8.	Gujarat	28.83	23.71	26.44	39.50	59.11	48.43	69.42	80.47	74.78
9.	Haryana	19.29	19.90	19.58	39.14	47.82	43.20	52.25	63.83	57.70
10.	Himachal Pradesh	13.01	17.54	15.27	30.19	32.52	31.33	47.70	48.46	48.06
11.	Jammu & Kashmir	35.54	11.15	25.78	33.66	33.98	33.80	62.94	60.84	61.99
12.	Jharkhand*	-	-	-	-	-	-	-	-	-
13.	Karnataka	6.12	14.03	9.97	27.19	51.62	38.62	64.13	69.44	66.66
14.	Kerala	0.00	0.00	0.00	0.00	0.00	0.00	26.13	16.51	21.43
15.	Madhya Pradesh	21.41	19.26	20.48	39.40	51.10	44.37	71.55	80.01	75.08
16.	Maharashtra	17.02	18.21	17.59	30.03	38.22	33.98	51.46	55.89	53.59
17.	Manipur	31.06	19.62	25.51	0.00	0.00	0.00	18.68	19.64	19.14
18.	Meghalaya	58.20	59.34	58.72	68.61	69.09	68.84	74.27	79.88	77.02
19.	Mizoram	-	-	-	-	-	-	-	-	-
20.	Nagaland	-	-	-	-	-	-	-	-	-
21.	Orissa	44.99	42.36	43.81	63.73	67.17	65.26	72.32	75.09	73.55
22.	Punjab	33.22	29.27	31.37	54.67	51.50	53.19	63.75	64.83	64.27
23.	Rajasthan	53.07	36.29	47.69	69.65	80.07	73.87	78.53	87.65	81.76
24.	Sikkim	61.07	43.05	52.99	80.51	72.58	76.98	89.12	90.11	89.56
25.	Tamil Nadu	27.08	26.75	26.95	42.97	38.90	41.09	64.23	63.13	63.71
26.	Tripura	35.85	35.88	35.87	61.95	69.07	65.41	76.61	78.62	77.55
27.	Uttar Pradesh	45.69	56.40	49.84	63.46	75.45	67.96	73.78	90.21	79.93
28.	Uttaranchal*	-	-	-	-	-	-	-	-	-
29.	West Bengal	37.82	36.58	37.25	66.40	67.34	66.80	76.46	78.11	77.11
30.	A&N.Islands	-	-	-	-	-	-	-	-	-
31.	Chandigarh	4.20	15.28	9.58	55.02	56.19	55.57	87.15	80.53	84.44
32.	D&N. Haveli	16.13	18.03	17.07	27.59	24.53	26.13	54.90	33.33	45.16
33.	Daman & Diu	0.00	0.00	0.00	0.00	0.00	0.00	29.58	33.90	31.54
34.	Delhi	32.64	49.05	41.62	0.00	0.00	0.00	76.27	77.30	76.75
35.	Lakshadweep	-	-	-	-	-	-	-	-	-
36.	Pondicherry	0.00	0.00	0.00	0.00	0.00	0.00	24.86	23.06	23.97
	<b>India</b>	<b>36.83</b>	<b>36.19</b>	<b>36.56</b>	<b>57.33</b>	<b>62.19</b>	<b>59.42</b>	<b>71.41</b>	<b>75.49</b>	<b>73.13</b>

Source: Selected Educational Statistics 2003-2004, Ministry of HRD, Deptt. of Secondary and Higher Education

\*Dropout rates are shown combined with the respective parents State.

**All-India dropout Rates in Classes I-V, I-VIII and I-X with respect to all categories as on 30 September, 2003**

**2003-2004**

S.No.	States/UTs	Classes 1-V			Classes 1-VIII			Classes 1-X		
		Boys	Girls	Total	Boys	Girls	Total	Boys	Girls	Total
1.	1	2	3	4	5	6	7	8	9	10
2.	Andhra Pradesh	44.09	46.12	45.09	63.41	68.87	66.05	71.18	75.93	73.41
3.	Arunachal Pradesh	21.88	32.26	26.98	54.55	50.00	52.54	60.00	58.82	59.26
4.	Assam	58.58	52.83	56.00	67.28	67.64	67.44	72.56	68.87	70.90
5.	Bihar	46.88	45.42	46.36	83.37	84.68	83.85	89.31	91.46	90.02
6.	Chhattisgarh*	-	-	-	-	-	-	-	-	-
7.	Goa	34.88	31.21	33.10	43.12	41.90	42.53	57.56	59.40	58.52
8.	Gujarat	28.83	23.71	26.44	39.50	59.11	48.43	69.42	80.47	74.78
9.	Haryana	19.29	19.90	19.58	39.14	47.82	43.20	52.25	63.83	57.70
10.	Himachal Pradesh	13.01	17.54	15.27	30.19	32.52	31.33	47.70	48.46	48.06
11.	Jammu & Kashmir	35.54	11.15	25.78	33.66	33.98	33.80	62.94	60.84	61.99
12.	Jharkhand*	-	-	-	-	-	-	-	-	-
13.	Karnataka	6.12	14.03	9.97	27.19	51.62	38.62	64.13	69.44	66.66
14.	Kerala	0.00	0.00	0.00	0.00	0.00	0.00	26.13	16.51	21.43
15.	Madhya Pradesh	21.41	19.26	20.48	39.40	51.10	44.37	71.55	80.01	75.08
16.	Maharashtra	17.02	18.21	17.59	30.03	38.22	33.98	51.46	55.89	53.59
17.	Manipur	31.06	19.62	25.51	0.00	0.00	0.00	18.68	19.64	19.14
18.	Meghalaya	58.20	59.34	58.72	68.61	69.09	68.84	74.27	79.88	77.02
19.	Mizoram	-	-	-	-	-	-	-	-	-
20.	Nagaland	-	-	-	-	-	-	-	-	-
21.	Orissa	44.99	42.36	43.81	63.73	66.17	65.26	72.32	75.09	73.55
22.	Punjab	33.22	29.27	31.37	54.67	51.50	53.19	63.75	64.83	64.27
23.	Rajasthan	53.07	36.29	47.69	69.65	80.07	73.87	78.53	87.65	81.76
24.	Sikkim	61.07	43.05	52.99	80.51	72.58	76.98	89.12	90.11	89.56
25.	Tamil Nadu	27.08	26.75	26.95	42.97	38.90	41.09	64.23	63.13	63.71
26.	Tripura	35.85	35.88	35.87	61.95	69.07	65.41	76.61	78.62	77.55
27.	Uttar Pradesh	45.69	56.40	49.84	63.46	75.45	67.96	73.78	19.21	79.93
28.	Uttaranchal*	-	-	-	-	-	-	-	-	-
29.	West Bengal	37.82	36.58	37.25	66.40	67.34	66.80	76.46	78.11	77.11
30.	A&N.Islands	-	-	-	-	-	-	-	-	-
31.	Chandigarh	4.20	15.28	9.58	55.02	58.19	55.57	87.15	80.53	84.44
32.	D&N. Haveli	16.13	18.03	17.07	27.59	24.53	26.13	54.90	33.33	45.16
33.	Daman & Diu	0.00	0.00	0.00	0.00	0.00	0.00	29.58	33.90	31.54
34.	Delhi	32.64	49.05	41.62	0.00	0.00	0.00	76.27	77.30	76.75
35.	Lakshadweep	-	-	-	-	-	-	-	-	-
36.	Pondicherry	0.00	0.00	0.00	0.00	0.00	0.00	24.86	23.06	23.97
	<b>India</b>	<b>36.83</b>	<b>36.19</b>	<b>36.56</b>	<b>57.33</b>	<b>62.19</b>	<b>59.42</b>	<b>71.41</b>	<b>75.49</b>	<b>73.13</b>

**Source: Selected Educational Statistics 2003-2004, Ministry of HRD, Deptt. of Secondary and Higher Education**

**\*Dropout rates are shown combined with the respective parents State.**

**Grants-in-aid Released Under the Scheme of PMS along with Number of Beneficiaries during the First Four Years of Tenth Plan**

(Rs. in lakh)

S.No.	Name of State/UT	2002-2003		2003-2004		2004-2005		2005-2006*	
		Amount	Actual Beneficiaries	Amount	Actual Beneficiaries	Amount	Actual Beneficiaries	Amount	(Anticipated)
1.	Andhra Pradesh	774.88	60652	2435.7	69427	1084.23	107562	3606.78	118484
2.	Arunachal Pradesh	0	3544	65.19	8190	0	*13347	0	13347
3.	Assam	1275.94	0	0	57850	100	15117	1200.32	64898
4.	Bihar	0	1929	0	1796	0	1785	0	2982
5.	Gujarat	0	74172	185.27	162446	222.43	97923	1361.07	98673
6.	Himachal Pradesh	0	2280	0	2956	9.17	2810	6.61	3520
7.	Jammu & Kashmir	6.5	5116	0	993	196.07	5783	97.02	6600
8.	Karnataka	75.38	24455	0	31892	400	37468	2020.5	41218
9.	Kerala	0	4624	0	5200	146.14	5783	61	6600
10.	Madhya Pradesh	0	40032	81.62	41649	899.04	55019	288.7	46000
11.	Maharashtra	165.02	55403	391.92	55449	1042.86	77923	1031.44	88908
12.	Manipur	820.11	32152	928.93	30274	538.97	31427	1794	34570
13.	Meghalaya	805.98	39876	339.99	41869	926.28	*43962	1925.31	45000
14.	Mizoram	370.98	14190	369	17612	900.99	38368	840.85	27475
15.	Nagaland	697.19	24753	1028.61	27615	507	*31757	486	32000
16.	Orissa	0	33526	0	39113	0	33623	0	39898
17.	Rajasthan	131.95	65199	484	68404	1792.57	73297	750	80373
18.	Sikkim	0	689	12.69	672	15.01	647	9.94	1232
19.	Tamil Nadu	0	589	0	1545	49.05	2108	17.86	2231
20.	Tripura	0	5462	161.09	6251	296.19	7438	195.14	8802
21.	Uttar Pradesh	0	354	0	468	107.62	5079	56.07	4900
22.	West Bengal	0	13323	94.57	11135	345.31	20764	245.21	19360
23.	A & N Islands	1.59	199	0.89	111	2.74	184	3.09	292
24.	Daman & Diu	1.05	14	0	19	0	24	0	30
25.	Uttaranchal	0	8582	0	9839	137.5	10277	85.05	10937
26.	Chhattisgarh	32.07	46907	0	54645	206.45	46752	1254.04	53658
27.	Jharkhand	0	27272	0	8187	200	20452	841.26	21637
28.	Goa	0	0	0	262	12.09	557	6.04	590
	<b>Total</b>	<b>5158.64</b>	<b>585294</b>	<b>6579.47</b>	<b>755869</b>	<b>10137.71</b>	<b>787236</b>	<b>18183.3</b>	<b>874215</b>

Source: Annual Report of the Ministry of Tribal Affairs, 2005-06

\*upto 20.02.2006

## Grants-in-aid Released under the Scheme of Upgradation of Merit

(Rs. in lakhs)

S.No.	Name of the State	2002-03		2003-04		2004-05		2005-06*	
		Amount Released	No. of Beneficiaries						
1.	Andhra Pradesh	12.6	84	0	0	0	0	0	0
2.	Assam	0	0	0	0	9.00	60	0	0
3.	Himachal Pradesh	0	0	0	0		0	0	0
4.	Kerala	0	0	0	0	0	0	3	23
5.	Orissa	10.2	136	40.8	272	0	0	0	0
6.	Rajasthan	4.45	50	7.73	51	0	0	11.36	50
7.	Tripura	2.4	16	2.4	16	2.40	16	0.96	16
8.	West Bengal	6.3	72	0	0	7.83	72	0	0
9.	Sikkim	0.75	5	1.5	10	2.25	15	2.85	19
10.	Madhya Pradesh	25.8	172	0	0	0	0	77.4	516
11.	Jammu & Kashmir	2.1	14	0	0	0	0	0	0
12.	Arunachal Pradesh	6.45	45	0	0	0	0	0	0
13.	Chattisgarh	21	140	21	140	17.55	140	0	0
14.	Gujarat	0	0	3.45	23	0	0	4.43	34
	<b>Total</b>	<b>92.05</b>	<b>734</b>	<b>76.88</b>	<b>512</b>	<b>39.03</b>	<b>303</b>	<b>100</b>	<b>658</b>

Source: Annual Report of the Ministry of Tribal Affairs, 2005-2006

\* Upto 20.2.2006

## Grant-in-aid Released to various States/UTs under the Scheme of Boys/Girls Hostels for STs.

S No	Name of the States/UTs	2002-03			2003-04			2004-05			2005-06*		
		Amt.	Hostel	Seat	Amt.	Hostel	Seat	Amt.	Hostel	Seat	Amt.	Hostel	Seat
1.	Andhra Pradesh	332.5	18	2125	277	23	3001	0	0	0	0	0	0
2.	Assam	0	0	0	0	0	0	0	0	0	0	0	0
3.	Gujarat	0	0	0	0	0	0	67.7	Arrear	0	0	0	0
4.	H.P.	0	0	0	0	0	0	0	0	0	0	0	0
5.	Daman & Diu	0	0	0	0	0	0	0	0	0	0	0	0
6.	D&N.Haveli	0	0	0	0	0	0	0	0	0	0	0	0
7.	Kerala	0	0	0	0	0	0	0	0	0	0	0	0
8.	M.P.	862	145	0	0	0	0	300	Arrear	-	440	Arrear	0
9.	Manipur	0	-	-	49.84	2	100	0	0	0	142.695	6	270
10.	Meghalaya	27.50	10	200	-	-	-	0	0	0	0	0	0
11.	Nagaland	65.00	Arrear	-	150.00	2	200	151	2	200	0	0	0
12.	Orissa	0	0	0	41.46	1	100	0	0	0	0	0	0
13.	Rajasthan	0	0	0	-	-	-	0	0	0	0	0	0
14.	Tamilnadu	0	0	0	-	-	-	0	0	0	0	0	0
15.	Tripura	0	0	0	50.00	2	100	0	0	0	0	0	0
16.	U.P.	0	0	0	-	-	-	0	0	0	0	0	0
17.	W.B.	5.00	1	100	47.76	3	180	0	0	0	6.71	1	60
18.	Karnanataka	0	0	0	150.00	12	600	120.00	Arrear	-	86	5	250
19.	Maharashtra	0	0	0	-	-	-	242.04	11	875	194.46	Arrear	0
20.	UT Delhi	0	0	0	230.62	Arrear	-	234.88	Arrear	-	0	0	0
21.	Jharkhand	0	0	0	817.86	4	1200	98.86	18	900	0	0	0
22.	Arunachal Pd	58.00	4	160	-	-	-	20.50	Arrear	-	21.435	1	40
23.	Chhatisgarh	0	0	0	0	0	0	0	0	0	0	0	0
24.	Punjab University Chandigarh	0	0	0	0	0	0	65.12	2	90	100.79	Arrear	Arrear
<b>Total</b>		<b>1350</b>	<b>178</b>	<b>9835</b>	<b>1814.5</b>	<b>49</b>	<b>5481</b>	<b>1300</b>	<b>33</b>	<b>2065</b>	<b>992.1</b>	<b>13</b>	<b>620</b>

Source: Annual Report of the Ministry of Tribal Affairs 2005-06 \* upto 20.2.2006

**Grant-in-aid Released to various States/UTs under the Scheme of Ashram Schools in TSP areas for STs**

**(Amount Rs. in lakh)**

S No	Name of the States/UTs	2002-03			2003-04			2004-05			2005-06*		
		Amt	School	Seat	Amt	School	Seat	Amt.	School	Seat	Amt.	School	Seat
1.	Andhra Pradesh	0	0	0	380	38	3800	0	0	0	0	0	0
2.	Assam	0	0	0	0	0	0	0	0	0	0	0	0
3.	Gujarat	0	0	0	0	0	0	86.49	38	4560	200	Arrear	-
4.	H.P.	0	0	0	0	0	0	0	0	0	0	0	0
5.	Daman & Diu	0	0	0	0	0	0	0	0	0	0	0	0
6.	Kerala	0	0	0	0	0	0	0	0	0	0	0	0
7.	M.P.	820	130**	7000	0	0	0	300.00	Arrear	0	200	Arrear	0
8.	Manipur	0	0	0	0	0	0	0	0	0	0	0	0
9.	Orissa	0	0	0	0	0	0	0	0	0	0	0	0
10.	Rajasthan	0	0	0	0	0	0	0	0	0	0	0	0
11.	T.N.	0	0	0	0	0	0	0	0	0	0	0	0
12.	Tripura	0	0	0	50	Arrear	0	0	0	0	0	0	0
13.	U.P.	0	0	0	0	0	0	0	0	0	0	0	0
14.	Karnataka	130	5	625	0	0	0	77.51	Arrear	0	150	10	1250
15.	Maharashtra	0	0	0	0	0	0	86.00	Arrear	0	0	0	0
16.	Chhatisgarh	0	0	0	0	0	0	0	0	0	0	0	0
17.	Uttranchal	0	0	0	217	Arrear	0	0	0	0	0	0	0
<b>Total</b>		<b>950</b>	<b>135</b>	<b>7625</b>	<b>647</b>	<b>38</b>	<b>3800</b>	<b>550.00</b>	<b>38</b>	<b>4560</b>	<b>550</b>	<b>10</b>	<b>1250</b>

**Source: Annual Report of the Ministry of Tribal Affairs 2005-06 \* upto 20.2.2006**

\*\* Grants-in-aid has been released on installment basis and in coming years grants will also be released for these schools

## Annex.5.IX

**Grants-in-aid released to various States/UTs under the Scheme of Vocational Training in Tribal Areas**

Sl. No.	States	2002-03		2003-04		2004-05		2005-06*	
		Amt.	Centre	Amt.	Centre	Amt.	Centre	Amt.	Centre
1.	Andhra Pradesh	0	0	107.6	9	0	0	0	0
2.	Assam	44.26	10	0	0	62.53	10	0	0
3.	Bihar	0	0	0	0	0	0	0	0
4.	Gujarat	29.79	13	141.46	13	145.68	13	0	0
5.	J & K	46.71	2	0	0	0	0	15.5	1
6.	Karnataka	0	0	0	0	66.73	10	68.26	10
7.	Kerala	0	0	0	0	40.5	3	0	0
8.	M.P.	0	0	0	0	0	0	57	10
9.	Maharashtra	0	0	73.52	15	0	0	0	0
10.	Manipur	0	0	0	0	0	0	0	0
11.	Mizoram	36	3	61.08	5	0	0	0	0
12.	Orissa	64.15	15	0	0	0	0	0	0
13.	Rajasthan	0	0	0	0	0	0	0	0
14.	Tamil Nadu	0	0	0	0	0	0	0	0
15.	Tripura	54	8	0	0	0	0	0	0
16.	West Bengal	6.13	1	0	0	0	0	63.6	4
17.	Daman & Diu	0	0	0	0	0	0	0	0
18.	H.P.	0	0	0	0	0	0	0	0
19.	Chattisgarh	118.95	13	0	0	134.55	12	0	0
20.	Sikkim	0	0	16.34	3	0	0	42.57	10
	<b>Total</b>	<b>399.99</b>	<b>65</b>	<b>400</b>	<b>45</b>	<b>450</b>	<b>48</b>	<b>247</b>	<b>35</b>

Source: Annual Report of the Ministry of Tribal Affairs 2005-06

\* upto 20.2.2006

**Details of Eklavaya Model Residential Schools**

(Rs. in lakh)

S. No.	Name of State	No. of schools allotted	No. of schools started	No. of students	Funds released @		
					Non-recurring	Recurring	Total
1.	Andhra Pradesh	8	8	3853	1700.00	860.00	2660.00
2.	Assam	2	-	-	200.00	-	200.00
3.	Bihar*	-	-	-	400.00	-	400.00
4.	Gujarat	10	8	1375	2200.00	690.00	2890.00
5.	Himachal Pradesh	1	1	30	100.00	-	100.00
6.	Jammu & Kashmir	2	-	-	200.00	-	200.00
7.	Karnataka	4	3	808	850.00	300.00	1150.00
8.	Kerala	2	2	470	350.00	110.00	460.00
9.	Madhya Pradesh**	12	8	2248	3350.00	200.00	3550.00
10.	Maharashtra	4	4	845	400.00	520.00	920.00
11.	Manipur	3	-	-	625.00	-	625.00
12.	Orissa	10	10	2468	2500.00	1060.00	3560.00
13.	Rajasthan	7	7	1519	1750.00	70.00	1820.00
14.	Sikkim	2	-	-	350.00	-	350.00
15.	Tamil Nadu	2	1	326	350.00	190.00	540.00
16.	Tripura	3	3	411	750.00	-	750.00
17.	Uttar Pradesh	1	-	-	250.00	-	250.00
18.	West Bengal	7	5	1246	1450.00	350.00	1800.00
19.	Arunachal Pradesh	1	-	-	205.44	-	205.44
20.	Meghalaya	2	-	-	200.00	-	200.00
21.	Mizoram	1	-	-	250.00	10.00	260.00
22.	Nagaland	3	-	-	750.00	-	750.00
23.	Jharkhand	4	-	-	600.00	-	600.00
24.	Chhattisgarh	8	8	480	285.00	-	285.00
25.	Uttaranchal	1	-	-	100.00	-	100.00
	Total	100	68	16079	20165.44	4460.00	24625.44

**Source: Annual Report of the Ministry of Tribal Affairs 2005-06**

@ upto 20.2.2006

\* Government of Jharkhand at the time of bifurcation of the State continues to be shown against Bihar pending acceptance by Jharkhand

\*\* An amount of Rs.8.00 crore stated to have been given against Madhya Pradesh pending acceptance by Chhattisgarh

## CHAPTER-6

### SERVICE SAFEGUARDS

#### 6.1 Constitutional Provisions

6.1.1 After Independence, while framing the Constitution of India, it was felt that special provisions were required for Scheduled Castes and Scheduled Tribes to secure their adequate representation in public services. Accordingly, safeguards for ensuring adequate representation of the Scheduled Castes and Scheduled Tribes in the services and posts under the State have been provided in Articles 16(4), 16 (4A), 16(4B) and 335 of the Constitution.

6.1.2 Article 16(4) empowers the State for making any provision for the reservation in appointments or posts in favour of any backward class of citizens, which, in the opinion of the State is not adequately represented in the services under the State. Article 16(4) originally provided that:-

“Nothing in this Article shall prevent the State from making any provision for the reservation of appointments or posts in favour of any backward class of citizens which, in the opinion of the State, is not adequately represented in the services under the State.”

6.1.3 The Supreme Court in their judgement dated 16 November, 1992 in the case of Indira Sawhney vs. Union of India, inter alia, held that there shall be no reservation in promotion after five years from the date of the judgement i.e. 16 November, 1992. The Department of Personnel & Training accordingly, vide O.M. dated 19 August, 1993 clarified to all Ministries/Departments of Govt. of India that the Supreme Court had permitted reservation, for SCs and STs in promotion, to continue for a period of 5 years from 16.11.1992 i.e. the date of the judgment in Indira Sawhney case.

6.1.4 In order to undo the effect of the above-referred judgment of the Hon'ble Supreme Court, Article 16 (4) was amended vide the Constitution (Seventy-Seventh Amendment) Act, 1995 to add a new Article 16 (4A) to empower the State for making any provision for reservation in matters of promotion to any class or classes of posts in the services under the State in favour of the Scheduled Castes and Scheduled Tribes who, in the opinion of the State, are not adequately represented in the services under the State.

6.1.5 The Department of Personnel & Training informed the Ministries/Departments of Govt. of India vide their O.M. dated 13.8.1997 that in pursuance of Article 16 (4A), it had been decided to continue the reservation in promotion for SCs and STs in services and posts under the Central Government beyond 15.11.1997.

6.1.6 The Hon'ble Supreme Court of India in their judgment dated 10.10.1995 in the case of Virpal Singh Chauhan & Ors. vs. Union of India held that if a candidate belonging to the Scheduled Castes/Scheduled Tribes was promoted to an immediate higher post/grade against a reserved vacancy earlier than his senior general/OBC candidate who was promoted later to the said immediate higher post/grade, the general/OBC candidate would regain his seniority over such earlier promoted candidate belonging to Scheduled Castes/Scheduled Tribe to the said immediate higher post/grade.

6.1.7 In order to nullify the adverse effect of the above-referred judgment of the Hon'ble Supreme Court dated 10.10.1995 and with a view to allowing the Government employees belonging to Scheduled Castes and Scheduled Tribes to retain their seniority in the event of their promotion by virtue of rule of reservation, Article 16 (4A) was further amended through Constitution (Eighty-fifth Amendment) Act, 2001 to substitute the words "in matter of promotion to any class" by the words "in matters of promotion, with consequential seniority, to any class". The amended Article 16 (4A) was made retrospectively operative from 17 June, 1995, i.e. the date of inclusion of this Article in the Constitution vide the Constitution (77<sup>th</sup> Amendment) Act, 1995. This amendment was necessary to enable the Government to determine the seniority of a person appointed to a post in accordance with the general principle that the persons promoted through an earlier selection would enbloc be senior to those promoted by subsequent selection.

6.1.8 In pursuance of the above-referred amendment in the Constitution, necessary instructions in this regard to all the Central Ministries/Departments of Govt. of India were issued by Department of Personnel & Training vide their O.M. No.20011/1/2001-Estt. (D) dated 21 January, 2002.

6.1.9 The Supreme Court in their judgment dated 16 November, 1992 in the case of **Indira Sawhney vs. Union of India**, inter-alia, held that the number of vacancies to be filled on the basis of reservation in a year including carry forward reservation should in no case exceed the 50% limit. In implementation of the directions of the Hon'ble Supreme Court in this judgment, the Department of Personnel & Training issued instructions to the Central Ministries/Departments vide their O.M. No.36012/5/97- Estt (Res.) dated 29 August 1997 imposing a limit of 50% on the current vacancies as well as the backlog vacancies.

6.1.10 In order to negate the effect of the above-referred judgment of the Hon'ble Supreme Court dated 16.11.1992, a new Article 16 (4B) was added to the Constitution vide the Constitution (81<sup>st</sup> Amendment) Act, 2000 to provide that: "Nothing in this article shall prevent the State from considering any unfilled vacancies of a year which are reserved for being filled up in that year in accordance with any provision for reservation made under clause (4) or clause (4A) as a separate class of vacancies to be filled up in any succeeding year or years and such class of vacancies shall not be considered together with the vacancies of the year in which they are being filled up for determining the ceiling of fifty percent reservation on total number of vacancies of that year." In pursuance of this amendment, necessary instructions to Central Ministries/Departments of Govt. of India were issued by Department of Personnel & Training vide their O.M. No.36012/5/97-Estt. (Res.) Vol.II dated 20 July, 2000 providing that the unfilled vacancies of a year which are reserved for being filled up in that year will be treated as separate/distinct class of vacancies to be filled up in any subsequent year or years and such class of vacancies shall not be considered with the vacancies of the year in which they are being filled up, for determining the ceiling of 50% of reservation on total number of vacancies. In other words, the ceiling of 50% on filling up of reserved vacancies would apply only on the reserved vacancies which arise in the current year and the backlog/carry forward reserved vacancies for SC/ST of the earlier years would be treated as a separate and distinct group and would not be subject to 50% ceiling.

6.1.11 Article 335 provides that "The claims of the members of Scheduled Castes/Scheduled Tribes shall be taken into consideration, consistently with the maintenance of efficiency of administration, in the making of appointments to services and posts in connection with the affairs of the Union or of a State". The Hon'ble Supreme Court in their judgment in the case of S. Vinod Kumar vs. Union of India, held in 1996 that the provisions relating to lowering of the qualifying marks/lesser level of standards of evaluation in the

matter of promotion provided for candidates belonging to SCs/STs under the Government's instructions were not permissible under Article 16(4) in view of the command contained in Article 335 of the Constitution. In pursuance of this judgment, the Department of Personnel & Training vide their O.M. No.36012/23/96-Estt. (Res.) dated 22 July, 1997 withdrew the relaxations/concessions in the matter of qualifying marks/standards of evaluation of performance made available to the candidates belonging to the Scheduled Castes and Scheduled Tribes vide Department of Personnel's O.Ms. No.8/12/69-Estt. (SCT) dated 23.12.1970 and No.36021/10/76-Estt. (SCT) dated 21 January, 1977.

6.1.12 In order to nullify the effect of the above-referred judgment of the Hon'ble Supreme Court, the following proviso to Article 335 was added in the Constitution vide the Constitution (Eighty-second Amendment) Act, 2000:-

“ Nothing in this Article shall prevent the State in making of any provision in favour of the members of Scheduled Castes and Scheduled Tribes for relaxation in qualifying marks in any examination or lowering the standards of evaluation, for reservation in matters of promotion to any class or classes of services or posts in connection with the affairs of the Union or of a State”.

6.1.13 In view of the above proviso added below Article 335, the instructions of the Department of Personnel and Training issued vide O.M. dated 22 July, 1997 were withdrawn and the concessions relating to lowering of qualifying marks/lesser standards of evaluation in matters of promotion for SCs and STs were restored vide their O.M. No.36012/23/96-Estt. (Res.)-Vol.II dated 3 October, 2000.

## **6.2 Reservation Profile**

6.2.1 Reservation in direct recruitment on all-India basis through open competition in favour of Scheduled Castes for the first time was introduced in the year 1943. The percentage of reservation was 8.33%.

6.2.2 On attainment of Independence, instructions were issued on 21.9.1947 increasing the percentage of reservation for Scheduled Castes from 8.33% to 12.5% in respect of direct recruitment on all-India basis made by open competition. In case of recruitment otherwise than by open competition, the percentage was fixed at 16.66% (or 16-2/3%) for Scheduled Castes.

6.2.3 Reservation @ of 5% for the first time was provided for Scheduled Tribes in direct recruitment after the promulgation of the 230

6.2.4 Constitution vide MHA's Resolution dated 13.9.1950.

6.2.4 961 Census revealed that the SC and ST population in proportion to the population of the country stood at 14.64% and 6.80% respectively. Accordingly, the percentage of reservation for SCs and STs was increased from 12.5% and 5% to 15% and 7.5% respectively by MHA's Resolution dated 25 March, 1970.

6.2.5 As stated above, 7.5% reservation for members belonging to Scheduled Tribes was prescribed in 1970 on the basis of the population of Scheduled Tribes reflected in the 1961 Census. There has been no revision of this percentage so far. According to 1991 Census and 2001 Census, the population of Scheduled Tribes was 8.1% and 8.2% respectively of the total population of the country which is exclusive of the tribal

communities, which have been recognized as Scheduled Tribes subsequently in the year 2002. **The Commission, therefore, recommends the upward revision of the reservation percentage in services and posts for Scheduled Tribes from the existing 7.5% to 8.2% having regard to the increase in the total population of the Scheduled Tribes in the country.**

6.2.6 The reservation for SCs & STs in promotion was extended in stages from January, 1957 onwards. Reservations were first provided for SCs and STs in the Departmental Competitive Examinations in Class I, II, III & IV posts. Reservations in promotion by selection in Group 'C' and 'D' for the first time were provided in 1963 and in the same year, reservation in Departmental Competitive Examinations was discontinued in Class I posts and was limited to Class II, III and IV posts only (now Groups 'B' 'C' and 'D'). The position was slightly changed in 1968 when the reservation in Limited Departmental Examinations in Class II, III and IV posts and promotion by selection to Class III and IV was subjected to the condition that the element of direct recruitment did not exceed 50%.

6.2.7 Reservation in promotion by seniority-cum-fitness in Groups 'A' 'B' 'C' and 'D' was introduced for the first time in 1972 [Department of Personnel's O.M. No.27/2/71-Estt. (SCT) dated 27 November, 1972] subject to the condition that the element of direct recruitment, if any, did not exceed 50%. In 1974, reservation in promotion by selection from Group 'C' to Group 'B', within Group 'B' and from Group 'B' to the lowest rung of Group 'A' were introduced [DP &AR's O.M. No.10/41/73-Estt. (SCT) dated 20 July, 1974] subject to the condition that the element of direct recruitment, if any, did not exceed 50%. The limitation of the direct recruitment not exceeding 50% was raised to 66-2/3% in 1976 [DP &AR's O.M.No. 36021/7/75-Estt. dated 25 February, 1976] and was further raised to 75% in 1989 [DoPT O.M. No.36012/17/88-Estt. (SCT) dated 25.4.1989].

6.2.8 As on date there is a reservation of 15% for the members of the Scheduled Castes and 7.5% for the members of the Scheduled Tribes in the matter of appointment by promotion to the grades of civil posts and civil services in which element of direct recruitment, if any, does not exceed 75% and when posts are filled by promotion:

- (a) through Limited Departmental Competitive Examination in Group 'B', Group 'C' and Group 'D' posts;
- (b) by selection from Group 'B' post to Group 'A' post or in Group 'B', Group 'C' and Group 'D' posts; and
- (c) by non-selection in Group 'A', Group 'B', Group 'C' and Group 'D' posts.

6.2.9 The Article 16 (4A) enables the State to make provisions for reservations, with consequential seniority, to any class or classes of post in services under the State in favour of the SCs/STs, which are not adequately represented in services under the State. In terms of this new Article [i.e. 16 (4A)] it was expected that the government would extend the reservation in promotion by selection within Group 'A' posts also. This was, however, not done by the Government while issuing instructions vide DoPT's O.M. dated 13 August 1997 subsequent to the amendment carried out in Article 16 (4). **The Commission, therefore, recommends the extension of the rule of reservation in promotion by selection within Group 'A' posts for officers belonging to Scheduled Tribes in terms of the provisions of Article 16 (4A).**

6.2.10 Under the Constitution, all citizens of the country are eligible for consideration for appointments to posts and services in the various Central Services irrespective of their domicile or place of birth and accordingly there can be no recruitment to any Central Services, which is confined by rules to the inhabitants of any specified area. In practice, however, it has been observed that recruitment to Group 'A' and Group 'B' services and posts attracts candidates from all over India while recruitment to majority of Group 'C' and 'D' posts and services, filled other-wise than through the UPSC, attracts only those who reside in the area or locality in which the office is located. In the latter category of cases i.e. Group 'C' and Group 'D', the percentage of population of Scheduled Tribes as also of Scheduled Castes to the total population in that State/UT is, therefore, taken into account by the Government for the purpose of fixing the percentages of reservation for them.

### 6.3 Review of five OMs issued by DoPT

6.3.1 The Department of Personnel & Training had issued five OMs during the period from January to August, 1997 in implementation of the judgments of the Hon'ble Supreme Court in different cases. These instructions had adverse impact on the reservation policy of the Government for members of Scheduled Castes and Scheduled Tribes. These OMs have subsequently been reviewed and revised instructions issued by the Department of Personnel & Training in pursuance of amendments made in the relevant Articles of the Constitution of India in respect of 4 OMs. The detailed position with respect to each of these five OMs is as follows:

- (i) The first O.M. of DoPT No.20011/1/96-Estt (D) dated 30.1.1997 was issued in pursuance of the judgment of the Hon'ble Supreme Court in the case of Virpal Singh Chauhan & Ors. vs. Union of India in which it was held that if a candidate belonging to the Scheduled Castes/Scheduled Tribes was promoted to an immediate higher post/grade against a reserved vacancy earlier than his senior general/OBC candidate who was promoted later to the said immediate higher post/grade, the general/OBC candidate would regain his seniority over such promoted candidate of the Scheduled Castes/Scheduled Tribe in the immediate higher post/grade. This O.M., which had adverse effect on the seniority of SC/ST officers promoted earlier viz-a-viz general category candidate promoted later was withdrawn and revised instructions issued vide O.M. of even no. dated 21.1.2002 on the basis of suitable amendment carried out in Article 16 (4A) of the Constitution vide the Constitution (Eighty-fifth Amendment) Act, 2001. The revised instructions, inter-alia, provide that the candidates belonging to general/OBC category promoted later will be placed junior to SC/ST candidates promoted earlier by virtue of rule of reservation.
- (ii) The Hon'ble Supreme Court in their judgment in the case of S. Vinod Kumar vs. Union of India held in 1996 that the provision of lower qualifying marks/lesser level of evaluation, in the matter of promotion provided for candidates belonging to SCs/STs under the Government's instructions were not permissible under Article 16(4) in view of the command contained in Article 335 of the Constitution. In pursuance of this judgment, the Department of Personnel & Training vide their O.M. No.36012/23/96-Estt. (Res.) dated 22 July, 1997 withdrew the relaxations/concessions in the matter of lowering of qualifying marks/standards of evaluation of performance made available to the candidates belonging to the Scheduled Castes and Scheduled Tribes vide Department of Personnel's O.Ms. No.8/12/69-Estt. (SCT) dated 23.12.1970 and No.36021/10/76-Estt. (SCT) dated 21 January, 1977. The above-referred O.M. of DoPT (i.e. dated 22 July, 1997) has since been withdrawn and the concessions relating to lower qualifying marks/lesser standards of evaluation in

matters of promotion for Scheduled Castes and Scheduled Tribes restored vide DoPT's O.M. No.36012/23/96-Estt. (Res.)-Vol.II dated 3.10.2000 on the basis of proviso added below Article 335 of the Constitution vide Constitution (Eighty-second Amendment) Act, 2000.

- (iii) The Supreme Court in their judgment dated 16 November, 1992 in the case of *Indira Sawhney vs. Union of India* further held that there shall be no reservation in promotion after five years from the date of the judgment i.e. 16.11.1992. This judgment led to the amendment of Article 16(4) of the Constitution by the Constitution (Seventy-seventh Amendment) Act, 1995 and by the Constitution (Eighty-fifth Amendment) Act, 2001 by adding a new Article 16(4A). The new Article 16(4A), inter-alia, provides that nothing will prevent the State from making any provision for reservation in matters of promotion, with consequential seniority, to any class or classes of posts in the services under the State in favour of SCs and STs which, in the opinion of the State, are not adequately represented in the services under the State. It was represented by members belonging to SC/ST or their associations etc. that the intention of the new Article 16 (4A), inter-alia, was to provide for reservation for SCs and STs in promotion by selection within Group 'A' posts also, which so far was limited to the lowest rung of Group 'A'. As the DoPT's O.M. dated 13.8.1997, issued in pursuance of the amendments made in Article 16(4), decided to continue the reservation in promotion as at present and was silent about extending the reservation in promotion for SCs and STs within Group 'A' in selection posts, the erstwhile Commission took up the matter with Department of Personnel and Training to issue the revised instructions in this regard. The Department of Personnel & Training informed that the matter in which one party had challenged the validity of Article 16 (4A) and another prayed for reservation in promotion within Group 'A' posts was pending before the Constitution Bench of the Hon'ble Supreme Court.
- (iv) The Supreme Court in their judgment dated 16 November, 1992 in the case of *Indira Sawhney vs. Union of India* also held that the number of vacancies to be filled on the basis of reservation in a year including carry forward reservation should in no case exceed 50% limit. In implementation of the directions of the Hon'ble Supreme Court in this judgment, the Department of Personnel & Training issued instructions to the Central Ministries/Departments vide their O.M. No.36012/5/97- Estt (Res.) dated 29 August, 1997 imposing a limit of 50% on the current vacancies as well as the backlog vacancies. This O.M. has since been withdrawn by DoPT O.M. of even no. dated 20 July, 2000 on the basis of amendments made in Article 16 (4) of the Constitution by adding a new Article 16(4B) vide Constitution (Eighty-first Amendment) Act, 2000. The revised instructions provide that the unfilled vacancies of a year which are reserved for being filled up in that year will be treated as a separate/distinct class of vacancies to be filled up in any succeeding year or years and such class of vacancies shall not be considered with the vacancies of the year in which they are being filled up, for determining the ceiling of 50% of reservation on total number of vacancies. In other words, the ceiling of 50% on filling up of reserved vacancies would apply only on the reserved vacancies which arise in the current year and the backlog/carry forward reserved vacancies for SC/ST of the earlier years would be treated as a separate and distinct group and would not be subject to any ceiling.
- (v) The Constitution bench of the Supreme Court, in the case of *R.K. Sabharwal vs. State of Punjab* as well as *J.C. Mallick vs. Ministry of Railways* held that the reservation of jobs for SCs/ STs/ OBCs should apply to posts and not to vacancies. The Court further held that the vacancy based roster could operate only till such time as the

representation of persons belonging to the reserved category in a cadre/ service reached the prescribed percentages of reservation and that thereafter the rosters could not be operated and the vacancies released by recruitment, resignation, promotion etc. of persons belonging to general category and the reserved categories were to be filled by appointment of persons from respective category so that prescribed percentage of reservation was maintained. The Court further held that the persons belonging to reserved categories who are appointed on the basis of merit and not on account of reservation were not to be counted towards the quota meant for reservation. It was in pursuance of these directions of the Hon'ble Supreme Court that the fifth O.M. of DoPT No.36012/2/96-Estt (Res.) dated 2.7.1997 was issued for switching over from vacancy-based roster to post-based roster. The new procedure was examined by the erstwhile NCSCST and it was observed that the Hon'ble Supreme Court in their judgment dated 10 February, 1995 in the case of R.K. Sabbarwal vs. State of Punjab had not given any direction regarding introduction of post-based roster and that the Court had only held that the vacancy-based roster could operate only till such time the representation of persons belonging to the reserved categories in a cadre reached the prescribed percentages of reservation. It was also observed that in the new post-based roster compared to the old vacancy-based roster, the reserved points had not been accorded due priority and that there was no reservation upto first six points in the new roster and as compared with the old roster, there was loss of one SC and one ST point upto the first thirteen points. The Commission also expressed a view that the Department of Personnel & Training before switching over to the post-based roster should have taken steps to ensure that the prescribed reservation levels of 15% of Scheduled Castes and 7.5% of Scheduled Tribes were achieved. DoPT was accordingly, requested by the erstwhile NCSCST to recall the O.M. dated 2.7.1997 and to continue the vacancy- based roster. The DoPT, in turn, decided to seek the opinion of the learned Attorney General of India in the matter. The advice given by the Attorney General of India on 9 April, 1999 was that the Government could not have continued the old vacancy- based roster and that it had no option but to switch over to post- based roster and further that the vacancy- based roster could not have continued after the Supreme Court judgment in the case of R.K. Sabbarwal vs. State of Punjab.

6.3.2 It will be seen from the above that out of the five O.Ms issued by DoPT in 1997, status quo ante in respect of four OMs has since been restored by issue of revised instructions. However, the matter regarding whether there should be reservation in promotion by selection within Group 'A' in favour of Scheduled Castes and Scheduled Tribes on the basis of the amendments made in Article 16(4) by adding a new Article 16(4A) (on which the DoPT's O.M.dated 13.8.1997 was silent) is presently sub judice before the Constitution bench of Hon'ble Supreme Court. Chairman, National Commission for Scheduled Tribes addressed a letter dated 10 August, 2005 to Minister of Law & Justice, New Delhi in which he drew his (i.e.Minister's) attention towards W.P. (C ) No.61 of 2002 in M. Nagaraj and Ors. vs. Union of India and Ors. and connected Writ Petitions pending before the Constitution bench of the Hon'ble Supreme Court of India wherein the Constitution (77<sup>th</sup> Amendment ) Act, 1995 and Constitution (81<sup>st</sup> Amendment) Act, 2000 under which Article 61(4A) and 16 (4B) of the Constitution were added were under challenge, and requested the Hon'ble Minister of Law & Justice to engage eminent jurists like Dr. K. Parasaran, former Attorney General of India who had argued in the Mandal Case in 1992 before the nine-judge bench of the Hon'ble Supreme Court of India, with a view to protect the interest of Scheduled Tribes. He further requested the Hon'ble Minister to ensure that the above case was presented and argued well before the Constitution bench to safeguards the Constitutional rights of ST/SC communities. **The Commission recommends**

**that the Government should engage an eminent jurist well- conversant with the subject matter to ensure that the case was effectively presented and argued well before the Constitution bench with a view to protect the interests of Scheduled Tribes as also of Scheduled Castes.**

#### **6.4 SCs/STs selected/promoted on their own merit not to be counted against vacancies reserved for them**

6.4.1 The Department of Personnel & Training vide their O.M. No.36028/17/2001-Estt (Res.) dated 11 July, 2002 has clarified to all the Ministries and Departments of the Govt. of India that it was clear from their O.M. dated 2 July, 1997 (referred to above) that SC/ST and OBC candidates appointed by direct recruitment on their own merit and not owing to reservation would be adjusted against unreserved points of the reservation rosters. It has further been clarified that:

- (i) The SC/ST candidates appointed by promotion on their own merit and not owing to reservation or relaxation of qualifications will not be adjusted against the reserved points of the reservation roster. They will be adjusted against unreserved points.
- (ii) If an unreserved vacancy arises in a cadre and there is any SC/ST candidate within the normal zone of consideration in the feeder grade, such SC/ST candidate cannot be denied promotion on the plea that the post is not reserved. Such a candidate will be considered for promotion along with other candidates treating him as if he belongs to general category. In case he is selected, he will be appointed to the post and will be adjusted against the unreserved point.
- (iii) SC/ST candidates appointed on their own merit (by direct recruitment or promotion) and adjusted against unreserved points will retain their status of SC/ST and will be eligible to get benefit of reservation in future/further promotions, if any.

#### **6.5 Non-permissibility of Exchange of Reserved Points between SCs and STs, filling up of Backlog Vacancies & Non-lapsing of Reserved Points**

6.5.1 By their O.M. No.36012/17/2002-Estt (Res.) dated 6 November, 2003, the Department of Personnel & Training have, inter-alia, issued the following instructions/clarifications to the Central Ministries/Departments on the non-permissibility of exchange of reserved points between SCs and STs and other related matters:

- (i) The basic principle of post-based reservation was that the number of posts filled by reservation by any category in a cadre should be equal to the quota prescribed for that category. If exchange of reservation between SCs and STs is permitted, the number of employees of one reserved category appointed by reservation will go beyond reservation prescribed for that category. It would be against the spirit of post-based reservation. Therefore, after introduction of post-based reservation, it is not permissible to fill up a post reserved for Scheduled Tribes by a Scheduled Caste candidate or vice-versa by exchange of reservation between SCs and STs in promotion as well as in direct recruitment.
- (ii) Where sufficient number of candidates belonging to SC/ST/OBC are not available to fill up the vacancy reserved for them in direct recruitment, the vacancies shall not be

filled by candidates not belonging to these communities. In other words, there is a ban of dereservation of vacancies reserved for SCs/STs and OBCs in direct recruitment. However, in exceptional cases in Group 'A' services where posts cannot be allowed to remain vacant in public interest, the concerned administrative Ministry/Department shall make a proposal for dereservation and consult the erstwhile NCSCST (now the NCSC and NCST). After obtaining the comments of NCSC or NCST, as the case may be, the concerned administrative Ministry/Department shall place the proposal of dereservation along with the NCSC or NCST's comments before a Committee comprising Secretary, DoPT, Secretary Ministry of Social Justice & Empowerment and the Secretary of the concerned administrative Ministry/Department. The recommendation of the Committee shall be placed before the Minister incharge of DoPT for a final decision. If dereservation of the vacancy is approved, this can be filled by the candidate of other community.

- (iii) If sufficient number of SC/ST/OBC candidates are not available to fill up vacancies reserved for them in the first attempt, a second attempt shall be made for recruiting suitable candidates of the concerned category in the same recruitment year. If the requisite candidates are not available even then, the unfilled reserved vacancies shall not be filled until the next recruitment year. These vacancies will be treated as "backlog vacancies".
- (iv) The current vacancies of a particular recruitment year and the backlog vacancies of SCs and STs (in respect of direct recruitment) will be treated as a separate and distinct group and the instructions that not more than 50% of the vacancies can be reserved in a year will be applicable only with reference to the current vacancies and all the backlog vacancies reserved for SCs and STs will be filled up by candidates belonging to the concerned category without any restriction whatsoever as they belong to a distinct group of backlog vacancies of SCs and STs.
- (v) The unfilled vacancies reserved for SCs/STs/OBCs in respect of direct recruitment will be carried forward as backlog vacancies for the subsequent recruitment year(s) as long as these are not filled by candidates of the category for which these are reserved.
- (vi) In cases of promotion including promotion by selection from Group 'C' to Group 'B', within Group 'B' and from Group 'B' to the lowest rung of Group 'A', if sufficient number of SC/ST candidates fit for promotion against reserved vacancies are not available, such vacancies may be dereserved as per prescribed procedure and filled by candidates of other communities.
- (vii) If sufficient number of SC/ST candidates fit for promotion against reserved vacancies are not available and such vacancies can also not be dereserved for reasons like non-availability of candidates of other categories to fill up the posts etc. the vacancies shall not be filled and will remain unfilled until the next recruitment year. These vacancies will be treated as "backlog vacancies".
- (viii) The position stated in sub-paras (iv) and (v) above will also be applicable in respect of vacancies required to be filled up by promotion.
- (ix) In cadres having more than 13 posts, number of posts filled by reservation by any category at any point of time should ideally be equal to the quota determined as per percentage of reservation prescribed for that category. Whenever the posts are filled, efforts have to be made to complete reservation quota for SCs/STs/OBCS in case of

direct recruitment and for SCs/STs in case of promotion so that the number of posts filled by reservation by SC/ST & OBC as the case may be, in the cadre is equal to the number of posts earmarked for them. It means that if reservation quota is not complete, efforts would be made to complete the reservation quota whenever the recruitments are made in the cadre. Thus reservation would not lapse in case of post based reservation for the reason that reserved posts could not be filled for a specified number of years.

- (x) In cadres having 13 or less number of posts where 14-point L-shaped rosters are applied, if the unfilled reserved vacancies are not filled by reservation in the third year of carry forward, reservation will be treated as lapsed and will be filled as an unreserved vacancy. The Commission is of the opinion that this decision of the Government is not in keeping with the general principles of the post-based roster which has been unequivocally stated in the preceding sub-para (ix) above. **The Commission, therefore, strongly recommends that the unfilled vacancies reserved for Scheduled Tribes in cadres having 13 or less number of posts should also be carry forward indefinitely till such times these posts are filled up by ST candidates as is the case in regard to cadres having more than 13 posts with respect to which there is no lapsing of reserved points.**

## 6.6 Dereservation of Posts

6.6.1 There is a ban on dereservation in posts filled by direct recruitment and the unfilled vacancies are required to be carried forward till such time a suitable SC/ST candidate become available. This ban was imposed vide DoPT's O.M. No.36012/6/88-Estt. (SCT) dated 25 April, 1989 and was made effective w.e.f. 1 April, 1989 in respect of all direct recruitment to be made to fill up the reserved vacancies in Group 'A', 'B', 'C' and 'D'. The purpose behind this decision was to protect the interests of SC/ST communities and to ensure that posts reserved for them were filled up only by candidates belonging to these communities. The present instructions of the Government, however, provide for dereservation of reserved posts which are filled up by promotion and, as per the existing instructions, the Ministries/Departments have been delegated the powers in certain selected categories of cases to accord dereservation. However, they are required to send the proposal in the prescribed proforma to the Department of Personnel & Training and the National Commission for Scheduled Tribes, and to wait for their comments for a period of 15 days before going for dereservation. In pursuance of these provisions, the Commission receives a large number of proposals for dereservation of reserved posts. During the scrutiny of those proposals, the Commission has observed that either the ST candidates were not at all available in the feeder grade or even if they were available, they were at the bottom of the seniority list and not likely to be covered in the normal zone or in the extended zone of consideration in near future. The Commission feels that allowing dereservation in such cases adversely affects the interests of ST candidates to the extent that the vacancies meant for them are filled up by general category candidates and even though the reserved points are carried forward, there are very little chances of their being considered for promotion for considerable period of time. The Commission would also like to make the following observations in this regard:

- (i) Prior to 6 November, 2003, the posts reserved for Scheduled Tribes were being given in exchange to SC candidates in the event of non-availability of ST candidates and now from 6.11.2003 onwards, ST posts are being filled up by general category candidates through the existing process of dereservation. The situation has not

undergone any change in favour of ST candidates even after 6.11.2003 and they continue to be deprived of their share in the services by way of reservation. This has, no doubt, created a deep sense of resentment among the ST communities and the only credible via media to deal with this situation is to stop forthwith the dereservation of posts reserved for Scheduled Tribes candidates in posts filled up by promotion.

- (ii) Consequent upon the introduction of post-based reservation roster w.e.f. 2 July, 1997, the reservation for SC/ST candidates at any point of time should not be less than the prescribed percentages earmarked for them and the moment there is a shortfall in any cadre of posts on account of retirement etc., it is required to be filled first to make up for the shortfall. This means that the present instructions of the Government to allow dereservation of reserved posts to be filled by promotion impinges upon the spirit of instructions on post-based reservation roster.
- (iii) The exchange of reserved points between SC and ST candidates has been discontinued w.e.f. 6 November, 2003 with a view to ensure that the posts reserved for ST communities are filled only by candidates belonging to ST category. The basic purpose of this decision of the Government is being defeated by allowing dereservation of reserved points in promotion which results in diverting their share in posts to general category candidates and this deprivation of their legitimate share in the governance in most of the cases is almost perpetual due to their non-availability in the feeder grade.

**6.6.2 In view of the above, the Commission strongly recommends that on the line of the ban imposed on dereservation of reserved posts to be filled by direct recruitment, a ban should also be imposed on dereservation of reserved posts to be filled by promotion in view of the implementation of the post- based roster, with a view to protect the interests of ST candidates in promotions.**

**6.6.3** The existing instructions provide that where the recruitment to a grade is made both by promotion and direct recruitment i.e. where separate quota for promotion and direct recruitment are prescribed in the Recruitment Rules, reserved vacancies falling in the promotion quota which cannot be filled due to non-availability of eligible persons belonging to SC/ST in the feeder cadre may be temporarily diverted to the direct recruitment quota and filled by recruitment of candidates belonging to SC or ST in accordance with the provisions relating to the direct recruitment contained in the RRs. These instructions further provide that in the subsequent year (s) when reserved vacancies in the direct recruitment quota become available, they may be diverted to the promotion quota to make up for the vacancies diverted earlier and filled from SC/ST candidates in the feeder cadre who might by then become available/eligible in the feeder grade for promotion. The problem arises in cases where the RRs provide for filling the posts 100% by promotion and the candidates belonging to ST communities are not available in the feeder grade, even though the RRs for the feeder grade provide element of direct recruitment. The question arises as to how the posts reserved for ST communities will be filled in such cases in case the dereservation of such posts is banned. The solution lies in amending the Recruitment Rules to provide also for direct recruitment in order to ensure that in case the eligible ST candidates are not available in the feeder grade, the vacancies reserved for them, instead of being dereserved as per the present instructions, are filled through direct recruitment. **The Commission accordingly recommends that the Department of Personnel & Training should issue necessary instructions to all the cadre controlling authorities to amend their Recruitment Rules to suitably provide for the element of direct recruitment also so that the unfilled points**

**reserved for STs are temporarily diverted from promotion to direct recruitment quota and the situation of dereservations of the reserve point is avoided.**

## **6.7 Representation of SCs/STs in Departmental Promotion Committees**

6.7.1 The following instructions are in place as on date in respect of representation of SC/ST officers on the Departmental Promotion Committees, Selection Boards or Recruiting Authorities:

- (i) Whenever a Selection Committee or Board exists or has to be constituted for making recruitment to 10 or more vacancies in Group 'C' or Group 'D' services/ posts, it shall be mandatory to have one member belonging to SC/ST/OBC and one member belonging to minority community in such Committee/Board. Further, one of the members of the Selection Committee/Board whether from the general category or from the minority community or from SC/ST/OBC should be a lady failing which a lady member should be co-opted on the Committee/Board [DoPT's O.M. No.39016/9 (5)/89-Estt (SCT) dated 16.8.1990 read with their O.M. No.42011/15/95-Estt (SCT) dated 11.7.1995].
- (ii) The Chairman of the DPC in respect of Group 'C' and Group 'D' posts should be an officer of a sufficiently high level and one of the members of the Committee should be an officer from a Department not connected with the one in which promotions are to be considered. In cases where an outside representative is inducted as a member of DPC, he should invariably be an officer belonging to SC/ST community and only where this is not possible, should an officer belonging to SC/ST from the same department be nominated to the DPC. In the event of an officer belonging to SC/ST not being available for nomination to the DPC either from other Department or from the same Department, an endorsement to this effect should be obtained before holding the meeting of the DPC from the Liaison Officer of the Ministry/Department/Office concerned to the effect that all efforts have been made to find a SC/ST officer for the DPC, but with no success. [DP & AR' s O.M. No.41013/16/81-Estt. (SCT) dated 10.8.1981 read with their subsequent O.M. No.36011/22/82-Estt. (SCT) dated 18.8.1983.]

6.7.2 The Commission has observed that in most of the cases it is only the representatives belonging to SC only who are associated with the DPCs/Selection Committees and to that extent the interests of ST candidates are not protected. **The Commission is, therefore, of the view that the above cited instructions should be revised to provide for association of separate representative belonging to Scheduled Tribe in all the Departmental Promotion Committees/Boards/Selection Committees to protect the interest of Scheduled Tribes in recruitment/ promotion.**

## **6.8 Reservation in Private Sector**

6.8.1 Both the National Commission for Scheduled Castes and the National Commission for Scheduled Tribes (earlier the National Commission for Scheduled Castes and Scheduled Tribes) have expressed their considered view that in consonance with the Constitutional scheme, the principle of positive discrimination enshrined in the various articles of the Constitution governing reservation for SCs and STs should be extended to the private sector also to fulfill constitutional obligations of social equality. The DoPT with reference to a Private Member Bill had sought the opinion of the learned Attorney General of India who opined that Article 16 (4) of the Constitution enabled the State to provide reservation in appointments or posts in favour of any backward class of citizens in the services under the

State and that reservation in private sector would not be permissible under Article 16 (4) of the Constitution and will be violation of the equality provisions in the Constitution.

**6.8.2 The Commission would like to reiterate the recommendations made by the erstwhile National Commission for Scheduled Castes and Scheduled Tribes in its Sixth Report (1999-2000 and 2000-2001) to the effect that the principle of positive discrimination should be extended to the private sector also to fulfill the constitutional obligations of bringing about social equality and that a beginning should be made with all those economic activities which are getting the benefit of institutional finance and/or being supported by the State in some other ways.**

**6.8.3 The Commission also reiterates the earlier recommendation of the erstwhile NCSCST in its Sixth Report (1999-2000 and 2000-2001) that the Government should lay down a binding clause at the time of disinvestments of PSEs that the new management shall observe and continue the reservation policy for appointment to various posts. The Commission further recommends that the Government should enact a legislation to that effect.**

## **6.9 Reservation for Scheduled Tribes in Scientific and Technical Posts**

6.9.1 Prior to June, 1975, scientific and technical posts required for conducting research or for organizing, guiding and directing research were exempted from the purview of orders relating to reservation for Scheduled Castes and Scheduled Tribes. In 1975, the orders were modified and it was decided that the scheme of reservations for Scheduled Castes and Scheduled Tribes shall also cover appointments made to scientific and technical posts upto and including the lowest grade of Class I (now Group 'A') in respective services wherever they were exempted from the purview of scheme of reservations [DP & AR's O.M. No.6/2/73-Estt. (SCT) dated 23 June, 1975].

6.9.2 The reserved vacancies in scientific and technical posts, which would be brought within the purview of the scheme of reservations for candidates from SCs/STs in pursuance of the decision indicated in para-5.9.1, need be advertised only once, instead of twice, as prescribed in MHA's O.M. No.1/1/70-Estt. (SCT), dated 31.7.1970. In the event of non- availability of candidates belonging to the reserved communities, the reserved vacancies may be treated as dereserved by the administrative Ministry/Department concerned without obtaining the approval of the Department of Personnel & Administrative Reforms (now DoPT).[DP & AR's O.M. No.6/2/73-Estt. (SCT) dated 23 June, 1975].

6.9.3 In terms of the instructions contained in DP & AR O.M. No.9/2/73-Estt.dated 23.6.1975, only such of the scientific and technical posts as satisfy all the following conditions are now required to be exempted from the purview of the reservation orders:-

- (i) The posts should be in grades above the lowest rung of Group 'A' of the Service concerned;
- (ii) They should be classified as "scientific and technical" in terms of Cabinet Secretariat (Department of Cabinet Affairs) O.M. No. 85/11/CF-61 (1), dated 28.12.1961;
- (iii) These posts should be for conducting research or for organizing, guiding and directing research.

6.9.4 These instructions (i.e. dated 23.6.1975) further lay down that orders of the Minister concerned should be obtained before exempting any posts satisfying the above conditions from the purview of the scheme of reservation.

6.9.5 The above decisions do not apply to posts in the Department of Space and in the Department of Electronics and in regard to the recruitment of trainees to the training school under the Department of Atomic Energy and, therefore, in these Departments, scientific and technical posts for research continue to be exempted from the purview of the orders regarding reservations for SCs/STs.

6.9.6 The Commission is of the opinion that there is a need to reconsider the earlier decision of the Government taken in the year 1975 [vide DP&AR's O.M. dated 23 June 1975] to restrict the reservation in scientific and technical posts including those intended for conducting research, or for organizing, guiding and directing research upto the lowest rung of Group 'A'. The position which existed in the year 1975 has undergone complete change, thanks to explosion in education including scientific and technical education and now a good number of qualified and experienced candidates belonging to SC/ST are available in these disciplines. **The Commission, therefore, recommends that the scheme of reservation for SCs and STs in scientific and technical posts should also be extended beyond the lowest rung of Group 'A' posts/ services (i.e. within Group 'A').**

## **6.10 Concessions to SC/ST Officers in posts filled by Direct Recruitment**

6.10.1 The following relaxations/concessions are available in direct recruitment to the candidates belonging to Scheduled Castes and Scheduled Tribes:-

- (i) The maximum age-limit prescribed for direct recruitment to a post/service is relaxable by five years in the case of candidates belonging to SCs and STs.
- (ii) The candidates belonging to SCs and STs are not required to pay any fees for admission to any recruitment examination/selection.
- (iii) In direct recruitment whether by examination or otherwise, if sufficient number of SC/ST candidates are not available on the basis of the general standard to fill all the vacancies reserved for them, candidates belonging to these communities should be selected to fill up the remaining vacancies reserved for them by relaxing the standard to make up for the shortfall provided they are not found unfit for recruitment to post/posts in question.
- (iv) In addition to the concession referred to above against (iv), if the requisite number of SC and ST candidates fulfilling even the relaxed standards are not available to fill the vacancy reserved for them in non-technical and quasi-technical Group 'C' and 'D' services/posts to be filled by direct recruitment otherwise than by written examination, the selecting authorities are required to select the best available among the SC and ST candidates who fulfill the minimum educational qualifications with relaxed standards prescribed for the said service/post. Further, in order to bring such candidates to the minimum standard necessary for the post and for the maintenance of deficiency of administration, they should be provided in service training within their own offices.
- (v) The period of experience prescribed in the recruitment rules is relaxable at the discretion of the recruiting agency.
- (vi) For the vacancies reserved for Scheduled Castes and Scheduled Tribes, the interview of Scheduled Caste and Scheduled Tribe candidates should be held on a day or sitting

of the Selection Committees other than the day or sitting on which general candidates are to be interviewed so that the Scheduled Caste and Scheduled Tribe candidates are not judged in comparison with general candidates and the members of the interviewing authority/Selection Committee are prominently aware of the need for judging the Scheduled Caste and Scheduled Tribe candidates by relaxed standards.

- (vii) Scheduled Castes and Scheduled Tribe candidates recruited for Group 'C' and 'D' posts on regional basis are to be posted as far as possible near their native places.
- (viii) Pre-Examination Training Centres have been set up in various States to increase the employment potentialities of Scheduled Caste and Scheduled Tribe candidates for selection for various competitive examinations. The authorities holding such examinations are required to inform the Pre-Examination Training Centres well in advance of the actual date of examination, the probable number of reserved vacancies and the syllabus for and the standard of examination to enable the Centres to evolve the scheme of training.
- (ix) In posts filled otherwise than through examination normally six to seven candidates belonging to the community for which the post is reserved may be called for interview for each reserved vacancy, subject to availability of such candidates fulfilling the qualifications prescribed for the post. Where the response from the Scheduled Caste/Scheduled Tribe candidates is exceptionally good, the recruiting authority may, having regard to the merits of each case, call as many as 10 to 12 candidates of the respective category for each reserved vacancy for purpose of interview/selection.
- (x) The SC/ST candidates have been permitted to approach the National Commission for Scheduled Castes and the National Commission for Scheduled Tribes directly without routing their representation through proper channel in connection with redress of their service grievances. For this purpose they need not seek prior approval of their employers to approach the Commission.
- (xi) 25 per cent of the vacancies accruing in the grade of peons are required to be reserved for being filled by transfer of sweepers, farashes, chowkidars etc. as have put in a minimum of five years service even though they may not be possessing minimum educational qualifications prescribed for direct recruitment to the post. They should, however, possess elementary literacy and give proof of ability to read either English or Hindi or regional language.

## **6.11 Concessions to SC/ST Officers in posts filled by Promotion by Selection**

### **(i) Within Group 'A'**

5.11.1 The Ministry of Home Affairs' O.M. No.1/9/69-Estt. (SCT) dated 26.3.1970 as amended vide DP & AR's O.M. No. 1/10/74-Estt. (SCT) dated 23.12.1974 and DoPT's O.M. No.36012/12/88-Estt. (SCT) dated 21.9.1988 provides that in promotions by selection to posts within Group 'A' which carry an ultimate salary of Rs.5700/- per month or less, the SC/ST officers, who are senior enough in the zone of consideration for promotion so as to be within number of vacancies for which the select list has to be drawn up, would be included in that list provided they are not considered unfit for promotion. Consequent upon the revision of scales of pay, inter-alia, of Group 'A' posts on the basis of the recommendations of the

Fifth Central Pay Commission, it has been decided that the order containing the aforesaid OMs would apply to promotions by selection to posts within Group 'A' carrying an ultimate salary of Rs.18,300/- or less in the revised scale of pay [DoPT's O.M. No.36028/21/2003-Estt. (Res.) dated 29.1.2004].

6.11.2 The Department of Public Enterprises have also issued similar instructions vide their O.M. No.6/11/2004-DPE (SC/ST Cell) dated 8 November, 2004 raising the ultimate salary for the purpose of giving concession/protection in posts filled by promotion by selection within Group 'A' from Rs.9100/-(which was effective from 1.1.1992) to Rs.20,800/- p.m. w.e.f. 1.1.1996 in respect of the SC/ST officers working in the Central Public Sector Undertakings consequent upon a revision of scales of pay from that date.

6.11.3 As regards the financial institutions, the Department of Economic Affairs (Banking Division) was contacted to ascertain the position as to whether they had issued any instructions on the lines of the instructions issued by the Department of Public Enterprises with reference to Central Public Sector Undertakings. The Commission was informed that the Banking Division was not in receipt of the O.M. issued by the Department of Personnel & Training dated 29.1.2004 (referred to in para 5.10.1). A copy each of the O.M. issued by DoPT and the Department of Public Enterprises was made available to the concerned officer of the Banking Division for taking necessary action to issue suitable instructions for deciding the level of the ultimate salary for availing of the concession/protection in posts filled by promotion by selection within Group 'A' in respect of SC/ST officers working in financial institutions. It is, however, found that no fresh instructions have been issued by the Department of Economic Affairs. It is further noticed that the Department of Economic Affairs vide their letter No.7/7/90-SCT (B) dated 20.2.1991 had advised the DGM (P), Oriental Bank of Commerce, Head Office New Delhi with copies to all other Public Sector Banks/Financial Institutions consequent upon the raising of the limit of ultimate salary from Rs.2250/- to Rs.5700/- in respect of officers working in the Govt. of India offices that since the pay revision in Govt. and Public Sector Banks took place at different points of time, it was found possible to equate the maximum of the scale of pay of Rs.5700/- with the pay scale in Public Sector Banks and, therefore, MMGS-III in Public Sector Banks will continue to be treated as equal to the post in Govt. of India, the maximum of which is Rs.5700/-

**(ii) From Group 'C' to Group 'B' within Group 'B' and from Group 'B' to the lowest rung of Group 'A'**

6.11.4 In case of promotion by selection, selection against vacancies reserved for Scheduled Castes and Scheduled Tribes should be made only from among those Scheduled Caste/Scheduled Tribe officers who are within the normal zone of consideration. Where adequate number of SC/ST candidates are not available within the normal field of choice, it may be extended to 5 times the number of vacancies and the SC/ST candidates (and not any other candidates) coming within the extended field of choice should also be considered against the vacancies reserved for them. The following instructions will apply to the filling of vacancies reserved for Scheduled Castes and Scheduled Tribes in such promotions:-

- (i) Scheduled Caste and Scheduled Tribe officers who are within the normal zone of consideration shall be considered for promotion along with others and adjudged on the same basis as others and those Scheduled Caste and Scheduled Tribe officers amongst them who are selected on that basis may be included in the general select list. If some of the SC/ST candidates so selected have been selected on their own merit in all respect and are so placed in the select list that their names fall within the number

of unreserved vacancies, such candidates shall be adjusted against unreserved vacancies.

- (ii) If number of candidates from Scheduled Castes and Scheduled Tribes other than the candidates selected on their own merit who are adjusted against unreserved vacancies is less than the number of vacancies reserved for them, the difference should be made up by selecting candidates of these communities who are in the zone of consideration irrespective of merit but who are considered fit for promotion.
- (iii) If the number of SC/ST candidates found fit for promotion against reserved vacancies is still less than the number of vacancies reserved for them, the difference should be made up by selecting candidates of these communities who are in the extended zone of consideration irrespective of merit but who are considered fit for promotion.
- (iv) A select list should be prepared in which the names of all the selected officers, general as well as those belonging to Scheduled Castes and Scheduled Tribes, are arranged in the order of merit and seniority according to the general principles for promotion to selection posts. However, such of the SC/ST candidates who are in the extended field of choice and get selected should en bloc be placed in the end by maintaining their inter se position in accordance with their gradation by the DPC. This select list should, thereafter, be followed for making promotions in vacancies as and when they arise during the year.

**(iii) Promotion by selection in Group 'C' & 'D' Posts**

- (i) In such posts (i.e. Group 'C' & 'D' posts), the Select List of SC/ ST officials is required to be drawn up separately to fill reserved vacancies. Officials belonging to these classes are required to be adjudged separately amongst themselves and not along with other officials and if they are found fit for promotion they are required to be included in the list irrespective of their merit as compared to other officers. The following instructions are applicable in such promotions.
  - (a) SC and ST officials who are within the normal zone of consideration should be considered for promotion along with others and adjudged on the same basis as others and those SCs and STs amongst them who are selected on that basis may be included in the general select list in addition to their being considered for separate select lists for SCs and STs respectively.
  - (b) If candidates from SCs and STs obtain on the basis of their positions in the aforesaid general select list, less vacancies than are reserved for them, the difference should be made up by selected candidates of these communities who are in the separate select lists for SCs and STs respectively.

## **6.12 Model Rosters for Reservation**

6.12.1 In order to give effect to the reservation prescribed, every Ministry/Department is required to maintain a model roster to indicate the points in respect of reserved vacancies. It is clarified that roster is an aid to determine the number of vacancies reserved for SC/ST/OBC out total number of sanctioned posts in a particular cadre/service. It is further clarified that rosters are not meant to be used for determining the order of appointment or seniority.

6.12.2 Initially there were following three types of model rosters, which were being used in filling up of the vacancies and were called 'vacancy based rosters':

- (i) The first model rosters contained 40 points which was in used both for posts filled by direct recruitment on all India basis through open competition as well as by promotion in all categories. This roster was applicable for all India percentages of reservations i.e. 15% for Scheduled Castes and 7.5% for Scheduled Tribes. The reserved points for Scheduled Castes were 1,8,14,22,28 and 36 and those for Scheduled Tribes were 4,17 and 31.
- (ii) The second 40- point roster was being utilized for posts filled by direct recruitment on all India basis otherwise than by open competition for which the percentages of reservation for Scheduled Castes were 16.66% for Scheduled Castes and 7.5% for Scheduled Tribes. The reserved points for Scheduled Castes were 1,7,13,20,25,32 and 37 and for Scheduled Tribes were 4,17 and 29. In every third cycle of the roster, point No.37 reserved for Scheduled Castes was required to be treated as 'unreserved'.
- (iii) The third type of model roster containing 100 points was for filling up of posts to be filled by direct recruitment on local/regional basis for Group 'C' and 'D' posts and posts made otherwise than through UPSC except in Delhi where the percentage of reservation prescribed for recruitment on all India basis is required to be followed, the percentage of reservation is required to be based generally on the proportion of population of Scheduled Castes and Scheduled Tribes in the State. Where recruitment is made for circles or regions consisting in more than one State, the percentages will be fixed taking into account the proportion of the population of SCs and STs in the entire circle or region.

6.12.3 The instructions regarding maintenance of vacancy-based rosters were changed vide DoPT's O.M. No.36012/22/93-Estt. (SCT) dated 8 September, 1993 consequent upon the introduction of reservation in direct recruitment in favour of candidates belonging to Other Backward Classes (OBCs). The details of the modified instructions are as follows:-

- (i) (a) In respect of direct recruitment on all India basis by open competition where there is reservation for 15% for SCs and 7.5% for STs, the existing 40-point roster was revised into 200-point roster. The reservations which had to be carried forward in the previous roster were required to be carried forward to the new roster.
- (b) Out of 200 points of the new roster, 30- points were earmarked for Scheduled Castes, **15** for Scheduled Tribes and 54 for OBCs.
- (ii) As there is no reservation for OBCs in promotion, no change was effected in the existing roster for promotion and the existing 40-point roster.
- (iii) The 40-point roster in respect of posts filled on all India basis otherwise than by open competition for which the percentage of reservation is 16.66% for SCs and 7.5% for STs was changed into 120-point roster vide DoPT's O.M. dated 29 December, 1993 . The number of reserved points in the 120-point roster was **20** for Scheduled Castes, 9 for Scheduled Tribes and 31 for OBCs.

- (iv) The existing 100-point roster for direct recruitment in respect of Group 'C' and 'D' posts normally attracting candidates from a locality or region was also revised to provide representation to OBCs vide DoPT's O.M. dated 29 December, 1993. There was no change in the number of points in this roster, which remained 100 only.

6.12.4 The Constitution bench of the Supreme Court, in the case of R.K. Sabharwal vs. State of Punjab as well as J.C. Mallick vs. Ministry of Railways held that the reservation of jobs for SCs/ STs/ OBCs should apply to posts and not to vacancies. The Court further held that the vacancy based roster could operate only till such time as the representation of persons belonging to the reserved category in a cadre/ service reached the prescribed percentages of reservation and that thereafter the rosters could not be operated and the vacancies released by recruitment, resignation, promotion etc. of persons belonging to general category and the reserved categories were to be filled by appointment of persons from respective category so that prescribed percentage of reservation was maintained. The Court further held that the persons belonging to reserved categories who are appointed on the basis of merit and not on account of reservation were not to be counted towards the quota meant for reservation.

6.12.5 With a view to bring the policy of reservation in line with the law laid down by the Supreme Court, the vacancy- based reservation rosters were replaced by post-based rosters vide DoPT's O.M. dated 2 July, 1997:-

- (i) The existing model roster in respect of posts filled by direct recruitment on all India basis through open competition did not undergo any modification. This roster continued to contain 200-points giving 15% reservation for SCs, 7.5% reservation for STs and 27% reservation for OBCs. In this roster 30 points are reserved for SCs 15 for STs and 54 for OBCs.
- (ii) In the 120-point roster in respect of posts filled on all India basis otherwise than by open competition for which the percentage of reservation is 16.66% for SCs, 7.5% for STs and 25.84% for OBCs, the placement of reserved points was changed although there is no change in the total number of reserved points which remain the same i.e. 20 for SCs, 9 for STs and 31 for OBCs. In the earlier 120- point roster, which was introduced in 1993 on introduction of reservation for OBCs in direct recruitment, every alternate points were reserved. This position was changed.
- (iii) The vacancy based 40-point roster indicating 15% reservation for SCs and 7.5% for STs in matter of promotion which did not undergo any change in September 1993 while revising the rosters on account of introduction of reservation for OBCs, was replaced by a 200-point roster. The revised roster contains 30 points for SCs and 15-points for STs.

6.12.6 In small cadres having sanctioned posts of 13 or less, two separate rosters – one for direct recruitment in which reservation is applicable for OBCs also and the second one for promotions which is applicable only for SCs and STs and not to OBCs have been prescribed. This roster is also known as L-shaped roster. There is no point reserved for ST from S. No. 1 to 13 of the roster. Therefore, this roster is operated upto 14<sup>th</sup> point to cover the reserved point for ST. In reality, this is a 14-point roster.

### 6.13 Zone of Consideration

6.13.1 The size of zone of consideration for promotion by 'selection' as prescribed vide DoPT's O.M. No.22011/1/90-Estt. (D) dated 12 October, 1990 read with their O.M. of even number dated 22 April, 1992 is as under:-

No. of vacancies	Normal size of zone of consideration	Extended zone of consideration for SC/ST
1	5	5
2	8	10
3	10	15
4	12	20
5 and above	Twice the number of vacancies +4	5 times the number of vacancies.

6.13.2 The Department of Personnel and Training by their O.M. No.22011/2/2002-Estt. (D) dated 6 January, 2006 have modified the existing provisions relating to size of zone of consideration (mentioned above) as under:-

- (i) For vacancies upto [and including] 10, existing provisions relating to normal size of zone of consideration will continue to be applicable;
- (ii) For vacancies exceeding 10, the normal size of zone of consideration will now be one and a half times the number of vacancies, rounded off to next higher integer, plus three but shall not be less than the size of zone of consideration for ten vacancies;
- (iii) The existing size of extended zone of consideration for SC/ST officers, viz. five times the total number of vacancies, will continue to be applicable.

6.13.3 The Hon'ble Supreme Court in their judgment in Civil Appeal No.4026 of 1988 in U.P. Rajya Vidut Parishad SC/ST Karamchari Kalyan Sangh vs. U.P.State Electricity Board and Ors. dated 23 November, 1994 have already held that "we are prima facie in agreement with the contention of the learned counsel for the Appellant that there has to be a separate zone of consideration so far as SC/ST candidates are concerned. Clubbing the Scheduled Caste with general category in the same zone of consideration would defeat the very purpose of reservation". The Hon'ble Supreme Court in their judgment in Petitions for Special Leave to Appeal (Civil/CH) No.(s) 14568-69/95 in C.D. Bhatia and Ors. vs. Union of India & Ors. dated 31.10.1994/3.4.1995 clarified that "we are, however, of the view that the law laid down by this Court in U.P. Rajya Vidut Parishad case (referred to above) is binding on all authorities including the Union of India. **The Commission accordingly recommends that the existing system of drawal of a single zone of consideration for general as well as SC/ST officers should be dispensed with and a separate zone of consideration consisting exclusively of SC/ST officers in the feeder grade who have completed the minimum required years of service and are eligible for being considered for promotion should be drawn up irrespective of their position in the seniority list and thereafter separate select lists should be drawn up for SC/ST candidates.** The National Commission for Scheduled Tribes has, in fact, vide its letter No.Policy-1/2006/ST/SSW dated 24 January, 2006 has already requested the Secretary, Department of Personnel & Training to issue revised instructions for drawal of separate zone of consideration for SC/ST candidates in

matters of their promotion by selection from Group C to Group B, within Group B and from Group B to the lowest rung of Group 'A' in compliance with the principles laid down by the Supreme Court in their above-cited judgment.

#### **6.14 Percentage of Reservation for Scheduled Tribes (as also SCs and OBCs) in Direct Recruitment to Group 'C' and Group 'D' Posts on Local and Regional basis**

6.14.1 Reservation for Scheduled Tribes and Scheduled Castes in case of direct recruitment in Group 'C' and Group 'D' posts normally attracting candidates from a locality or a region is generally fixed in proportion to the population of the Scheduled Tribes and Scheduled Castes in the respective States. Percentage of reservation for SCs and STs in such cases was last fixed in 1985 on the basis of the 1981 Census. When reservation for OBCs in such cases was introduced in 1993, reservation for OBCs in such cases was also fixed keeping in view the proportion of their population in the respective States/UTs and the fact that it was not more than 27% and the total reservation for SCs, STs and OBCs did not exceed the limit of 50%.

6.14.2 The Department of Personnel & Training informed the National Commission for Scheduled Tribes vide their letter No. 36017/1/2004-Estt. (Res.) dated 12 January, 2005 that they proposed to revise the percentages of reservation for SCs, STs and OBCs on the basis of their population according to 2001 Census. It was indicated that as the Census figures did not show the proportion of OBCs in the population, it was proposed to fix the percentage of reservation for OBCs generally on the basis of reservation already available to them. It was further indicated that the population of SCs, STs and OBCs had materially changed in the States of Bihar, Jharkhand, Madhya Pradesh, Chhatisgarh, Uttar Pradesh, Uttaranchal, Goa and in the UT of Daman & Diu after re-organization of these States/UT.

6.14.3 DoPT had sought the comments of the National Commission for Scheduled Tribes on the proposed percentage of reservation for STs. In its comments dated 7.2.2005, the Commission stated that it did not have any comments to offer in general as the proposed re-fixation of the percentage of reservation in various States/UTs for recruitment of Group 'C' and 'D' posts on local/regional basis was an usual exercise which was carried out on availability of the changed population figures on the basis of fresh Census reports. The Commission had, however, noted that DoPT had, inter-alia, proposed that there would be no reservation for STs in Uttar Pradesh as the ST population in that State as per 2001 Census was 0.1%. The Commission, in this connection, noted that 10 additional communities from Uttar Pradesh had been included in the list of Scheduled Tribes in the Constitution (Scheduled Castes and Scheduled Tribes) Orders (Amendment) Act, 2002 and, therefore, it would not be in order to say that the percentage of population of STs in that State was 0.1%. In view of this position, the Department of Personnel & Training was requested to provide for 1% reservation for Scheduled Tribes in the State of U.P. in Group 'C' and 'D' posts normally attracting candidates from a locality or a region with a view to ensure that the members of the 12 communities (10 additional plus two already recognized as ST) are not deprived of the benefits of reservation in services and posts of the Central Govt.

6.14.4 The Department of Personnel & Training by their O.M. No. 36017/1/2004-Estt. (Res.) dated 5 July, 2005, circulated to all Ministries/Departments of Govt. of India, have revised the percentages of reservation for SCs/STs & OBCs in case of direct recruitment to Group 'C' and 'D' posts normally attracting candidates from a locality or a region, keeping in view the population figures of 2001 Census. The Commission is happy to note that the Department of Personnel & Training has accepted its recommendation to provide for 1% reservation for Scheduled Tribes in the State of U.P. in Group 'C' and 'D' posts normally

attracting candidates from a locality or a region. A copy of the Table giving the revised percentage of reservation for SCs/STs/OBCs in respect of Group 'C' and 'D' posts normally attracting candidates from a locality or region is placed at **Annex 6.I** to this Chapter.

6.14.5 The Commission is of the opinion that the percentage of reservation in respect of each State and UT may be fixed taking into consideration the population of the communities recognized as Scheduled Tribes vide Scheduled Castes and Scheduled Tribes Orders, (Amendment) Act, 2002 and other similar orders/amendments issued after completion of Census 2001 with a view to ensure that the persons belonging to these communities are not deprived of their constitutional rights. It has been brought to the notice of the Commission that the ST population in the State of Goa, which was shown as 0% on the basis of 2001 Census, has now increased to about 12% on account of recognition of three communities namely- Kunbi, Gawada and Velip as Scheduled Tribes vide the Scheduled Castes and Scheduled Tribes Orders (Amendment) Act, 2002 which was notified on 07.01.2003. This Act provides for the inclusion in the list of Scheduled Tribes, of certain tribes or tribal communities or parts of or groups within tribes or tribal communities, equivalent names or synonyms of such tribes or communities, removal of area restrictions and bifurcation and clubbing of entries; imposition of area restriction in respect of certain castes in the lists of Scheduled Castes, and the exclusion of certain castes and tribes from the lists of Scheduled Castes and Scheduled Tribes, in relation to the States of Andhra Pradesh, Arunachal Pradesh, Assam, Bihar, Goa, Gujarat, Himachal Pradesh, Jharkhand, Karnataka, Kerala, Madhya Pradesh, Maharashtra, Manipur, Mizoram, Orissa, Sikkim, Tamil Nadu, Tripura, Uttar Pradesh and West Bengal. **The Commission recommends that the Department of Personnel & Training should revise the percentage the reservation for recruitment to Group C and D posts on local/regional basis from 0% to 12% in the State of Goa having regard to the marked increase in the population of Scheduled Tribes after 2001 Census.**

6.14.6 The Hon'ble Supreme Court of India vide their judgment dated 11 February, 2005 in Civil Appeal Nos. 6-7 of 1998- S. Pushpa & Ors. (Appellants) vs. Sivachanmugavelu & Ors. (Respondents) has held that the Union Territory of Pondicherry having adopted the policy of Central Govt. whereunder all Scheduled Castes or Scheduled Tribes, irrespective of their State of origin are eligible for posts which are reserved for SC/ST candidates, no legal infirmity can be ascribed to such a policy and the same cannot be held to be contrary to any provision of law. On a reference from the Ministry of Home Affairs, the Ministry of Law & Justice (Department of Legal Affairs) had advised that the law declared by the Supreme Court of India in its above referred judgment applied to the Union Territory of Delhi also. The Department of Legal Affairs had also supported the opinion of MHA that in the matter of reservation for SCs/STs to the posts under any Union Territory administration, as was the policy of the Central Government, all members of SCs/STs irrespective of their nativity were eligible for reservation for posts which were reserved for them. Based on the above referred judgment of the Supreme Court and the clarifications given by the Department of Legal Affairs thereon, the Govt. of NCT of Delhi vide their letter No.F.16 (73)/97-S.III/710 dated 30.6.2005 have issued instructions that all the SC/ST candidates irrespective of their nativity are eligible for reservation to the civil posts under the Govt. of NCT of Delhi, which are reserved for SC/ST candidates [It may be recalled that the Hon'ble High Court of Delhi vide their judgment dated 5 July, 2004 in C.W. No.6546 of 2003 in Dr. B.R. Ambedkar Memorial Foundation (Regd.) & Ors. vs. Union of India & Ors. had held that in the absence of Presidential Notification declaring any tribe to be a Scheduled Tribe in the Union Territory of Delhi under Article 342 of the Constitution of India, no posts under the Govt. of NCT of Delhi, local bodies or statutory authorities under the Govt. of NCT of Delhi could be reserved for ST candidates].

6.14.7 The Ministry of Home Affairs had issued clarification to the Govt. of NCT of Delhi in August, 2003 that the instructions contained in the Ministry of Home Affairs' O.M. No. 7/2/55-SCT dated 14 October, 1955 in accordance with which the percentages of reservation for SC/ST candidates prescribed for recruitment on all India basis were required to be followed in Delhi, would continue to be in force and applicable in respect of civil posts under the Govt. of NCT of Delhi, which were later on challenged in the High Court of Delhi in C.W. No.6546 of 2003 (referred to in the previous para). The above referred instructions of the Ministry of Home Affairs dated 14 October, 1955 enabled the candidates belonging to Scheduled Castes/Scheduled Tribes to avail of the benefits of reservation in civil posts under the administrative control of Govt. of NCT of Delhi irrespective of their nativity in any State/UT. These instructions now need to be suitably modified in compliance with the directions of the Hon'ble Supreme Court. **The Commission, accordingly recommends that the Ministry of Home Affairs should issue instructions to all the Union Territories to the effect that the candidates belonging to Scheduled Castes and Scheduled Tribes irrespective of their State of origin will be eligible to apply for and being considered for appointment in civil posts/ services in those Union Territories or in offices/ organizations under their administrative control.**

## 6.15 Reservation in Adhoc Promotions

6.15.1 Department of Personnel & AR's O.M. No.36011/14/83-Estt. (SCT) dated 30 April, 1983, inter-alia, provides that since adhoc promotions are made on the basis of seniority-cum-fitness, all the SC/ST candidates covered in the relevant seniority list within the total number of such vacancies against which adhoc promotions are to be made, should be considered in order of their general seniority as per the gradation list, on the principle of seniority-cum-fitness and if they are not adjudged unfit, they should all be promoted on adhoc basis. These instructions further provide that if the number of SC/ST candidates found fit within the range of actual vacancies is less than the number of vacancies identified as falling to their share if the vacancies were filled up on regular basis, additional SC/ST candidates to the extent required should be located by going down the seniority list provided they are eligible and found fit for such adhoc appointment.

6.15.2 The above- referred instructions were modified by DP & AR vide their O.M. of even number dated 30 September, 1983 to provide that if the number of SC/ST candidates found fit within the range of actual vacancies was less than the number of vacancies identified as falling to their share, additional SC/ST candidates to the extent required should be located by going down the seniority list but within five times the number of vacancies being filled on a particular occasion subject to their eligibility and fitness.

6.15.3 The Hon'ble Supreme Court in its judgment dated 7 September, 2000 in the case of Union of India & Ors. vs. Shri Basudev & Ors. in Civil Appeal No.1194 of 1992 quashed the Department of Personnel & AR's O.M. dated 30 September, 1983 (referred to above) and, as a consequence thereof, the instructions issued by DP & AR vide their above referred O.M. dated 30 September, 1983 have since been withdrawn by the Department of Personnel & Training vide their O.M. No. 3601/27/2000-Estt.(Res.) dated 15 March, 2002, and the instructions issued by them (i.e. DP & AR) vide their O.M. dated 30 April, 1983 (referred to in para 5.17.1) revalidated.

## 6.16 Special Recruitment Drive to fill up Backlog Vacancies Reserved for SCs and STs

6.16.1 The Department of Personnel & Training by their O.M. No.36038/1/2004-Estt. (Res.) dated 5 August, 2004 requested all the Ministries/Departments to launch a **Special Recruitment Drive** for filling up the backlog reserved vacancies for SCs and STs in direct recruitment. The Ministries/Departments had been requested to send the following three reports to DoPT to enable them to assess the progress of the drive:-

Sl.No.	Details of reports	Date by which it should reach DoPT
1.	Progress Report I- Report about identification of backlog reserved vacancies	15.10.2004
2.	Progress Report II - Report about reporting of vacancies to Recruiting Agencies	15.11.2004
3.	Progress Report III - Report about filling up of the posts	30.6.2005

6.16.2 Attention of the Ministries/Departments in the DoPT's above- mentioned letter was drawn to their O.M. No.36012/5/97-Estt. (Res.) Vol.II dated 20 July, 2000 which provided that the ceiling of 50% on filling up of reserved vacancies would apply only to the reserved vacancies, which arose in the current year, and the backlog reserved vacancies for SCs and STs of earlier years were to be treated as a separate and distinct group, which would not be subject to any ceiling. It was also mentioned that the Common Minimum Programme of the Govt., inter-alia, contemplated that all reserved posts would be filled up in a time bound manner. Ministries/Departments were also requested to nominate an officer holding the post of Joint Secretary or equivalent as officer- in-charge of the Special Recruitment Drive to monitor and coordinate the special efforts made by the Ministries/Departments.

6.16.3 By their subsequent O.M. No.36038/2/2004-Estt.(Res.) dated 26 August, 2004, the Department of Personnel & Training requested all the Ministries/Departments to launch a special drive to fill backlog vacancies reserved for SCs and STs to be filled by promotion. It was mentioned in this O.M. that in case of promotion, there was a provision that if sufficient number of SC/ST candidates fit for promotion against reserved vacancies were not available, such vacancies might be dereserved and filled by candidates belonging to other communities. It was clarified that if sufficient number of SC/ST candidates fit for promotion against reserved vacancies were not available and such vacancies could also not be dereserved for reasons like non-availability of candidates of other category to fill the posts, these vacancies would remain unfilled until the next recruitment year and that such vacancies were to be treated as "backlog reserved vacancies" which were to be covered within the special drive. It was further mentioned that as in the case of direct recruitment, backlog reserved vacancies had to be determined as per post-based reservation rosters introduced vide DoPT's O.M. dated 2 July, 1997. Ministries/Departments were requested to send a report to DoPT by 31.12.2004. The Commission had continuously been in touch with the Department of Personnel & Training to ascertain about the outcome of the Special Recruitment Drive.

6.16.4 The Department of Personnel & Training vide their O.M. No.36038/1/2004-Estt. (Res.) dated 31 January, 2006 addressed, inter alia, to all Ministries/Departments of Govt. of India have informed that the Minister of State for Personnel had held a meeting with Secretaries of various Ministries/Departments in the last week of December, 2005 to review the progress of the Special Recruitment Drive to fill up backlog vacancies of SCs and STs.

The following problems were stated to be the main causes of non-filling of the reserved vacancies:-

- (i) SC/ST candidates were not available for some of the technical posts in case of backlog vacancies in direct recruitment;
- (ii) In some cases requisitions had been sent to the recruiting agencies but the recruiting agencies had not selected candidates so far;
- (iii) No recruitments were being undertaken in some of the public sector undertakings and It was, therefore, not possible to fill up backlog vacancies in such enterprises;

6.16.5 It was further stated in the above stated O.M. that in view of the difficulties in filling up the backlog vacancies, as stated above, the following decisions were taken:-

- (i) Where SC/ST candidates had not become available in first attempt of direct recruitment, the Ministries/Departments/Organizations may make another attempt to fill up the vacancies.
- (ii) Backlog vacancies in such of the sick PSUs where no recruitments were being made may be exempted from the purview of the drive.
- (iii) This Department would request the UPSC and the SSC to expedite the selection of candidates for which indents had been placed with them. Other Ministries/Departments might issue necessary instructions to the recruiting agencies under their administrative control for expediting the finalization of the selection of candidates under the drive.
- (iv) Precise information about the backlog vacancies in the promotion quota for which eligible SC/ST candidates were not available even in the extended zone of consideration may be furnished by each Ministry/Department to the Department of Personnel & Training.
- (v) All the backlog vacancies except vacancies referred to sub-para (ii) and (iv) above may be filled by 31.3.2006.

6.16.6 All the Ministries/Departments were accordingly requested vide the same O.M. to take necessary action and send a report in respect of backlog vacancies identified and filled during the recruitment drive to DoPT once by 15.2.2006 and finally by 15.4.2006. The position regarding the number of backlog vacancies identified and the number of vacancies filled in respect of STs during the Drive (as informed by DoPT vide their letter dated 7 June 2006) is as given below:

S. No.	Establishment	Direct Rectt.		Promotion		Total	
		Backlog	Filled	Backlog	Filled	Backlog	Filled
1.	<b>Govt. Proper</b>	11,263	7,474	24,585	10,980	35,848	18,454
	(i) Figures		66.36		44.66		51.48
	(ii)% Achievement						
2.	<b>Autonomous Bodies</b>	4,027	952	1411	190	5438	1142
	(i) Figures						

	(ii) % Achievement		26.34		13.47		21.00
3.	<b>Total</b>	15,290	8,426	25,996	11,170	41,246	19,596
	(i) Figures						
	(ii) % Achievement		55.11		42.97		47.46

6.16.7 It will be seen from the above table that as on 31 May 2006, a total of 41,286 backlog vacancies reserved for STs both in respect of direct recruitment and promotion were identified out of which 19,596 vacancies were filled, which comes to 47.46% of the total identified backlog vacancies.

## 6.17 Appointments on Compassionate Grounds

6.17.1 The existing instructions regarding appointment of dependents of the government servants dying in harness or retired on medical grounds, on compassionate grounds, inter-alia, provide that:-

- (i) These appointments are to be made on regular basis against regular vacancies.
- (ii) These appointments can be made upto a maximum of 5% of the vacancies falling under direct recruitment quota in any Group 'C' or 'D' posts. The appointing authorities are required to hold back 5% of vacancies in these categories to be filled up by direct recruitment through Staff Selection Commission or otherwise so as to fill such vacancies for appointments on compassionate grounds.
- (iii) Compassionate appointments are not confined to the Ministry/Department/Office in which the deceased/medically retired government servant had been working. Such appointments can be given anywhere under the Govt. of India depending upon availability of vacancies in Group 'C' and 'D' posts.
- (iv) For the purpose of calculation of vacancies for appointment on compassionate grounds, Group 'C' and 'D' posts in which there are less than 20 direct recruitment vacancies in a recruitment year are to be grouped together and out of the total number of vacancies, 5% are required to be filled on compassionate grounds subject to the condition that appointment on compassionate grounds in any such post should not exceed one post. Fraction of a vacancy either half or exceeding half but less than one is to be taken as one vacancy [DoPT's O.M. No.14014/24/99-Estt (D) dated 28.12.1999].
- (v) These appointments are required to be made within a time limit of one year from the date of death of the employee or retirement on medical grounds [DoPT's O.M. No.14014/19/2002-Estt.(D) dated 5.5.2003].
- (vi) The instructions on compassionate appointments further provide that an ST/SC/OBC person selected for appointment on compassionate grounds is to be adjusted against the posts reserved for the respective categories.

6.17.2 The National Commission for Scheduled Tribes as also the erstwhile National Commission for Scheduled Castes and Scheduled Tribes (NCSCST) has/had been receiving representations/applications from members of Scheduled Tribes/Scheduled Castes for

appointment on compassionate grounds and has/had been referring their requests to the respective Ministry/Department/Office for taking necessary action. In most of the cases, the Commission has been receiving replies that it was not possible for them to accommodate the requests of SC/ST persons as they had already exhausted the requisite quota of 5% for such appointments. **This Commission, therefore, strongly recommends that the Department of Personnel & Training may consider (i) removing the ceiling of 5% of direct recruitment quota for the purpose of compassionate appointment in respect of candidates belonging to Scheduled Tribes. The Commission feels that this relaxation will go a long way in mitigating the hardships and sufferings of the dependent family members belonging to Scheduled Tribes caused by the sudden demise of the government servant or retirement of the government servants on medical grounds.**

6.17.3 The earlier instructions issued by the Department of Personnel & Training regarding compassionate appointments prescribe a time limit of one year. The Department of Personnel & Training has informed vide their O.M. No. 14014/19/2002-Estt.(D) dated 5 May 2003 that this issue has been examined by the Govt. in the light of representation received stating that the one year time limit prescribed for grant of compassionate appointments has often been resulting in depriving genuine cases seeking compassionate appointments, on account of regular vacancies not being available, within the prescribed period of one year and within the prescribed ceiling of 5% of direct recruitment quota and it has now been decided to relax this limit up to 3 years. The O.M. dated 5 May 2003 provides that if compassionate appointment in genuine and deserving cases is not possible in the first year due to non availability of regular vacancy, the prescribed Committee may review such cases to evaluate the financial conditions of the family to arrive at a decision as to whether a particular case warrants extension for one more year, for consideration of compassionate appointment, subject to availability of a clear vacancy within the prescribed 5% quota. The revised instructions further provide that the maximum time a person's name can be kept under consideration for offering compassionate appointment will be 3 years subject to the condition that the prescribed Committee has reviewed and certified the penurious condition of the applicant at the end of the first and the second year. After 3 year, if compassionate appointment is not possible to be offered to the applicant, his case will be finally closed and will not be considered again.

## **6.18 Relentless crusade by the Commission for Restoration of Reservation for STs in Govt. of NCT of Delhi**

6.18.1 The issue of reservation for members of Scheduled Tribes in posts and services in the Govt. of NCT of Delhi and offices/organizations under its administrative control was raised for the first time in August 2001 when the erstwhile National Commission for Scheduled Castes and Scheduled Tribes received a representation from Chairman, Akhil Bhartiya Meena Janjati Vikas Sangh with its registered office at Munirka, New Delhi. It was brought to the notice of the then Commission (i.e. NCSCST) that Delhi Subordinate Services Selection Board (DSSSB) had advertised 1674 posts of Assistant Teachers for MCD and NDMC in the scale of pay of Rs. 4500-7000/- in the Nav Bharat Times on 21.9.2000 and in the advertisement published on 21.9.2000 it was mentioned that 316 posts were reserved for candidates belonging to ST category. However, the results published in the Hindustan Times on 21.8.2001, did not carry a single ST candidate.

6.18.2 The matter was taken up by the then Commission with Secretary, Department of Education, Govt. of NCT of Delhi in August 2001 and he was requested to come for discussion with the Chairman of the erstwhile NCSCST on 23 August, 2001 regarding

withholding the results of ST candidates by Delhi Subordinate Services Selection Board (DSSSB) while declaring the list of successful candidates belonging to general category/OBC and SC on 12 August, 2001. This meeting could not take place. Another communication in this regard was sent to Chief Secretary, Govt. of NCT of Delhi who was requested to come for a meeting with the Chairman on 27 August, 2001 along with other officers. The attention of the Chief Secretary was, inter-alia, drawn to the DoPT's O.M. dated 24 May, 1985 which provided that except in Delhi where the percentage of reservation prescribed for recruitment on all India basis should be followed, the reservation will be based generally on the proportion of population of STs in the respective States and that the roster prescribed for All India basis will be followed in respect of appointments in Delhi. It was further stated that inspite of the above clarification from the Commission, the Services Department of Govt. of NCT of Delhi had issued a letter to Chairman, DSSSB stating that since no list of STs had been notified for Delhi under Article 342 (1) of the Constitution, a reference was made to the Union Ministry of Home Affairs seeking their advice for providing reservation for STs in the absence of any notified list of Scheduled Tribes for Delhi. The following facts were brought to the notice of the Chairman, DSSSB:

- (i) Only those persons belonging to the Castes mentioned in the list of SC and OBC notified for Delhi and whose State of origin was Delhi were entitled for the benefit of reservation in the jobs under Govt. of NCT of Delhi
- (ii) The instructions issued by the Govt. of India lay down that where a person migrates from one State to another, he can claim to belong to SC,ST or OBC only in relation to the State to which he originally belongs and not in respect of the State to which he migrates. The Supreme Court in the Action Committee vs. Union of India case, (1994) also upheld the validity of these instructions.

6.18.3 The above referred meeting of the Chairman, the erstwhile NCSCST with Chief Secretary, Govt. of NCT of Delhi took place on 29.8.2001. The meeting was also attended by Secretary, DoPT, Secretary, Department of Legal Affairs, Secretary, Ministry of Tribal Affairs, Special Secretary, MHA and Secretary, Social Welfare, Govt. of NCT of Delhi. The following observations were made in the said meeting:-

- (i) Chief Secretary, Delhi reiterated the decision of the Govt. of NCT of Delhi and stated that in view of the Supreme Court's decision in 1994 [referred to in para 5.13.2 (ii)] and the fact that there were no communities notified as STs in Delhi, it was not possible to operationalize the instructions of Govt. in regard to the reservation for STs in NCT of Delhi.
- (ii) Secretary, Department of Legal Affairs clarified that as long as there were no communities notified as STs in NCT of Delhi, all the communities in the country notified as STs in various States/UTs should be eligible for consideration against the posts reserved for STs in the NCT Govt. of Delhi.
- (iii) Secretary, Ministry of Tribal Affairs supported the views of Department of Legal Affairs and stated that the instructions regarding reservations to SCs and STs were being followed by Delhi Govt. till recently and, in the absence of any order of the Central Govt. modifying or withdrawing these instructions, there was no justification whatsoever for withdrawing the facilities to the STs.
- (iv) Secretary, DoPT stated that the DoPT was the nodal Ministry in the matter of laying down the policy for reservation to the SCs and STs and, therefore, the instructions

issued in 1955 (referred to above) for treating Delhi as a separate category for the purpose of giving reservations to SCs and STs had not been withdrawn or modified by them and, therefore, NCT of Delhi was obliged to follow these instructions.

- (v) Special Secretary, Ministry of Home Affairs stated that they had received a reference from NCT of Delhi on 23 August, 2001 seeking certain clarifications on the issue of reservation in NCT of Delhi and that the Ministry of Home Affairs, in consultation with DoPT, Ministry of Tribal Affairs and Ministry of Law would issue necessary clarification in due course of time.
- (vi) The Chairman, erstwhile NCSCST stated that in view of MHA's instructions issued in October, 1955 (referred to above), the NCT of Delhi should extend reservation to the STs not only in the case of appointment to the posts of Teachers (which was under consideration) but also in all other categories of posts and appointments.

6.18.4 Having regard to the clarifications given by the Secretary, Ministry of Law in the meeting held on 29.8.2001 (referred to above in the preceding para) supported by Secretary, Ministry of Tribal Affairs and DoPT, the Chairman, erstwhile NCSCST advised the NCT Govt. of Delhi in September, 2001 through a d.o. letter addressed to CM, Delhi to extend reservation facilities to the STs in all categories of posts and appointments in NCT of Delhi including appointments to the posts of Teacher.

6.18.5 Vide their letter dated 27 September, 2001 addressed to Joint Secretary (UT), MHA, the NCT Govt. of Delhi, inter-alia, drew the attention of MHA to certain instructions issued by them during 1975 and 1977 laying down that persons belonging to Scheduled Castes and Scheduled Tribes could get the reservation benefits in services only in the State of their origin and that the Supreme Court in the Action Committee vs. Union of India, 1994 (referred to above) case had also upheld the validity of these decisions. It was also mentioned in that letter that MHA had already been requested to enlighten the NCT Govt. of Delhi as to how the 7.5% posts reserved for STs in the Govt. of NCT of Delhi could be filled up till the process of identification of Scheduled Tribes and notification of the requisite list in respect of Delhi was completed.

6.18.6 Chief Minister, Delhi by her d.o. letter dated 19 October, 2001 addressed to Chairman, erstwhile NCSCST informed that she had since reviewed the position and her government had decided that the benefits of reservation to the STs in the Govt. of NCT of Delhi, as was being done earlier and as advised by the Commission (i.e. the erstwhile NCSCST) should continue. She also stated that she had instructed her officers to issue necessary instructions to DSSSB and other Departments with immediate effect. However, by her subsequent letter dated 5 December, 2001 addressed to Chairman, erstwhile NCSCST, the CM, Delhi informed that MHA had sent a communication dated 13 November, 2001 to the Chief Secretary, Govt. of NCT of Delhi stating that they had decided to refer the matter to the learned Attorney General of India for his advice and, pending the receipt of the advice, they had asked the government of NCT of Delhi to keep in abeyance the decision taken by them to continue the benefit of reservation to the Scheduled Tribes in the Govt. of NCT of Delhi, as communicated by CM, Delhi vide her d.o. letter dated 19 October, 2001 (referred to above).

6.18.7 The Ministry of Home Affairs in their above referred letter dated 13 November, 2001 had made the following points while advising the Govt. of NCT of Delhi to shelve their decision to continue the reservation in services of Govt. of NCT of Delhi for members of Scheduled Tribes:

- (i) In accordance with Article 342 of the Constitution, the President may with respect to any State or Union Territory, and where it is a State after consultation with the Governor thereof, by public notification, specify the tribes or tribal communities or parts or groups within tribal or tribal communities which shall for the purpose of this Constitution be deemed to be Scheduled Tribes in relation to that State or Union Territory, as the case may be. It has been held by the Supreme Court of India in *Action Committee vs. Union of India* and another (referred to above) that castes or tribes have to be specified in relation to a given State or Union Territory and that the given caste or tribe can be a Scheduled Caste or a Scheduled Tribe in relation to the State or Union Territory for which it is specified.
- (ii) The Govt. of India have firmly held the view that a Scheduled Caste or a Scheduled Tribe person who migrates from the State of his origin to another State in search of employment or for educational purposes or the like, cannot be treated as a person belonging to the Scheduled Caste or Scheduled Tribe of the State to which he migrates and hence he cannot claim benefit as such in the latter State. This stand of the Government was challenged before the Supreme Court of India in *Acton Committee on issue of Caste Certificate to Scheduled Castes and Scheduled Tribes in the State of Maharashtra and Another vs. Union of India and Another*. The apex Court upheld the validity of this position and held that a member of Scheduled Caste or Scheduled Tribe was not entitled to carry with him the privilege and benefit of being a Scheduled Caste or Scheduled Tribe to the State to which he might migrate.
- (iii) The reservation of posts under UT Administration of Andaman & Nicobar Islands for members of Scheduled Castes, in the absence of the Presidential Notification specifying the names of the Scheduled Castes in relation to the said Union Territory, was challenged in C.O. 39 (W) of 1992 in the case of *Local Body Administration vs. A & N Administration and Ors.* The single judge bench of the Kolkata High Court in the said case held that the reservation of the posts for SCs under A & N Administration was violative of the Constitution. The LPA filed by the Government against the said judgment before the Division bench of the Kolkata High Court was dismissed as the Hon'ble High Court held that, in the absence of Presidential Notification under article 341 (1) of the Constitution, no reservation in respect of any public service in A & N Islands could be made and all such reservations sought to have been made were rightly quashed by the learned trial Judge. The Special Leave Petition (SLP) filed against the said judgment before the Supreme Court of India was also dismissed. A review petition filed by MHA in the Supreme Court against the judgment of Division bench of Kolkata High Court was also dismissed by the Supreme Court

6.18.8 MHA in their above referred letter addressed to Chief Secretary, NCT Govt. of Delhi stated that in the absence of a Presidential Notification specifying the names of Scheduled Tribes in relation to the Union Territory of Delhi, it might not be legally and constitutionally permissible to make any reservation in respect of Scheduled Tribes for appointment to civil posts under the Govt. of NCT of Delhi. At the same time it was admitted by MHA in the said letter that the above-stated position was in conflict with the instructions issued by the Govt. of India in MHA's O.M. No.7/2/55-SCT dated 14 October, 1955 in accordance with which it had been provided that in respect of Delhi, the percentages of reservation prescribed for recruitment for all India basis (i.e. 15% for SCs and 7.5% for STs) should be followed.

5.18.9 The Ministry of Home Affairs finally issued the requisite clarification to the Govt. of NCT of Delhi on 21 August, 2003 in reply to their letter dated 22 August, 2001 stating that the instructions contained in the Ministry of Home Affairs' O.M. No. 7/2/55-SCT dated 14 October, 1955 in accordance with which the percentages of reservation prescribed for recruitment on all India basis were required to be followed in Delhi would continue to be in force and applicable in respect of civil posts under the Govt. of NCT of Delhi and, accordingly the civil posts under the Govt. of NCT of Delhi reserved for STs were required to be filled up from amongst ST candidates irrespective of their nativity. Based on the MHA's letter dated 21 August, 2003 (referred to above), Govt. of NCT of Delhi advised the Chairman DSSSB and all Heads of Departments/Local/Autonomous bodies/PSUs under its administrative control of Govt. of NCT of Delhi informing, inter-alia, that it had been decided that the Govt. of NCT of Delhi may continue to reserve the prescribed percentage of civil posts under the Govt. for appointments of STs as had been the practice in the past.

6.18.10 The above-referred decision of the Ministry of Home Affairs dated 21 August, 2003 and, based on that, the instructions issued by Govt. of NCT of Delhi by their letter dated 27 August, 2003, were challenged in the High Court of Delhi in CW No.6546 of 2003 in Dr. B.R. Ambedkar Memorial Foundation (Regd.) and Another vs. Union of India and Ors. The Hon'ble High Court of Delhi delivered its final judgment on 5 July, 2004. The Hon'ble Court held that in the absence of Presidential Notification declaring any community to be a Scheduled Tribe in the Union Territory of Delhi under Art.342 of the Constitution of India, no posts under the Govt. of NCT, Delhi, local bodies or statutory authorities under the Govt. of NCT of Delhi could be reserved for ST candidates. The Court also quashed the MHA's letter dated 21 August, 2003 (referred to above) and the Govt. of NCT, Delhi's letter dated 27 August, 2003 (referred to above) issued to all Heads of Departments etc. advising continuation for reservation of ST candidates in services and posts under it. The Ministry of Home Affairs filed an LPA (Letters Patent Appeal) in the High Court of Delhi against the Order dated 5 July, 2004 of Delhi High Court for review of its single Judge bench judgment dated 5 July, 2004.

6.18.11 The National Commission for Scheduled Tribes vide its letter dated 6 January, 2005 requested MHA to send a copy of the LPA filed by them in the High Court of Delhi for perusal of the Commission, which was supplied in February, 2005. In the meanwhile, the Commission came to know through print media that the Hon'ble Supreme Court of India in its judgment dated 11 February, 2005 passed by a three-Judge bench consisting of Chief Justice of India, Justice Shri R.C. Lahoti, Justice Shri. K.G. Balakrishnan and Justice Shri G.P. Mathur in the case of Smt. Pushpa & Ors. vs. Sivachanmugavelu & Ors. (Civil Appeal Nos.6-7 of 1998) had held that the Union Territory of Pondicherry having adopted a policy of Central Govt. whereunder all Scheduled Castes or Scheduled Tribes, irrespective of their State were eligible for posts which were reserved for SC/ST candidates, no legal infirmity could be ascribed to such a policy and the same could not be held to be contrary to any provision of law. MHA was requested to send to the Commission a copy of the said judgment of the Hon'ble Supreme Court. The Commission, in the meantime, obtained a copy of the Hon'ble Supreme Court's judgment dated 11 February, 2005 in March, 2005 from the Registrar, Supreme Court of India. MHA also sent a copy of the said judgment on 14 June, 2005 along with a copy of their letter No.14011/23/2005-Delhi -I dated 1 June, 2005 addressed to Secretary, (Services) Govt. of NCT of Delhi and a copy of the Note dated 24 May, 2005 received from the Ministry of Law & Justice (Department of Legal Affairs) containing their opinion about the applicability of the judgment of the Hon'ble Supreme Court dated 11 February, 2005 in the Union Territory of Delhi.

6.18.12 By its letter dated 1 June, 2005 MHA informed Secretary (Services) Govt. of NCT of Delhi that the Department of Legal Affairs had opined that the law declared by the Supreme Court of India in its judgment dated 11 February, 2005 applied to the National Capital Territory of Delhi also. A copy of the Department of Legal Affairs' Note (referred to above) dated 24 May, 2005 was also sent to Secretary (Services) Govt. of NCT of Delhi. MHA's letter dated 1 June, 2005 (referred to above) and the advice of the Department of Legal Affairs dated 24 May, 2005 were discussed in the Commission's meeting held on 15.6.2005. As desired by the Commission, the Govt. of NCT, Delhi was requested to apprise the Commission on the action taken by them for resumption of the reservation for members of Scheduled Tribes in the posts and services of the Govt. of NCT of Delhi in the light of the clarifications given by the Department of Legal Affairs regarding the applicability of the law declared by the Supreme Court of India in its judgment dated 11 February, 2005 to the Union Territory of Delhi also. In the meanwhile, MHA was also requested to inform the Commission of the present status of the LPA filed by them in the High Court of Delhi against their judgment dated 5 July, 2004 and also whether they (i.e. MHA), as advised by this Commission, had filed a supplementary affidavit/application with reference to the LPA already filed by them in the High Court of Delhi in the light of the ruling given by the Hon'ble Supreme Court of India in their judgment dated 11 February, 2005. The Commission did not receive any reply from MHA.

6.18.13 By his d.o. letter dated 28 June, 2005 addressed to Lieutenant Governor, Govt. of NCT of Delhi, Chairman, National Commission for Scheduled Tribes drew his attention to the MHA's letter dated 1 June, 2005 (referred to above) and the advice of the Department of Legal Affairs in respect of the Hon'ble Supreme Court's judgment dated 11 February, 2005 and impressed upon him to take urgent action to fill up shortfall/backlog of ST vacancies on priority in the Govt. of NCT of Delhi.

6.18.14 Finally there was light at the end of the tunnel. The Govt. of NCT, Delhi by its letter No.F-16(73)/97-S.III/710 dated 30 June, 2005 addressed to Chairman, DSSSB, Govt. of NCT, Delhi and all Heads of Departments /Local/Autonomous Bodies/PSUs under Govt. of NCT, Delhi wrote to inform them that in the light of the advice given by the Ministry of Law & Justice (Department of Legal Affairs) with reference to the judgment of the Hon'ble Supreme Court dated 11 February, 2005 (referred to above), all SC/ST candidates irrespective of their nativity are eligible for reservation to the civil posts under Govt. of NCT, Delhi, which are reserved for SC/ST candidates and that appropriate action for recruitment may be taken accordingly. The Commission also requested Chief Secretary, Govt. of NCT, Delhi on 14 July, 2005 to send an action taken report for filling up of backlog vacancies reserved for STs in pursuance of their letter dated 30 June, 2005 addressed to Chairman, DSSSB and others (referred to above). The Commission did not receive any communication from the NCT Govt. of Delhi regarding the filling up of the backlog vacancies reserved for STs in pursuance of resumption of reservation for Scheduled Tribes in the posts and services of NCT Govt. of Delhi. **The Commission recommends that the Govt. of NCT of Delhi should launch a special time- bound recruitment drive to fill up the backlog vacancies reserved for STs both in direct recruitment and promotion and send a detailed report to the Commission about the outcome of the drive.**

## **6.19 Scheduled Castes, Scheduled Tribes and Other Backward Classes (Reservation in Posts and Services) Bill, 2004**

6.19.1 The reservation policy has so far been implemented on the basis of the executive instructions issued by the Government of India from time to time. The erstwhile

National Commission for Scheduled Castes and Scheduled Tribes in its earlier reports had been emphasizing the need for early enactment of a Reservation Act, which would systematize the implementation of reservation policy. It was also mentioned in this regard in these reports that this Act should be kept in the Ninth Schedule of the Constitution so that it was not open to frequent judicial interpretations.

6.19.2 The Department of Personnel & Training by their letter No.41018/1/2004-Estt. (Res.) dated 7 December, 2004 addressed to the Chairman, National Commission for Scheduled Tribes informed that the scheme of reservation in Government services was governed by the executive instructions issued by the Department of Personnel & Training and that the Public Sector Undertakings including financial institutions like banks, insurance companies etc. under the Govt. of India followed the instructions issued by DoPT. It was further stated that the Supreme Court in the case of Indira Sawhney vs. Union of India had held that these instructions had the force of law and that, nevertheless, a demand for enacting a law on reservation for Scheduled Castes and Scheduled Tribes had been voiced from time to time by various organizations/associations. Further, the Common Minimum Programme also stipulated that a Reservation Act would be enacted to codify all reservation instructions. A copy of the draft Bill prepared by DoPT in consultation with the Department of Legal Affairs and the Legislative Department to cover reservation in services under the Govt. of India and all Public Sector Undertakings, Autonomous Bodies etc. under Govt. of India was also sent to the Commission requesting for its comments. The Commission sent its comments on the Bill in December, 2004. In February, 2005, the Rajya Sabha Secretariat informed this Commission that the said Bill as introduced and pending in Rajya Sabha, had been referred to Department related Parliamentary Standing Committee on Personnel, Public Grievances, Law & Justice for examination and report and that it had been decided to have the benefit of the views of the National Commission for Scheduled Tribes on the Bill. The gist of the comments of this Commission sent to DoPT and Rajya Sabha Secretariat in respect of certain aspects of reservation for SCs/STs in posts/ services are as follows:-

- (i) **The Scheduled Castes, Scheduled Tribes and Other Backward Classes (Reservation in posts and services) Bill, 2004 may be included in the Ninth Schedule of the Constitution after entry No.284 as entry No.285 [new provision].**
- (ii) **Judiciary, Lok Sabha/ Rajya Sabha Secretariat and Armed Forces should also be brought within the purview of reservation for Scheduled Castes and Scheduled Tribes as per recommendations of the erstwhile National Commission for Scheduled Castes and Scheduled Tribes as contained in para 4.75 and 4.77 of their Seventh Annual Report for the year 2001-02.**
- (iii) **There should be reservation in appointments for work-charged posts as well as for appointments for a period of less than 45 days duration.**
- (iv) **The scope of reservation for SC/ST candidates should be extended above the lowest rung of Group 'A' in respect of scientific and technical posts which are required for conducting research or for organizing, guiding and directing research. [As per the existing instructions, the reservation for SC/ST candidates in such posts is available only upto the lowest rung of Group 'A' posts.]**
- (v) **The minimum experience required for promotion to a post may be relaxed in the case of members of Scheduled Tribes if at any stage of their consideration for such promotion, sufficient number of candidates from these communities possessing the requisite experience is not available to fill the posts.**

- (vi) **Section 13(3) of the proposed bill provides that where any case of negligence or lapse in relation to providing reservation for members of SC/ST/OBC comes to the notice of the Liaison Officer during the course of the inspection carried out by him, or otherwise, he will submit his report to the concerned Secretary to the Govt. or to the Head of the Department, as the case may be, and that Secretary or Head of the Department, will issue appropriate orders in the matter to the concerned appointing authority. In its comments, the Commission suggested the following addition to be made at the end of this Section:-**

**“The Secretary or the Head of the Department will send a copy of the action taken report to the nodal department dealing with the reservation matters i.e. Department of Personnel & Training and the National Commission for Scheduled Castes or National Commission for Scheduled Tribes, as the case may be.”**

6.19.3 The Commission reiterates the above recommendations for consideration of the Government as a part of this Report.

## **6.20 Consolidation of Instructions on Reservation**

6.20.1 By their letter dated 26 July 2005, the Department of Personnel & Training requested this Commission to offer its comments on the contents of the draft O.M. proposed to be issued by them by way of consolidation of the instructions of reservation for SCs, STs and OBCs with modification wherever necessary. The Commission sent its comments to the Department of Personnel & Training on 29 August 2005. DoPT has, however, not issued the final O.M. in this regard so far. The comments given by the Commission included the following:

- (i) **The percentage of reservation for STs in case of direct recruitment to Group ‘C’ and Group ‘D’ posts normally attracting candidates from a locality or a region should be fixed taking into consideration the population of the communities/tribes recognized as STs vide Constitution (Scheduled Castes and Scheduled Tribes) order (Amendment) Act 2002 and other similar amendments issued after conclusion of Census 2001 with a view to ensure that the persons belonging to these communities are not deprived of their constitutional rights.**
- (ii) **The Commission has observed that one third of the cadre strength of all India services i.e. IAS, IPS and IFS were filled by nomination from amongst the State Civil Services officers. The Commission recommended that there should be reservation in such induction/ nomination for the candidates belonging to Scheduled Tribes.**
- (iii) **The ST officers who are senior enough in their respective organizations should also be given opportunity for being nominated as Liaison Officers and also to work in the SC/ST Cell.**

6.20.2 The Commission reiterates the above recommendations for consideration of the Government as a part of this Report.

## 6.21 Representation of Scheduled Tribes in Central Ministries/Departments, Central Public Sector Enterprises, Public Sector Banks and Central Universities

### 6.21.1 Representation of Scheduled Tribes in various categories of posts in Central Ministries/Departments

6.21.1.1 Representation of Scheduled Tribes in Central Govt. services as on 1.1.2003, as per the information made available by the Department of Personnel & Training, is given in the Table below:-

(As on 1.1.2003)

Group	Total	ST	% age
(1)	(2)	(3)	(4)
A	85938	3593	4.18
B	181905	7863	4.32
C	2121697	138685	6.54
D (Excl. Safai Karmacharis)	879805	61204	6.96
Safai Karamcharis	126131	5605	
<b>Total including Safai Karamcharis</b>	<b>3395476</b>	<b>216950</b>	<b>6.39</b>

6.21.1.2 It will be seen from the above Table that the representation of Scheduled Tribes is less than the required representation in Groups 'A', 'B', 'C' and 'D' posts and, therefore, **the Commission recommends that the Department of Personnel & Training should impress upon all the Central Ministries and the Departments particularly those which are the cadre controlling authorities for appointment to various posts/services to make special efforts to increase the representation of Scheduled Tribes in all these Groups, particularly in Group A and B by filling up the backlog of vacancies reserved for them.**

### 6.21.2 Representation of Scheduled Tribes in the Central Public Sector Enterprises

6.21.2.1 Department of Public Enterprises, Ministry of Heavy Industries & Public Enterprises have furnished information in regard to representation of Scheduled Tribes in the services of the Public Sector Enterprises as on 1.1.2003 based on information furnished by 218 Enterprises and as on 1.1.2004 based on information furnished by 189 Enterprises. The following Table gives information on the representation of Scheduled Tribes in the services of the Central PSEs as on 1.1.2003 and 1.1.2004:

(As on 1.1.2003)

Group	Total No. of employees	Representation of STs	
		STs. No.	Percentage
Group 'A'	1,88,846	6577	3.48
Group 'B'	1,81,088	9335	5.15
Group 'C'	9,32,261	86,105	9.24
Group 'D' (Excl. Safai Karamcharis)	3,30,803	36,487	11.03
<b>Total</b>	<b>16,32,998</b>	<b>1,38,504</b>	<b>8.48</b>
Safai Karamcharis	18,880	583	3.09
<b>Grand Total</b>	<b>16,51,878</b>	<b>1,39,087</b>	<b>8.42</b>

(As on 1.1.2004)

Group	Total No. of employees	Representation of STs	
		STs. No.	Percentage
Group 'A'	1,65,320	6,032	3.65
Group 'B'	1,56,822	8,980	5.73
Group 'C'	7,14,125	67,396	9.44
Group 'D' (Excl. Safai Karamcharis)	2,58,663	32,073	12.40
<b>Total</b>	<b>12,94,930</b>	<b>1,14,481</b>	<b>8.84</b>
Safai Karamcharis	17,778	568	3.19
<b>Grand Total</b>	<b>13,12,708</b>	<b>1,15,049</b>	<b>8.76</b>

6.21.2.2 The above Table as on 1.1.2004 indicates that the representation of Scheduled Tribes is about 4% less in Group 'A' and about 2% less in Group 'B' than the required representation of 7.5% in these two Groups. **The Commission recommends that the Department of Public Enterprises should take up the matter with the administrative Ministries/Departments which exercise control on Central Public Sector Enterprises and advise them (i.e. CPSEs) to make special efforts to increase the level of representation of Scheduled Tribes in these Groups to the desired level of 7.5%.**

### 6.21.3 Representation of Scheduled Tribes in different cadres of the Public Sector Banks

6.21.3.1 Banking Division of the Department of Economic Affairs has furnished the information regarding representation of Scheduled Tribes in different cadres of the Public Sector Banks as on 1.1.2003 for the year 2002, as on 31.3.2004 for the year 2003 and as on 31.12.2004 for the year 2004. The Table below gives the representation of Scheduled Tribes in cadres of Officers, Clerks and Sub-Staff:-

#### A. Representation of Scheduled Tribes in Officers Cadre

(As on 1.1.2003)

Sl.No.	Name of the Bank	Total Emp.	ST	% age
1.	Allahabad Bank	6731	436	6.48
2.	Andhra Bank	6451	434	6.73
3.	Bank of Baroda	11798	588	4.98
4.	Bank of India	10704	757	7.07
5.	Bank of Maharashtra	3731	222	5.95
6.	Canara Bank	13814	898	6.5
7.	Central Bank of India	11292	639	5.65
8.	Corporation Bank	3753	129	3.43
9.	Dena Bank	2906	220	7.57
10.	Indian Bank	7123	405	5.69
11.	Indian Overseas Bank	6910	406	5.87
12.	Oriental Bank of Commerce	5101	207	4.05
13.	Punjab National Bank	16111	702	4.32
14.	Punjab & Sind Bank	4223	106	2.51
15.	Syndicate Bank	7688	394	5.12
16.	Union Bank of India	7597	513	6.75

17.	United Bank of India	4502	299	6.64
18.	UCO Bank	6715	366	5.45
19.	Vijaya Bank	3596	176	4.89
20.	State Bank of India	53421	2484	4.65
21.	SB of Bikaner & Jaipur	3247	188	5.78
22.	SB of Hyderabad	4288	216	5.03
23.	SB of Indore	1854	104	5.61
24.	SB of Mysore	2379	154	6.47
25.	SB of Patiala	3461	62	2.36
26.	SB of Saurashtra	1944	101	5.19
27.	SB of Travancore	2864	67	2.34
28.	Reserve Bank of India	-	-	-

(As on 31.3.2004)

Sl.No.	Name of the Bank	Total Emp.	ST	% age
1.	Allahabad Bank	6891	449	6.5
2.	Andhra Bank	7753	464	5.9
3.	Bank of Baroda	11928	675	5.6
4.	Bank of India	12058	880	7.2
5.	Bank of Maharashtra	4063	230	5.6
6.	Canara Bank	14480	946	6.5
7.	Central Bank of India	11508	658	5.7
8.	Corporation Bank	3811	143	3.7
9.	Dena Bank**	2906	220	7.5
10.	Indian Bank	7583	413	5.4
11.	Indian Overseas Bank	7453	408	5.4
12.	Oriental Bank of Commerce	5229	209	3.9
13.	Punjab National Bank	17716	814	4.5
14.	Punjab & Sind Bank	4183	106	2.5
15.	Syndicate Bank	8753	471	5.3
16.	Union Bank of India	8745	566	6.4
17.	United Bank of India	4755	307	6.4
18.	UCO Bank*	6715	366	5.4
19.	Vijaya Bank	3615	190	5.2
20.	State Bank of India	59447	3688	6.2
21.	SB of Bikaner & Jaipur	3659	221	6.0
22.	SB of Hyderabad	4607	231	5.0
23.	SB of Indore	1962	118	6.0
24.	SB of Mysore	2532	165	6.5
25.	SB of Patiala	3432	83	2.4
26.	SB of Saurashtra**	1944	101	5.1
27.	SB of Travancore	3263	80	2.4
28.	Reserve Bank of India**	6128	305	4.9

\* As on 30.6.2003

\*\* As on 1.1.2003

(As on 31.12.2004)

Sl.No.	Name of the Bank	Total Emp.	ST	% age
1.	Allahabad Bank	7935	485	6.1
2.	Andhra Bank	8023	468	5.8
3.	Bank of Baroda	11779	667	5.6

4.	Bank of India	12010	886	7.3
5.	Bank of Maharashtra	4078	231	5.6
6.	Canara Bank	14974	978	6.5
7.	Central Bank of India	11508	658	5.7
8.	Corporation Bank	3985	149	3.7
9.	Dena Bank**	2968	238	8.0
10.	Indian Bank	7565	413	5.4
11.	Indian Overseas Bank	7547	408	5.4
12.	Oriental Bank of Commerce	5370	222	4.1
13.	Punjab National Bank	17729	863	4.8
14.	Punjab & Sind Bank	4425	107	2.4
15.	Syndicate Bank	8669	471	5.4
16.	Union Bank of India	8671	580	6.6
17.	United Bank of India	4691	302	6.4
18.	UCO Bank*	7223	428	5.9
19.	Vijaya Bank	3822	194	5.0
20.	State Bank of India	59447	3688	6.2
21.	SB of Bikaner & Jaipur	3828	245	6.4
22.	SB of Hyderabad	4784	236	4.9
23.	SB of Indore	2098	124	5.9
24.	SB of Mysore	2794	185	6.6
25.	SB of Patiala	3401	83	2.4
26.	SB of Saurashtra**	2308	117	5.0
27.	SB of Travancore	3241	450	13.8
28.	Reserve Bank of India**	6128	305	4.9

\* As on 30.6.2003                      \*\* As on 1.1.2003

6.21.3.2 The perusal of the above Table reveals that as on 31.12.2004, the representation of STs was very satisfactory in the officers' cadre in the State Bank of Travancore (13.8%), Dena Bank (8.0%) and satisfactory in the Bank of India (7.3%). As on 1.1.2003, the representation of Scheduled Tribes in this cadre was as low as 2.34% in State Bank of Travancore, 2.36% in State Bank of Patiala, 2.51% in Punjab & Sind Bank, 3.43% in Corporation Bank, 4.05% in Oriental Bank of Commerce and 4.32% in Punjab National Bank. As on 31.3.2004, the representation of Scheduled Tribes in the officers' cadre was 2.4% each in the State Bank of Travancore and State Bank of Patiala, 2.5% in Punjab & Sind Bank, 3.7% in Corporation Bank and 3.9% in Oriental Bank of Commerce which is also considered as very low. As on 31.12.2004, the representation of STs in the officers' cadre was 2.4% each in State Bank of Patiala and Punjab & Sind Bank and 3.7% in Corporation Bank which was very low as compared to the prescribed percentage of 7.5% for the Scheduled Tribes. In the remaining 22 Banks, their representation was between 4% to 6% which was also not upto the mark.

#### B. Representation of Scheduled Tribes in the Cadre of Clerks

(As on 1.1.2003)

Sl.No.	Name of the Bank	Total Emp.	ST	% age
1.	Allahabad Bank	8811	287	3.26
2.	Andhra Bank	4097	57	1.39
3.	Bank of Baroda	19512	1016	5.2
4.	Bank of India	22156	1371	6.19

5.	Bank of Maharashtra	7228	424	5.87
6.	Canara Bank	22393	1053	4.7
7.	Central Bank of India	18696	1015	5.42
8.	Corporation Bank	5213	214	4.1
9.	Dena Bank	4883	526	10.77
10.	Indian Bank	11430	324	2.83
11.	Indian Overseas Bank	12634	315	2.49
12.	Oriental Bank of Commerce	5550	214	4.03
13.	Punjab National Bank	30190	1101	3.64
14.	Punjab & Sind Bank	3795	54	1.42
15.	Syndicate Bank	13766	719	5.22
16.	Union Bank of India	12588	516	4.1
17.	United Bank of India	9123	292	3.2
18.	UCO Bank	12935	562	4.34
19.	Vijaya Bank	5553	189	3.4
20.	State Bank of India	102455	5851	5.71
21.	SB of Bikaner & Jaipur	6177	448	7.25
22.	SB of Hyderabad	6027	229	3.8
23.	SB of Indore	3335	382	11.45
24.	SB of Mysore	5426	237	4.36
25.	SB of Patiala	5883	35	5.94
26.	SB of Saurashtra	3600	391	10.86
27.	SB of Travancore	6301	205	3.25
28.	Reserve Bank of India	-	-	-

(As on 31.3.2004)

Sl.No.	Name of the Bank	Total Emp.	ST	% age
1.	Allahabad Bank	8732	301	3.4
2.	Andhra Bank	3124	51	1.6
3.	Bank of Baroda	18928	940	4.9
4.	Bank of India	20682	1267	6.1
5.	Bank of Maharashtra	7065	428	6.0
6.	Canara Bank	21819	1013	4.6
7.	Central Bank of India	18252	997	5.4
8.	Corporation Bank	5009	211	4.2
9.	Dena Bank**	4883	526	10.7
10.	Indian Bank	10871	309	2.8
11.	Indian Overseas Bank	12313	327	2.6
12.	Oriental Bank of Commerce	5479	216	3.9
13.	Punjab National Bank	29847	1056	3.5
14.	Punjab & Sind Bank	3802	53	1.3
15.	Syndicate Bank	12545	643	5.1
16.	Union Bank of India	11315	369	3.2
17.	United Bank of India	9099	258	2.8
18.	UCO Bank*	12935	562	4.3
19.	Vijaya Bank	5462	173	3.1
20.	State Bank of India	95582	5331	5.5
21.	SB of Bikaner & Jaipur	3659	221	6.0
22.	SB of Hyderabad	5837	235	4.0
23.	SB of Indore	3208	366	11.4

24.	SB of Mysore	5209	225	4.3
25.	SB of Patiala	5933	37	0.61
26.	SB of Saurashtra**	3600	391	10.8
27.	SB of Travancore	5896	196	3.3
28.	Reserve Bank of India**	10644	960	9.0

\* As on 30.6.2003

\*\* As on 1.1.2003

(As on 31.12.2004)

Sl.No.	Name of the Bank	Total Emp.	ST	% age
1.	Allahabad Bank	7630	266	3.4
2.	Andhra Bank	2893	48	1.6
3.	Bank of Baroda	18840	989	4.9
4.	Bank of India	20722	1254	6.0
5.	Bank of Maharashtra	7036	432	6.1
6.	Canara Bank	21545	1001	4.6
7.	Central Bank of India	18252	997	5.4
8.	Corporation Bank	4794	201	4.1
9.	Dena Bank**	4665	504	10.8
10.	Indian Bank	10743	305	2.8
11.	Indian Overseas Bank	12228	329	2.6
12.	Oriental Bank of Commerce	5437	217	3.9
13.	Punjab National Bank	29746	1057	3.5
14.	Punjab & Sind Bank	3559	52	1.4
15.	Syndicate Bank	12444	637	5.1
16.	Union Bank of India	11302	370	3.2
17.	United Bank of India	8884	263	2.9
18.	UCO Bank*	12557	539	4.4
19.	Vijaya Bank	5217	169	3.2
20.	State Bank of India	95582	5331	5.5
21.	SB of Bikaner & Jaipur	5611	364	6.4
22.	SB of Hyderabad	5576	226	4.0
23.	SB of Indore	3259	372	11.4
24.	SB of Mysore	4882	201	4.1
25.	SB of Patiala	5912	37	0.6
26.	SB of Saurashtra**	3456	381	11.0
27.	SB of Travancore	5865	738	12.5
28.	Reserve Bank of India**	10644	960	9.0

\* As on 30.6.2003

\*\* As on 1.1.2003

6.21.3.3 The Table above indicates that as on 1.1.2003, the representation of STs in Clerks' cadre was very satisfactory in the State Bank of Indore (11.45%), State Bank of Saurashtra (10.86%), Dena Bank (10.77%) and satisfactory in the State Bank of Bikaner & Jaipur (7.25%). Their representation was as low as 1.42% in Punjab & Sind Bank, 1.39% in Andhra Bank, 2.49% in Indian Overseas Bank, 2.83% in Indian Bank, 3.2% in United Bank of India, 3.4% in Vijaya Bank, 3.8% in State Bank of Hyderabad, 3.25% in State Bank of Travancore and 3.26% in Allahabad Bank in the cadre of Clerks. As on 31.3.2004, the representation of STs in the cadre of Clerks was as low as 0.61% in the State Bank of Patiala, 1.3% in Punjab & Sind Bank, 1.6% in Andhra Bank, 2.6% in Indian Overseas Bank, 2.8% in Indian Bank, 3.1% in Vijaya Bank, 3.2% in Union Bank of India, 3.4% in Allahabad Bank, 3.3% in State Bank of Travancore, 3.5% in Punjab National Bank and 3.9% in Oriental Bank of Commerce. While as on 31.12.2004, the representation of STs in the cadre

of Clerks was very much upto the mark in State Bank of Travancore (12.5%), State Bank of Indore (11.4%), State Bank of Saurashtra (11.0%), Dena Bank (10.8%) and Reserve Bank of India (9.0%), their representation was as low as 0.6% in State Bank of Patiala, 1.4% in Punjab & Sind Bank, 1.6% in Andhra Bank, 2.6% in Indian Overseas Bank, 2.8% in Indian Bank, 3.2% each in Vijaya Bank and Union Bank of India, 3.4% in Allahabad Bank and 3.5% in Punjab National Bank.

**C. Representation of Scheduled Tribes in the cadre of Sub-staff (Excl. Safai Karamcharis)**

**(As on 1.1.2003)**

Sl.No.	Name of the Bank	Total Emp.	ST	% age
1.	Allahabad Bank	3601	270	7.5
2.	Andhra Bank	2775	174	7.65
3.	Bank of Baroda	7521	661	8.78
4.	Bank of India	7381	609	8.25
5.	Bank of Maharashtra	3122	284	9.1
6.	Canara Bank	8866	424	4.78
7.	Central Bank of India	9437	638	6.76
8.	Corporation Bank	1371	67	4.88
9.	Dena Bank	2604	352	13.52
10.	Indian Bank	3567	159	4.46
11.	Indian Overseas Bank	3756	160	4.25
12.	Oriental Bank of Commerce	2785	154	5.52
13.	Punjab National Bank	11272	635	5.63
14.	Punjab & Sind Bank	1834	46	2.50
15.	Syndicate Bank	4062	291	7.16
16.	Union Bank of India	5131	289	5.63
17.	United Bank of India	4103	148	3.6
18.	UCO Bank	4372	239	5.46
19.	Vijaya Bank	1952	126	6.45
20.	State Bank of India	43049	2396	5.57
21.	SB of Bikaner & Jaipur	3008	277	9.21
22.	SB of Hyderabad	3083	150	4.86
23.	SB of Indore	1365	190	13.92
24.	SB of Mysore	1801	82	4.55
25.	SB of Patiala	2374	40	16.8
26.	SB of Saurashtra	1999	205	10.25
27.	SB of Travancore	2172	99	4.56
28.	Reserve Bank of India	-	-	-

**(As on 31.3.2004)**

Sl.No.	Name of the Bank	Total Emp.	ST	% age
1.	Allahabad Bank	3249	234	7.2
2.	Andhra Bank	2218	158	7.1
3.	Bank of Baroda	7209	656	9.0
4.	Bank of India	7260	646	8.8
5.	Bank of Maharashtra	3044	267	8.7

6.	Canara Bank	8725	412	4.7
7.	Central Bank of India	9173	649	7.0
8.	Corporation Bank	1356	69	5.0
9.	Dena Bank**	2604	352	13.5
10.	Indian Bank	3352	154	4.5
11.	Indian Overseas Bank	3454	139	4.0
12.	Oriental Bank of Commerce	2665	147	5.5
13.	Punjab National Bank	10813	645	5.9
14.	Punjab & Sind Bank	1793	44	2.4
15.	Syndicate Bank	3845	275	7.1
16.	Union Bank of India	5174	343	6.6
17.	United Bank of India	4033	159	3.9
18.	UCO Bank*	4372	239	5.4
19.	Vijaya Bank	1925	126	6.5
20.	State Bank of India	41738	2511	6.0
21.	SB of Bikaner & Jaipur	2923	268	9.1
22.	SB of Hyderabad	2834	139	4.9
23.	SB of Indore	1370	189	13.7
24.	SB of Mysore	1773	81	4.5
25.	SB of Patiala	2309	40	1.7
26.	SB of Saurashtra**	1999	205	10.2
27.	SB of Travancore	2152	98	4.5
28.	Reserve Bank of India**	8222	761	9.2

\* As on 30.6.2003                      \*\* As on 1.1.2003

**(As on 31.12.2004)**

Sl.No.	Name of the Bank	Total Emp.	ST	% age
1.	Allahabad Bank	3164	232	7.3
2.	Andhra Bank	2229	156	6.9
3.	Bank of Baroda	7143	656	9.1
4.	Bank of India	7068	639	9.0
5.	Bank of Maharashtra	3041	264	8.6
6.	Canara Bank	8340	382	4.5
7.	Central Bank of India	9173	649	7.0
8.	Corporation Bank	1389	68	4.8
9.	Dena Bank**	2539	350	13.7
10.	Indian Bank	3319	149	4.4
11.	Indian Overseas Bank	3480	140	4.0
12.	Oriental Bank of Commerce	2594	135	5.2
13.	Punjab National Bank	10607	636	5.9
14.	Punjab & Sind Bank	1699	43	2.5
15.	Syndicate Bank	3762	269	7.1
16.	Union Bank of India	5264	392	7.4
17.	United Bank of India	4015	140	3.4
18.	UCO Bank*	4217	227	5.3
19.	Vijaya Bank	1886	125	6.6
20.	State Bank of India	41738	2511	6.0

21.	SB of Bikaner & Jaipur	2734	270	9.8
22.	SB of Hyderabad	2777	139	5.0
23.	SB of Indore	1129	170	15.0
24.	SB of Mysore	1741	80	4.5
25.	SB of Patiala	2353	41	1.7
26.	SB of Saurashtra**	1812	205	11.3
27.	SB of Travancore	2133	614	28.7
28.	Reserve Bank of India**	8222	761	9.2

\* As on 30.6.2003                      \*\* As on 1.1.2003

6.21.3.4 As regards the cadre of Sub-staff, it is seen that the representation of Scheduled Tribes on all the three occasions i.e. as on 1.1.2003, 31.3.2004 and 31.12.2004 was satisfactory/very satisfactory in Allahabad Bank, Andhra Bank, Bank of Baroda, Bank of Maharashtra, Dena Bank, Syndicate Bank, SB of Bikaner & Jaipur, SB of Indore, and SB of Saurashtra. In the remaining 19 Banks, the representation of Scheduled Tribes in this cadre was poor/very poor.

6.21.3.5 It will be seen from the Tables and the analytical note added at the end of each Table that the representation of Scheduled Tribes in most of the Banks in respect of all the three categories of staff i.e. officers' cadre, Clerks' cadre and Sub-Staff cadre was consistently very low and this trend indicates that the respective Banks have not taken corrective steps in the subsequent years to improve the representation of Scheduled Tribes. The responsibility for low and poor representation of Scheduled Tribes in the Banks has to be laid at the doors of the respective Bank itself, as they are the recruiting agencies for all the three categories of staff consequent upon the dissolution of the Banking Services Recruitment Board in the year 2001. The Commission fails to understand the lack-lustre and irresponsible approach adopted by the Banks in implementing the reservation policy of the Govt. of India in letter and in spirit. What disturbs the Commission more is poor and very poor representation of Scheduled Tribes even in Clerks cadre and the Sub-Staff cadre for which it should not have been difficult for the respective Banks to locate the eligible ST candidates. There is nothing on record to show that the defaulter Banks have taken any special efforts for making up the huge shortfall of ST candidates. **The Commission recommends that the Banking Division of the Department of Economic Affairs (which exercises administrative control over these Banks), taking note of this grave situation in relation to poor and very poor representation of ST candidates in most of the Banks, should take stringent action against the Chief Executives of those Banks which have failed to discharge their constitutional obligations in the matter of implementing the reservation policy of the Government in respect of Scheduled Tribes. The Commission further recommends that the Banking Division should issue instructions to the defaulter Banks to fill up the backlog/shortfall of ST vacancies in a time bound manner. The Commission is further of the view that in case the response from the ST candidates to the press advertisements released by the Banks inviting applications from ST candidates to fill up the backlog is not good, the Banks should depute recruiting teams in the areas where there is high concentration of ST population in the country to locate the eligible candidates belonging to Scheduled Tribes for appointment to various posts.**

#### 6.21.4 Representation of Scheduled Tribes in Central Universities

6.21.4.1 Based on the information furnished by the University Grants Commission vide their letter No.1-13/2005 (SCT) dated 20 June, 2005, the representation of Scheduled Tribes

in **Teaching posts** in Central Universities for the year 2003-04 is as given in the following Table:-

Sl.No.	Name of the University		Professor	Reader	Lecturer
1.	Aligarh Muslim University	Total	277	411	544
		ST	-	-	-
		% age	-	-	-
2.	Assam University	Total	24	47	89
		ST	-	-	04
		% age	-	-	04.49
3.	Banaras Hindu University	Total	414	365	315
		ST	-	-	07
		% age	-	-	2.2
4.	IGNOU	Total	33	67	103
		ST	-	-	04
		%age	-	-	3.88
5.	J.N.U.	Total	128	212	152
		ST	2	4	3
		% age	1.6	1.9	1.5
6.	Jamia Millia Islamia	Total	121	126	242
		ST	-	-	2
		% age	-	-	0.8
7.	Pondicherry University	Total	54	57	66
		ST	-	-	02
		% age	-	-	03
8.	Vishwa Bharati	Total	115	92	167
		ST	1	1	2
		% age	0.86	1.08	1.19
9.	Tezpur University	Total	20	30	54
		ST	-	1	3
		%age			5.55
10.	N.E. Hill University	Total	84	113	148
		ST	23	22	38
		%age			25.57
11.	BBA University Lucknow	Total	2	3	8
		ST	-	-	1
		% age	-	-	12.5
13.	MANU Hyderabad	Total	-	2	5
		ST	-	-	-
		% age	-	-	-
14.	Mizoram University	Total	24	41	145
		ST	2	5	51
		% age	8.33	12.2	35.17
15.	Hyderabad University	Total	96	74	63
		ST	-	4	3
		% age	-	5.4	4.8
16.	Nagaland University	Total	30	56	89
		ST	4	16	40
		% age	7.00	28.5	28.4

6.21.4.2 It is necessary to set out the current reservation profile in respect of Scheduled Tribes in the Central Universities in the posts of Professor, Reader and Lecturer. The post of Lecturer, which is equivalent to the lowest rung of Group 'A' post in Government of India, is filled up 100% by direct recruitment and, as per the Government of India's instructions, the reservation in this grade for Scheduled Tribes is applicable at the rate of 7.5%. The posts of Professor and Reader in the Central Universities are filled both by promotion and direct recruitment. Although the instructions of the Government of India provide for reservation for Scheduled Tribes @ 7.5% in all posts which are filled by direct recruitment, no reservation is being provided by the Central Universities in the posts of Reader and Professor in direct recruitment. It is obvious that the reservation policy of Govt. of India in the grade of Professor and Reader is being followed neither in letter nor in spirit by the Central Universities. There is no doubt that this practice is in violation of the instructions on reservation policy issued in pursuance of the provisions contained in Article 16(4) of the Constitution of India.

6.21.4.3 The perusal of the above Table indicates that the percentage of reservation in the grade of Lecturer for Scheduled Tribes during the year 2003-04 in NE Hill University, BBA University, Lucknow, Mizoram University and Nagaland University was 25.57%, 12.5%, 35.17% and 28.4% respectively, which is considered to be an excellent position. The percentage of reservation during this period in respect of Assam University, IGNOU, Tezpur University and Hyderabad University varied between 3% to 5.55%. As regards the remaining Universities, the percentage of reservation in this grade during the period in question was very poor. It was around 2 or less than 2 in respect of Banaras Hindu University (2.2), JNU (1.5), Jamia Millia Islamia (0.8) and Vishwa Bharati (1.19). The matter regarding reservation in the posts of Lecturer, as also of Reader and Professor was also discussed in the Sixth Report (1999-2000 and 2000-2001) of the erstwhile National Commission for Scheduled Castes and Scheduled Tribes and it was observed that the representation of SC/ST was far from satisfactory in most of the Universities.

6.21.4.4 The position of reservation with respect to Aligarh Muslim University is shockingly bad. There are 544 posts of Lecturer in this University, which is the largest number of all the Central Universities, and most surprisingly, there is not a single representative of Scheduled Tribe in this category. The implications of this scenario are too evident to need any elaboration. The Aligarh Muslim University has the dubious distinction of deliberately and willfully not implementing the reservation policy of the Govt. of India. This issue was also discussed in the Seventh Report (2001-2002) of the erstwhile National Commission for Scheduled Castes and Scheduled Tribes and it was observed that the University was not implementing the reservation policy and that, as a result thereof, the representation of SC/ST in this University was Nil in the grade of Lecturer in the teaching category.

6.21.4.5 It is manifestly clear that the Aligarh Muslim University is not following the reservation policy of the Govt. of India and all efforts to restrain them in the past has not brought about any change in their attitude and approach and they continue to indulge in flouting the reservation instructions with impunity. They need to be checked from pursuing a wrong policy in flagrant violation of the constitutional obligations. It would not be an overstatement to say that the non-cooperation by Aligarh Muslim University in not following the reservation policy amounts to dishonouring the Constitution of India and, therefore, they also need to be chastised for acting in defiance of the instructions of the Central Government. There can be no denying that their present action is not by default but by design and, therefore, it assumes critical dimensions. The magnitude of their offence becomes all the more serious because being the Central University, they receive grant from the Govt. of India

and it was their prime duty on this count to have ensured that they implement the reservation instructions in letter and in spirit. **The Commission, therefore, strongly recommends that:**

- (i) **The Ministry of Human Resource Development should either consider stopping the annual grants to the Aligarh Muslim University in toto or effecting a suitable cut in the quantum of the grant, as considered appropriate by them until such time they agree to implement the reservation policy of the Govt. of India in respect of Scheduled Tribes in appointment of Lecturers and initiate necessary action in this regard by appointing Lecturers belonging to Scheduled Tribes within a reasonable period of time.**
- (ii) **The Ministry of Human Resource Development should issue instructions to all the Central Universities to follow the reservation in appointment to such posts of Readers and Professors, which are filled up by direct recruitment in compliance with the reservation policy of the Govt. of India which, inter-alia, lays down that there will be reservation for Scheduled Castes and Scheduled Tribes in all posts filled by direct recruitment unless any post/posts is/are exempted by special or general instructions issued by the Government.**
- (iii) **As has been stated above, the percentage of reservation for STs in most of the Central Universities in the grade of Lecturer in teaching category is much below the prescribed percentage of 7.5% and, therefore, the Commission would like to advise the Ministry of Human Resource Development and University Grants Commission to take up the matter with the Central Universities and ask them to identify the backlog vacancies in the grade of Lecturer and to chalk out a time bound programme to fill up these backlog vacancies within a specified period of two years. In case the defaulter Universities fail to fill up the backlog vacancies reserved for STs within that period of two years, the Ministry of HRD/UGC while releasing the instalments of the grants should put a condition that unless they make up the shortfall of ST vacancies, the next instalment of the grant shall not be released.**

6.21.4.6 The representation of Scheduled Tribes in non-Teaching posts during the year 2003-04 in the Central Universities, as per information furnished by UGC vide their above mentioned letter, is as given in the following Table:-

Sl.No.	Name of the University		Group 'A'	Group 'B'	Group 'C'	Group 'D'
1.	Aligarh Muslim University	Total	170	220	2255	2855
		ST	-	-	4	7
		% age	-	-	<b>0.18</b>	<b>0.25</b>
2.	Assam University	Total	16	21	149	90
		ST	-	2	13	5
		% age	-	<b>9.52</b>	<b>8.72</b>	<b>5.55</b>
3.	Banaras Hindu University	Total	103	87	2135	3040
		ST	1	1	13	89
		% age	<b>0.97</b>	<b>1.15</b>	<b>0.61</b>	<b>2.93</b>

4.	IGNOU	Total	181	161	989	219
		ST	5	5	54	9
		<b>% age</b>	<b>2.76</b>	<b>3.11</b>	<b>5.46</b>	<b>4.11</b>
5.	J.N.U.	Total	101	230	490	674
		ST	1	3	15	10
		<b>% age</b>	<b>1</b>	<b>1.30</b>	<b>3.06</b>	<b>1.48</b>
6.	Jamia Millia Islamia	Total	46	55	464	401
		ST	-	-	2	-
		<b>% age</b>	<b>-</b>	<b>-</b>	<b>0.43</b>	<b>-</b>
7.	Pondicherry University	Total	45	24	267	301
		ST	1	-	-	1
		<b>% age</b>	<b>2.22</b>	<b>-</b>	<b>-</b>	<b>0.33</b>
8.	Vishwa Bharati	Total	69	88	555	697
		ST	1	3	16	79
		<b>% age</b>	<b>1.44</b>	<b>3.40</b>	<b>2.88</b>	<b>11.33</b>
9.	Tezpur University	Total	23	15	67	-
		ST	-	-	-	-
		<b>% age</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>
10.	NEHU	Total	61	167	484	350
		ST	25	62	231	259
		<b>% age</b>	<b>40.98</b>	<b>37.12</b>	<b>47.72</b>	<b>74.00</b>
11.	BBA Luknow	Total	8	-	36	26
		ST	-	-	-	-
		<b>% age</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>
12.	Delhi University	Total	133	515	1079	1068
		ST	3	1	8	16
		<b>% age</b>	<b>2.26</b>	<b>0.19</b>	<b>0.74</b>	<b>1.50</b>
13.	Maulana Azad National Urdu University	Total	7	3	27	10
		ST	-	-	1	-
		<b>% age</b>	<b>-</b>	<b>-</b>	<b>3.70</b>	<b>-</b>
14.	Mizoram University	Total	22	18	95	135
		ST	10	8	90	112
		<b>% age</b>	<b>45.45</b>	<b>44.44</b>	<b>94.74</b>	<b>82.96</b>
15.	Hyderabad University	Total	64	84	441	497
		ST	4	2	18	31
		<b>% age</b>	<b>6.25</b>	<b>2.38</b>	<b>4.08</b>	<b>6.24</b>
16.	Nagaland University	Total	24	30	140	157
		ST	17	12	124	137
		<b>% age</b>	<b>70.83</b>	<b>40.00</b>	<b>88.53</b>	<b>87.26</b>

6.21.4.7 It will be seen from the above Table that as in the case of the posts of Lecturer in the teaching category, the representation of Scheduled Tribes in the non-teaching category too is far from satisfactory in respect of almost all the Central Universities except three

North-East Universities namely- Universities of Assam, Nagaland and Mizoram The representation of Scheduled Tribes in Group 'A' and Group 'B' posts is Nil in respect of AMU, Assam University, Jamia Milia Islamia, Tezpur University, BBA, Lucknow and Maulana Azad National Urdu University, and in respect of the remaining Universities, the representation of Scheduled Tribes in these Groups was far below the prescribed percentage. By and large, the position with respect to Group 'C' and Group 'D' posts is identical except North-East Universities (referred to above) and IGNOU (5.46 % & 4.11% respectively), Hyderabad University (4.08% and 6.24% respectively) and Vishwa Bharti (2.88% and 11.33% respectively) where the representation of Scheduled Tribes is comparatively better, although it is less than the prescribed limit of 7.5%. As regards other Universities, the representation of Scheduled Tribes in these Groups is either 0% or less than 1% in AMU, Jamia Milia Islamia, Pondicherry University, Tezpur University and BBA, Lucknow. In BHU and in Delhi University, while the representation of STs in Group 'D' is slightly better (2.93% and 1.50% respectively), it is less than 1% in Group 'C'.

6.21.4.8 It will be seen from the position given in the above para that the representation of Scheduled Tribes in non-teaching posts too except North-East Universities (minus Tezpur University) and a few others is very poor. The message, which emerges from this depressing scenario, is very clear. Most of the Central Universities are consciously not implementing the reservation policy of the Government of India in non-teaching posts, as also in teaching posts. This position has been prevailing ever since the inception and nothing tangible has been done either by the University Grants Commission or by the Ministry of Human Resource Development to reverse the continuing trend and to ensure implementation of the reservation policy of the Government. The Commission cannot but feel concerned in this matter. **The Commission recommends that the Ministry of Human Resource Development should give serious attention to this problem and issue instructions to all defaulter Central Universities which are not implementing the reservation policy in the non-teaching posts in Group 'A', 'B', 'C' and 'D' to identify the backlog of the vacancies reserved for Scheduled Tribes and to chalk out a time bound programme to fill up these backlog vacancies within a specified period of one year. In case the defaulter Universities fail to fill up the backlog vacancies reserved for STs within that period of one year, the Ministry of HRD/UGC should take stringent action against them and while releasing the instalments of the grants should put a condition that unless they make up the shortfall of ST vacancies, the next instalment of the grant shall not be released.**

## **6.22 Special Concessions for Members of Primitive Tribal Groups (PTGs) in Direct Recruitment**

The Govt. of Madhya Pradesh have made suitable amendments in the M.P. Public Service (Reservation for Scheduled Castes/Scheduled Tribes and Other Backward Classes) Act, 1994 to provide for special provisions in direct recruitment in favour of members of Primitive Tribal Groups (PTGs). The amended Act, inter alia, provides that the candidates belonging to Sahariya Tribe living in Sheopur, Morena, Datia, Gwalior, Bhind, Shivpuri and Guna districts, Baiga Tribe living in Mandala, Dindori, Shahdol, Umaria and Balaghat districts and Bharia Tribe living in Tamia Block of Chhindwara district will be appointed in the post of contract Teachers in Grade-I, II and III and for Group 'C' and 'D' posts without subjecting them to go through the recruitment process provided they possess the minimum qualification for these posts. **The Commission recommends that the Ministry of Tribal Affairs should advise the 15 other States/Union Territories (other than Madhya Pradesh) having PTGs to make similar provisions for recruitment of candidates**

**belonging to PTGs in Group 'C' and Group 'D' posts and contract posts of Teaching category in various grades.**

### **6.23 Recognition of Scheduled Castes and Scheduled Tribes Employees Welfare Associations**

The erstwhile National Commission for Scheduled Castes and Scheduled Tribes had been receiving representations from various quarters for recognition of the Scheduled Castes and Scheduled Tribes Employees Welfare Associations and the Commission had been making recommendations to the Government for such recognition in its earlier Reports including the last Report (Seventh Report) of the Commission for the year 2001-2002. The Department of Personnel and Training vide their letter No. 2/10/2004-JCA dated 15 October, 2004 has informed that the issue in question had been examined by them in detail and it had not been found possible either to grant recognition or to extend the facilities which were available to the recognized Service Associations for the following reasons:-

- (i) The Service Associations formed by SC/ST employees do not fulfill the conditions prescribed in Rule 5(b), (c) and (f) of the CCS (RSA) Rules, 1993.
- (ii) The Recognition Rules have been framed after extensive consultations lasting over several years in which all major associations were involved and during the discussions there was no demand for a separate SC/ST association.
- (iii) Various provisions of CCS (RSA) Rules, 1993 came under scrutiny of the Supreme Court in 1996 (vide JT 1996(9) S.C. 456 D.K. Chhangani & Ors v. Nitya Ranjan Mukherjee & Ors.) and the Court did not find anything irregular or unconstitutional in the Rules.
- (iv) If the Service Associations of SC/ST employees are recognized by amending the Rules mentioned above, then various other similar groups of employees belonging to OBC, Minority, Lingual, Regional etc. would also demand the recognition of their Service Associations. This will not be in the interest of a unified Civil Service. This may lead to litigation and industrial unrest.
- (v) The existing institutional safeguards protect the interest of SC/ST employees through the appointment of Departmental Liaison Officers and other administrative instructions. The National Commission for Scheduled Castes and Scheduled Tribes (now the National Commission for Scheduled Castes, and the National Commission for Scheduled Tribes w.e.f. 19 February, 2004) is charged with the responsibility to investigate and monitor such matters. The Commission can also enquire into specific complaints.

### **6.24 Successful Cases dealt with by the Commission:**

The Commission receives a large number of petitions from the Govt. servants belonging to Scheduled Tribes working in various Ministries/Departments of the Govt. of India, attached/sub-ordinate and autonomous organizations under their administrative control, public sector undertakings, financial institutions, central universities etc. These petitions/representations are examined in the Commission and para-wise comments of the concerned organization called for. The Commission takes a final view on the grievance of the petitioner on the basis of the points made in the petitions and the information furnished by

the concerned organizations and accordingly, advises them to take corrective action. In case the Commission is satisfied with the action taken by the concerned organization, a copy of the reply sent by it is forwarded to the petitioner for his information and thereafter the matter is closed unless the petitioner sends a rejoinder which is, if it contains additional material, examined further in consultation with the concerned organization. In case the Commission does not get a reply from the concerned organization on the points raised in the petition despite repeated reminders, the Commission invites the Head of the organization or any other senior officer of that organization to appear before the Commission for discussion with Chairman/Member, NCST. The decisions taken after the discussions are recorded on the same day and got signed by all concerned and thereafter the respective organization is requested by the Commission to take necessary action on its advice/recommendation within a specified period of time and inform the Commission about the outcome of the decision taken by them. The constraints of space do not permit making mention of all the cases/petitions and their final outcomes taken up by the Commission. However, some of the successful cases relating to redress of service grievances which were taken up by the Commission with the concerned organizations are as follows:-

- (1) One ST officer working as Deputy Manger in the New India Assurance Company Ltd. approached the Commission for his promotion to the post of Manager. He had stated that he was denied promotion against a vacancy reserved for Scheduled Tribe in violation of the rules/instructions relating to reservation in the matter of promotion. The Commission took up the matter with the Company and finally the ST officer was promoted to the post of Manger.
- (2) One lady belonging to ST from Mayurbhanj district (Orissa) represented that the Executive Engineer (Electrical), EHT Maintenance Division, GRIDCO, Balasore had harassed her in regard to payment of family pension to her on account of death of her husband who was working as SBO in Rairangpur, Electrical Division of GRIDCO. She had stated that the family pension was being paid to her from the year 2003 while she was entitled to get revised family pension w.e.f. 1.1.1996. Her grievance was taken up with the said organization and finally the matter was settled and a sum of Rs. 1.20 lakh was paid to her through cheque against balance arrears.
- (3) One ST person represented to the Commission that he was appointed as Assistant Teacher in English in Madhyamika Prasarak Samithi, Yadahalli. He had stated that at the time of appointment he had submitted his original mark-sheets. Later on he submitted his resignation and approached the Samithi for return of his original documents as he had been selected elsewhere. He complaint that the Samithi did not return his original papers to him. The Commission took up the matter with Director, Karnataka Secondary Education Board and District Social Welfare Officer, Uttar Kannada district (Karnataka). The Commission was informed that Madhyamika Prasarak Samithi had agreed to return the original documents to the petitioner and finally the petitioner got the desired relief.
- (4) One ST officer working as Principal Scientist (Agron), ICAR, Research Complex for North Eastern Hill Region, Umiam, Meghalaya approached this Commission on June, 2002 alleging that after his promotion from Senior Scientist to the grade of Principal Scientist (Agron) w.e.f.28.7.1998 he became senior in the Division of Agronomy but he was deprived of his legitimate right for being made incharge of that Division. The Commission took up this matter with the said Organization. The Director of the Institute had himself admitted that whatsoever the applicant stated in his complaint was true and informed the Commission that the grievances of the petitioner had been

redressed by way of issuing an order for allowing him to take over the charge of the Division of the Agronomy.

- (5) One lady belonging to Scheduled Tribe working as a Senior Assistant in the United India Insurance Company, Shillong approached the Commission during the year 2002 alleging that she had been denied promotion as Assistant Administrative Officer. She stated that she was working as a Senior Assistant since 1989 and that she had been superseded by 8 of her junior colleagues. The matter was taken up by the Commission with the Hqrs. Office of the Company at Kolkatta. The Regional Office of the Company at Guwahati informed the Commission in 2003 that the petitioner had been promoted to the post of Assistant Administrative Officer.
- (6) One Scheduled Tribe officer working as Assistant Administrative Officer in the Atomic Mineral Directorate for Exploration and Research, Department of Atomic Energy, Nongmynsong, Shillong approached the Commission in September, 2003 alleging harassment with respect to his promotion and transfer. He represented that he was promoted to the grade of Accounts Officer by an order of the Department of Atomic Energy dated 11.8.2003 and posted at the Hqrs. of Department of Atomic Energy at Mumbai . The order of promotion was to be affected within 15 days failing which the officer would stand debarred from promotion for a period of one year. The petitioner requested for being relived on 18.8.2003 as he had already booked his train ticket for 19.8.2003 as there was no ticket available prior to that date. The petitioner was informed that he would be relieved only after a substitute in his place reported for duty at Shillong. The petitioner requested the Department of Atomic Energy Membai and AMB Hyderabad for providing a substitute and also allowing him to take over the charge of Accounts Officer in Shillong till his substitute reported for duty. This was not accepted by AMB Hyderabad. The Commission took up the matter with the Department of Atomic Energy and impressed upon them to take steps to avoid harassment of the applicant and to ensure that he was given his due promotion. The Department of Atomic Energy, Mumbai informed the Commission that the applicant had joined a new assignment as Accounts Officer on 20.10.2003 after availing leave, LTC and joining time as admissible.
- (7) The North Eastern Power Corporation Ltd. (NEPCO) Tribal Employees Welfare Association submitted a representation to the Commission in August, 2003 regarding denial of promotion of a Scheduled Tribe officer working as a Deputy Manager (Finance) NEPCO to the post of Manager. It was stated that a general candidate junior to the ST officer had been given promotion on the plea that the recent promotion policy of the Corporation did not mention anything about the subordinate Account Service. The Commission took up the matter with the Corporation. The Commission was informed that the grievances of ST officer had been redressed by way of issuing promotion order on 5.9.2003 and that he had joined the promotion post accordingly.
- (8) One Scheduled Tribe officer working as Asstt. Research Officer in the Central Hindi Directorate, Ministry of Human Resource Development, New Delhi submitted a representation in the Commission in October, 2004 alleging denial of promotion for the post of Research Officer. The Commission took up the matter with the Department concerned, which intimated the Commission that the promotion order had been issued on 7.2.2005.

- (9) One lady of Burdwan district (West Bengal) belonging to ST approached the Commission alleging that inspite of having qualified in the written test and interview of the West Bengal School Service Commission and impanelled in the select list she was not offered the appointment letter. The matter was taken up with WBSS Commission. The Commission was informed by the WBSS Commission that she had since been recommended for appointment to the post of Assistant Teacher at Uluberia Binapani Girls High School Uluberia, District Howrah. A similar complaint was received by the Commission in September 2003 from an ST girl complaining that though she had been selected for the post of Assistant Teacher after passing the WBSS Commission Examination 2001, she had not received the offer of appointment. The Commission took up the matter with the WBSS Commission, and, as a result of Commission's intervention she was offered appointment as Asstt. Teacher at Barakar Sri Marwari Vidyalaya, Barakar Burdwan.
- (10) One Assistant Manager in Haldia Duck Complex complained to the Commission in March, 2005 that he had been deprived of promotion and that his Organization had wilfully given promotion to one of his junior colleagues. On intervention of the Commission, the petitioner was promoted to the post of Deputy Manager (Rlys.) under Haldia Duck Complex w.e.f. 29.4.2005.
- (11) One Lower Division Clerk in the Customs and Excise Division, Ministry of Finance, Govt. of India at Kota (Rajasthan) belonging to Scheduled Tribes approached the Commission with the allegation that he appeared in the written test for the post of Tax Assistant and that he did not qualify in the Computer Practical paper and that he made a number of representations to the Commissioner, Customs & Excise, Jaipur to declare him qualified in the Computer Practical paper by extending to him concession/relaxation by virtue of belonging to Scheduled Tribes category. The matter was taken up by the Commission with the Commissioner, Customs & Excise, Jaipur. Petitioner's request was, however, not accepted and the proposed promotion was declined to him. The Commissioner, Customs & Excise Jaipur was against requested by the Commission to reconsider and provide relaxations to the petitioner in terms of amendments made in Article 335 of the Constitution by through 82<sup>nd</sup> Amendment Act. As a result of the intervention of the Commission, the petitioner was promoted to the post of Tax Assistant in the Customs & Excise Division, Kota in March, 2004.
- (12) One lady belonging to Scheduled Tribe approached the Commission to inform that her husband, who worked as a Work-charged employee in the Forest Department in district Pali (Rajasthan) died on 8.12.1994 and thereafter she applied for her appointment in that Office on compassionate grounds as per Govt's instructions. The matter was taken up by the Commission with the Chief Conservator of Forest and Principal Secretary, Department of Personnel, Govt. of Rajasthan. The Commission was informed that the Forest Department could not offer of appointment of compassionate grounds on account of non-availability of a vacant post and that the Forest department in turn requested the Department of Woman and Child Development, Govt. of Rajasthan to appoint her as a Group 'D' employee in their department. The Commission, accordingly, took up the matter with the Department of Woman and Child Development and finally she was appointed as a Group 'D' employee at Desuri, Pali (Rajasthan) and she joined duties w.e.f. 8.4.2003.
- (13) An Assistant General Manager belonging to ST category, SIDBI, Pondicherry Branch Office, Pondicherry sent representation to the Commission wherein it was alleged that

he was transferred to Hyderabad by way of harassing him. The Commission had taken up immediate action on the complaint and the matter was referred to the Chief General Manager, SIDBI, Chennai for his remarks. He was also called for discussion to sort out the issue. Due to the timely interaction and speedy action in the matter by the Commission, the Management of SIDBI had retained the candidate in his home town at Chennai.

- (14) During the course of the visit of a Member of the erstwhile NCSCST, a representation was submitted to him by a lady belonging to ST category. The lady was a handicapped and requested for employment. On the intervention of the Commission she was offered computer training from Canara Bank, but she could not joined the training course. However, Govt. of Kerala had assured the Commission to consider her request as per the rules enforce for suitable employment.
- (15) One Data Entry Operator Grade 'B', Directorate of Census Operations, Jaipur submitted a petition to the Commission in the month of August, 2003 for promotion to the post of Junior Supervisor which was taken up with the Registrar General of India, New Delhi and Directorate of Census Operations, Jaipur (Rajasthan). The later informed the Commission that:
- (i) There were only 12 Junior Supervisor posts and on introduction of post-based roster and reassessing of the representation of SCs/STs therein no post of Junior Supervisor was found to be reserved for ST category.
  - (ii) Four short-term vacancies arose in the year 2003 in the post of Senior Supervisors as a result of promotion of four Senior Supervisors to the post of Assistant Directors
  - (iii) The Directorate of Census Operations, Jaipur while filling the four posts of Sr. Supervisors did not promote any SC candidate despite the fact that one post was vacated by SC candidate on promotion to the post of Asstt. Director.
- (16) On intervention of the erstwhile NCSCST (now NCST) one SC candidate was promoted to the post of Sr. Supervisor. As regards the ST candidate (DEO, Gr. 'B') the Commission was informed that out of four vacancies in the post of Junior Supervisor, three vacancies were filled and the ST candidate in question was not promoted as he was not within the normal zone nor within the extended zone. He was at Sl. No.23 of the seniority list against the extended zone for four vacancies being upto the Sl.No.20 of the seniority list. Later on the case of promotion of another SC candidate was taken up and on intervention of the Commission a review DPC was held and on the recommendation of the DPC a general category candidate promoted earlier was reverted in July, 2003 and the SC candidate promoted and placed at Sl.No. 3 as per the instructions with respect to the replacement roster on the resulted vacancies due to the promotion of one SC candidate as Asstt. Director.

The above- referred decision to revert the general category candidate was later challenged by him (i.e. the general category candidate) in CAT, Jaipur Bench. The Hon'ble Tribunal upheld the decision of the promotion of the SC candidate and dismissed the petition of the general category candidate by their order dated 19.4.2004. Consequent upon the Hon'ble Tribunal's judgment, the case of ST candidate (DEO Gr.'B') for promotion to the post of Junior Supervisor was again taken up with the Directorate of Census Operations, Jaipur with the requesting them to review and to provide reservation for ST category as one ST vacancies was lying

vacant in the DCO, Jaipur Office. Although the ST candidates appeared at Sl.No.20 of the seniority list and was not covered within the normal and the extended zone, the authorities considered and promoted the ST candidate to the post of Junior Supervisor vide order dated 11.5.2005 against the said ST vacancy.

- (17) One Scheduled Tribe Junior Engineer working in the Local self- government Department, Govt. of Rajasthan Jaipur represented to this Commission regarding his promotion to the post of Asstt. Engineer. The case was taken up with the Principal Secretary, Local Self- government Department, Govt. of Rajasthan, Jaipur. After issuing several reminders, the Commission was informed in August, 2004 that there were 7 posts of Asstt. Engineers vacant for promotion during the year 2002-2003 of which 50% posts were to be filled up by direct recruitment and 50% by promotion. When the correspondence with the concerned department did not yield any result, the Commission decided to discuss the case personally with the Secretary, Local Self- government Department, Govt. of Rajasthan, Jaipur. Accordingly he was called to appear before the Hon'ble Chairman on 8-11-2005. Dr. Manjit Singh, Secretary, who appeared before the Commission the above date was requested to take appropriate action in respect of promotion of the petitioner to the post of J.E. and informed the Commission by 28.12.2005. The Commission was informed by him vide his letter dated 21.12.2005 that the petitioner had been promoted to the post of Asstt. Engineer. The Commission noted that along with the petitioner, three other ST candidates, as also two SC candidates were promoted to the post of Asstt. Engineer.
- (18) One Junior Engineer belonging to Scheduled Tribe working in the Southern Railway Press, Chennai represented to this Commission in August, 2004 for his proforma promotion to the said post with effect from 4-1-1990. The matter was taken up with the General Manager, Southern Railway, Chennai on Ist September, 2004. After receiving several reminders from the Commission, the Railway authorities informed on 23-12-2004 that the petitioner had appeared in the selection test in the past but did not qualify for the same and, therefore, there was no question of his being given benefit of proforma promotion from 4-1-1990. The Commission was further informed that the petitioner could be promoted on proforma basis only after he had passed the fresh selection test held subsequently and that the proforma promotion to the petitioner had been given w.e.f. 12.8.03 after he qualified in the subsequent selection and it was not possible to ante-date his proforma promotion w.e.f.4.1.1990.

The case was further taken up by the Commission with the Southern Railway authorities and accordingly, the Chief Personnel Officer (Shri N. Swaminathan, Southern Railway, Chennai) appeared before the Commission on 4-8-2005 along with other officers. In the hearing it was impressed upon the Railway authorities that the petitioner should have been given proforma promotion w.e.f. 4-1-1990 when the ST reserved point was filled on regular basis with effect from 4-1-1990 and that in case he had been given the proforma promotion to the post of Junior Engineer Gr.II with effect from 4-1-1990 he would have subsequently become eligible for promotion to the higher grade in his cadre. The Railway authorities were also requested to take necessary action to send the petitioner and other ST employees for training with respect to such courses which were useful to them in performing their duties in different posts from time to time.

Southern Railway authorities informed the Commission vide their letter dated 22-11-2005 that the Ministry of Railways (Railway Board) had since communicated their approval to the proposal of the Southern Railway to allow proforma promotion

to the petitioner with effect from 4-1-1990, which was done as a special case to honour the commitment given to the Commission and with a view to closing the long pending issue. Revised orders for his proforma promotion with effect from 4-1-1990 were issued on 22.11.2005. Based on the proforma promotion given to the petitioner as J.E. (I) in the scale of pay of Rs.5000-9000 from retrospective effect i.e. 18.6.1992, he has further been promoted on proforma basis as Section Engineer in the scale of pay of Rs.6500-10500 against an ST point with effect from 17.5.1999.

- (19) One Asstt. Director belonging to Scheduled Tribe, working in the Horticulture Division of CPWD, New Delhi represented to this Commission in March, 2005 that out of the total 64 posts of Asstt. Directors in the organization, 4 posts should have been earmarked for ST candidates. He stated that in 1997 when he was promoted as Asstt. Director (Hort.) on ad-hoc basis, no other ST candidate was promoted on regular basis nor were there any other ST candidates already functioning as Asstt. Director (Hort.) and that, in such a situation, he ought to have been considered for regular promotion against the available ST vacancy from the day he became eligible for consideration on regular basis as Asstt. Director. He also represented that he was surprised to know that his promotion was regularized only with effect from 31-8-2001 and not from 27.1997. He stated that non-regularization of continuous ad-hoc service had adverse effect on his career in as much as he was denied his further promotion to the post of Deputy Director (Hort). The petitioner requested that the matter be considered for regularization of his ad-hoc service from June, 1997 to August, 2001 and his seniority re-fixed accordingly and on the basis of such seniority, against the ST vacancy, he may be considered for promotion to the post of Deputy Director (Hort.).

The matter was taken up by the Commission with the Director General, CPWD, New Delhi in April, 2005 who informed that the petitioner was promoted to the post of Asstt. Director (Hort.) on ad-hoc basis with effect from 27-6-1997 initially for six months but continued to work in the said post until he was regularized with effect from 31-8-2001 on the basis of approval of DPC and that he had been representing seeking his promotion on regular basis with effect from 27-6-1997 and not with effect from 31-8-2001. The Commission was further informed that his request was not agreed to as the vacancy against which his ad-hoc promotion was made belonged to direct recruitment quota whereas the petitioner was to be regularized against a slot of promotion quota.

Shri B. Majumdar, Director General, CPWD appeared before the Commission on 21-10-2005. After detailed discussions, he assured the Commission that the whole case would be re-examined in the light of the guidelines issued by the DOPT and action would be taken within 15 days. The Directorate General of CPWD informed the Commission on 5 December, 2005 that the promotion of the petitioner as Asstt. Director (Hort.) had since been regularized with effect from 27-6-1997.

- (20) One Scheduled Tribe lady working as Library Attendant in School of Open Learning, Delhi University represented to the Commission in August, 2005 through the General Secretary, Delhi University and Colleges SC/ST Employees Welfare Association, Delhi against denial of her promotion to the post of Semi-Professional Assistant (SPA) and non-implementation of reservation rules in the School of Open Learning. It was also represented that the post of Semi-Professional Assistant (SPA) in the School of Open Learning was meant for ST and was a backlog vacancy and had been filled

by a general category candidate and that no SC/ST representative was associated in the DPC as per rules.

The matter was taken up by the Commission with the Executive Director, School of Open Learning on 24-8-2005 who informed that there was no irregularity in the meeting of DPC. The SC/ST member was invited but he could not attend the meeting due to some preoccupations and that there was no deliberate attempt to exclude him from the DPC. However, the Liaison Officer of the School was present in the meeting of the DPC. The Commission was also informed that the School was following the promotion rules as prevalent in the Delhi University and there was no violation of reservation policy. The DPC had, however, observed that the petitioner did not possess the required experience as laid down by the University for promotion. The DPC was further of the view that the next post of SPA was likely to be vacant in 2005 and accordingly, her case for promotion would be considered by the DPC at that point of time. The petitioner completed the five years of service as Attendant on 18-9-2005 and even thereafter, he was not promoted to the post of SPA.

The matter was taken up with the Executive Director; School of Open Learning, Delhi and Prof. H.C. Pokhriyal appeared before the Commission on 22.11.2005 and he was advised to conduct a review DPC by including in its meeting a representative from SC/ST category and to consider the case of the petitioner. The Executive Director informed the Commission on 29-12-2005 that the petitioner had been promoted to the post of Semi-Professional Assistant against the post reserved for ST.

- (21) One Sr. Goods Guard, Western Railway, belonging to Scheduled Tribe, represented to the erstwhile National Commission for Scheduled Castes and Scheduled Tribes in February, 1999 for his promotion to the post of Passenger Guard and to the next higher post of Sr. Passenger Guard. His case was taken up with the Railway Board. The Railway authorities appeared before the erstwhile NCSCST on six occasions i.e. 18.1.2000, 26.7.2001, 25.7.2002, 31.12.2002, 24.4.2003 and 17.2.2004. However, the Railway authorities did not accede to his petition for promotion to the post of Passenger Guard and to Sr. Passenger Guard. The petitioner represented his case to the National Commission for Scheduled Tribes in October, 2004. It was decided to call Secretary, Railway Board to appear before the Commission to discuss the case. Accordingly, Secretary, Railway Board along with his Sr. officers appeared before the Commission on 25 January, 2005. Secretary, Railway Board assured the Commission that he would have a fresh look and would review the entire matter and apprise the Commission of the re-considered decision of the Railway Board. While the Railway Board supplied some information in February, 2005 regarding the eligibility list and list of 71 selected candidates for the post of Passenger Guards (in which the petitioner could not find a place because he could not obtain 60% marks in the selection test and that this being a safety category post, there was no relaxation of marks for SCs/STs) who were placed in the panel in the year 1998 etc., as desired by the Commission during the hearing, no action was taken by them to re-consider his case and apprise the Commission of the outcome thereof. In the meanwhile, the petitioner again approached this Commission with the request to impress upon the Railway Board to promote him to the post of Passenger Guard and Sr. Passenger Guard.

A detailed d.o. letter was sent by the Commission on 19.5.2005 to the Secretary, Railway Board requesting him to re-promote the petitioner as Sr. Passenger

Guard (with all monetary benefits including arrears of pay) from which posts he was reverted in May, 1998. The Commission noted that the petitioner had been promoted from the post of Sr. Goods Guard to the post of Passenger Guard in November, 1993. He was further promoted from the post of Passenger Guard to the post of Sr. Passenger Guard by Office Order dated 18.3.1996. Later on, the Railway authorities maintained that the promotion of the petitioner as Passenger Guard as well as Sr. Passenger Guard was on ad-hoc basis, although the word 'ad-hoc' did not appear in any of the Office Orders issued in relation to his promotion as Passenger Guard and Sr. Passenger Guard. The Railway authorities informed in August, 2005 that the word 'ad-hoc' was erroneously not mentioned in the promotion Order dated 3.11.1993 and that the administrative error had subsequently been set right. The Railway authorities further stated that there were 17 ad-hoc Passenger Guards who had failed to qualify the selection test and had to be reverted in 1998 to make room for those candidates who had qualified the selection and that accordingly, it had been decided by them that since the post of Passenger Guard was a safety category post and a selection post, the petitioner could not be given promotion as Passenger Guard without qualifying the test.

The Commission was not satisfied with the explanation given by the Railway authorities for not re-promoting the petitioner to the post of Sr. Passenger Guard and it was accordingly, decided to call the Chairman, Railway Board who appeared before the Commission on 9.1.2006. Chairman, Railway Board could not attend due to his pre-occupations elsewhere, and in his place Shri R.S. Varshneya, Member (Staff) accompanied with other Sr. officers appeared before the Commission on that date. The Railway authorities appreciated the stand taken by the Commission and stated that they had already discussed the matter with their officers to promote the petitioner as Passenger Guard on regular basis from the year 2000 provided the petitioner was willing to appear for viva-voce and passed that test, and also as Sr. Passenger Guard based on the seniority gained by him on account of his promotion as Passenger Guard with retrospective effect. The Commission was assured that the whole process would be completed within a week and final orders issued within a month. The Commission is very happy to note that its persistent efforts as also of the erstwhile NCSCST spanning over a period of over 8 years have finally borne fruit and the Western Railway have issued the requisite Order on 31.1.2006 re-promoting the petitioner as Passenger Guard from 15.9.2000 (in the scale of pay of Rs.5000-8000) and Sr. Passenger Guard with effect from 1.11.2003 (in the scale of pay of Rs.5500-9000/-).

- (22) One Assistant Engineer belonging to Scheduled Tribe working in New Delhi Municipal Council (NDMC), New Delhi represented to this Commission in December, 2005 regarding his promotion to the post of Executive Engineer (Civil) under ST quota. He stated that while a number of general category candidates had been promoted to the post of Executive Engineer on ad-hoc basis, he had not been considered for promotion on ad-hoc basis against vacancies reserved for ST candidates. He further stated that he had completed 8 years of regular service in the feeder grade i.e. Assistant Engineer on 8-10-2005 and was eligible to be considered for ad-hoc promotion for which there is no limit on the size of the zone of consideration so long as the person has completed the requisite years of service. The case was taken up by the Commission with NDMC, New Delhi on 14-12-2005. The Commission was informed on 30-1-2006 that the case of petitioner was considered and on the recommendation of DPC and further approval of the competent authority, he was promoted to the post of Executive Engineer (Civil) on ad-hoc basis vide order dated 30-1-2006.

- (23) One Junior Engineer belonging to Scheduled Tribe working in the New Delhi Municipal Council (NDMC), New Delhi represented to this Commission in February, 2002 regarding his promotion to the post of Assistant Engineer under ST quota. The matter was taken up with the Chairman, NDMC, New Delhi on 27-2-2002. Several letters were sent to the NDMC for getting a reply in this case but to no avail. Ultimately, the Commission decided to call the Chairperson of NDMC to discuss the matter personally. Accordingly, Smt. Sindhushree Khullar, Chairperson, NDMC appeared before the Commission on 15-7-2005. After discussions, it was decided that the case would be examined afresh by the NDMC in consultation with the Liaison Officer of the NDMC and officers of this Commission and the decision taken would be implemented. Later Secretary, NDMC informed the Commission on 29-12-2005 that the DPC had since been conducted and it had considered the representation of the petitioner for promotion to the post of Assistant Engineer (Civil) and he had been promoted to the post of Assistant Engineer (Civil) with effect from 29-12-2005. Another ST candidate was also promoted along with the petitioner to the post of A.E (Civil).
- (24) One lady belonging to Scheduled Tribe, working as Assistant in the Ministry of Information & Broadcasting, represented to this Commission in October, 2005 regarding harassment by way of non-disbursement of salary of August and September, 2005, non-fixation of pay and non-issuing of posting order. The case was taken up by this Commission with the Ministry of Information & Broadcasting on 17-10-2005 who informed on 13-12-2005 that the salary of the petitioner had been released/disbursed to her with effect from 2-8-2005 i.e. since the date of her joining as Assistant in the office of the Registrar of Newspapers for India and that her pay was fixed at the initial stage of Rs. 5500/- in the scale of Rs.5500-175-9000/- with effect from 2-8-2005. Her posting orders were also issued on 2-11-2005.
- (25) One Junior Engineer (Civil) I &FC, Govt. of NCT of Delhi belonging to Scheduled Tribe represented to this Commission in November, 2004 for promotion to the post of Asstt. Engineer against the backlog vacancies earmarked for Scheduled Tribes. His case was taken up with the Govt. of NCT of Delhi in January, 2005. The Commission was informed that the petitioner could not be considered for promotion to the post of Asstt. Engineer/Asstt. Surveyor of Works (Civil) against one of the 4 backlog vacancies earmarked for Scheduled Tribes as his name was not covered within the normal or extended zone of consideration. The case was discussed and the attention of the Organization was drawn to the instructions dated 15.3.2002 issued by DoPT which, inter-alia, provided that while the zone of consideration for regular promotion of SC/ST candidates against the reserved vacancies was required to be extended upto five times the number of vacancies, for the purpose of promotion of SC/ST candidates against reserved vacancies on ad-hoc basis, there was no restriction on the zone of consideration and a suitable SC/ST candidates could be picked up from the seniority list provided he had rendered the minimum required service and considered for promotion. In view of these instructions, the Commission has advised the organization in January, 2006 that the petitioner may be considered for ad-hoc promotion to the post Asstt. Engineer/Asstt. Surveyor of Works (Civil). The Commission has also advised the organization to consider promoting the petitioner on regular basis (after the Orders of his promotion on ad-hoc basis have been issued) by drawing a separate zone of consideration in respect of eligible ST candidates only in view of the judgments of Hon'ble Supreme Court (i) in Civil Appeal No.4026 of 1988 in U.P. Rajya Vidut Parishad SC/ST Karamchari Kalyan Sangh vs.U.P. State

Electricity Board and Ors. dated 23 November, 1994 and (ii) Petitions for Special Leave to Appeal (Civil/CH) No.(s) 14568-69/95 in C.D. Bhatia and Ors. vs. Union of India and Ors. dated 31.10.1994/3.4.1995. In their first-cited judgment dated 23 November, 1994, the Hon'ble Supreme Court had held that "we are prima facie in agreement with the contention of the learned counsel for the Appellant that there has to be a separate zone of consideration so far as SC/ST candidates are concerned. Clubbing the Scheduled Castes with general category in the same zone of consideration would defeat the very purpose of reservation". In their second-cited judgment dated 31.10.1994/3.4.1995, the Hon'ble Supreme Court clarified that "we are however, of the view that the law laid down by this Court in U.P. Rajya Vidut Parishad's case (referred to above) is binding on all the authorities including the Union of India."

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**Revised percentage of reservation for Scheduled Tribes in case of direct recruitment to Group 'C' and 'D' posts normally attracting candidates from a locality or a region, on the basis of Census-2001 circulated vide DoPT's O.M. No.36017/1/2004 –Estt. (Res.) dated 5 July, 2005**

S.No.	Name of the State/UT	Percentage of Reservation		
		SCs	STs	OBCs
(1)	(2)	(3)	(4)	(5)
1.	Andhra Pradesh	16	7	27
2.	Arunachal Pradesh	1	45	0
3.	Assam	7	12	27
4.	Bihar	16	1	27
5.	Chhattisgarh	12	32	6
6.	Goa	2	0	18
7.	Gujarat	7	15	27
8.	Haryana	19	0	27
9.	Himachal Pradesh	25	4	20
10.	Jammu & Kashmir	8	11	27
11.	Jharkhand	12	26	12
12.	Karnataka	16	7	27
13.	Kerala	10	1	27
14.	Madhya Pradesh	15	20	15
15.	Maharashtra	10	9	27
16.	Manipur	3	34	13
17.	Meghalaya	1	44	5
18.	Mizoram	0	45	5
19.	Nagaland	0	45	0
20.	Orissa	16	22	12
21.	Punjab	29	0	21
22.	Rajasthan	17	13	20
23.	Sikkim	5	21	24
24.	Tamil Nadu	19	1	27
25.	Tripura	17	31	2
26.	Uttaranchal	18	3	13
27.	Uttar Pradesh	21	1	27
28.	West Bengal	23	5	22
29.	A& N Islands	0	8	27
30.	Chandigarh	18	0	27
31.	Dadra & Nagar Haveli	2	43	5
32.	Daman & Diu	3	9	27
33.	Delhi	15	7.5	27
34.	Lakshadweep	0	45	0
35.	Pondicherry	16	0	27

## CHAPTER-7

### ISSUANCE AND VERIFICATION OF SCHEDULED TRIBE CERTIFICATES

#### 7.1 Competent Authorities to Issue Certificates

7.1.1 The instructions on the issue of community certificates provide that any person who claims to belong to a Scheduled Tribe or Scheduled Caste or OBC, he/she will produce a certificate to the Appointing Authority/Selection Committee/Board etc. in support of his/her claim so as to make him/her eligible for reservation and various other relaxations and concessions. The caste/tribe/community certificates issued by the following Authorities in a format prescribed by Department of Personnel & Training can alone be accepted as proof in support of a candidate's claim belonging to ST or SC or OBC:

- (i) District Magistrate/Additional District Magistrate/Collector Deputy Commissioner/Additional Deputy Commissioner/Deputy Collector/Ist Class Stipendary Magistrate/Sub Divisional Magistrate/Taluka Magistrate/Executive Magistrate/Extra Assistant Commissioner.
- (ii) Chief Presidency Magistrate/Additional Chief Presidency Magistrate/Presidency Magistrate
- (iii) Revenue Officer not below the rank of Tehsildar; and
- (iv) Sub-Divisional Officer of the area where the candidate and/or his family normally resides.

7.1.2 The format of the certificate prescribed by the Department of Personnel & Training does not lend itself to curbing the current practice of producing false community certificate, which, in the recent past, has been increasingly assuming disturbing dimensions. To avoid misuse of certificates and also to avoid issue of false community certificates, certain amendments are required to be made in the prescribed format. The existing format for issue of community certificates enjoins upon the issuing authorities to indicate in para 1 of the format the name of the Order or the Act under which the caste/tribe was recognized as Scheduled Tribe e.g. The Constitution (Scheduled Tribes) Order, 1950. The Commission has observed that the name of the relevant Order or Act is not correctly indicated by the issuing authorities, which creates problems at the time of verification of the genuineness of the community certificates. **The Commission recommends that the existing format prescribed for issue of the community certificates should be amended to list all the Orders/Acts relating to recognition of castes/tribes as Scheduled Castes/Scheduled Tribes on the back of the prescribed format to enable the issuing authorities to write the name of the relevant Order/Act in the caste/tribe certificate.** A copy of the amended format, which also contains certain other changes with a view to make it more clear and intelligible is placed at **Annex.7.I.**

7.1.3 The format in its original form as prescribed by DoPT or in its amended form as suggested by the Commission (Annex.6.I) is for those members of Scheduled Tribes/Scheduled Castes who will obtain the community certificate in the original form by virtue of belonging to the State of origin. The Commission has noted that the Govt. had earlier prescribed a second caste/tribe certificate format since 1982 for those SCs/STs who had migrated from their original State to another State and they could obtain a certificate from the State of migration on the basis of caste/tribe certificates issued to their father/mother. This was meant to avoid inconvenience and hardships to them to the extent that they were not required to go back to their State/UT of origin and to get the caste/tribe

certificate from the prescribed authority. **The Commission, therefore, recommends that the Department of Personnel & Training should re-introduce the second caste/tribe certificate format which was prescribed by them in the year 1982 for those SCs/STs who had migrated from original State to another State to enable them to obtain a certificate from the State of migration on the basis of caste/tribe certificate issued to their father/mother.** A copy of this format, with requisite modifications, is placed at **Annex.7.II.**

## 7.2 Duties of Appointing Authorities to verify the Certificates

7.2.1 The present instructions also require that the appointing authorities should include the following clause in the offer of appointment to the candidates belonging to Scheduled Tribes/Scheduled Castes:

“The appointment is provisional and is subject to the castes/tribe certificates being verified through the proper channels and if the verification reveals that the claim to belong to Scheduled Caste/Scheduled Tribe, as the case may be, is false, the services will be terminated forthwith without assigning any further reasons and without prejudice to such further action as may be taken under the provisions of the Indian Penal Code for production of false certificates.”

7.2.2 The issuing authorities at the time of issue of community certificates to the persons claiming to belong to Scheduled Tribes/Scheduled Castes and the appointing authorities at the time of verification of the authenticity of the community certificates are required to bear in mind the following instructions:

- (i) An appointing authority may, if it considers necessary for any reason, verify the claim of a candidate through the District Magistrate of the place where the candidate and/or his family ordinarily resides. If after appointment in any particular case, the verification reveals that the candidate's claim was false, his services may be terminated in accordance with the relevant rules/orders.
- (ii) The appointing authorities should verify the community status of a Scheduled Tribe/Scheduled Castes officer at the time of promotion against a vacancy reserved for Scheduled Tribes/Scheduled Castes. For this purpose, the community to which a ST/SC person belongs, his/her place of residence and the name of the State, should be pasted on the top of his service book, personal file or any other relevant document to facilitate such verification. It may be mentioned that a ST/SC person whose community/tribe has been descheduled after his initial appointment as an ST/SC candidate, is no longer entitled to enjoy the benefit of reservation in promotion. This verification of community status at every important up-turn of employee's career is necessary so that the benefit of reservation and other scheme of concessions etc. meant for STs/SCs go only to the rightful claimants and not to those who become disentitled to them. The Commission is not aware whether the reverification of the community status at the time of promotion of the ST/SC persons is being done by the administrative Ministries and Departments themselves or through District Collectors and, in case the latter practice is in vogue, the Commission has every reason to apprehend that the process of the said reverification must be taking a lot of time and, as a consequence thereof, resulting in undue delay of the promotion of the ST persons in question. **The Commission is of the view that this matter needs to be clarified to the administrative Ministries/Departments and accordingly, recommends that:**

- (a) **The Department of Personnel & Training should issue instructions to all the administrative Ministries/Departments that at the time of promotion**

**of ST candidates they should themselves verify the community status of the ST candidates proposed to be promoted, from the records available with them and in case the upto-date records are not available with them, they should approach the Ministry of Tribal Affairs to ascertain whether the community of the said ST candidates continues to figure in the list of Scheduled Tribes at the time of promotion.**

- (b) **The Ministry of Tribal Affairs, which is the nodal Ministry for the purpose of scheduling or descheduling of any community as Scheduled Tribe, should invariably make available a copy of the notification, which is issued under Article 342 to all the Central Ministries/Departments etc. for their information, record and use at appropriate time.**
- (iii) Cases in which a doubt arises about Scheduled Tribe status of a person or a community, a reference may be made to the Ministry of Tribal Affairs, Shastri Bhavan, New Delhi.
- (iv) When a person claims to belong to a Scheduled Tribe by birth it should be verified that:
- (a) The person and his parents actually belong to the community claimed;
  - (b) That the said community is included in the Presidential Orders specifying the Scheduled Tribes notified by the Ministry of Law & Justice (Legislative Deptt.), Govt. of India in relation to the concerned State;
  - (c) The person belongs to that State and to the area within that State in respect of which the community has been scheduled/notified;
  - (d) If the person belongs to a Scheduled Tribe, he may profess any religion.
- (v) Where a person migrates from the portion of the State in respect of which his community is scheduled/notified to another part of the same State in respect of which his community is not scheduled/notified, he will continue to be deemed to be a member of the Scheduled Tribe in relation to that State;
- (vi) Where a person migrates from one state to another he can claim to belong to a Scheduled Tribe only in relation to the State to which he originally belonged and not in respect of the State in which he has migrated.
- (vii) No person who was not a member of a Scheduled Tribe by birth will be deemed to be a member of Scheduled Tribe merely because he or she had married a person belonging to a Scheduled Tribe. On the other hand, a person who is a member of a Scheduled Tribe would continue to be a member of that Scheduled Tribe even after his or her marriage with a person who does not belong to a Scheduled Tribe.
- (viii) He or his parents/grandparents etc., should be permanent resident of the State/UT on the date of notification of the Presidential Order applicable in his/her case.
- (ix) A person who is temporarily away from his permanent place of residence at the time of the notification of the Presidential Order applicable in his case, say for example to earn a living or seek education, etc. can also be regarded as a Scheduled Tribe, if his

tribe has been specified in that Order in relation to his State/Union Territory. But he cannot be treated as such in relation to the place of his temporary residence notwithstanding the fact that the name of his tribe has been scheduled in respect of that State where he is temporarily settled, in any Presidential Order.

- (x) In the case of persons born after the date of notification of the relevant Presidential Order, the place of residence for the purpose of acquiring Scheduled Tribe status, is the place of permanent abode of their parents at the time of the notification of the Presidential Order under which they claim to belong to such a tribe.

7.2.3 In spite of the fact that the appointing authorities are required to verify the community status of Scheduled Tribe candidates at the time of their initial appointment and promotion against vacancies reserved for Scheduled Tribes and for this purpose the community to which ST candidates belong, their place of residence and the name of the State is required to be pasted on the top of the Service Book, Personal File or any other relevant documents to facilitate such verification, a large number of persons have been able to get employment under the Govt. of India and State Govts. and other facilities on the basis of false community certificates. The problem continues to assume alarming proportion and the Commission cannot but feel greatly concerned over the persistence of the large scale incidences of the cases of bogus or false community certificates. The Commission feels that the issue has not been given the attention it deserves and many false community certificate holders are taking undue advantage of the system, depriving thereby the genuine STs, of their due share in the government services. The erstwhile National Commission for Scheduled Castes and Scheduled Tribes had been drawing the attention of the concerned authorities through its recommendations made in its Annual Reports. The erstwhile NCSCST had also been addressing the concerned authorities at various levels. The Govt. of India has been issuing instructions from time to time regarding the precautions that need to be taken at the time of issue of SC/ST certificates and also about the action to be taken in cases where the certificates are found to be false. It was also found that in a fairly large number of cases including false caste/community certificates, the holders of such certificates had gone to Courts on some pretext or the other and got stay orders and thereby continued to be in service and enjoy all the benefits. The number of such cases was fairly large in the State of Tamil Nadu. The Commission has also observed that even where the false certificates are proved by the district and State authorities, no criminal cases are being registered against the guilty and no punishment is awarded to them. On the other hand, they are approaching the High Courts and receiving the protections in the form of stay orders and that the State Govts. do not make serious attempts to get these stay orders vacated and to see that the guilty are punished. The erstwhile National Commission for Scheduled Castes and Scheduled Tribes in its Third report (1994-95 & 1995-96) recommended that “In case the false SC/ST certificate holder takes the shelter of Court, the Hon’ble Court may be approached to vacate the stay order, if granted and to finalise the case on top priority to ensure that the person does not continue to avail the benefits meant for SCs/STs. This will ensure that the guilty persons are not only suitably punished but they also face departmental action.” This recommendation of the erstwhile NCSCST was accepted by the Govt. and all the Ministries/Departments were requested accordingly in January, 1999 to bring it to the notice of all concerned for strict compliance. It had also been observed by the Commission during the review meetings with the State authorities that while on the one hand, a large number of people on the basis of bogus Scheduled Castes/Scheduled Tribe certificates were availing of benefits meant for members of Scheduled Castes/Scheduled Tribes, genuine SC/ST persons had been suffering on account of undue delay in the issue of community certificates to them and, to that extent, were being deprived of their legitimate rights and privileges enshrined in the Constitution and from accessing the benefits under various welfare schemes. The Commission fails to appreciate this position in the backdrop of a clear-cut administrative mechanism being in

place for the purpose of verification as also of re-verification of the claims of belonging to a community recognized as Scheduled Tribe and issue of certificates to the applicants. **The Commission recommends that the Department of Personnel & Training should advise all the State Govts. that they should issue instructions to the district authorities (competent to issue certificates), to the effect that the community certificates should be issued to the applicants within maximum period of 30 days from the date of the receipt of the applications in their offices.**

### **7.3 Guidelines laid down by Supreme Court for Verification of Community Certificates**

7.3.1 Instructions have also been issued for taking not only disciplinary departmental action against employees who are found to have secured employment on the basis of false caste/community certificates but also for taking penal action against them under the relevant provisions of IPC. The Hon'ble Supreme Court, while considering a case relating to a false certificate in Civil Appeal No.5854 of 1994 in Kumari Madhuri Patil & Ors. vs. Additional Commissioner, Tribal Development, Govt. of Maharashtra and Ors. observed that the admission wrongly gained or appointment wrongly obtained on the basis of false social status certificate necessarily has the effect of depriving the genuine SC or ST or OBC candidates of the benefits conferred on them by the Constitution. The genuine candidates are also denied admission to the educational institutions or appointments to office or posts under a State for want of social status certificate. The ineligible or spurious persons who falsely gained entry resort to dilatory tactics and create hurdles in completion of the enquiries by the Scrutiny Committees. The Hon'ble Supreme Court further observed that it was necessary that certificates issued were scrutinized at the earliest and with utmost expedition and promptitude and therefore, it was necessary to streamline the procedure for issuance of social status certificates, their scrutiny and their approval. The Hon'ble Court laid down the following guidelines for issuance and verification of the social status certificates:

- (i) The application for grant of social status certificate shall be made to the Revenue Sub-Divisional Officer and Deputy Collector or Deputy Commissioner and the certificate shall be issued by such officer rather than by the officer at Taluk or Mandal level.
- (ii) The parent, guardian or the candidate, as the case may be, shall file an affidavit duly sworn and attested by a competent gazetted or non-gazetted officer with particulars of castes and sub-castes, tribe, tribal community, parts or groups of tribes or tribal communities, the place from which he originally hails from and other particulars as may be prescribed by the concerned Directorate.
- (iii) Application for verification of the castes certificate by the scrutiny committee shall be filed at least six months in advance before seeking admission into educational institution or an appointment to a post.
- (iv) All the State Governments shall constitute a Caste Scrutiny Committee of three officers, namely, (i) an Additional or Joint Secretary or any officer higher in rank to the Director of the concerned department, (ii) the Director, Social Welfare/ Tribal Welfare/ Backward Class Welfare, as the case may be, and (iii) in the case of Scheduled Caste, another officer who has intimate knowledge in the verification and issuance of the social status certificate. In the case of Scheduled Tribes, the Research Officer who has intimate knowledge in identifying the tribes, tribal communities, part of groups of tribes or tribal communities.

- (v) Each Directorate should constitute a vigilance cell consisting of senior Deputy Superintendent of Police in overall charge and such number of Police Inspectors to investigate into the social status claims:
- (a) The Inspector would go to the local place of residence and original place from which the candidate hails and usually resides or in case of migration to the town or city, the place from which he originally hailed from.
  - (b) The Vigilance Officer should personally verify and collect all the facts of the social status claimed by the candidate or the parent or guardian as the case may be. He should examine the school record, birth registration, if any.
  - (c) The Vigilance Officer should also examine the parent, guardian or the candidate in relation to their caste etc. or such other persons who have knowledge of the social status of the candidate and then submit a report to the Directorate together with all particulars as envisaged in the proforma, in particular, of the Scheduled Tribes relating to their peculiar anthropological and ethnological traits, deity, rituals, customs, mode of marriage, death ceremonies, method of burial of dead bodies etc. by the concerned castes or tribes or tribal communities etc.
- (v) (a) On receipt of the report from the Vigilance Officer, the Director concerned, if he finds the claim of social status to be 'not genuine' or 'doubtful' or 'spurious', or 'falsely or wrongly claimed' should issue show-cause notice supplying a copy of the report of the Vigilance Officer to the candidate by a registered post with acknowledgement due or through the head of the concerned educational institution in which the candidate is studying or employed.
- (b) The notice should indicate that the representation or reply, if any, would be made within two weeks from the date of the receipt of the notice and in no case, on request, not more than 30 days from the date of the receipt of the notice.
  - (c) In case, the candidate seeks for an opportunity of hearing and claims an inquiry to be made in that behalf, the Director on receipt of such representation/ reply shall convene a meeting of the constituted committee i.e. Scrutiny Committee and the Joint/ Additional Secretary as Chairperson shall give reasonable opportunity to the candidate/ parent/ guardian to adduce all evidence in support of their claims.
  - (d) A public notice by beat of drum or any other convenient mode may be published in the village or locality and if any person or association opposes such a claim, an opportunity to adduce evidence may be given to him/ it.
  - (e) After giving such opportunity either in person or through counsel, the committee may make such inquiry as it deems expedient and consider the claims vis-à-vis the objection raised by the candidate or opponent and pass an appropriate order with brief reasons in support thereof.
- (vi) In case the report is in favour of the candidate and found to be genuine and true, no further action need be taken except where the report or the particulars given are found to be false or fraudulently obtained.

- (vii) Notice contemplated in Para (v) above should be issued to the parents/ guardian also, in case the candidate is minor to appear before the committee with all evidence in his or their support of the claim for the social status certificates.
- (viii) The inquiry should be completed as expeditiously as possible preferably by holding day-to-day proceedings within a period not exceeding two months. If after inquiry, the Caste Scrutiny Committee finds the claim to be false or spurious, they should pass an order cancelling the certificate issued and confiscate the same. It should communicate within one month from the date of conclusion of the proceeding the result of the inquiry to the parent/guardian and the applicant.
- (ix) In case of any delay in finalizing the proceedings, and in the meanwhile the last date for admission into an educational institution or appointment to an officer post, is getting expired, the candidate be admitted by the Principal or such other authority competent in that behalf or appointed on the basis of the social status certificate already issued or an affidavit duly sworn by the parent/guardian/candidate before the competent officer or non-official and such admission or appointment should be only provisional, subject to the result of the inquiry by the Scrutiny Committee.
- (x) The order passed by the Committee shall be final and conclusive only subject to the proceedings under Article 226 of the Constitution (relating to power of the High Courts to issue certain writs). No suit or other proceedings before any other authority shall lie.
- (xi) The High Court would dispose of these cases as expeditiously as possible within a period of three months. In case, as per its procedure, the Writ Petition/Miscellaneous Petition/Matter is disposed of by a single Judge, then no further appeal would lie against that order to the Division bench but subject to special leave under Article 136 of the Constitution.
- (xii) In case, the certificate obtained or social status claimed is found to be false, the parent/guardian/candidate should be prosecuted for making false claim. If the prosecution ends in a conviction and sentence of the accused, it could be regarded as an offence involving moral turpitude, disqualification for elective posts or offices under the State or the Union or election to any local body, legislature or the Parliament.
- (xiii) As soon as the findings are recorded by the Scrutiny Committee holding that the certificate obtained was false, on its cancellation and confiscation simultaneously, it should be communicated to the concerned educational institution or the appointing authority by Registered Post with acknowledgement due with a request to cancel the admission or the appointment. The principal etc. of the educational institution responsible for making the admission or the appointing authority as the case may be, should cancel the admission/appointment without any further notice to the candidate and debar the candidate from further study or continuance in office in a post.

7.3.2 In view of the increasing incidence of the cases of false community certificates and in pursuance of Government instructions and Supreme Court's directions, many States have initiated steps to set up Scrutiny Committees at District and State levels. Such Committees have been set up in Andhra Pradesh , Karnataka, Kerala, Madhya Pradesh, Maharashtra, Tamil Nadu, Uttar Pradesh and UT of Chandigarh. **The Commission would like to advise the Ministry of Tribal Affairs/Department of Personnel & Training to**

**take up the matter with the remaining States/UTs to impress upon them the need for putting in place similar mechanism for the purpose of verification of the community status of such employees claiming to belong to Scheduled Tribes.**

#### **7.4 Direction of Delhi High Court for Verification of Certificates**

7.4.1 In Civil Writ Petition No.5976 of 2003 filed by Shri Chandreshwar Prasad before High Court of Delhi, the petitioner, inter-alia, alleged that a large number of candidates had obtained employment under Govt. of India and Govt. of NCT of Delhi or its agencies on forged/false Scheduled Tribe (ST) certificates thereby denying the genuine ST candidates of their rights. Preliminary sample verification by CBI revealed that more than 30% of ST certificates presented by candidates were either forged or false. The High Court of Delhi, vide its order dated 5 May, 2005 directed the Govt. of India to devise a credible mechanism to ensure that such people are detected and are dealt with in accordance with law. The Chief Vigilance Officers (CVOs) of Ministries/Departments of GOI have accordingly, been directed by the Department of Personnel & Training to collect ST certificates of all those who have been appointed in the Ministries/Departments or their agencies including CPSUs since 1995 on the strength of ST certificates. These certificates will be sent to the concerned District authorities. viz. District Collector, Deputy Commissioners, District Magistrates etc. for confirming the authenticity of the certificates or to certify that the Government employee actually belongs to a ST, in case records are not available for any reason. The Department of Personnel & Training vide their d.o.letter No.230/08/2005-AVD.II dated 16 June, 2005 have requested the Chief Secretaries of all the States to instruct all the concerned District authorities in their States to take prompt action, whenever they are approached by any Ministry/Department or its agencies including Central PSU regarding verification of ST certificates.

7.4.2 The CBI had taken a meeting on the issue of re-verification of ST certificates on 14 June, 2005 with all the CVOs of the Ministries/Departments of Govt. of India. The following decisions were taken at the meeting for strict compliance-

- (i) The CVOs of the administrative Ministries/Departments should be the nodal officers for their respective Ministries/Departments/PSUs/Banks/other establishments, etc.;
- (ii) The CVOs of the Ministries/Departments will coordinate with the CVOs of PSUs/Banks/establishments of their respective Ministries for verifying ST certificates. The CVO would, however, be free to decentralize their work.
- (iii) The verification shall be conducted by referring the photocopies of the ST certificates available in the files to the concerned issuing authorities like DMs/SDMs;
- (iv) In all those cases where the employees were appointed since 1.1.1995 and their ST certificates were verified as per instructions contained in the OM of Department of Personnel & Administrative Reforms No.36011/16/80-Estt. (SCT) dated 27.2.1981 and it was confirmed by the District authorities that the ST certificates produced were genuine one, there would be no need for re-verification as prescribed in the OM dated May 25, 2005;
- (v) If an ST employee employed on or after 1.1.1995 has left the organization for any reason, his ST certificate need not be subjected to re-verification as per OM of even number dated May 25, 2005;
- (vi) Original ST certificates only in suspect cases are to be seized/collected by the CVO/field units;

- (vii) CVOs of PSUs, Banks and other establishments shall send reports from time to time to the CVOs of their controlling Ministries with copies to the CBI;
- (viii) In cases where the certificates have been issued by the competent authority but the persons concerned do not belong to ST category, the cases would be referred to CBI for further verification/investigation;
- (ix) The CVOs of the Ministries/Departments were required to send an interim report to CBI by 10.7.2005 for filing a Status Report in the Hon'ble High Court.

7.4.3 In realization of the gravity of the matter, the Commission also addressed a letter on 6.7.2005 to all the Central Ministries/Departments referring therein about the inquiry into getting reservation benefits on the basis of bogus ST certificates during 1995-2000 by CBI and requesting them to apprise the Commission of the cases of bogus ST certificates brought to their notice along with action taken/proposed to be taken by them. By another d.o. letter dated 27.7.2005, the Ministries/Departments as also the Govt. of NCT of Delhi and the autonomous bodies in Delhi have been requested to send, inter-alia, the details of employees whose certificates or claims were found to be fake during verification on initial appointment or against whom complaints pertaining to their community certificates have been received as also the action taken by them in this regard.

## **7.5 Proposal for introducing a Bill to regulate the issue and verification of caste/tribe certificates**

7.5.1 The Hon'ble Supreme Court in its judgment dated 18.4.1995 in the case of Director of Tribal Welfare, Govt. of Andhra Pradesh vs. Lavetti Giri & Ors. directed that "The Govt. of India would have the matter examined in greater detail and bring about a uniform legislation with necessary guidelines and rules prescribing penal consequences on persons who flout the Constitution and corner the benefits reserved for the real tribals etc. so that the menace of fabricating the false records and to gain unconstitutional advantages by fake/spurious persons could be prevented."

7.5.2 In view of the above judgment of the Supreme Court, the Govt. of India (Ministry of Social Justice & Empowerment) decided to enact an Act to regulate the issue of community certificates relating to persons belonging to the Scheduled Castes/Scheduled Tribes and Other Backward Classes. A bill seeking to give effect to this decision was drafted by the Ministry of Social Justice & Empowerment and sent to all the State Govts. for their views. The proposed bill seeks to lay down a well- defined procedure for issuing of community certificates for SCs/STs and OBCs, which would be applicable throughout the country. It seeks to provide for a competent authority that would issue the certificate suo moto or on a complaint filed by any person or a case referred to it by an employing authority or head of an educational institution. It also provides for stringent punishment for those who obtain false community certificates and for those responsible for issuing the same. Action for withdrawal of benefits and recovery of payments already made has also been provided for. A copy of the draft bill was also sent to the erstwhile National Commission for Scheduled Castes and Scheduled Tribes requesting for its comments. On detailed examination of the bill in its present form, the erstwhile National Commission for Scheduled Castes and Scheduled Tribes had suggested some amendments in the bill. The main observations and comments of the erstwhile Commission were that the punishment should be higher so as to act as an effective deterrent. The erstwhile Commission also expressed a view that even in the case of elective offices, the false certificate holders should be debarred from contesting for a period of six years apart from facing the punishment prescribed under the law.

## 7.6 Corrective Steps to be taken to curb Issuance of False/Bogus Community Certificates

7.6.1 In some States there is a practice of issuing temporary community certificates pending issue of permanent certificates for want of field verification. It is also noticed that persons already having ST certificates in the name of their father or grandfather or a family member are also issued temporary certificates. The validity of temporary certificates is generally six months. However, certificate issuing authorities take no step in initiating field inquiries during the validity period. Consequently, in the absence of regular certificates, many genuine ST candidates get debarred from admission in educational and professional institutions or in obtaining appointment in posts and services reserved for them. Through the same practice, some unscrupulous persons are able to grab the seats, reserved for STs, on the basis of temporary certificates. Once a seat is obtained on the basis of temporary certificate, the claimant, who actually does not belong to ST community, goes to the Court of law and obtains stay on cancellation of admission or termination of appointment availed of against ST quota. **The Commission, therefore, recommends that the Department of Personnel & Training may advise all the State Govts./UT administrations to stop forthwith the practice of issuing temporary caste/tribe certificates and that they should issue the community certificates only after full verification of the community status of the applicants within a period of 30 days from the receipt of the application.**

7.6.2 Standing instructions of Govt. of India relating to issue of community certificates and format of community certificates for SCs and STs provide that sons and daughters of a person already having community certificate duly issued by a competent authority and containing all relevant information about the status of the person and address of his ordinary residence should be issued community certificates without fresh inquiry unless there is a doubt about genuineness of that certificate. This is not being followed by the certificate issuing authorities resulting in hardships and harassment of the applicants for such certificates. **The Commission, therefore, recommends that the Department of Personnel & Training should issue necessary instructions to the certificate issuing authorities to carefully follow the instructions of the Govt. of India in the matter to ensure that sons and daughters of persons already having caste/tribe certificates duly issued by a competent authority are issued the community certificates without fresh inquiry. Attention in this, connection, is invited to the position stated in para 6.1.3 and Annex.6.II which is the format suggested to be introduced by DoPT for issuing community certificates in such cases.**

7.6.3 Govt. of India has been revising from time to time the formats for issuing community certificates for persons belonging to SCs/STs. However, all State Govts. are not issuing the community certificates in the prescribed format. For instance, the format for issuing community certificate prescribed by Govt. of Madhya Pradesh, is much different from the format prescribed by Govt. of India, although there are clear instructions issued by GOI that the district level authorities in each State are required to follow the format prescribed by GOI. **The Commission, accordingly, recommends that:**

- (i) **The Ministry of Tribal Affairs and Ministry of Personnel & Training should direct all the State Govts to review the instructions for issue of caste/tribe certificates, issued by them to the district or taluka level authorities and advise them to use standard format for issuing the community certificates as prescribed by GOI.**
- (ii) **The requests for issue of caste/tribe certificates should be entered in a register specifically maintained for the purpose at taluka/district level and that the**

**certificate issuing authorities should ensure that the certificates issued by them contain the serial number or the registration number in the register recording requests for issue of caste/tribe certificate, Certificate Book No. & the Certificate No. on the face of the certificates which should bear the clear seal and stamp of the issuing authority.**

7.6.4 The community certificates issued to persons are required to be produced for availing various benefits and services extended by State Govt. as well as Central Govt. The certificate issued in the regional language of a State/UT in most of the cases is not likely to be understood by the officials of Govt. of India. This hampers the selection process against reserved seat/vacancy. It may lead to harassment to a genuine tribal person. It may also lead to misuse, by way of wrong interpretation of the words mentioned in local or State language. **The Commission is, therefore, of the view that the Department of Personnel & Training should advise all the State Govts./UT Administrations to issue instructions to the district/taluk level authorities to ensure that the certificates are issued bilingually i.e. in regional language as well as in English or Hindi language with a view to avoid harassment to the certificate holders as also to check their misuse.**

7.6.5 The Constitution Order specifying tribes as Scheduled Tribes under Article 342 (1) of the Constitution in relation to certain States was issued in 1950. Another similar Order was issued in respect of the then Part 'C' States in 1951. For instance, Orders relating to U.P. were issued for the first time in 1967. The status of a person belonging to Scheduled Tribes in U.P. will be determined with reference to his place of ordinary residence as on date of issue of this particular Govt. Order. However, instructions are not clear about the status of persons belonging to a Scheduled Tribe community included for the first time in the list of STs in respect of his/her State/UT. Status of a person in respect of a community included for the first time in an order should be considered with reference to the date of inclusion and not with the date of original Order, which has subsequently been amended to include the said tribal community/communities. In absence of clarity in the amendment orders, tribals in almost all the States are facing difficulties in getting ST certificates after the amendments to original Orders issued in 1950, and 1951. **The Commission is accordingly, of the opinion that the amendments to original Presidential Orders issued under Article 342(1) of the Constitution should invariably include a clause clarifying that the place of ordinary residence in respect of persons belonging to the communities included in the Schedule for the first time or in cases where area restriction has been removed, the place of ordinary residence shall be determined with reference to the date of notification of the amendment to the original Order/Act.**

7.6.6 There can be no doubt that universal availability of all the original Constitution Orders specifying certain communities in respect of a State/UT or part thereof as Scheduled Tribes issued from time to time and the amendments thereto will go a long way not only in facilitating hassle-free issue of community certificates in a proper manner but will also be instrumental in checking issue of false certificates. **The Commission recommends that the Ministry of Tribal Affairs, Govt. of India should put all the original Orders along with the amendments made, on their website and also make available on their website an up-to-date State/UT-wise list of Scheduled Tribes.**

7.6.7 Prevention is always better than cure and if the Government has to effectively combat the menace of bogus/false community certificates, it has to evolve a credible mechanism for pre-appointment verification of the genuineness of the community certificates, in replacement of the existing procedure for post-appointment verification, with a view to strike at the root of the problem. As per the existing instructions and procedure, the candidates including the reserved category candidates recommended for appointment by

the various recruiting agencies are offered appointment by the concerned appointing authorities only after receipt of a satisfactory verification report from the police authorities of the respective State regarding their character and antecedents. **The Commission, therefore, recommends that:**

- (i) **The period during which the character and antecedents of the recommended candidates are got verified from police authorities should also be utilized for verification of the community certificates issued to the candidates claiming to belong to Scheduled Tribes/Scheduled Castes from the district authorities. The concerned appointing authorities which write to the police authorities of the respective State for verification of character and antecedents should also be advised to write simultaneously to the concerned district authorities viz. District Collectors, Deputy Commissioners, District Magistrates etc. for verifying the authenticity of the certificates or to certify that the candidate actually belongs to a Scheduled Tribe in case the records are not available for any reason.**
- (ii) **The appointing authorities should generally issue the offer of appointment on receipt of a satisfactory verification report with respect to the genuineness of the community certificates produced by them in support of their claim of belonging to Scheduled Tribes. However, in case the verification report from the District authorities regarding the authenticity (or otherwise) of the community certificates produced by the candidates along with their applications is not received within a maximum period of six months, offer of appointment on provisional basis may be given to the ST candidate subject to the condition that his probation should not be clear until receipt of verification report [Attention, in this regard is invited to the recommendation in Para 6.6.7 (iv)].**
- (iii) **Pending switch- over to the proposed system (mentioned in the preceding sub-para) of getting the community certificates verified by the issuing authorities prior to the appointment of the candidates, the existing instructions of verifying the community certificates through the issuing authorities after the candidate has been appointed on provisional basis must be completed within a period of six months after the appointment of the candidate and in the event of failure to complete the verification within the specified period, the appointing authority should fix the responsibility on the concerned officer for this failure and take necessary action against the officer/ official held responsible for this failure.**
- (iv) **The fresh candidates recommended for appointment by the recruiting agencies are generally appointed by the appointing authorities initially on a probation of one year or two year, and on satisfactory completion of the probation period, they are appointed on regular/substantive basis. The Commission recommends that in case a candidate belonging to ST category has been appointed against a vacancy reserved for ST quota on provisional basis pending verification of his/her community certificate, his probation should not be cleared until the process of verification of the genuineness of the community certificates produced by them is completed and a satisfactory report received in this regard from the concerned district authorities. This will help the Government to straightaway terminate the services of such candidate/candidates under Rule 5 of the Central Civil Services (Temporary Service) Rules, 1965 by giving one month's notice in writing to him/them, in case the community certificate(s) produced by him/them is/are found to be fake/bogus or false.**

- (v) **If the post-appointment verification by the appointing authority through the concerned District authorities/Scrutiny Committee reveals that the candidate had produced a fake/bogus or false certificate and he/she does not belong to a recognized Scheduled Tribe, his/her services (in case he has been appointed on regular/substantive basis), should be dispensed with straightaway without giving him/her any further notice in terms of the procedure laid down by Hon'ble Supreme Court in Civil Appeal No. 5834-Kumari Madhuri Patil, Vrs. Govt. of Maharashtra, 1994 [referred to in Para 7.3.1 (xiii)] The appointing authority should simultaneously also take up the matter with the CBI for the purpose of launching of criminal proceedings under IPC against the fake/false community certificate holders.** It has been generally found that while the services of the fake/false community certificate holders are terminated, no action is taken by the appointing authorities to launch criminal proceedings against them (i.e. false community certificate holders).

7.6.8 It has been found that in some cases the appointing authorities allow the false ST certificate holders to work as a general candidate. This is in violation of the instructions issued by the Government. **The Commission feels that in no case should the false ST certificate holders be allowed to work as a general candidate. The services of such a fake/false certificate holders should be terminated after following the due procedure and the posts/seats so vacated filled from ST for whom it was originally reserved. The Commission would like to advise the Department of Personnel & Training to reiterate these instructions to the appointing authorities to avoid repetition of this type of situations.**

7.6.9 The Ministry of Social Justice & Empowerment, as stated above, has already initiated action to enact an Act to regulate the issue of community certificates relating to persons belonging to the Scheduled Castes, Scheduled Tribes and Other Backward Classes in pursuance of the observations of the Hon'ble Supreme Court in its judgment dated 18.4.1995 in the case of Director of Tribal Welfare, Govt. of Andhra Pradesh vs. Lavetti Giri & Ors. and, to give effect to this decision, a bill has already been drafted by that Ministry and forwarded to all the State Govts. for their comments. **The Commission recommends that the Ministry of Social Justice & Empowerment should expedite the process of consultation, finalize it and introduce it in the Parliament at an early date after consulting NCST and also advise the State/UT Govts. to initiate action to enact similar legislations to curb the growing menace of issuance of false community certificates.**

7.6.10 **The Commission further recommends that the Department of Personnel & Training should reiterate the instructions that the tribe/community status of a person is determined on the tribe/community status of his/her father and not mother and, therefore, the certificates to be issued to a female applicant are required to be verified with reference to (i) the tribe/community status of her father and not of her husband, and (ii) her place of ordinary residence or that of her father or grandfather and not that of her husband's family.** These instructions further imply that an ST woman marrying a non-ST person will continue to be an ST. Similarly, in case of inter-caste marriage, the children of that family would get the community/tribe status of their father.

7.6.11 National Commission for Scheduled Tribes being a Constitutional body to safeguard the rights and interests of Scheduled Tribes has to be up-to-date about the name of Scheduled Tribes included in or excluded from the list of STs in respect of States/UTs. The Commission, therefore, would like to request the Ministry of Tribal Affairs to ensure that copies of the amendments to the Scheduled Tribes Orders, 1950 specifying Scheduled Tribes

in relation to any State are invariably made available to the National Commission for Scheduled Tribes.

**7.7 Hon'ble Supreme Court of India seeks the views of the Commission in Writ Petition (Civil) No.76 of 2003- A.S. Nagendra & Ors. vs. State of Karnataka & Ors. on whether the 'Maaleru' community is the same as 'Maleru' which (i.e. Maleru) finds place in the Constitution (Scheduled Tribes) Order, 1950 issued under Article 342 of the Constitution**

7.7.1 In the above- mentioned Writ Petition, the Hon'ble Supreme Court gave the following direction to this Commission:

“According to the petitioners the decision has no bearing at all on the issue raised in this writ petition since the petitioners were not seeking any alteration or amendment of the Presidential order but merely an interpretation of the same”.

In our opinion the appropriate authority to decide this issue, namely, the interpretation of the Presidential Order of 1950, would be the National Commission for Scheduled Castes and Scheduled Tribes established under Art.338 of the Constitution. We may have considered referring the matter to the State Commission for Scheduled Castes and Scheduled Tribes as constituted by the Karnataka State Commission for the Scheduled Castes and Scheduled Tribes Act 2002, had the State Government shown any predisposition to determine the issue as directed by this court's order in the earlier writ proceedings.

We accordingly direct the National Commission to look into the matter and to submit a report before this Court after hearing all affected parties within a period of six months from the date of service of copy of this order. The parties are at liberty to place such material before the National Commission in addition to and over and above the material already referred to, as they may think fit, in order to enable the National Commission to determine the issue correctly.”

7.7.2 The above said Order of the Hon'ble Supreme Court was received in the erstwhile National Commission of Scheduled Castes and Scheduled Tribes on 23.11.2004. In the meanwhile, the erstwhile the National Commission for Scheduled Castes and Scheduled Tribes was bifurcated into two separate Commissions namely- National Commission for Scheduled Castes (NCSC) and National Commission for Scheduled Tribes (NCST) by an Office Order issued on 1.12.2004. The National Commission for Scheduled Tribes was, therefore, required to submit its report to the Hon'ble Supreme Court on or before 22 May, 2005.

7.7.3 In the Writ Petition (Civil) No.76 of 2003- A.S. Nagendra & Ors. vs. State of Karnataka & Ors. the petitioners have, inter-alia, claimed that:

- (i) They are persons who belong to Maleru community which figures in the Constitution (Scheduled Tribes) Order, 1950. They have stated that there is no difference between 'Maaleru' and 'Maleru' and both these represents the same community and both are different merely in respect of spellings and that due to rydhamic pronunciation because of the deerga used in vernacular, some authorities of the Govt. started to spell Maleru in English as Maaleru to denote the deerga by adding one more 'a' to the said word Maleru and that the difference in spellings has led to the prevailing confusion

and harassment on account of both these communities being treated as two separate communities.

- (ii) The Govt. of Karnataka by their order dated.23.1.1986 extended benefits of reservation in admission to educational institutions, and other educational concessions available to Scheduled Tribes to the members of the various communities including those belonging to Maaleru. It was indicated that no penal or disciplinary action shall be taken and prosecution, if any, launched, shall be kept in abeyance and shall not be pursued, inter-alia, against the persons belonging to Maaleru community for having obtained castes certificates as belonging to Maleru community and that suspension orders, if any, issued shall be revoked in such cases and persons retrenched shall be reinstated. It was further stated in that order that it had been decided to constitute a Committee to go into the issues relating to Maaleru and Maleru and certain other communities in order to enable the government to make suitable recommendations to the Govt. of India with regard to these communities.
- (iii) The Govt. of Karnataka's order dated.23.1.1986 (referred to above) granting benefits of reservations in admission to educational institutions and educational concessions was reviewed and withdrawn by the State Govt. of Karnataka vide their order dated.11 March, 2002 . The perusal of this order revealed that the Govt. of India vide their letters dated.10.6.1986 and 17.12.1993 had objected to having extended benefits which were meant for Scheduled Tribes to persons belonging to communities which were not included in the list of STs. It was, inter-alia, stated in these letters that the orders issued by the State Govt. were not in conformity with the provisions of Articles 341 and 342 of the Constitution of India and accordingly, the State Govt. felt the need to withdraw them immediately in the interest of and for the benefit of Scheduled Castes and Scheduled Tribes. It was further stated that it had been brought to the notice of the State Government that due to these orders, the Public Sector Undertakings, Banks, Corporations or Departments were facing difficulties in taking action against employees whose certificates had been proved to be false through verification by the Directorate of Civil Rights Enforcement and that the Hon'ble Supreme Court/High Courts had also granted relief to the Petitioners belonging to these communities on the basis of the said order. Further, it had been brought to the notice of the State Government that although only educational concessions and reservation in admission to educational institutions had been extended to persons of these communities, in actual fact they had obtained employment in Public Sector Undertakings, Banks or Departments etc. based on their ST certificates since the certificates did not make a distinction between education and employment.

7.7.4 The five petitioners in this Writ Petition have sought the following relieves from the Hon'ble Supreme Court of India:-

- (i) Issue a writ of certiorari or any other writ or order or direction quashing the order of the Govt. of Karnataka dated.11 March, 2002.
- (ii) Issue an order or direction or writ of Mandamus directing the Govt. of Karnataka to take immediate steps to comply with the directions of the Hon'ble Supreme Court of India contained in its order dated.6.9.1989 and to take a final decision after detailed examination on the issue of Maleru and Maaleru community or communities.
- (iii) Issue a direction or order or writ of mandamus directing the State Govt. of Karnataka to clarify that factually there is only one community called Maleru

and all other persons possessing the said caste certificates as Maleru or Maaleru should be treated as one and the same community.

- (iv) Grant such other and further relief as the Hon'ble Supreme Court thinks fit under the circumstances of the case.

7.7.5 This was a challenging assignment for the Commission. As the Commission was required to submit its views to the Supreme Court within a period of six months from the date of the service of the copy of the order i.e. 23.11.2004 out of which about a month had already elapsed without any action being taken on account of the exercise being carried out for bifurcation of the erstwhile National Commission for Scheduled Castes and Scheduled Tribes into two separate Commissions namely, the National Commission for Scheduled Castes (NCSC) and the National Commission for Scheduled Tribes (NCST) in regard to which the orders were issued on 1.12.2004. Thus the National Commission for Scheduled Tribes had only five months to complete the entire exercise of hearing all the affected parties and then submit its views to the Hon'ble Supreme Court on or prior to 22 May, 2005. The Commission rose to the demands of the challenge and took up the assignment in all earnestness. The following action was taken by the Commission to address the issue:-

- (i) The Commission requested the Deputy Commissioner, Shimoga District (Karnataka) on 24.12.2004 to send a detailed confidential report on the basis of documentary records available with him and also on the basis of local inquiries on whether the community Maleru which has been recognized as Scheduled Tribe in respect of the State of Karnataka and included in the Constitution (Scheduled Tribes) Order, 1950, and the community Maaleru were two different communities or the one and the same community. It was also indicated in the Commission's letter that if Maleru and Maaleru represented two different communities, the characteristics of the people belonging to Maaleru community including their social and religious habits/customs, language spoken, food habits, standard of living, primitive traits, the extent of isolation from the rest of the society etc. might also be included in the report. A similar letter was sent on the same date (i.e. 24.12.2004) to Deputy Commissioner, Chikmagalur District and Chief Secretary, Govt. of Karnataka. While the reports from DC, Chikmagalur and DC, Shimoga were received on 24 January, 2005 and 2 March, 2005 respectively, the report from the Govt. of Karnataka was received on 31 January, 2005.
- (ii) The Commission held the first hearing with the Petitioners and the Respondents in this case on 10 January, 2005, which was followed by second and third hearings on 9 March and 8 April, 2005 respectively. In all the three hearings, which were chaired by Shri Kunwar Singh, Chairman, National Commission for Scheduled Tribes, the Petitioners were represented through Shri G.V. Chandrashekhar, Advocate in the Supreme Court of India. While one of the Respondents namely, Sahitya Akadmi, Rabindra Bhavan, New Delhi (Respondent No.5) was represented through Sh. C. Jagdish, Advocate, the remaining Respondents appeared in the hearings either in person or through officers nominated by them.
- (iii) Shri Buduru Srinivasulu, Member of the Commission alongwith Shri R.C. Durga, Director, in the Regional Office of the Commission at Bhopal (having jurisdiction over Karnataka), Shri Sohan Lal, Asstt. Director, Commission's Hqrs. at New Delhi and Shri S.B. Muniraju, Investigator, National Commission for Scheduled Castes, State Office at Bangalore visited the Districts of Shimoga and Chikmagalur in Karnataka State to enquire into the ground realities on the basis of on- the- spot enquiries on the status of Maleru and Maaleru. This team spent four days in the two

districts from 22 to 25 January, 2005. This team was assisted by Shri K.S. Mruthyunjay, Deputy Director, Tribal Welfare Department, Govt. of Karnataka and Dr. K.M. Metry, Professor, Department of Tribal Studies, Kannada University, Hampi. The team submitted its report to the Commission on 10 March, 2005.

- (iv) The Registrar General and Census Commissioner of India was also requested by the Commission on the same date i.e. 24.12.2004 to send a detailed report on the moot issue on the basis of records available in his office. The report from RGI was received on 18 January, 2005
- (v) The Commission also requested Director-in-charge, Anthropological Survey of India on 22.12.2004 to send a report on the basis of records available in his office on the status of Maleru and Maaleru, which was received in this Commission on 2 February, 2005.

7.7.6 Based on the submissions made by the Petitioners and the Respondents and documents made available by them during the three hearings, the reports/findings of the State Govt. of Karnataka, Deputy Commissioners, Shimoga and Chikmagalur districts, Office of the Registrar General and Census Commissioner of India, Anthropological Survey of India, Kolkata and the Inquiry Report submitted by the team of the Commission headed by Shri Buduru Srinivasulu, Member, NCST the Commission submitted its 220-page report (including 25 Annexes) to the Hon'ble Supreme Court of India on 13 May, 2005.

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**FORM OF SCHEDULED CASTE/TRIBE CERTIFICATE**

Book No.....Certificate No.....Regn. No. of the application.....

This is to certify that Shri/Smt. /Kumari ..... son/ daughter of  
 Shri..... presently r/o House  
 No.....Village/town ..... in  
 ..... District/ Division of the State/Union Territory of  
 ..... belongs to\*..... recognized as Scheduled  
 Caste/Scheduled Tribe as per the entry at Sl.No.....of the relevant Constitution  
 Order and/or the Act\*\* mentioned overleaf. He/She belongs  
 to.....religion.

2. Shri/ Smt./ Kumari .....and/or his/her family  
 Ordinarily resided in House No.....Village/town... in  
 .....District/ Division of the State/Union Territory of .....  
 .....on the date of issue of notification of the above-referred Order/Act.

Signature.....  
 Designation.....  
 ( With seal of office)

**(Signature of the certificate holder)**

Place.....

Date.....

\* Indicate the name of the Caste/Tribe recognized as Scheduled Castes or Scheduled Tribes  
 \*\* Write the name of the Constitution Order and/or the Act under which the Caste/Tribe was  
 notified / added as Scheduled Caste/Tribe e.g. The Constitution (Scheduled Tribes) Order,  
 1950. (Please see the list overleaf)

Note: The term “ Ordinarily resides “ used here will have the same meaning as in Section 20 of  
 the Representation of the Peoples Act, 1950.

## ANNEX-7.II

**FORM OF SCHEDULED CASTE/TRIBE CERTIFICATE**

[For those who have already certificate issued in the name of his/her fathers or in the name of his/her mother (in respect of communities which follow matriarchical system of family)]

Book No.....Certificate No.....Regn. No. of the application.....

This is to certify that Shri/Smt. /Kumari ..... son/ daughter of  
Shri..... presently r/o House  
No.....Village/town ..... in .....  
District/ Division of the State/Union Territory of ..... belongs to\*.....  
.....recognized as Scheduled Caste/Scheduled Tribe as per the entry at  
Sl.No.....of the relevant Constitution Order and/or the Act\*\* mentioned overleaf.  
He/She belongs to.....religion.

2. This Certificate is issued on the basis of the Scheduled Caste/ Scheduled Tribe\* Certificate, issued to Shri/Smt. ....( Father/ Mother \* of Shri/Smt./ Kumari ..... ) r/o of House No.....in Village/Town ..... in District/Division ..... of the State/Union Territory of..... who belongs to\*..... which is recognized as a Scheduled Caste/ Scheduled Tribe in relation to the State/Union Territory .....vide the above-referred Order/Act issued by the\*\*\*

3. Shri/ Smt./ Kumari .....and/or his/her family ordinarily resided in H.No.....in village/Town.....in .....  
District/ Division of the State/Union Territory of .....on the date of issue of Order/Act referred to above.

Signature.....  
Designation.....  
( With seal of office)

**(Signature of the certificate holder)**

Place.....

Date.....

\* Indicate the name of the Scheduled Caste/Scheduled Tribe

\*\* Write the name of the Constitution Order or the Act under which the Caste/Tribe was notified as Scheduled Caste/Tribe e.g. The Constitution (Scheduled Castes) Order, 1950. (Please see the list overleaf)

\*\*\* Write the name of the issuing authority

Note: The term “ Ordinarily resides “ used here will have the same meaning as in Section 20 of the Representation of the Peoples Act, 1950.

**CHAPTER -8****CRIME AND ATROCITY ON THE SCHEDULED TRIBES****8.1 Introduction**

8.1.1 The Constitution of India seeks to secure for all its citizens, among other things, social justice, equality of status and opportunity and dignity of the individual. A segment of country's population belonging to Scheduled Tribes, who inhabit in remote areas, have not been able to take full advantage of the various development programmes and continue to live in economic backwardness and, on that count, subjected to exploitation by various unscrupulous elements. The strategy of the State is to secure distributive justice, allocation of specific and enhanced resources to support programmes for their social, economic and educational advancement to secure them justice and to protect them from exploitation. Article 46 of the Constitution lays down that the State shall protect the Scheduled Castes and the Scheduled Tribes from social injustice and all forms of exploitation. With a view to give statutory basis to social safeguards provided in the Constitution special laws have been enacted for giving protection to these weaker sections of the society and to protect them from all forms of atrocities and discrimination they have been traditionally subjected to.

8.1.2 In order to give effect to the provisions of Article 17, which abolishes the 'Untouchability' and in practice in any form, the Parliament enacted the 'Untouchability' (Offences) Act, 1955. The 'Untouchability' (Offences) Act, 1955 was amended in 1976 to make its provisions more stringent and was renamed as the Protection of Civil Rights Act (PCR Act), 1955. The Government of India also notified PCR Rules, 1977 to carry out the provisions of the PCR Act, 1955. It was, however, realized over a period of time that the deterrent penal provisions contained in the Protection of Civil Right Act, 1955 and the Indian Penal Code, proved inadequate in curbing the atrocity on the members of Scheduled Castes and Scheduled Tribes. It was observed that this scenario was mainly due to the fact that the cases of atrocities on members of Scheduled Castes and Scheduled Tribes were not specifically covered under the provisions of the PCR Act, 1955 as well as the Indian Penal Code. In order to overcome this deficiency, the Parliament passed another important Act in 1989 to empower the Government to take specific measures to prevent atrocities on SCs and STs. This Act is known as the Scheduled Castes and the Scheduled Tribes Prevention of Atrocities (PAO) Act, 1989. This Act came into force from 31 January, 1990. For carrying out the provisions of the SCs & STs (POA) Act, 1989, the SCs & STs (PAO) Rules were notified in 1995. The provisions of this Act and Rules have been referred in more details in the subsequent paragraphs.

8.1.3 The Commission has observed that despite special laws enacted to protect the members of Scheduled Tribes as also of Scheduled Castes, there is no substantial reduction in the number of incidences of atrocities on them. This is a matter of grave concern for the Commission. While analyzing the incidence of crime on the members of Scheduled Tribes under the existing system of criminal justice administration, one has to keep in mind that the number of incidences appearing in official reports represent only the tip of the iceberg and the reality is much vaster and more complex. Most Scheduled Tribes, even after 58 years of independence, are still residing in isolated pockets and are economically backward and illiterate and, as a result thereof, the incidences of crime against them are not being reported, the one which are reported are not always recorded, and those which are recorded are often minimized. It is also a truth that whenever they protest against the deprivation of their inherent rights and safeguards provided in the Constitution in respect of land, forest, water,

minimum wages, indebtedness etc., they are subjected to violence against their persons and the property.

8.1.4 Some of the major factors which contribute to commission of crime on Scheduled Tribes have been referred to in the following excerpts from the Dalit Manifesto, National Action Forum for Social Justice, New Delhi.

“STs, proud masters of their traditional territory, are being progressively deprived of their lands and have, in many cases, been reduced to minorities in their own homelands. This is a historical process that has been going on for centuries and has acquired greater momentum in the decades after Independence. The lands that still remain with them are poorly developed, are rarely irrigated and are unintegrated or poorly integrated with the market, leaving the field open to exploiters and middlemen from outside. Irrigation projects that have been undertaken by Governments in the tribal areas are programmes for creating dams in tribal areas, submerging tribal lands, scattering their settlements and people to the winds and taking water to non-tribals outside the tribal areas; the plan expenditure incurred on such projects are gratuitously and unabashedly shown as a part of the Tribal Sub-Plan, which has also been routinised and trivialized. No wonder an increasing number of STs are forced into agricultural wage labourers and the proportion of STs among agricultural wage labourers has increased in recent decades. Traditional tribal rights in forests which they have been enjoying through traditional symbiotic relationship between tribes and forests, were unilaterally abrogated and abridged by the colonial government, an abrogation and abridgement continuing even after Independence, making the STs dependent on others for their elementary requirements and for their very survival. In the trading of Minor Forest Produce (MFP) in the collection of which tribals are specialized, they are being exploited both by private trade as well as by cooperatives/corporations set up by Governments. Availability of MFP, which is the main or a substantial source of livelihood for a large percentage of STs is fast shrinking.”

## 8.2 Incidence of Crimes against Scheduled Tribes

8.2.1 As reported by States/UTs, and compiled and analyzed by National Crime Records Bureau, Government of India, Ministry of Home Affairs, the incidence of crimes including atrocities committed on the members of a Scheduled Tribe by non-Scheduled Castes and non-Scheduled Tribes during the year 2001 to 2003 at all India level is as follows:

S. No.	Year	Incidence of Crime
1.	2001	6,217
2.	2002	6,774
3.	2003	5,889
		<b>Average No. 6,293</b>

8.2.2 An analysis of the reported crimes including atrocities committed on the members of the Scheduled Tribe reflects minor fluctuations over the average of 6,293 every year which by itself is alarming and, therefore, there is a need to take effective measures to prevent the crime on these vulnerable sections of the society.

### 8.3 Classification of Crimes

8.3.1 The magnitude of crime including atrocities against the members of the Scheduled Tribe at all India level according to the nature of crimes committed on them is as given in the following Table:-

Year	Nature and number of crimes					
	Murder	Grievous Hurt	Rape	Arson	Other offences	Total
(1)	(2)	(3)	(4)	(5)	(6)	(7)
2001	167	756	573	108	4,613	6,217
2002	189	788	597	58	5,142	6,774
2003	185	790	551	38	4,325	5,889
<b>Average</b>	<b>180</b>	<b>778</b>	<b>574</b>	<b>68</b>	<b>4,693</b>	<b>6,293</b>

Source: Crime in India-2001, 2002 & 2003 National Crime Records Bureau, MHA, GOI.

8.3.2 The nature of crime-wise registered cases (given in the above Table) indicates that there is an urgent need to take immediate effective preventive measures to curb the increasing trend of the heinous offences of murder, grievous hurt and rape. Micro level study needs to be carried out by the law and order enforcing machinery about the causative factors followed with taking appropriate remedial measures to control and reduce the heinous offences against the members of the Scheduled Tribe.

### 8.4 State-wise incidence of Crimes on Scheduled Tribes

8.4.1 An in-depth analysis of the State-wise crimes committed against the members of Scheduled Tribe reveals that maximum number of the registered cases of crime are from the States under fifth Schedule. This phenomenon is particularly disturbing as these States have special responsibility to protect and regulate the tribal rights over land, forest, water and indebtedness etc. and take specific measures to bring the Scheduled Tribes at par with other sections of the society. A comparative statement of the number of crimes on the **members of Scheduled Tribes** between Fifth Schedule and non-Fifth Scheduled States is as given Table below:-

States/UTs	Year-wise incidence of crimes			% age to total number of crimes in the country		
	2001	2002	2003	2001	2002	2003
(1)	(2)	(3)	(4)	(5)	(6)	(7)
<b>Fifth Schedule States</b>						
Andhra Pradesh	512	525	571	8.2	7.8	9.7
Himachal Pradesh	04	03	12	0.1	0.0	0.2
Gujarat	309	340	241	5.0	5.0	4.1
Orissa	734	480	484	11.8	7.1	8.2
Rajasthan	1023	930	912	16.5	13.7	15.5
Maharastra	238	271	217	3.8	4.0	3.7
Chhattishgarh	486	508	774	7.8	7.5	13.1
Jharkhand	282	124	108	4.5	1.8	1.8
Madhya Pradesh	1535	2504	1779	24.7	37.0	30.2
<b>Sub-Total</b>	<b>5123</b>	<b>5685</b>	<b>5098</b>	<b>82.4</b>	<b>83.9</b>	<b>86.5</b>
Non-Scheduled States/UTs	1094	1089	791	17.6	16.1	13.5
<b>Grand Total</b>	<b>6217</b>	<b>6774</b>	<b>5889</b>	<b>100</b>	<b>100</b>	<b>100</b>

Source: Crime in India-2001, 2002 & 2003 National Crime Records Bureau, MHA, GOI.

8.4.2 Similar pattern also emerges in **cases of murder** in which the victims were from the **Scheduled Tribes** as will be seen from the following Table:-

States/UTs	Year-wise incidence cases of murder			% age to the total number of murder cases in the country		
	2001	2002	2003	2001	2002	2003
(1)	(2)	(3)	(4)	(5)	(6)	(7)
<b>5<sup>th</sup> Schedule States</b>						
Andhra Pradesh	04	02	09	2.4	1.1	4.9
Himachal Pradesh	00	00	01	0.0	0.0	0.5
Gujarat	07	16	05	4.2	8.5	2.7
Orissa	04	10	10	2.4	5.3	5.4
Rajasthan	14	10	11	8.4	5.3	5.9
Maharastra	06	10	08	3.6	5.3	4.3
Chhattishgarh	18	12	13	10.8	6.3	7.0
Jharkhand	20	11	32	12.0	5.8	17.3
Madhya Pradesh	28	49	34	16.8	25.9	18.4
<b>Sub-Total</b>	<b>101</b>	<b>120</b>	<b>123</b>	<b>60.6</b>	<b>63.5</b>	<b>66.4</b>
Non- Fifth Scheduled States	66	69	62	39.4	36.5	33.6
<b>Grand Total</b>	<b>167</b>	<b>189</b>	<b>185</b>	<b>100</b>	<b>100</b>	<b>100</b>

Source: Crime in India-2001, 2002 & 2003 National Crime Records Bureau, MHA, GOI

8.4.3 It has been found that more than 90% of **rape cases** in which the victims were from the Scheduled Tribes are reported from the Fifth Schedule States. It is further seen that maximum cases of rape during this period (i.e.2001-2003) were reported from the States of Madhya Pradesh followed by Chhattishgarh and Maharastra. The incidence of rape cases in the Fifth Schedule States as compared to non-Fifth Scheduled States are as follows:-

States	Year-wise incidence of rape cases			% age to the total number of rape cases in the country		
	2001	2002	2003	2001	2002	2003
(1)	(2)	(3)	(4)	(5)	(6)	(7)
<b>5<sup>th</sup> Schedule States</b>						
Andhra Pradesh	21	24	32	3.7	4.0	5.8
Himachal Pradesh	00	01	02	0.0	0.2	0.4
Gujarat	23	18	20	4.0	3.0	3.6
Orissa	28	14	20	4.9	2.3	3.6
Rajasthan	45	39	26	7.9	6.5	4.7
Maharastra	60	48	34	10.5	8.0	6.2
Chhattishgarh	87	67	103	15.2	11.2	18.7
Jharkhand	22	13	14	3.8	2.2	2.5
Madhya Pradesh	238	312	263	41.5	52.3	47.7
<b>Sub-Total</b>	<b>524</b>	<b>536</b>	<b>514</b>	<b>91.5</b>	<b>89.7</b>	<b>93.2</b>
Non- Scheduled States	49	61	37	8.5	10.3	6.8
<b>Grand Total</b>	<b>573</b>	<b>597</b>	<b>551</b>	<b>100</b>	<b>100</b>	<b>100</b>

Source: Crime in India-2001, 2002 & 2003 National Crime Records Bureau, MHA, GOI

## 8.5 Disposal of Cases by the Police

8.5.1 Once a cognizable crime is committed on the members of Scheduled Tribe and reported to the Police Station, FIR is registered and the investigation starts. Police investigates and disposes of the cases as per the provisions laid down in Cr.P.C. It has, however, been noticed that the process of investigation takes unconscionably long time, which is generally attributable to all-out efforts being made by the accused and other

unscrupulous elements connected with them to derail it. There can be no denying that a prompt and quality investigation is the foundation of the effective Criminal Justice System as justice delayed is justice denied. The Commission, therefore, is of the considered view that it is essential that the investigative system is not only strengthened and streamlined but also sensitized to perceive the overriding need that the guilty is punished within a reasonable period of time especially when the victims belong to the most vulnerable sections of society such as Scheduled Tribes. The disposal of cases by the police relating to crimes committed against Scheduled Tribes during the period from 2001 to 2003 is as given in the following Table:-

Year	Total number of cases of crime	Number of cases investigated and ended in, with % ages in brackets to the total			Number of cases pending investigation
		Final Report	Chargesheet	Total	
(1)	(2)	(3)	(4)	(5)	(6)
2001	7246 (100)	1200 (16.6)	4925 (68.0)	6125 (84.6)	1121 (15.4)
2002	7842 (100)	1170 (14.9)	5527 (70.5)	6697 (85.4)	1145 (14.6)
2003	7120 (100)	998 (14.0)	4793 (67.3)	5791 (81.3)	1329 (18.7)
<b>Average</b>	<b>7403 (100)</b>	<b>1123 (15.2)</b>	<b>5082 (68.6)</b>	<b>6205 (83.8)</b>	<b>1198 (16.2)</b>

**Source: Crime in India-2001, 2002 & 2003 National Crime Records Bureau, MHA, GOI.**

**Note:** Final report in column (2) cases includes cases withdrawn and also the cases in which the charges were found false/based on wrong facts.

8.5.2 The disposal of crime cases by the police reveals that on an average in 83.8% cases, the police had completed the investigation and in 68.6% cases submitted the charge-sheets in the Courts. After investigation, around 15% cases were found false or could not be proved due to incorrect facts or lack of sufficient evidence.

## 8.6 Disposal of Cases by the Courts

8.6.1 As per the existing procedure, once the charge-sheet is submitted in the Court, the trial of the case begins. After the completion of the trial, the Court on the basis of evidences either convict the accused or acquit. The status of the disposal of cases by the Courts for the years 2001 to 2003 **in respect of members of Scheduled Tribes** is as given in the following Table:-

Year	Number of cases filed in the Courts	Number of cases compounded or withdrawn	Number of cases disposed of and ended in			Pending trial
			Acquittal	Conviction	Total	
(1)	(2)	(3)	(4)	(5)	(6)	(7)
2001	18896 (100)	275 (1.5)	2335 (12.4)	860 (4.6)	3195 (17.0)	15426 (81.5)
2002	20930 (100)	302 (1.4)	2316 (11.1)	1053 (5.0)	3369 (16.1)	17259 (82.5)

2003	21680 (100)	361 (1.7)	2640 (12.2)	1027 (4.7)	3667 (16.9)	17652 (81.4)
<b>Average</b>	<b>20502</b> <b>(100)</b>	<b>313</b> <b>(1.5)</b>	<b>2430</b> <b>(11.9)</b>	<b>980</b> <b>(4.8)</b>	<b>3410</b> <b>(16.7)</b>	<b>16779</b> <b>(81.8)</b>

**Source: Crime in India-2001,2002 & 2003 National Crime Records Bureau, MHA, GOI**

**Note:** Figures in parentheses indicate percentage to total number of cases of crimes

8.6.2 The above Tables which gives the number of cases disposed of by the Courts reveals that on an average of 16.7% cases were decided by the Courts in each year out of which 11.9% ended in acquittal whereas only 4.8% ended in conviction. It further shows that the conviction rate is very low. Comparative status of conviction rate based on the total number of cases decided by the Courts in respect of the cases in which the victims are/were from general categories on the one hand and Scheduled Castes and Scheduled Tribes on the other is as given the Table below:-

Year	Conviction Rate		
	General	Scheduled Caste	Scheduled Tribe
(1)	(2)	(3)	(4)
2001	40.8	34.1	26.9
2002	40.6	32.1	31.3
2003	40.1	28.5	28.0
<b>Average</b>	<b>40.5</b>	<b>31.6</b>	<b>28.7</b>

**Source: Crime in India-2001,2002 & 2003,National Crime Records Bureau, MHA, GOI.**

8.6.3 It is clear from the above Table that the conviction rate of the cases decided by the Courts in respect of the crimes committed against Scheduled Tribes is low as compared to the general as well as Scheduled Castes.

## **8.7 Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act, 1989**

8.7.1 The term “**Atrocity**” was for the first time defined in Section 2(1)(a) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 as an offence punishable under Section 3 of the said Act. Section 3(1) says that whoever, not being a member of Scheduled Caste or Scheduled Tribe commits offences specified from Section 3(1) (i) to 3 (1)(xv) on the members of the Scheduled Castes or Scheduled Tribes shall be punishable with imprisonment for a term, which shall not be less than six months but which may extend upto five years and with fine. Similarly, Section 3(2) of the said Act specifies offences from sub-sections (i) to sub-section (vii) with varying degree of punishment and fine for different types of crimes committed by non-SC/ST persons over SCsSTs.

8.7.2 These offences which mainly relate to the patterns of behaviour and shatter the self-respect and self-esteem of the Scheduled Castes or the Scheduled Tribes broadly are denial of economic rights and democratic honour, assault and/ or sexual exploitation of women, damage and/or destruction of property and deliberate abuse of the legal and /or administrative processes. Heinous offences against person and property and willful negligence by public servants in performing their duties required to be performed under the Act are also covered. An offence likely to be committed under this Act by a person in any

area included in 'Scheduled Areas', or 'tribal areas', as referred to in Article 244 of the Constitution is also covered.

8.7.3 The offences under the Act are cognizable, non-bailable and non-compoundable. Provisions of Section 438 of the Criminal Procedure Code relating to anticipatory bail is not applicable in relation to any case involving the arrest of any person on an accusation of having committed an offence under the Act. Similarly, provisions of Section 360 of the Criminal Procedure Code relating to parole are also not applicable to any person above the age of eighteen years who is found guilty of having committed an offence under the Act. The normal punishment under the Act is imprisonment for a term, which shall not be less than six months and which may extend up to five years and with fine. Minimum punishment of imprisonment is for a term of one year for a person convicted of an offence for a second-time. The offences under Indian Penal Code punishable upto ten years of imprisonment are life imprisonment under the Act in addition to fine.

8.7.4 The SCs & STs (POA) Act, 1989 specifically provides for setting up of Special Courts for speedy trial, Special Public Prosecutors for the purpose of conducting cases in the Courts and, for an offence in the 'Scheduled Areas' or 'tribal areas', declaration of an area to be an area prone to atrocities, and for taking preventive and punitive action by the district administration in these areas. There are also provisions for providing legal aid, travelling and maintenance expenses to witnesses during investigation and trial, economic and social rehabilitation of the victims of the atrocities, appointment of officers for initiating or exercising supervision over prosecutions, setting up of committees, periodic survey and identification of the atrocities prone areas which are mandatory to be carried out by the States. Section 21 (4) provides that the Central Government shall place on the Table of each House of Parliament every year a report on the measures taken by itself and by the State Governments. Section 22 of the Act provides that no suit, prosecution or other legal proceedings shall lie against the central Government or against the State Government or any officer or authority of Government or any other person for anything which is in good faith done or intended to be done under this Act.

## **8.8 Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Rules, 1995**

8.8.1 The Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Rules, 1995 assign certain duties to be performed by the State Government and certain duties to be performed by the District Administration. The duties assigned to the State Governments are:

- (i) to take precautionary and preventive measures such as identifying the atrocity prone areas, constituting a high level state committee, District & divisional committees for assisting the Govt. in implementation of the provision of the Act, setting up vigilance and monitoring committee and setting up awareness centres, organizing workshop in identifying the areas to educate the SC/ST persons about their rights etc.
- (ii) to prepare a panel of advocates on the recommendation of the District Magistrates for conducting cases in the Special Courts;
- (iii) to set up Scheduled Castes and Scheduled Tribes Protection Cell at the State Headquarters;
- (iv) to nominate a Nodal Officer of the level of Secretary for coordinating the functioning of the District Magistrates, Superintendents of Police and Scheduled Castes and Scheduled Tribes Protection Cell;

- (v) to make necessary provision in the Annual Budget for providing relief and rehabilitation facilities to the victims of atrocities;
- (vi) to prepare a model contingency plan for implementing the provisions;
- (vii) to set up a Vigilance and Monitoring Committee at State level under the chairmanship of the Chief Minister;
- (viii) to ensure that the officers appointed in atrocity prone areas have the right aptitude and understanding of the problems of SCs and STs; and
- (ix) to forward a report before 31 March to the Central Government about the measures taken for implementing provisions of this Act.

8.8.2 As stated above, the SCs & STs (POA) Rules, 1995 also assign certain duties to be performed by the District Administration. The duties assigned to the District Magistrate are:

- (i) to visit the place of occurrence and assess the extent of loss and damage to person and property;
- (ii) to ensure immediate relief and rehabilitation; to provide information in respect of relief and rehabilitation to the Special Court;
- (iii) to provide services of an eminent advocate to contest the case if desired by the victim; and
- (iv) to set up a Vigilance and Monitoring Committee in the District to review the implementation of the provision of the Act and Rules framed thereunder.

8.8.3 Similarly, the duties assigned to the District Superintendent of Police under the SCs & STs (POA) Rules, 1995 are:

- (i) to visit the place of occurrence;
- (ii) to deploy such police force in the area and take such other preventive measures as deemed necessary;
- (iii) to appoint an investigating officer not below the rank of Deputy Superintendent of Police after taking into account his/her past experience, sense of ability and justice; and
- (iv) to ensure the completion of investigation within 30 days etc.

## 8.9 State-wise number of Atrocities on STs

8.9.1 In pursuance of duties assigned under Clause (5) of the Article 338(A) of the Constitution, the National Commission for Scheduled Tribes, henceforth referred to as the Commission, monitors the working of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 and the Rules, 1995 in respect of the atrocities on the members of Scheduled Tribes. Accordingly, the Commission had addressed Home Secretaries and Directors General of Police of all the States/UTs to furnish details of the status of the atrocity cases registered and disposed of by Police and by the Courts for the years 2002 to 2004 in which the victims were Scheduled Tribes. The information furnished by the States/UTs is as given in the Table below:-

State/UT	Number & percentage of atrocity cases, 2002-2004					
	2002	% age	2003	% age	2004	% age
(1)	(2)	(3)	(4)	(5)	(6)	(7)
<b>5<sup>th</sup> Schedule States</b>						
Andhra Pradesh	279	7.1	348	9.5	299	7.9

Himachal Pradesh	01	0.0	02	0.1	02	0.1
Gujarat	160	4.1	136	3.7	149	3.9
Orissa	307	7.8	256	7.0	316	8.3
Rajasthan	930	23.4	912	24.8	1031	27.2
Maharashtra	252	6.4	223	6.1	233	6.1
Chhattishgarh	493	12.5	457	12.4	433	11.4
Madhya Pradesh	1424	36.1	1235	33.6	1191	31.4
<b>Sub-Total</b>	3846	97.4	3569	97.2	3654	96.3
<b>Non-5<sup>th</sup> Schedule States/UTs</b>						
Bihar	NA	0.0	NA	0.0	14	0.4
Kerala	67	1.2	57	1.6	83	2.2
Manipur	01	0.0	01	0.0	00	0.0
Tamilnadu	05	0.1	11	0.3	14	0.4
Uttaranchal	03	0.1	03	0.1	10	0.3
West Bengal	20	0.5	13	0.4	13	0.3
Delhi	05	0.1	08	0.2	05	0.1
A&N Islands	01	0.0	01	0.0	01	0.0
D&N Haveli	00	0.0	08	0.2	00	0.0
Daman & Diu	00	0.0	01	0.0	01	0.0
<b>Sub-Total</b>	102	2.6	103	2.8	141	3.7
<b>Grand Total</b>	<b>3948</b>	<b>100</b>	<b>3672</b>	<b>100</b>	<b>3795</b>	<b>100</b>

- Note:** (i) States/UTs of Arunachal Pradesh, Assam, Haryana, J&K, Goa, Meghalaya, Mizoram, Nagaland, Punjab, Sikkim, Tripura, Pondicherry and Lakshadweep have not reported any case of atrocity on the members of the Scheduled Tribe.
- (i) States of Jharkhand(Fifth Schedule State) and Karnataka(non-Fifth Schedule State) have not yet furnished the information.
- (ii) The percentage is to the total number of cases of atrocities in the country.

8.9.2 The atrocity cases reported by the States/UTs reveal that on an average 97% of the cases are related to Fifth Schedule States which is a matter of deep concern. In these States, the strategy of protection and all-round development of Scheduled Tribes is the special responsibility of the Central and the State Governments by virtue of being included in the Fifth Schedule. Paragraph 5(1) of the said Schedule authorizes the Governor to 'direct by public notification that any particular Act of Parliament or of the Legislature of the State shall not apply to Scheduled Area or any part thereof or shall apply to the said area subject to such exceptions and modifications as he may specify.' Paragraph 5(2) authorizes the Governor to 'make regulation for peace and good government in the Scheduled Area of the State and, in particular, in respect of matters specified therein.' The Governor's power of making Regulation under paragraph 5(2) is a plenary power of legislation and this power embraces the utmost power to make laws and to apply them. Under Article 339(ii) and the Fifth Schedule, the executive power of Union Government extends to giving of direction in relation to welfare programmes and administration of the Scheduled Areas. It is a very sad situation that in spite of the Constitutional protections, the Scheduled Tribes residing in Fifth Schedule States are being subjected to atrocities. It needs an indepth study to find out the causative factors responsible for the atrocities on the Scheduled Tribes in these Schedule States. The National Commission for Scheduled Tribes accordingly, proposes to undertake a socio-economic study of the Scheduled Tribes including causative factors responsible for

atrocities on them through eminent educational institutions located in the Fifth Schedule States, Tribal Research Institutes etc.

## 8.10 Classification of Atrocities committed on Scheduled Tribes

8.10.1 While assessing the magnitude of atrocities on the members of the Scheduled Tribe, it is essential to examine the nature of atrocities committed on them by non-SCs and non-STs. The nature of atrocities committed on the members of the Scheduled Tribes during 2004 is given below:

States/UTs	Nature of atrocities and number of cases					
	Murder	Grievous Hurt	Rape	Arson	Others	Total
(1)	(2)	(3)	(4)	(5)	(6)	(7)
<b>5<sup>th</sup> Schedule States</b>						
Andhra Pradesh	03	32	23	03	130	191
Himachal Pradesh	00	00	01	00	01	02
Gujarat	06	14	28	02	99	149
Orissa	04	15	30	01	266	316
Rajasthan	15	36	25	08	947	1031
Maharashtra	06	08	39	10	170	233
Chhattishgarh	16	08	105	04	300	433
Madhya Pradesh	39	35	272	15	830	1191
<b>Sub-Total</b>	<b>89(96.7)</b>	<b>148(95.5)</b>	<b>523(95.4)</b>	<b>43(95.6)</b>	<b>2743(96.3)</b>	<b>3546(96.2)</b>
<b>Non-Scheduled States/UTs</b>						
Bihar	00	02	00	00	12	14
Kerala	02	02	18	02	59	83
Tamilnadu	00	00	02	00	12	14
Uttaranchal	00	03	00	00	07	10
West Bengal	01	00	04	00	08	13
Delhi	00	00	00	00	05	05
A&N Islands	00	00	00	00	01	01
Daman & Diu	00	00	01	00	00	01
<b>Sub-Total</b>	<b>03(3.3)</b>	<b>07(4.5)</b>	<b>25(4.6)</b>	<b>02(4.4)</b>	<b>104(3.7)</b>	<b>141(3.8)</b>
<b>Grand Total</b>	<b>92(100)</b>	<b>155(100)</b>	<b>548(100)</b>	<b>45(100)</b>	<b>2847(100)</b>	<b>3687(100)</b>

- Note:** (i) States/UTs of Arunachal Pradesh, Assam, J&K, Goa, Meghalaya, Mizoram, Nagaland, Punjab, Sikkim, Tripura, Pondicherry and Lakshadweep have not reported any case of atrocity on the members of the Scheduled Tribes;
- (ii) States of Jharkhand and Karnataka have not yet furnished the information;
- (iii) Figures in parentheses indicate percentage to total;
- (iv) The difference in the total number of atrocity cases for the year 2004 (i.e. 3546) in respect of 5<sup>th</sup> Schedule States compared to the figure given in the table below para 7.9.1 for the same year is on account of difference in the data furnished by the Govt. of Andhra Pradesh.

8.10.2 It will be seen from the above that as in the case of atrocities in general (paras 7.9.1 & 7.9.2), 96.7% of Murder cases, 95.5% of Grievous Hurt cases, 95.4% of rape cases in the year 2004, which are covered under POA Act, are reported from the Fifth Schedule States.

## 8.11 Disposal of Atrocity Cases by the Police

8.11.1 The number of atrocity cases registered and investigated by the Police during the years 2002 to 2004 is as follows:

Year	Number of atrocity cases				
	Number of cases Registered	Chargesheet submitted	Final Report (Closed)	Total (3+4)	Pending investigation
(1)	(2)	(3)	(4)	(5)	(6)
2002	3948 (100)	2952 (74.8)	816 (20.6)	3768 (95.4)	180 (4.6)
2003	3672 (100)	2802 (76.3)	696 (19.0)	3498 (95.3)	174 (4.7)
2004	3781 (100)	2523 (66.7)	694 (18.4)	3217 (85.1)	564 (14.9)

### Note:

- (i) The States/UTs of Arunachal Pradesh, Assam, J&K, Goa, Meghalaya, Mizoram, Nagaland, Punjab, Sikkim, Tripura, Pondicherry and Lakshadweep have not reported any case of atrocity on the members of Scheduled Tribe.
- (ii) The States of Bihar, Jharkhand and Karnataka have not yet furnished the information.

8.11.2 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 chargesheet 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. Atrocity cases are being investigated by a Police Officer not below the rank of a Deputy Superintendent of Police and supervised by Addl. Superintendent of Police/ District Superintendent of Police. A Deputy Superintendent of Police is a supervisory officer of the cases investigated by the Police Station level officers as Circle Officers who also perform multifarious duties relating to law and order etc. and as a result quite often the important work of expeditious investigation gets relegated in priority. The erstwhile NCSCST had accordingly submitted a proposal to the Ministry of Social Justice & Empowerment for amending the SCs & STs (POA) Rules, 1995 so that the Police Inspectors apart from Deputy Suptds. of Police were also empowered to carry out the investigations. This proposal was also included in the Sixth Annual Report of the erstwhile NCSCST for the years 1999-2000 and 2000-2001. It was stated that during the conference of Home Secretaries and Senior Police Officers held in December 1996, the consensus was that in view of dearth of Dy. S.P. level officers in most of the States, it was difficult to entrust the investigation to only Dy. S.P. level officers. The Ministry of Social Justice & Empowerment was requested to expedite their decision on this issue. However, as on date, no action seems to have been taken by the Ministry of Social Justice & Empowerment on the erstwhile Commission's proposal. **The National Commission for Scheduled Tribes accordingly reiterates the earlier recommendation of the erstwhile NCSCST that suitable amendments may be carried out in Rule 7 (1) and also Rule 5 (3) of the SCs and STs (POA) Rules, 1995 to empower, apart from the Deputy Suptds. of Police, the Police Inspectors also to expedite the investigations of atrocity cases/complaints.**

8.11.3 The National Commission for Scheduled Tribes during its visits to the States/UTs has observed that there is need to sensitize the police machinery from the level of

in-charge of Police Station to the District Superintendent of Police towards the socio-economic background of the Scheduled Tribe victims of atrocities and also towards the provisions of the SCs & STs (POA) Act, 1989 and Rules, 1995 at a regular interval. All the States/UTs have accordingly, been requested to organize well-structured professional training programmes/ workshops for the Police Officers at regular intervals.

## 8.12 Disposal of Atrocity Cases by the Special Courts

8.12.1 The Preamble of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, inter alia, provides for a Special Court for speedy trial of the offences of the atrocities, the objective being to get justice to the victims of the atrocities within a shortest period of trial. The status of disposal of cases by the Special Courts designated/set up under the Act is as follows:

Year	Number of atrocity cases				Pending investigation
	With the Courts	Decided by the Courts and ended in			
		Conviction	Acquittal	Total	
(1)	(2)	(3)	(4)	(5)	(6)
2002	9086 (100)	517 (18.9)	2218 (81.1)	2735 (30.1)	6351 (69.9)
2003	8762 (100)	416 (17.2)	2001 (82.8)	2417 (27.6)	6345 (72.4)
2004	8712 (100)	397 (14.7)	2297 (85.3)	2694 (30.9)	6018 (69.1)
<b>Average</b>	8853 (100)	443 (16.9)	2172 (83.1)	2615 (29.54)	6238 (70.46)

### Note:

- (i) States/UTs of Arunachal Pradesh, Assam, Chandigarh, Goa, J&K, Lakshadweep, Meghalaya, Mizoram, Nagaland, Punjab, Pondicherry, Sikkim and Tripura have not reported any case of atrocity on the members of the Scheduled Tribe.
- (ii) Variation in the information furnished by the States of Andhra Pradesh, Kerala and Maharastra needs to be reconciled.
- (iii) States of Bihar, Jharkhand and Karnataka have not yet furnished the information.
- (iv) Figures in brackets indicate the percentage to the total number of atrocity cases on Scheduled Tribes in the country.

8.12.2 The success of working of the SCs and the STs (POA) Act, 1989 and Rules, 1995, inter alia, depends on the success of conviction of the offenders who have committed atrocity on the Scheduled Tribes. The conviction rate, however, at all India level on an average is only 17% of the atrocity cases decided by the Special Courts. The acquittal rate is, on an average, is 83%, which is very high. This is in spite of the specific provisions for Special Investigating Officer, Special Public Prosecutor, Special Court and special amount of TA & DA to the witnesses including victim during investigation and trial. This disturbing trend of high level of acquittal is a sad commentary on Criminal Justice System. This trend, on one side, erodes the credibility in enforcement of the Act and the Rules in the eyes of the

Scheduled Tribes and, on the other side, it encourages the tendency on the part of potential non-SC/ST offenders to take law in their hands. This trend needs to be checked.

8.12.3 The factors for high rate of acquittal may be either due to human error or systemic deficiencies or both. Human error may be rectified by intensive training and feedback service to the investigating officers and Special Public Prosecutors at a regular interval. Systemic deficiencies will have to be identified through an in-depth study of the present system wherever it hampers the smooth and effective implementation and enforcement of the provisions of the Act and Rules. **The Commission is of the view that in all the districts of the Fifth Schedule States, Special Courts may be exclusively set up instead of designating Additional Session Court or Session Court as a Special Court. The Special Public Prosecutors should be exclusively appointed for these Courts as per provisions of the Rules.** District Magistrates, in accordance with the provisions of the Rules, should review the performance of the Special Public Prosecutors and submit a report to the State Government. If the State Government is satisfied that a Special Public Prosecutor has not conducted the cases to the best of his ability and with due care and caution, his name may be, for the reasons to be recorded in writing, de-notified.

8.12.4 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 (as has been stated in para 7.11.3), 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 has accordingly, 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.

### **8.13 Special Arrangements made by State Govts. under the SCs & STs (POA) Act, 1989 and the Rules, 1995 made thereunder**

8.13.1 As has been mentioned earlier, under the SCs & STs (POA) Act, 1989 (hereinafter referred to as the Act) and the SCs/STs (POA) Rules, 1995 (hereinafter referred to as the Rules) it is mandatory for all the State Governments and UTs to set up Special Courts for speedy trial, to notify a Public Prosecutor, to provide adequate facilities including legal aid, ensure economic and social rehabilitation of the victims of atrocities, to appoint Officers for exercising supervision over prosecutions, to set up Committees at appropriate level, to conduct periodic survey of the working of the provisions of this Act and identify atrocity prone areas, set up Vigilance and Monitoring Committee at State level, to prepare model contingency plans for implementing the provisions of the Act etc. As per information available in the nineteenth Report of the Ministry of Social Justice & Empowerment on the SCs & STs (POA) Act, 1989 for the year 2002 prepared during 2004, steps taken by the nine 5<sup>th</sup> Schedule States and a few other States are as under:-

#### **(a) Andhra Pradesh**

- (i) At present 12 Deputy Superintendents of Police (DSPs) have been appointed exclusively for investigation of cases of atrocities and the DSP, CID in the remaining districts investigates the cases of atrocities.

- (ii) State level Review Committee and District level Vigilance and Monitoring Committees have been constituted. While the former reviews the atrocity cases every six months, the latter review such cases once in three months.
- (iii) The Government has declared 8 districts of the State as atrocity prone districts in which there is past history of large scale atrocities against Scheduled Castes and Scheduled Tribes. These districts are Guntur, Chittoor, Secunderabad, Prakasam, Nellore, Kurnool, Mahaboobnagar and Medak.
- (iv) Eight Special Session Courts have been set up exclusively for SCs and STs for speedy disposal of the cases in the atrocity prone areas. The State Government has also sanctioned another 4 Session Courts in the Districts of Cuddapah, Nizamabad, Krishna and Karimnagar.

**(b) Himachal Pradesh**

- (i) Free legal aid is provided to persons belonging to the SC/ST which includes the expenses towards TA/DA and court fees. No income limit has been fixed for SC/ST women and children.
- (ii) Financial assistance is provided to the victims of atrocities as per the norms prescribed under Rule 12(4) of the Rules.
- (iii) Officers of the rank of Additional District Magistrate have been designated as Special Officers and the Dy. Superintendent of Police has been appointed as Investigating Officer in each district.
- (iv) At State level, a Vigilance and Grievance Redressal Committee is in position which is chaired by the C.M. The District level Committee in each district functions under the Chairpersonship of District Magistrate.
- (v) A Special Cell in Police Headquarters supervises the progress of registration of cases under the Act. As per Rule 8 of the Rules, a Scheduled Castes and Scheduled Tribes Protection Cell under the Chairpersonship of Director General of Police has also been set up.
- (vi) No specific area has been identified as atrocity prone area in Himachal Pradesh.

**(c) Gujarat**

- (i) Legal aid is being provided to the members of SCs and STs for which income limit is of Rs.12,000/-p.a. The present rate of financial assistance is of Rs.3,000/- for a criminal case.
- (i) The expenses incurred by victims and witnesses for attending Court proceedings are being reimbursed to them at the rate of Rs.10/- per day if the person is from same Taluka, Rs.15/- per day if the person is from another Taluka in the same District and Rs.20/- per day if the person is from another district. Rs.15/- per day is also paid as expenses to each such person.

- (iii) The State Government provides financial assistance to the victims of atrocity as per scale prescribed under Rule 12(4) of the Rules.
  - (iv) At the Secretariat level, Principal Secretary, Deputy Secretary and Under Secretary of the Social Justice and Empowerment Department are looking after the work, while at Directorate level, the Director looks after the work. A Special Cell called the 'Nagrik Cell' is also in existence in the Directorate. Three Regional Vigilance Officers are working at Vaodara, Ahmedabad and Rajkot for looking after incidents of atrocities within their jurisdiction who have been nominated as Special Officers under Rule 10 of the Rules.
  - (v) A high level Committee has been constituted under the Chairmanship of the Chief Minister for effective implementation of the Act which includes the Finance Minister, Members of Parliament & State Legislature.
  - (vi) A State level Committee is working under the Chairmanship of the Secretary in charge of Social Justice and Empowerment Department, for reviewing the reports of the Vigilance Officers of the three Vigilance Squads. The Committee consists of Home Secretary, Law Secretary, Special Inspector General of Police etc. The Committee reviews the cases of atrocities and other aspects regarding trial of cases and rehabilitation of victims under the State Contingency Plan.
  - (vii) At district level, a District Vigilance Committee under the Chairmanship of District Collector of respective district is in position, which consists of District Panchayat President, Chairperson of District Social Justice Committee, District Development Officer, District Superintendent of Police, District Government Pleader, Public Prosecutor, MPs/MLAs of the respective Districts
  - (viii) Eleven districts namely Mehsana, Ahmedabad, Junagadh, Sabarkantha, Kheda, Rajkot(Rural), Amreli, Kutch, Surendranagar, Vadodara(Rural) and Bharuch have been identified as sensitive from the point of occurrence of offences of atrocities.
  - (ix) The State Government has notified all Session Courts in all districts to be designated as Special Courts, under Section 14 of the Act. The State Government has also set up 10 exclusive Special Courts in State by creating the post of Assistant Session Judge along with subordinate staff in 10 districts.
- (d) **Orissa**
- (i) The travelling and maintenance expenses to witnesses including the victims of atrocities are covered within the provisions for legal aid along with the pleader's fees, court fees, processing fees etc.
  - (ii) Monetary relief is provided to the victims of atrocities belonging to Scheduled Castes and Scheduled Tribes as per the scale of relief prescribed by the State Government.
  - (iii) District Human Rights Protection Cells deal with atrocities on Scheduled Castes and Scheduled Tribes as per the provisions of the Act.

- (iv) The State Government has set up Committees at various levels to address the problems of atrocities against the SCs & STs. The State level Scheduled Castes Welfare and Advisory Board under the Chairmanship of the Chief Minister includes Scheduled Caste/ Scheduled Tribe MLAs and non-official members.
- (v) A review meeting on incidents of atrocities is also held regularly once in every quarter under the Chairmanship of the Principal Secretary, Home Department and other agencies of the State Government.
- (vi) District Level Vigilance and Monitoring Committees as required under Rule 17 of the Rules, have been constituted in all the Districts. The quarterly meetings of the Committees are being held regularly to review incidents of atrocities.
- (vii) Periodic survey is being conducted by the Special Officers in respect of atrocity prone areas of their respective districts.
- (viii) The State Government has prepared a consolidated list of atrocity prone areas. The State has also appointed Additional District Magistrates of Districts as Special Officers in respective Districts to perform the duties and functions of Special Officer under Rule 10 of the Rules.
- (ix) The Courts of all Districts and Session Judge and Additional District and Session Judge have been notified as Special Courts for trial of offences under the Act.

(e) **Rajasthan**

- (i) The legal services are provided under the Legal Services Authorities Act, 1987 and Rajasthan State Legal Service Authority Rules, 1995 to the persons entitled under the above referred Act and the Rules.
- (ii) A State level Committee under the Chairmanship of the Chief Minister has been constituted.
- (ii) District Vigilance and Monitoring Committees at district level have also been formed under the charge of District Magistrate. The Committee has power to take immediate action in cases of negligence of duty by the public servants as per the provisions of the Act.
- (iv) A Civil Rights Cell has been formed in the Police Headquarters under the supervision of Inspector General of Police CID (H.A.). 21 Scheduled Castes and the Scheduled Tribes Cells have also been set up in 18 Districts.
- (v) Special Courts have been set up at Jaipur, Ajmer, Kota, Jodhpur, Udaipur, Bikaner, Pali, Medta(Nagore), Alwar, Pratapgarh(Chittorgarh), Dausa, Ganganagar, Jhalawad, Sawai Madhopur, Baran, Tonk and Bhilwara. In the remaining districts, Courts of District Session Judge have been specified as Special Courts to try offences under the Act. Special Public Prosecutors have also been appointed for this purpose.

- (vi) The State Government has authorized the District Collectors to appoint the Additional District Magistrate and Superintendent of Police of the District as Special Officer in their districts.

(f) **Maharashtra**

- (i) Legal Aid Committees have been set up in every district and Taluka to help the persons from the categories of economically weaker section of the society by providing free legal aid. Those having annual income below Rs.6,000/- are entitled to get the benefit of legal aid.
- (ii) The Government of Maharashtra have specified, for each district, the Court of Sessions to be the Special Court to try the offences under the Act.
- (iii) The effective implementation of the Act is being done jointly by the Departments of Social Justice, Home and Land Revenue.
- (iv) There are arrangements for payment of the maintenance and travelling allowances to the victims in cases where they are called to Police Stations or the office of the District Magistrate during the process of investigation and during trial in the Courts.
- (v) At District level, Vigilance Committee is headed by District Magistrate. The Committee meets once in a month and reviews the offences, investigation & sanctioning of monetary relief to victims.
- (vi) At Division level, the Vigilance Committee is headed by Divisional Revenue Commissioner. All District Collectors & District Superintendents of Police of all districts of Division are the Members of the Committee. The Committee meets on quarterly basis and takes stock of occurrences of various offences in various districts, provision and distribution of financial aid to the victims.
- (vii) At State level, a High Power Committee is headed by Chief Minister and the Director, Social Welfare Department is its Member Secretary. All Secretaries concerned with implementation of the Act are members of the Committee.
- (viii) The State has notified partially sensitive, less sensitive and high sensitive villages in all the six Divisions.
- (ix) The Principal Secretary, Transport and Excise Department, has been nominated as Nodal Officer.

(g) **Chhatisgarh**

- (i) Free legal aid is provided to the members of SC/ST in rural areas in the cases which are related to atrocities cases and where the trial is pending in the Session Courts.
- (ii) The State Government provides second class rail fare to and fro or actual taxi fare to the victims of atrocities/their dependents and witnesses during the investigation before the inquiry officer and for attending the trial in the Court. The State Government also provides maintenance expenses to the victims of

atrocities or his/her dependent and attendant for the days when they are away from the place of residence for investigation, hearing and trial of cases.

- (iii) No atrocity prone area has been specifically identified.
- (iv) Out of 16 districts, Special Police Stations(AJK) have been set up in the eight districts of Raipur, Durg, Rajnandgaon, Jagadalpur, Dantewada, Bilaspur, Raigarh and Surguja. The State Government has also set up Special Police Cells in seven districts to review the cases registered under the Act.
- (v) Special Courts have been set up under the Act in the districts of Raipur, Durg, Rajnandgaon, Bilaspur, Raigarh, Surguja & Bastar (Jagadalpur).
- (vi) The Contingency Plan has been formulated in accordance with the provisions under the Rules.
- (vii) Vigilance and Monitoring Committee at State level, Divisional level and District level are in position to review implementation of various provisions of the Act.

(h) **Jharkhand**

- (i) There is a provision of giving legal aid upto Rs.1,000/- to the members of SCs/STs by the Deputy Commissioners of the districts.
- (ii) There is a provision of giving daily allowance to persons affected by atrocities, their dependants and witnesses, which will not be less than the minimum wages fixed for agricultural labourers. Moreover, there is also a provision of reimbursement of travelling charges by the District Magistrates.
- (iii) There is a provision of sanctioning amounts ranging between Rs.10,000/- to Rs.2,00,000/- as relief amount to persons/families affected by atrocities. There is also a provision of giving relief upto Rs.2.00 lakhs to families of earning persons in the event of their death due to atrocity, or a relief upto Rs.1.00 lakhs on their becoming permanently disabled as a result of atrocity.
- (iv) A State level, Vigilance and Monitoring Committee has been set up under the Chairmanship of the Chief Minister.
- (v) District level Vigilance and Monitoring Committees are already functioning under the Act.
- (vi) The Designated Special Courts have been set up in all the districts of Jharkhand under the Additional District and Sessions Judges.
- (vii) The Special Secretary, Home Department has been declared as Nodal Officer for overseeing implementation of the Act.
- (viii) Special Officers have been nominated in 17 districts of the State under Rule 10 of the Rules.

- (ix) Special Public Prosecutors have been appointed in all districts of the State except East Singhbhum, Jamtara and Lohardaga.
- (x) Hazaribagh district has been identified as the prime atrocity prone area.
- (xi) A Crime Investigation Wing has also been set up under the Home Department and entrusted with the task of expediting investigation of cases filed under the Act. A Special Police Station for SCs & STs is functioning in Ranchi district with jurisdiction to the entire Jharkhand State.

**(i) Madhya Pradesh**

- (i) The State Government has notified a panel of senior advocates and Public Prosecutors for all the districts in the State.
- (ii) For speedy trial of cases under the Act, the State Government has set up 29 Special Courts at Dhar, Shajapur, Morena, Shahdol, Damoh, Raisen, Mandia, Sehore, Bhind, Tikamgarh, Mandaleshwar, Dewas, Mandasaur, Indore, Hoshangabad, Jabalpur, Vidisha, Panna, Chhatarpur, Ujjan, Guna, Satna, Rewa, Narsinghpur, Sagar, Gwalior, Rajgarh, Bhopal and Jhabua.
- (iii) Dy. Superintendents of Police in all districts have been specified as Investigation Officers under Rule 7 of the Rules.
- (iv) A Scheduled Castes and Scheduled Tribes Protection Cell under the charge of Additional Director General of Police has been set up at State level. Under the Cell, 38 Special Police Thanas have also been set up in District Headquarters.
- (v) The State Government has also notified Commissioner, Scheduled Castes Development as Nodal Officer under the Act.
- (vi) At district level, an officer of the rank of Addl. District Magistrate has been declared as Special Officer under the Act.
- (vii) Monitoring and Evaluation Committee has been constituted at State level under the Chairmanship of the Chief Minister. Members of Legislative Assembly belonging to Scheduled Castes and Scheduled Tribes are also members of the Committee.
- (viii) At district level, a District Vigilance & Monitoring Committee has also been formed which meets every quarter for review of the progress of atrocities cases.
- (ix) In the State, every District where atrocity cases are high has identified as atrocity Prone Area.

**(j) Bihar**

- (i) Secretary, Home Department, has been designated as Nodal Officer who from time to time convenes meetings to review implementation of the provisions of the Act.

- (ii) At State Level, a Scheduled Castes and Scheduled Tribes Cell has been formed under the overall charge of Director General, CID. This Cell works under the charge of Inspector General of Police (Weaker Sections).
- (iii) A Committee under the Chairmanship of the Chief Minister has been constituted at State level to review the action taken in implementation of various provisions of the Act. Likewise, a Committee has also been set up at district level under the Chairmanship of District Collector, which conducts a review once in three months.
- (iv) At the State level, a Police Station for Scheduled Castes and Scheduled Tribes has been established in the CID Headquarters. In addition, 9 Police Stations have also been set up in the District Headquarters of Nalanda, Bhojpur, Rohtas, Gaya, Vaishali, Samastipur, Begusarai, Bhagalpur, and Munger with specified jurisdictions.
- (v) Out of total 38 districts of Bihar, 33 districts have been identified as sensitive from the point of view of atrocities.
- (vi) A Court of First Class Additional Sessions Judge has been specified as Special Court in each District. In addition, exclusive Special Courts have also been set up at 9 Divisional headquarters and also at East Champaran (Motihari) and Bhojpur Districts. The State Government has also approved creation of six posts of Additional Session Judge for Nawada, Samastipur, Vaishali, Nalanda, Madhubani and Siwan Districts.
- (vii) Special Public Prosecutors have been appointed in the Special Courts for taking up cases of atrocities.
- (viii) The State Government is in process of preparing a contingency plan in accordance with the provisions of the Rules. The following steps have been taken so far in this regard:
  - a) In case of demise of SC/ST person due to occurrence of atrocity, the dependents of the affected family would be provided employment as Class-IV employee in Government service.
  - b) Where livestock has been affected due to atrocity, the doctors of the Animal Husbandry Department on priority will provide required assistance.
  - c) The Government has also decided to provide pension to the affected widow within fifteen days under Social Defense Pension Scheme.
  - d) The Government has also issued instructions to Civil surgeons of the Health Department to provide immediate medical assistance to victims/affected family members due to occurrence or atrocity.

**(k) Karnataka**

- (i) The Dy. Superintendents of Police working in each Sub-Division have been appointed as Investigating Officers under Rule-7 of the Rules.
- (ii) The Addl. Director General of Police, (Law & Order) has been nominated as Nodal Officer as required under Rule 9 of the Rules.

- (iii) In all atrocity cases, the District Administration takes immediate measures for payment of relief to the victims and rehabilitation measures etc. as required under Rule 12(4) of the Rules.
- (iv) The State Government has constituted a High Power Vigilance and Monitoring Committee as required under Rule 16 of the Rules.
- (v) A High Power State Level Committee has also been constituted under the Chairmanship of the Home Minister which meets periodically and monitors the implementation of the Act and Rules. In accordance with Rule 17 of the Rules, the District Level Vigilance and Monitoring Committees are in position under the Chairmanship of the District Magistrate.
- (vi) The State Government has also constituted “The Karnataka State Legislative Committee for SCs & STs Welfare” for the purpose of monitoring the implementation of the Act and the Rules. This Committee is chaired by an MLA who belongs to Scheduled Caste/Scheduled Tribe.
- (vii) The State Government has prepared a model contingency plan for the purpose of implementation of the Act.
- (viii) The State Government has also established seven exclusive Special Courts to try the offences under the Act at Belgaum, Mysore, Kolar, Raichur, Bijapur, Gulbarga and Tumkur Districts. Further, the Courts of Additional District Session Judges in the remaining districts of the State have been specified as Special Courts under the Act.
- (ix) The Public Prosecutors working in the Special Courts have been designated as Special Public Prosecutor for the purpose of the Act.

## **(I) Kerala**

- (i) The Special Cell at State Police Headquarters keeps a watch over the handling of matters relating to atrocity cases. The Special Cell also monitors criminal cases registered in the State and petitions presented by the members of SCs/STs.
- (ii) Government has constituted an Advisory Committee at the State and District levels for dealing with matter relating to members of Scheduled Castes and Scheduled Tribes. All SC/ST MPs, MLAs, District Officers and non-officials nominated by the State Government are members of the Committee. The Committee monitors implementation of various schemes intended to safeguard the interests of SCs and STs.
- (iii) District Level Committee has been constituted in each district under the Chairmanship of District Collectors, and District Superintendents of Police/Commissioners of Police as members for the review and effective implementation of the provisions of the Act.
- (iv) The District Courts of Kerala have been specified as Special Courts to try the offences under the Act and the Public Prosecutors of all Districts have been

nominated as Special Prosecutors for conducting the cases in the District Courts.

- (v) The District level Committee has been constituted in each District under the Chairmanship of the District Collector. The Committee sanctions travelling and maintenance expenses and compensation to the witnesses as well as to the victims of atrocities.

**(m) Uttaranchal**

- (i) The district authorities provide free legal aid in all districts of the State. The travelling and maintenance expenses to the victims of the atrocities and the witnesses under the Act is also provided by the State Government.
- (iii) Additional Secretary, Social Welfare Department has been nominated as Special Officer to coordinate with District Magistrate and Superintendent of Police or other officers responsible for implementing the provisions of Act and various Committees constituted under the Act.
- (iv) A Special Police Cell has been set up in each district in Police Department. These Cells monitor investigation of cases of atrocities on SCs & STs.
- (iv) Committees have also been set up under the Chairmanship of the District Collector. These Committees look into the issues concerning provisions of economic assistance and rehabilitation to affected persons.
- (v) A Special Court has been set up in Nainital District. In rest of districts, the District & Session Courts have been designated as Special Courts for trial of cases under the Act.
- (vi) No specific area has been identified as atrocity prone area in Uttaranchal.

**(n) National Capital Territory of Delhi**

- (i) Necessary provision for paying travelling and maintenance expenses have been made in budget.
- (ii) The Secretary (Scheduled Castes/Scheduled Tribes) has been nominated as nodal officer.
- (iii) The Additional District Magistrates have been nominated to function as Special Officers in their respective jurisdiction.
- (iv) A Permanent Standing Committee has been formed for examination and consideration of cases for providing relief and rehabilitation of Scheduled Castes/Scheduled Tribes victims of atrocities in Territory of Delhi.
- (v) The Court of Addl. District and Session Judge has been designated as Special Court in the National Capital Territory of Delhi.
- (vi) The Additional Public Prosecutor/Special Public Prosecutor has been nominated as Special Public Prosecutor for cases under the Act.

- (vii) No any area has been identified under this Act so far in the NCT of Delhi.

8.13.2 The State Govts. are required to prepare a model Contingency Plan for implementing the provisions of the Act and notifying the same in their Official Gazette, specifying the role and responsibilities of various departments and their officers at different levels etc. The Contingency Plan is required to contain, inter-alia, a package of relief measures including the following:-

- (a) scheme to provide immediate relief in cash or in kind or both;
- (b) allotment of agricultural land and house sites;
- (c) the rehabilitation packages;
- (d) scheme for offering employment in Government or Government undertaking to the dependant or one of the family members of the victim;
- (e) pension scheme for widows, dependant children of the deceased, handicapped or old age victims of atrocity.
- (f) mandatory compensation for the victims;
- (g) scheme for strengthening the socio-economic condition of the victim;
- (h) provisions for providing brick/stone masonry house to the victims;
- (i) such other elements as health care, supply of essential commodities, electrification, adequate drinking water facility, burial/cremation ground and link roads to the Scheduled Castes and the Scheduled Tribes habitats.

8.13.3 The details of the action taken by the States/UTs on the various measures taken under the provisions of the SCs and STs (POA) Act, 1989 and Rules, 1995 reveal that only a few States/UTs have notified Contingency Plan as required under Rule 15 of the Rules. The Contingency Plan is the lifeline for prevention of atrocities on the members of the Scheduled Tribes. This plan inter-alia contains a package of relief measures including (i) immediate relief in cash or in kind or both, (ii) allotment of agricultural land and house sites, (iii) employment in Govt. or Govt. undertaking to the dependent or one of the family members of the victim and (iv) pension for widows, dependent children of the deceased etc. **The Commission accordingly recommends that the Chief Secretaries of the Nine 5<sup>th</sup> Schedule States may be requested to take necessary action to prepare and notify the Contingency plans to deal with the atrocity cases in an effective manner in terms of Rule 15 of the Rules.**

## 8.14 Some of the Atrocity Cases dealt with in the Commission

8.14.1 The mandate provided to the Commission under Article 338A(5)(a)&(b) of the Constitution is to investigate, monitor and inquire into specific complaints with respect to the deprivation of rights and safeguards provided to the Scheduled Tribes under various laws. As has been mentioned earlier, one of such laws is the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 and Rules, 1995 framed thereunder. The Commission took cognizance of the complaints received from the Scheduled Tribe persons, Associations, NGOs and also suo moto on the Press news related to the atrocities on the members of Scheduled Tribes. The cases of atrocities were got inquired into through the District Superintendents of Police and the cases involving economic relief and rehabilitation, were referred to the District Magistrates. Gist of some of the cases dealt with in the Commission during 2004-2005 and 2005-2006 are as follows:

- (1) It was brought to the notice of the Commission by a retired Professor of Dibrugarh University that a Scheduled Tribe woman employee of a Government of India

Organization at Dibrugarh, Assam was molested and sexually exploited by one of her colleagues. The Commission took up the matter with the District Superintendent of Police, who informed that a case u/s 354, 324, 325, 606, 376(B) and 511 IPC had been registered and chargesheet submitted in the Court. The Commission advised the Superintendent of Police to take cognizance of Section 3(1)(xi) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 along with the sections of IPC and accordingly submit the supplementary charge-sheet in the Court. As per the advice of the Commission, a supplementary charge-sheet was submitted by the Police adding Section 3(1)(xi) of the Act. The Dy. Commissioner, Dibrugarh has also been requested by the Commission to provide financial assistance to the victim as per Rule 12(4) of the Rules.

- (2) A case of arrest, custodial torture and death of one ST person by officials of Excise Department in Wayanad District of Kerala came to the notice of the Commission through a tribal association at Thiruvananthapuram in August, 2004. The case was taken up with the Superintendent of Police, Wayanad who informed that the body of the ST person had been found hanging on a neem tree at Anchukannu and the post mortem report stated that the death was due to hanging and there was no symptom of torture on the body. The Commission however, found that the materials on record created a doubt on the reported death of the ST person by hanging. The Commission, therefore, referred the matter to the Home Secretary, Government of Kerala for ordering an inquiry by State, CB,CID. In response to the Commission's advice, the Home Secretary, Government of Kerala, Thiruvananthapuram intimated that the Director General of Police, Kerala had been directed to get an investigation conducted by the State CB,CID into the death of ST person. The report is awaited from the State Govt.
- (3) A case of abduction and gang rape of a Scheduled Tribe woman in Chindwada, Madhya Pradesh was reported in the newspaper 'Dainik Bhaskar' dated 21.8.04. The Commission suo moto took up the case with the District Superintendent of Police, Chindwada. The Superintendent of Police reported that a case under Sections 366, 376(2) and 506-B IPC and Section 3(1)(xii) of the SCs and the STs(POA) Act, 1989 had been registered and chargesheet submitted in the Court and that an interim relief of financial assistance of Rs.25,000/- had been paid to the victim as per the SCs and the STs (POA) Rules, 1995. Since an offence under Section 376(2) of IPC is punishable with an imprisonment for a term of 10 years or more, the Dist. Superintendent of Police, Chindwada has been advised by the Commission to submit supplementary chargesheet taking cognizance of Section 3(2)(v) of the SCs/STs (POA)Act, 1989 in place of Section 3(1)(xii).
- (4) A case of gang rape of a ST girl at Hoshangabad in Madhya Pradesh was reported in the newspaper 'The Indian Express' dated 14.7.04. The Commission suo moto took up the case with the Dist. Superintendent of Police, Hosangabad. The Superintendent of Police, Hosangabad reported that a case under section 363, 366, 376 IPC and Section 3(2)(v) and 3(1)(xii) of the SC/ST (POA)Act, 1989 had been registered and after almost three months, the chargesheet had been submitted in the Court. He further stated that an interim relief of financial assistance of Rs.25,000/- had been paid to the victim as per the SCs/STs (POA) Rules,1995. The Commission took up the issue of delay in submission of chargesheet in the Court and accordingly requested the Dist.Superintendent of Police, Hosangabad to instruct all the Investigating Officers to complete the investigation within the stipulated time of 30 days positively as per Rule 7(2) the SCs & the STs (POA) Rules, 1995.

- (5) It was brought to the notice of the Commission by a tribal organization at Bageswar (Uttaranchal) in August, 2004 that one ST woman was molested by a non-ST in the Dist. of Bageswar, Uttranchal. The case was taken up with the Dist. Collector, Bageswar who informed that a case under Section 354 of IPC and Section 3(1)(x) of SCs/STs (POA) Act, 1989 had been registered, the accused arrested and subsequently, chargesheet submitted in the Court. The Commission advised the Dist. Collector to consider for submission of supplementary chargesheet, taking cognizance of Section 3(1)(xi) of the SCs & the STs(POA) Act, 1989 in place Section 3(1) (x). The Dist. Collector had informed that the advice of the Commission had been complied with and that the victim in the case had been paid Rs.25,000/- as financial assistant as per the SCs & STs (POA) Rules, 1995.
- (6) Custodial death of an ST youth in district Raipur, Chhattishgarh was reported in the newspaper 'Dainik Baskar' dated 14.8.2004. The Commission took up the matter with the Dist. Superintendent of Police and Dist. Magistrate, Raipur. The Dist. Superintendent of Police, Raipur informed that a case under section 306, 330, 343, 201, 34 of IPC and Section 3(2)(v) of the SCs & STs(POA) Act, 1989 had been registered and the accused officials had been arrested. The Dist. Magistrate, Raipur informed that an amount of Rs.5.00 lakhs was paid to the deceased family by the State over and above an interim relief of Rs.25,000/-. In addition, 5.0 acres of land was also allotted to the deceased family by the Dist. Administration. The Commission found that the chargesheet had been issued after three months and accordingly, the Commission took up the issue of delay in submission of chargesheet and advised the District Superintendent of Police to instruct all the Investigation Officers to complete the investigation with the stipulated time of 30 days positively as per Rule 7(2) of the SCs & the STs (POA) Rules, 1995.
- (7) A Scheduled Tribe organization at Chennai brought to the notice of the Commission in October, 2004 that three ST girls of a tribal Residential School had been sexually harassed in Villuppuram Dist. of Tamil Nadu. The matter was taken up with the Superintendent of Police, Villuppuram Dist. Who reported that 3 ST minor girls studying in Std.V were sexually harassed under threat by four College students of same area for five days from 15.10.2004 to 19.10.2004 and that after investigation, a case under Section 4 of TN Prohibition of Harassment of Women Act, 2002 read with Section 506(ii) of IPC had been registered and all the four accused had been arrested. Investigations by the police further revealed that three of the four accused persons who belonged to SC community were charged with offences under sections 456, 506(ii), 511 r/w Section 376 of IPC and Section 4 of TN Prohibition of Harassment of Women Act, 2002 and in the case of fourth accused, who was a non-ST/SC, Section 3(1)(xii) of SC/ST (POA) Act, 1989 had been added. It was further reported that the chargesheet had been submitted in the Court and financial assistance had been paid to the victims @ Rs.25,000/- each under the SCs and the STs(POA) Rules, 1995.
- (8) A case of gang rape of a ST minor girl in the Dist. of Damoh, Madhya Pradesh was reported in the newspaper 'Nai Duniya' dated 20.8.2004. The Commission suo-moto took up the matter with the Superintendent of Police, Damoh. The Superintendent of Police intimated that a case under sections 363, 366, 376(2) of IPC and Section 3(2)(v) of SC/ST(POA) Act, 1989 had been registered and accused persons arrested, and that the chargesheet had also been submitted in the Court. The Commission further took up the case with the Dist. Collector, Chatarpur as the victim was the

resident of Dist. Chatarpur for the purpose of providing financial assistance under Rule 12(4) of the SCs/STs(POA) Rules, 1995 immediately. The Collector, Chatarpur intimated that an amount of Rs.50,000/- had been paid to the victim by depositing the same in her A/c in the State Bank of India.

- (9) A case of sexual harassment of Scheduled Tribe woman in Wayanad District, Kerala was reported to the Commission. The case has been taken up with the Superintendent of Police, Wayanad. Due to the intervention of the Commission, a case has been registered by the Police taking cognizance of Section 3(2)(v) of the SCs and the STs(POA) Act, 1989 along with relevant sections of IPC. The Commission has taken up with the District authorities for providing economic assistance as per the SCs and the STs (POA) Rules, 1995.
- (10) Harassment and danger to life and property of a tribal family due to illegal mining in the District of Ranchi, Jharkhand was reported to the Commission. The alleged person was not granted any licence to use the explosive for mining stones next to the house of the affected ST family but the mining activities were started by them. The Police and Mines Departments had not taken any action. The Commission took up the case with the Deputy Commissioner, District Ranchi to ensure stoppage of the illegal stone mining in the residential area. Based on the advice of the Commission, the Dy.Commissioner, Ranchi instructed to stop the ongoing mining and accordingly the stone mining was stopped.
- (11) A rape case of ST woman in Bardwan District, West Bengal was reported in the newspaper 'The Statesman'. The case was taken up with the District Superintendent of Police, Bardwan by the Commission. The Superintendent of Police, Bardwan reported that a case under section 376 of IPC had been registered and accused arrested. Subsequently, relevant section of SCs/STs(POA)Act, 1989 was also added and chargesheet submitted in the Court. The Commission has also taken up the matter with the State Administration for providing financial assistance to the victim as per the SCs & STs (POA) Rules, 1995.
- (12) A case of abduction and rape of a ST woman in Chickmagalur District of Karnataka was reported to the Commission. The Commission immediately took up the case with the Dist. Collector, Chikmagalur who intimated that the accused had been arrested and chargesheet submitted in the Court and that the victim had been paid Rs.50,000/- as financial assistance.
- (13) A case of setting fire by an unlawful group to maize field of a ST farmer in Haveri district of Karnataka was reported to the Commission. The Commission took up the case with the Superintendent of Police, Haveri district, who intimated that the accused had been arrested and the chargesheet submitted in the Court and that the victim of the arson had been paid economic assistance as per the SC/ST (POA) Rules, 1995.
- (14) A case of group clash which took place at Davangere district, Karnataka in which 21 ST persons had been injured and one had died during treatment in Hospital was reported to the Commission. The Commission took up the case with the Collector and Superintendent of Police, Davangere district. It was intimated by the Dist. Administration that 49 accused persons had been arrested and chargesheet submitted against them in the Court and that in total, a sum of Rs.2,08,000/- had been paid to the victims of atrocity as economic assistance under the provisions of the SCs & the STs (POA) Rules, 1995.

- (15) It was reported in a local newspaper that one ST person was tied to a telephone pole and assaulted by a group of non-SC/ST persons at Gadag district in Karnataka. The Commission took up the case with the District Collector, Gadag district who intimated that a case had been registered and chargesheet submitted in the Court. Due to the Commission's intervention, Rs.25,000/- was paid to the victim as economic assistance.
- (16) A case of gang rape of one ST girl in Warangal Dist. Andhra Pradesh was reported in a newspaper. The Commission took up the case with the district authorities. During the enquiry by the police it was found that the ST girl was raped by a SC person. The accused was arrested by the Police. Since the perpetrator of crime was a SC person, no action could be taken under the SCs and the STs (POA) Act, 1989 and Rules, 1955 and as a result she was deprived of the economic assistance as an immediate relief.
- (17) A case of disappearance of a tribal youth in Nalgonda Dist., Andhra Pradesh was reported in the newspaper 'The Hindu'. The Commission took up the case with the district authorities. Police enquiries revealed that the ST person was murdered by his business rivals in a planned manner. The accused was arrested. Due to the interference of the Commission, relevant sections of the SCs & the STs (POA) Act, 1989 were added in the case and the victim's family was paid monetary relief as per the SCs & the STs(POA) Rules, 1995.
- (18) A case of custodial death of one ST person in the District of Barwani, Madhya Pradesh was reported in the newspaper 'The Dainik Bhaskar'. The Commission suo moto took up the case with the Dist.Superintendent of Police, Barwani, who informed that a case under Section 302, 323, 34 of IPC and Section 3(2)(v) and 3(2)(vii) of the SCs and the STs (POA)Act, 1989 had been registered against the officials and investigation had been completed. A sum of Rs.1.50 lakh was paid to the deceased family. In addition, a sum of Rs.25,000/- was also provided to them under the Social Security and Welfare Scheme.
- (19) An incident of rape and murder of a minor tribal girl in Bhopal district, Madhya Pradesh was reported to the Commission. The Commission took up the case with the Inspector General of Police(SC/ST Cell), Bhopal, who informed that a case under Section 302, 376, 311 of IPC had been registered and the accused arrested. Due to the intervention of the Commission, Section 3(2)(v) of the SCs and the STs(POA) Act, 1989 was added and the chargesheet submitted in the Court. Since the victim belonged to the Raigarh district, the Commission has referred the case to the Collector, District Raigarh, Chhattishgarh for providing economic assistance as per the SCs/STs (POA)Rules, 1995.
- (20) A minor ST girl was raped in district Shivpuri, Madhya Pradesh, as per the report appeared in 'The Hindustan Times'. The Commission suo moto took up the case with the Dist.Superintendent of Police, Shivpuri. The Superintendent of Police reported that a case under Section 376(G), 506(B), 313, 201 IPC and 3(1)(xii) and 3(2)(v) of the SCs and the STs (POA )Act, 1989 had been registered and three of the four accused arrested and chargesheet submitted in the Court and that economic relief of Rs.25,000/- had been provided to the rape victim as per the SCs & the STs(POA) Act, 1989.

- (21) Forcible occupation of land and attack on an ST family in the district Dindori, Madhya Pradesh was reported to the Commission. The case was taken up with the Dist. Superintendent of Police, Dindori, who informed that a case under Section 447, 294, 506, 34 of IPC and Section 3(1)(iv) and 3(1)(x) of the SCs and the STs (POA) Act, 1989 had registered and accused persons arrested and that a sum of Rs.25,000/- had been paid as economic assistance to the victim as per the SCs and the STs (POA) Rules, 1995.
- (22) A press news appeared in Danik Bhaskar dated 7.8.2003 that persons from non-ST community had attacked and burnt the house of a Scheduled Tribe person in district Bhilwara (Rajasthan). The Commission took up the matter with the District Supdt. of Police who informed that a case u/s 458, 354, 323, 436, 34 IPC and 3(1) (v) (x)(xi) and 3 (2) (iv) of the SC/ST (POA) Act had been registered and charge-sheet submitted in the Court and that under Rule 12(4) of the SCs & STs (POA) Rules, the economic assistance had been provided to the victim's family.
- (23) An ST woman residing at Rohini, Delhi represented to the Commission that she had been attacked/ threatened by one non-SC/ ST person. The case was taken up with the Deputy Commissioner of Police, West District, Delhi, who reported that a case was registered under section 325/34/342 and 354 IPC and charge sheet had been submitted in the court. Due to the Commission's timely intervention, Section 3(1) (xi) of the SCs and the STs (POA) Act, 1989 was added in the case by submitting a supplementary charge sheet in the court.
- (24) It is brought to the notice of the Commission by Asia Pacific Forum on Women, Law and Development, Thailand that an ST woman had allegedly been raped and sold in a public auction on 20 August, 2005 along with her baby in Chirgaon village, Latehar district Jharkhand for six rupees in District Latehar, Jharkhand. This serious criminal offence was immediately taken up by the Commission with the Superintendent of Police, District Latehar. The Commission was informed that a case had been registered under Section 376(G) IPC and Section 3(1) (xii) of the SCs and the STs (POA) Act, 1989 had been added. And that the economic assistance of Rs.25,000/- in terms of Rule 12 (4) of SC & ST (PAO) Rules, 1995 had been provided to the victim. The matter is under further investigation by the police authorities.
- (25) One ST Officer working in a Govt. of India organization at Visakhapatnam, Andhra Pradesh represented to the Commission in August, 2005 to have allegedly been abused by another Officer of the same organization. The case was immediately taken up by the Commissioner of Police, Visakhapatnam. The Commission was informed in September, 2005 that a case under Section 506 IPC and Sec. 3(1) (x) of the SCs and the STs (POA) Act, 1989 had been registered and charge sheet submitted in the court. The Commission further took up the matter with the Commissioner of Police, Visakhapatnam regarding grant of economic assistance to the victim in response to which the police authorities informed in January, 2006 that a monetary relief of Rs.6250/- had been paid to the victim as per Rule 12 (4) of the SCs/STs (POA) Rules,1995
- (26) It was brought to the notice of the Commission by the press news in October, 2005 that one ST person had allegedly been burnt alive in Katni District, Madhya Pradesh. The Commission took up the matter with the Superintendent of Police, Katni, who in turn reported in November, 2005 that a case under Sections 302, 307, 147, 140, 364 and 120-B of IPC and under Section 3(2)(v) of the SCs and the STs (POA) Act, 1989 had

been registered and charge sheet submitted in the court. The Commission was further informed in reply to its subsequent letter written in December, 2005 that an immediate relief of Rs.10,000/- had been provided to the minor children of the deceased and that Rs.1,50,000/- had been deposited in the bank in the name of the children out of which certain amount will be given to the children every month. This economic assistance has been given under Rule 12(4) of the SCs/STs (POA) Rules, 1995.

- (27) It was reported in a section of the press (Dainik Bhaskar) on 8 May, 2005 that two persons belonging to ST had been made to sit on a hot iron by the Manager and the security personnel of a steel plant under construction in District Raigarh, Chhattisgarh, which caused severe burn injuries in the lower part of their body. The Commission immediately took up the matter with the Superintendent of Police, District Raigarh. The Superintendent of Police, Raigarh reported in June, 2005 that a case under Sections 342, 294, 323, 34 IPC and Section 3(1)(x) of the SCs and the STs (POA) Act, 1989 had been registered and charge sheet submitted in the court. In reply to a subsequent letter of the Commission in August, 2005, the District Magistrate, District Raigarh informed the Commission in September, 2005 that an economic assistance of Rs.25,000/- had been sanctioned to the victims.
- (28) An ST woman reported to the Commission in March, 2005 that she had been raped by non-SC/ ST at District Sivpuri in Madhya Pradesh. The case was taken up by the Commission with the Superintendent of Police, District Sivpuri in April, 2005. The Commission was informed by the police authorities in May, 2005 that a criminal case had been registered under Sections 354, 323 and 506 B IPC and Sections 3(1) (xi) of the SCs/STs (POA) Act, 1989. During investigations, the cognizance of Section 376 IPC and 3(2)(v) of the SCs and the STs (POA) Act, 1989 had also been taken and the charge sheet submitted in the court. The Commission further took up the matter in June, 2005 with the District Magistrate, Sivpuri regarding economic assistance to the victim in reply to which it was informed an economic assistance of Rs.25,000/- had been provided to the victim as per Rule 12(4) of the SCs and the STs (POA) Rule, 1995.
- (29) One ST woman from District Chhindwada, Madhya Pradesh wrote to the Commission on 18 January, 2005 that she had been assaulted and abused by one non SC/ ST person. The Commission took up the matter with the Superintendent of Police, Chhindawada on 19 January, 2005 requesting him to inquire into the incident and send a detailed report to the Commission with 15 days. The Superintendent of Police, Chhindwada reported that a case under Sections 294, 509, 506, 34 IPC and Section 3(1)(x) of the SCs and the STs (POA) Act, 1989 had been registered and charge sheet submitted in the court. The Commission again wrote to the District Magistrate, Chhindwada on 12 August, 2005 to apprise the Commission about the economic assistance given to the victim in response to which the Commission was informed in December, 2005 that an amount of Rs.25,000/- had been sanctioned out of which Rs.6250/- had been paid to the victim by way of first instalment.
- (30) It was reported in a section of the press (The Times of India, New Delhi dated 3 August, 2005) that an Scheduled Tribe woman had been raped repeatedly by Police officers of the rank of DIG and IG at Ranchi and Palamu. The Commission took up the matter on 5 August, 2005 with the Director General of Police, Jharkhand requesting him to get the allegations inquired into and send a detailed report to the Commission. As no reply was received, he was reminded on 31.8.2005 to expedite the inquiry. Even the reminder from the Commission did not yield any response from the DGP and it was decided to call the DGP to appear before the Commission on 21.10.2005, which on the request of

the DGP, was shifted to 20 October, 2005. The DGP, however, could not appear before the Commission even on 28.10.2005 due to his pre-occupations. Now he was requested to appear before the Commission on 3.11.2005. DGP along with his officers finally appeared before the Commission on that date i.e. 3.11.2005. The Commission expressed its unhappiness and anguish over inordinate delay in responding to the Commission's letters in such a case of heinous offence of rape alleged to be committed by the senior police officers and cautioned them against recurrence of such irresponsiveness in future. The Commission asked the DGP (i) to submit full facts of the case to the Commission within a week, (ii) to personally see the Home Secretary and Chief Secretary, Govt. of Jharkhand to ensure that the necessary sanction was accorded to him by the State Government for prosecuting the accused in a court of law and, (iii) to initiate immediate action for the grant of economic assistance to the victim under Rule 12(4) of the SCs/STs (POA) Rules, 1995. The DGP informed the Commission on 14.11.2005 that two criminal cases viz. (i) FIR No. 304/05 dated 03-08-2005 under Sections 376/ 376(2)(9)(i)/506 and 3(1) of (xii) the SCs and the STs (POA) Act, 1989 registered at P.S. Palamu Sadar (Town) and (ii) FIR No. 142/05 dated 02-08-2005 under Sections 376/ 109 IPC and 3(1) (xii) of the SCs and the STs (POA) Act, 1989 at P.S. Lower Bazar, Ranchi had been registered. As a consequence of continuous intervention and constant follow-up by the Commission, the State Govt. has informed the Commission on 6 February, 2006 that they have accorded sanction for prosecution of one of the two accused Police officers i.e. IG in the said case. The Commission has been perusing with the State Govt. for according sanction for prosecution of the second accused Police officer i.e. DIG in this case.

- (31) An ST person from District Palli, Rajasthan reported to the Commission in May, 2005 that an attempt to murder him was made by a non-SC/ST person. The matter was taken up by the Commission with the Senior Superintendent of Police, District Palli on 31.5.2005. The Commission was informed in June, 2005 that a case under Sections 307, 323, 325, IPC read with section 3(1) (x) and 3(2)(v) of the SCs and the STs (POA) Act, 1989 had been registered and charge sheet submitted in the court. District Collector, Palli was subsequently requested in August, 2005 regarding grant of economic assistance to the victim in reply to which the Commission was informed in September, 2005 that an amount of Rs.50,000/- had been sanctioned to the victim by way of economic assistance under Rule 12(4) the SCs/STs (POA) Rules, 1995.
- (32) SAKSHI, an NGO in Sicunderabad, Andhra Pradesh, wrote to this Commission in July, 2005 to inform about the rape of a pregnant tribal woman of Nallore District, by a non-SC/ST person. It was also reported that while the police personnel at Naidupet Police Station had registered a case against the accused under Sections 376, 313 of IPC and 3 (2) (v) the SCs/STs (POA) Act, 1989, no monetary relief had been sanctioned to her. The matter was taken up by the Commission with the District Superintendent of Police Nallore District on 10.8.2005. The Commission was informed in September, 2005 that a case had been made out against the accused under the above mentioned Sections of IPC and the SCs/STs (POA) Act, 1989 and that the accused has been arrested and sent for remand and further that the charge sheet had been submitted in the court. In reply to this Commission's letter dated 14.10.2005, the District Collector and Magistrate, Nallore District informed the Commission in November, 2005 that an amount of Rs.50,000/- had already been sanctioned and disbursed to the victim by way of monetary relief on 9.1.2005.
- (33) Hon'ble Member of the Commission Shri Buduru Srinivasulu brought to the notice of the Commission in November, 2005 that a local news paper had reported (in its edition

dated 31.10.2005) that a tribal girl student from Nalgonda District, Andhra Pradesh had been sexually abused by a non-SC/ST person. The Commission took up the matter with the Director General of Police, Andhra Pradesh in November, 2005. The Govt. of Andhra Pradesh informed in December, 2005 that a case had been registered under Sections 342, 376(g), 506, 109 IPC read with Section 3(1) (xii) of the SCs and the STs (POA) Act, 1989. The Commission has subsequently advised the DGP, Andhra Pradesh, Hyderabad for taking cognizance of Section 3(2)(v) of the SCs and the STs (POA) Act, 1989 and also to provide economic assistance to the victim as per Rule 12 (4) of SCs/STs (POA) Act, 1989.

- (34) One ST officer working in BHEL and residing in the residential quarters at Ramachandra Puram in Medak District, Andhra Pradesh reported to the Commission that he had been abused on caste ground by a non-SC/ ST person. The case was taken up with the Superintendent of Police, Medak District, who in turn reported that a case under Section 3(1) (x) of the SCs and the STs (POA) Act, 1989 had been registered and charge sheet submitted in the court. The Commission has also requested the police authorities to apprise it of the action taken by district administration to provide economic assistance to the victim in terms of the SCs/STs (POA) Rule, 1995.
- (35) It was brought to the notice of the Commission by a report published in Dainik Bhaskar dated 12 December, 2005 that one ST woman of District Raisen, Madhya Pradesh was raped and thereafter her right hand was chopped off and her house was set on fire. The Commission took up the matter with the DGP, Bhopal in December, 2005 itself. The Commission was informed that the Police had registered two cases (i) under Sections 376(2) (G), 341, 506, 34 IPC along with Sections 3(1) (xii) and 3(2) (v) of the SCs and the STs (POA) Act, 1989 and (ii) under Sections 326, 436, 147, 148, IPC and Section 3(2)(i) of the SCs and the STs (POA) Act, 1989. Further, the victim had been sanctioned economic assistance of Rs.80,000/- in the two cases out of which Rs.42,000/- had been provided to her in terms of Rule 12(4) of the SCs/STs (POA) Rules, 1995. The remaining amount will be paid to the victim on conviction of the accused by the court. Investigations in both the cases are in progress. The Commission has been vigorously following up the case with the DGP, Bhopal to expedite the completion of investigation.
- (36) A case of gang rape of one ST girl by non-SC/ST persons in Mayurbhanj District, Orissa was reported in a newspaper (Pioneer dated 5.5.2005). The Commission took up the case with the Superintendent of Police, Mayurbhanj District, who informed the Commission on 26.6.2005 that a case had been registered under Sections 366, 376(2) IPC and Section 3(2) (v) of the SCs and the STs (POA) Act, 1989 and that an interim monetary relief of Rs.2000/- had been given to the victim. The Commission has further requested the SP, Mayurbhanj in August, 2005 to expedite the investigation and also apprise the Commission of the status of economic assistance to the victim in terms of Rule 12(4) of SCs/STs (POA) Rules, 1995. The matter is being pursued with the Commission by police authorities.
- (37) It was brought to the notice of the Commission through a report published in the Hindu dated 20 June, 2005 that a tribal woman in Palakkad District, Kerala had been raped and murdered. The matter was immediately taken up by the Commission with the Superintendent of Police, Palakkad District. The Superintendent of Police, Palakkad reported in January, 2006 that a case under Sections 376 and 302, IPC and Section 3(2) (v) of the SCs and the STs (POA) Act, 1989 had been registered against the two accused who have also been arrested and kept under judicial custody. The Commission

has further requested the SP, Palakkad District in February, 2006 to inform the Commission of the latest position of the investigation and about providing economic assistance to the victim's family.

8.14.2 It has been felt during disposal of petitions in the Commission that, in general, the Investigating Officers are not completing the investigation on top priority within 30 days as per the provisions contained in Rule 7(2) of the SCs & the STs (POA) Rules, 1995. Similarly, the district authorities are also take considerable time in providing economic assistance after the occurrence of the atrocities to the victims as per the norms fixed under Rule 12(4) of the Rules, 1995. **The Commission recommends that the State/UT Govt. may be requested to make necessary arrangements to ensure that the investigation process is completed within the prescribed period of 30 days and that the victims/their dependents are provided economic assistance immediately after the incident.**

8.14.3 **The Commission further recommends that:**

- (i) **In case the ST victim is not satisfied with the performance of the Public Prosecutor (PP), he/she should be allowed to change the P.P. and engage a private layer/advocate and the expenses for engaging private layer should be borne by the State Govt.**
- (ii) **Legal aid, for which there is provision in the SCs and STs (POA) 1989, should be disbursed to the ST victim as early as possible. Awareness programme about grant of legal aid should be launched in tribal areas so that the victims could come to know about availability of free legal aids.**
- (iii) **The amount of financial relief under Rule 12(4) of the SCs & STs (POA) Rules, 1995 is required to be provided to the victim immediately after the incident. However, it has been noticed that some of the district authorities are not providing the relief particularly in cases of murder, grievous hurt, rape and arson immediately after the incident. Necessary orders should be issued to all the District Magistrates to ensure immediate payment of financial relief especially in heinous offences and in other offences of atrocity as per provision of these Rules**
- (iv) **The amount of financial relief to the victims of the atrocities under Rule 12(4) of the SCs & STs (POA) Rules, 1995 should be reviewed and suitably increased in recognition of the hard fact that the cost of living over the past one decade, starting from 1995 has enormously gone up.**

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## CHAPTER - 9

### SUMMARY OF RECOMMENDATIONS

Details recommendations on various aspects in relation to development of Scheduled Tribes have been made in different Chapters. These recommendations have been highlighted to facilitate convenient identification for the purpose of taking follow up action on them. A summary of these recommendations (Chapter-wise) is given below.

#### **Chapter-1: Organizational Set up and Functioning of the Commission**

1. The Commission has been experiencing severe functional problems on account of a large number of vacant posts. The Ministry of Social Justice & Empowerment and the National Commission for Scheduled Castes who are the cadre controlling authority with respect to Joint Cadre posts and cadre authority with respect to Secretariat posts are advised to make concerted efforts to fill up these vacant posts to enable the Commission to discharge its constitutional obligations in an effective manner. **The Commission also requests the Ministry of Tribal Affairs to take necessary steps to provide additional staff to enable the Commission to effectively deal with the expanded terms of reference of the Commission.** [Para:1.9.4]
2. There is an urgent need to upgrade the level of Heads of Offices of the four Regional Offices of the Commission at Bhubaneswar, Raipur, Ranchi and Shillong to the level of Director by creating four additional posts of Director. [Para:1.13.1(i) ]
3. There is also an urgent need to augment the existing strength of the supporting staff (other than the Heads of Offices) in the six Regional Offices of the Commission as given in **column 4 of the Table below** [Para:1.13.1(ii)].
4. The existing jurisdiction of the five Regional Offices (out of six) of the Commission is so large that the Commission has been finding it impossible to properly monitor the implementation of various programmes for socio-economic and educational development of Scheduled Tribes, the reservation policy of the Government and making spot visits for enquiring into atrocity cases on Scheduled Tribes, in the States falling within their jurisdiction. There is, therefore, urgent and genuine need for creation of four additional Regional Offices of the Commission, one each at Hyderabad (Andhra Pradesh), Nagpur (Maharashtra), Shimla (Himachal Pradesh) and Ahmedabad (Gujarat) with a view to ensure the presence of the Commission in the Fifth Schedule Area States with the minimum complement of staff as given below [Para 1.13.1 (iii)].

#### **Chapter-2 Constitutional Provisions for Protection and Development of Scheduled Tribes**

1. Proviso to Article 164 (1) of the Constitution may be suitably amended to make its provisions applicable for newly formed States of Jharkhand and Chhatisgarh and all other States, which have the fifth Schedule Areas to provide that each of these States shall also have a Minister in charge of tribal welfare who may, in addition, be in charge of the welfare of the Scheduled Castes and backward classes or any other such work. [Para 2.2.4 (i)]

- 2(a) Clauses (6) of Article 338A of the Constitution should be amended to provide that the Report (s) submitted by the Commission shall be laid before each House of Parliament within three months of such submission and a memorandum explaining the action taken or proposed to be taken on the recommendations relating to the Union and the reasons for the non- acceptance, if any, of any of such recommendations shall be placed before each House of the Parliament within six months of such submission. [Column 3 of the Table below para 2.3.2 against Sl.No.1]
- (b) Clause (7) of Article 338A of the Constitution should also be amended to provide that where any such report, or any part thereof, relates to any matter with which any State Government is concerned, a copy of such report shall be forwarded to the Governor of the State who shall cause it to be laid before the Legislature of the State within three months and a memorandum explaining the action taken or proposed to be taken on the recommendations relating to the State and the reasons for the non- acceptance, if any, of any of such recommendations shall be laid before the Legislature within six months of such submission. [Column 3 of the Table below para 2.3.2 against Sl.No.2]

### **Chapter-3: Socio-economic Development of Scheduled Tribes**

1. The Ministry of Home Affairs should advise the Registrar General and the Census Commissioner of India to commission a special study to find out the reasons for steep increase in the population of Scheduled Tribes in respect of the State of Karnataka (80.82%) and Nagaland (67.23%) during the decade from 1991 to 2001.[Para: 3.2.1]
  2. Now when the Govt. of NCT of Delhi have decided to restore the benefits of reservation to ST candidates irrespective of their nativity in civil posts under them, the Ministry of Home Affairs should advise the Registrar General and Census Commissioner of India to enumerate in the next Census of 2011 the migrant population of Scheduled Tribes residing in the National Capital Territory of Delhi and other UTs. [Para: 3.2.3]
- 3(a) The Ministry of Tribal Affairs should prescribe a uniform format for preparation and submission of the reports by the Governors in respect of 5<sup>th</sup> Schedule States with particular reference to its contents. The Ministry of Tribal Affairs should also issue the following instructions to the State Governments to the effect that: [Para:3.3.5(i)]
- (i) The reports should reach the Govt. of India (Ministry of Tribal Affairs) within a period of six months of closing of the financial year and .
  - (ii) The States, which have TACs, should ensure that TACs are constituted/reconstituted timely and that their meetings are held regularly as per Constitutional provisions.
  - (iii) The reports should contain a detailed note on the implementation of the constitutional safeguards for promotion of educational and socio-economic development of the Scheduled Tribes. These reports should also contain a brief on problems relating to law and order, naxal movements and tribal unrest. The reports should also make a mention about Central and State laws enacted in the State during the report period and

extension/applicability of those laws to Scheduled Areas in the light of the powers of the Governor under Fifth Schedule. Working of PESA Act in the State should also be integral part of the Governor's report.

- (b) In case the reports do not contain the observations of TAC, they may be sent back to the State Governments advising them to apprise the Central Government of the observations of the TACs and action taken on the observations of TAC. **[Para:3.3.5(ii)]**
  - (c) The reports should be thoroughly examined in the Ministry of Tribal Affairs on the basis of the material contained in them and the State Governments should be apprised of the assessment to enable them to take necessary follow-up action. **[Para:3.3.5 (iii)]**
  - (d) A copy of the Governor's Report should be made available to the National Commission for Scheduled Tribes immediately after receipt of the Report in the Ministry to enable the Commission to examine the same and offer its comments thereon. **[Para:3.3.5 (iv)]**
- 4 (a) All the areas covered under Integrated Tribal Development Projects (ITDPs), Modified Area Development Approach (MADA) Pockets and Clusters included in Tribal-Sub-Plan of the States should be made co-terminus with the Scheduled Areas of the respective State. **[Para:3.3.6(i)]**
- (b) It has been brought to the notice of the Commission that in certain cases ITDP was functioning in one single district and subsequently a new district was created out of the that district. It may be ensured that the ITDP areas covering these two districts do not face any problem in the matter of release of funds.
  - (c) All such revenue villages having 50% or more tribal population as per 2001 Census but presently not included in Scheduled Areas of the State concerned, may be included in Scheduled Areas or MADA or Clusters, as the case may be, of the respective State. **[Para:3.3.6(ii)]**
5. The State Govts. may be advised to take necessary action in terms of Section 4(n) of the PESA Act, 1996 to equip Panchayats with requisite powers and authority to enable them to function as institution of self-government. **[Para:3.5.4]**
6. There is a need to devise a mechanism, which would enable the field formations to receive funds directly instead of being routed through State Hqrs. by enforcing on them a system of accountability for proper utilization of those funds. **[Para:3.5.6]**
- 7 (a) The Ministry of Rural Development may be advised to make suitable amendments in the Land Acquisition Act, 1894 to make it conform to the provisions of PESA Act, 1996 in respect of endowing the Panchayats at the appropriate level and the Gram Sabhas with necessary powers for making any acquisition of land for resettlement and rehabilitation of displaced persons **[Para:3.5.7 (i)]**
- (b) The Ministry of Environment & Forests may be advised to make suitable amendments in the Indian Forest Act, 1927 to make its provision consistent with the provisions of PESA Act, 1996 in respect of endowing Panchayats at the appropriate

level and the Gram Sabhas with necessary powers with respect to conferring ownership of minor forest produce. [Para:3.5.7 (ii)]

- 8 There is a need to advise the State Govts. to ensure that the State legislations on Panchayats should conform with the customary law, social and religious practices and traditional management practices of community resources and where the State Govts. have enacted legislations which do not conform with the customary law, social religious practices and traditional management practices, they should initiate corrective action to make suitable amendments in the State legislations. [Para:3.5.8 (i)]
- 9 The Ministry of Tribal Affairs should make all possible efforts to expedite the passing of the Scheduled Tribes (Recognition of Forest Rights) Bill, 2005 which has already been introduced in Parliament and referred to the Joint Parliamentary Committee (JPC) for further examination which, inter alia, addresses the problems of the tribals relating to grant of pattas in respect of the forest land on which they have been cultivating/living for generations.[Para:3.5.8(ii)]
- 10(a) The Commission has observed that necessary steps are not being taken by the State Govts. to preserve the tribal heritage particularly their art and crafts, places of worship, historical museums, historical monuments etc. The State Govts., therefore, may be advised:
- (i) To take necessary steps to preserve the cultural heritage of the tribal people with particular reference to (i) places of worship, (ii) historical museums,(iii) historical monuments and (iv) tribal art and crafts.[Para:3.5.9(i)]
  - (ii) To create a Tribal Cell within the Tribal Welfare Department of each State to monitor the activities being taken by the State Govts. with respect to item No.(i) and to advise the State Govts. regarding additional measures to be taken to maintain and preserve the tribal culture and heritage. [Para:3.5.9(ii)]
- (b) The Archeological Survey of India, (Govt. of India ) and its counterparts in the States should also be advised to pay special attention to preserve the rich tribal culture and heritage.[Para:3.5.10]
- 11 (a) The Planning Commission should make the release of Plan funds to the Central Ministries/Departments conditional to the earmarking of requisite 8.2% of these funds to the TSP in proportion to the ST population of the country (which is 8.2% of the total population). Alternatively, the Planning Commission itself while approving the Plan outlays of the various Ministries/Departments should earmark 8.2% of these outlays to be spent exclusively on activities relating to welfare of Scheduled Tribes under TSP.[Para:3.6.4.5 (i)]
- (b) The Planning Commission in consultation with Ministry of Tribal Affairs should also review their decision whether some of the Ministries/Departments can be exempted from apportioning 8.2% of their Plan outlays for being spent on activities relating to tribal development in relation to the subjects being handled by them. [Para:3.6.4.5 (ii)]
  - (c) The Ministry of Tribal Affairs should issue instructions to all the Ministries dealing with development programmes that they must indicate in their Annual Reports the specific percentage of their plan budget earmarked for Tribal Sub-Plan and the

activities undertaken by them under the TSP budget for tribal development in the country.[Para:3.6.4.5 (iii)]

- (d) The funds allocated under TSP which are not spent at the end of the financial year by the States/UTs or Central Ministries should be made non-lapsable as in the case of the grants-in-aid to the State Govts. and UT Administrations under SCA to TSP and Article 275(1) of the Constitution. [Para:3.6.4.5(iv)]
  - (e) The Ministry of Tribal Affairs should constitute a Committee consisting of representatives from Ministries/Departments concerned with developmental work etc. and representatives of Planning Commission and National Commission for Scheduled Tribes to consider proposals received from State Govts. both under the scheme of Special Central Assistance (SCA) to Tribal Sub-Plan (TSP), and the scheme of giving grants under First Proviso to Article 275(1).[Para:3.6.6.2]
  - (f) The State Govts./UT Administrations should be advised to make 100% utilization of these grants under SCA to TSP and under First Proviso to Article 275(1) by the end of the concerned financial year and in case the State Govts. fail to utilize these grants by the mid of the next financial year, the Ministry of Tribal Affairs should fix up the responsibility for non-utilization of the grants and advise the concerned State Govts. to make full utilization of the grants on tribal development programmes in the next financial year. [Para:3.6.6.5(i)]
  - (g) The State Govts. should be advised to ensure that the funds available under the grants given under SCA to TSP and First Proviso to Article 275(1) are not diverted under any circumstance to any other area not connected with tribal development. The State Govts. should also be advised to submit to the Ministry of Tribal Affairs a statement of details of actual expenditure of these grants on various tribal development programmes within three months of the close of the concerned financial year with a view to exercise check both on timely utilization of the money on tribal welfare schemes as well as on non-diversion of these grants to other areas. [Para:3.6.6.5(ii)]
  - (h) The details of the grants received under SCA to TSP and Article 275 (1) and the expenditure incurred by the State Govts. on various schemes/programmes for socio-economic development of Scheduled Tribes should also form part of the report of the Governor which is required to be annually submitted to the Central Government in terms of para 5 (1) of the Fifth Schedule to the Constitution of India.[Para:3.6.6.5(ii)]
12. On the lines of the procedure adopted by the Ministry of Rural Development which makes direct releases to DRDAs, the Ministry of Tribal Affairs as also other Ministries should consider opening direct channels to the implementing agencies at the district levels and ensure direct flow of funds to the ITDPs or the District Panchayats.[Para:3.6.6.6]
- 13 (a) There is a need to review the functioning of the projects undertaken for the development of PTGs under the centrally sponsored scheme, which was launched seven years ago (i.e. 1998-99). This will also give an opportunity to the Government to find out whether NGOs have given better results than the Government agencies in

the matter of development of PTGs and, if so, such NGOs need to be encouraged by entrusting them projects in respect of other PTGs under the scheme. [Para:3.7.3]

- (b) The projects/schemes relating to development of PTGs should be given, amongst others, only to such NGOs which have a established reputation of working for PTGs with full involvement and a high sense of commitment for more than 15-20 years. [Para:3.7.3]
- (c) The Ministry of Tribal Affairs should ensure that the grants are released to the concerned States (having PTGs) in the first quarter of the financial year to allow them maximum time to spend the money on the development of PTGs. The Ministry of Tribal Affairs should also assess the reasons for non-utilization of funds sanctioned by the Ministry for development of PTGs and also fix accountability for non-utilization of these grants. The Ministry of Tribal Affairs should also advise the State Govt:
  - (i) To make all out efforts to ensure that the grants released by the Central Government is spent on the developmental programmes of PTGs by the end of the relevant financial year. [Para:3.7.7(i)]
  - (ii) To submit to the Ministry of Tribal Affairs a detailed statements of utilization of the grants on various tribal development programmes within two months of the expiry of the concerned financial year. [Para:3.7.7 (ii)]
  - (iii) That the benefits of programmes/schemes for the development of the PTGs should also be made available on similar lines to the PTGs living outside the PTGs project areas. [Para:3.7.7 (iii)]
- (d) In view of the low level of literacy, extreme economic backwardness, pre-agricultural level of technology, stagnant & diminishing population, and primitive characteristics, Maleru community, already recognized as a Scheduled Tribe should also be included in the list of Primitive Tribal Groups (PTGs). [Para:3.8.2]
- 14(a) There is a need to advise the State Govts. for early distribution of the ceiling surplus land to the landless tribals and also for early restoration of the lands which are in litigation in the courts by setting up Fast Track courts at district level and Mobile courts upto Tehsil levels.[Para:3.9.5 (i)]
  - (b) The State Govts. should also be advised to ensure that:-
    - (i) suitable entries about allotment of ceiling surplus lands to the tribals are made in the land records and that the actual possession has been given to the tribal allottees.[Para:3.9.5 (ii)]
    - (ii) The pattas of the land are granted to the tribals who have been assigned lands by the Government or who have been cultivating the lands for years together say, for more than 10 years.[Para:3.9.6(i)]
    - (iii) A copy of Khasra Khatauni along with a map of the holdings should, on demand, be made available to every tribal family without charging any fee.[Para:3.9.6(ii)]

- (iv) The revenue records of the holdings i.e. the Khasra Khatauni and map etc. along with the details containing the names of the owners and number and area of holdings should be kept in the custody of Gram Panchayats to save the tribals from the exploitation by Patwaris by denying correct information to the tribals. **[Para:3.9.6(iii)]**
  - (v) Any entry in the Khasra Khatauni by way of mutation of land records should be made by the Patwaris with the approval of the Gram Panchayat, as is being done in the State of Madhya Pradesh. **[Para:3.9.6(iv)]**
  - (vi) The small holdings of the tribals should be brought at one place on a high priority basis to make them viable and economical for cultivation by making intensive application of various inputs. **[Para:3.9.7]**
- 15(i) The Ministry of Tribal Affairs may advise the State Govt. of Uttranchal to take necessary action at an early date restore the lands illegally transferred to the non-tribals in 77 villages of the Tehsil Khatima alone and other villages (Udhamsingh Nagar) to the tribals in exercise of the powers conferred by Section 211 of Uttar Pradesh Land Laws (Amendment) Act, 1982 (which was enacted to amend the Uttar Pradesh Jamindari Abolition and Land Reforms Act, 1950) which provides for suo-moto action by the Assistant Collector for forcible eviction for non-accrual of tenurial rights due to adverse possession of tribal land. **[Para:3.10.7]**
- (ii) The Ministry of Tribal Affairs may advise the State Govt. of Uttranchal to consider registering suo-moto cases against those non-tribals who are in illegal possession of the tribal land (as referred to above), in terms of Section 3(1) (iv) and (v) of the SCs and the STs (Prevention of Atrocities) Act, 1989 and granting suitable compensation/relief to the tribals as per the scale as in the schedule referred to in Rule 12(4) of the SCs & STs (PAO) Rules, 1995. **[Para:3.10.8]**
16. Most of the anti-land alienation laws, have certain loopholes which help the unscrupulous and scheming non-tribals in getting the tribal land transferred to them against the spirit of these laws. All the State Govts. may be advised to undertake a thorough review of these laws with a view to plug the loopholes to ensure that the tribal lands are not transferred to the non-tribals without observing the procedure laid down in the anti-alienation Acts. **[Para:3.10.10 (i)]**
17. The State Govts. need to be advised to harmonize the provisions of the State laws in relation to alienation of tribal land with the provisions of the Section 4(m)(iii) of the PESA Act, 1996 under which Gram Sabhas are endowed with the power to prevent alienation of land in the Scheduled Areas and to take appropriate action to restore any unlawfully alienated land of a Scheduled Tribe. **[Para:3.10.10 (ii)]**
- 18(a). The State Govts. which have enacted anti-alienation laws in respect of transfer of tribal land may be advised to make suitable amendments in their laws/Acts on the line of the amendments carried out in the Himachal Pradesh (Transfer of Land Regulation) Act, 1968 in January, 2003 making it mandatory to obtain the previous written permission of the respective State Govt. for transferring of any tribal land to a non-tribal. **[Para:3.10.10 (iii)]**
- (b) Pending suitable amendments in the respective Acts (as stated above), the State Govts. should be further advised to issue suitable instructions to the District Collectors/Deputy Commissioners to ensure that the power of granting permission of transfer of a tribal land to non-tribal ( in case it has been vested in them) should in no

situation be delegated by them (i.e. District Collectors/Deputy Commissioners) to the lower functionaries of the district.[Para:3.10.10 (iii)]

- (c) There is also a need to advise the State Govts. to consider extending the special concessions given to members of Scheduled Tribes under PESA Act to the Scheduled Tribes residing outside the Scheduled Areas..[Para:3.10.10 (iv)]
  - (d) The State Govts. should be advised to prescribe a reasonable timeframe within which the land should be handed over to the ST land owner in cases where the court judgments are in favour of STs.[Para:3.10.10 (v)]
  - (e) There should be a bar against suits or applications against any order made by a Deputy Commissioner or a Collector in favour of tribals in respect of alienation of tribal land. The law made by the Govt. of Orissa provides for appeal only to one revenue court. There is a need for incorporation of similar provisions in other State laws if no such provisions already exist. [Para:3.10.10 (vi)]
  - (f) The State Govts. need to be advised to register suo-moto cases against those who are found guilty of alienating the tribal land in their names in an illegal/fraudulent manner in terms of Section 3 (1) (iv) & (v) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 and, thereafter to grant a suitable relief in cash to the tribals (whose land was alienated) in terms of Rule 12 (4) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Rules, 1995. [Para:3.10.10 (vii)]
- 21(a) The Ministry of Tribal Affairs is advised to take the under-mentioned steps to rejuvenate the TRIFED concerned with the collection of MFP from the tribals: [Para: 3.12.3(i-iii)]
- (i) TRIFED should purchase MFP through MFP Cooperative Societies and, under no circumstances, from the contractors/middlemen with a view to ensure fair and reasonable price to the tribals.
  - (ii) TRIFED should continue to focus its activities on direct procurement of MFP and AP (Agricultural Produce) from the tribals and their sale and the marketing development of the tribal products should be left to the other agencies which are working in this field.
  - (iii) Appropriate steps should be taken to enhance the efficiency of TRIFED by periodic review of its performance, physical as well as financial to strengthen it to perform the basic duties assigned to it.
- (b) The State Govts. where the Scheduled Tribes are sizeable in number may be advised to fix the minimum support price of all the MFP items to ensure that the tribals get fair price for those items and are saved from the exploitation by the middlemen. In case the TRIFED suffer losses in the procurement of MFP items on account of their fixed minimum support price, these losses should be compensated by the Central Govt. (Ministry of Tribal Affairs) in the larger interest of the tribals. [Para: 3.12.4]

- (c) The Fifth Schedule States may be advised to make legal provisions in their respective State Acts relating to Panchayats regarding conferring of ownership of MFP on the tribals in conformity with the provisions, both in letter and in spirit, of Panchayats (Extension to Scheduled Areas) Act, 1996. [Para: 3.12.6]
- (d) The tribals should be allowed to collect the minor forest produce from such forests also, which have been declared 'protected'. [Para:3.12.8(i)]
- (e) The tribals should also be allowed to collect the fuel wood (i.e. dry wood) from the protected forests/wild life sanctuaries, as has been allowed by the Govt. of Madhya Pradesh. [Para:3.12.8(ii)]
- 22(a) There is need to issue clear guidelines for giving preference to Scheduled Tribes in the grant of mining concessions in Scheduled Areas. [Para: 3.13.2]
- (b) The Deptt. of Mines should introduce a bill to give effect to the recommendations of the Bhuria Committee 1995 to the effect that in all industrial enterprises set up in the Scheduled Areas (other than small ventures), the community should be deemed to be the owner with 50% shares in its favour by virtue of its allowing the industry to use local resources and getting established. [Para: 3.13.3]
- (c) There is need to issue instructions to the State Govts.:-
- (i) To comply with the judgement of the Hon'ble Supreme Court dated 11.07.1997 in Samatha vs. State of Andhra Pradesh and Others (CA No. 4601-02/1996) not to transfer by way of mining lease etc. the government land in Scheduled Areas to a non-tribal and that all such mining leases should be given to the tribals only. [Para: 3.13.4(i)]
- (ii) The tribals should be given vocational training and financial assistance to enable them to be in a position to run the mining operations. [Para: 3.13.4(ii)]
- (iii) To make specific legal provisions in their Acts relating to mines and minerals making it mandatory for them to consult Gram Sabhas before grant of any lease about minor minerals. [Para: 3.13.4(iii)]
23. There is need to issue the guidelines to all the State Governments about safeguarding the rights of the tribal people over water and other resources in the Scheduled Areas. [Para:3.13.6]
24. The population coverage norms for setting up Sub-centres, Primary Health Centres and Community Health Centres may be relaxed in respect of the hilly/tribal areas as follows: [Para:3.14.5]

S.No.	Name of the Centre	Existing Population Norms		Relaxed Norms for Plain Tribal Areas	Relaxed Norms for Hilly Tribal Areas
		Hilly Areas	Plain Areas		
1.	Sub-centre/Multipurpose workers	3,000	5,000	3,000	1,000

2.	Primary Health Centre	20,000	30,000	20,000	10,000
3.	Community Health Centre	80,000	1,20 000	80,000	25,000

25. The State Govts. may be advised to take the following steps to ensure availability of proper medical facilities in tribal areas:-
- (i) A Health Guide should be made available for each village with a view to educate the tribals to avail of the modern system of medicine for treatment of such diseases for which their traditional system based on herbal medicines is not sufficient. **[Para:3.14.8(i)]**
  - (ii) Each village should have at least one trained birth attendant (i.e. dai) equipped with a delivery kit, aseptic liquid and scissors for cutting cords. She should be paid a fixed remuneration say Rs.250 per delivery attended by her plus Rs.100 towards the cost of the consumable materials used during the delivery. **[Para:3.14.8(ii)]**
  - (iii) There is a need to devise a very credible and effective system of giving incentives to the doctors and the paramedical staff in the form of good accommodation, facilities for their children's education, out of turn promotions etc. to overcome their reluctance to work in the tribal areas. **[Para:3.14.8(iii)]**
  - (iv) Awareness programmes about the benefits of family planning and information about various communicable diseases and genetic disorders should be launched through documentaries, advertisements, posters and lectures at regular intervals. **[Para:3.14.8(iv)]**
  - (v) All the sub-centres should be located in Government buildings with residential accommodation for female/male health workers. These buildings should also have laboratory facilities for urine, albumin and sugar tests. **[Para:3.14.8(v)]**
  - (vi) Local ST girls and boys should be trained and given priority in appointment as multi-purpose male/female health workers. **[Para:3.14.8(vi)]**
  - (vii) All CHCs should have operational theatres well equipped with requisite facilities. **[Para:3.14.8(vii)]**
  - (viii) Arrangements should also be made to provide one ambulance vehicle in each CHC. **[Para:3.14.8(viii)]**
  - (ix) The Primary Health Centre and the Community Health Centres should be delegated financial powers to purchase essential medicines in emergency cases. **[Para:3.14.8(ix)]**
  - (x) On account of superstitious beliefs, ignorance and illiteracy, the tribals do not make use of the campaigns launched by the Government from time to time for polio vaccination of the infants as also of chicken-pox inoculations. There is, therefore, an urgent need to educate the tribals about the vital utilities of the programmes through block and district authorities with the help of the tribal leaders. **[Para:3.14.8(x)]**

- (xi) To set up more Medical Colleges and Hospitals in tribal areas in which at least 50% of the seats should be filled from amongst candidates belonging to STs only, [Para:3.14.8(xi)]
  - (xii) To make it mandatory for each doctor in tribal areas (on completion of the course), to serve initially for a minimum period of three years in the tribal areas of the country. [Para:3.14.8(xii)]
  - (xiii) To provide concessions/ weightage/ incentives in the matter of promotion to such doctors and para-medical staff who have served in tribal areas for a minimum period of three years. These doctors should also be given monetary incentives. [Para:3.14.8(xiii)]
26. The Ministry of Rural Development is advised to enhance the amount of construction assistance per dwelling unit under Indira Awas Yojana from Rs.25,000/- to Rs.50,000/- per unit for plain areas and from Rs.30,000/- to Rs.75,000/- for hilly/difficult areas to offset the effect of escalation in the cost of construction materials during the last two years.[Para:3.15.12]
27. The Ministry of Rural Development is advised:-
- (i) To prepare a detailed data State-wise about the tribal habitations which have not been so far provided with road connectivity and launch a time-bound programme for providing road connectivity in all the tribal areas by the end of the Tenth Plan period i.e. 2007 through intensive involvement of Town Area Committees, Panchayats, Municipalities, NGOs etc.[Para:3.16.7 (i)]
  - (ii) To ensure that all approach roads to the tribal areas are converted into metalled roads and the interior Kutcha roads into CC roads and connected with the metalled approach roads by the end of the Tenth Five Year Plan i.e. 2007 to facilitate easy approach in these areas even during the rainy seasons. [Para:3.16.7(ii)]
28. There is a need to devise effective ways and means to prevent black marketing of the PDS items of food grains to ensure adequate supply to the poor families. It would be appropriate if Panchayati Raj Institutions are involved in the supervision of fare price shops and also in identification of persons below the poverty line for entitlement of subsidized grains.[Para:3.17.8]
- 29(a) The Hon'ble Prime Minister in his Independence Day Address on 15.8.2002 had announced three programmes viz. (i) installation of one lakh Hand Pumps, (ii) providing drinking water facilities to one lakh Primary schools and (iii) revival of one lakh traditional sources of water. The guidelines for implementation of the programmes had been prepared and circulated to all the States. The programmes were to be completed in two years i.e. 2003-2004 and 2004-2005. The Department of Drinking Water Supply is advised to ascertain the status of implementation of these programmes with specific reference to the areas covered by the tribal population. [Para:3.18.10]
- (b) The Department of Drinking Water Supply is advised to get a survey conducted through the State Govts. regarding the tribal habitations in respect of the Scheduled

Areas States and other States where tribal population is in large numbers, which have not yet been provided with drinking water and accordingly a chalk out a time-bound programme to provide safe drinking water in all these areas by the end of Tenth Plan period. [Para:3.18.11]

- (c) The Department of Drinking Water Supply may advise the State Govts. to make the following arrangements with respect to supplying safe drinking water to the tribal habitations by the end of 2007: [Para:3.18.12]
- (i) All the tribal population in the plain areas should be provided the facility of hand pumps.[Para:3.18.12 (i)]
- (ii) Where it is not possible to install hand pumps for any reason, arrangements for making safe drinking water supply to the tribals living in those areas should be made by providing drinking water wells.[Para:3.18.12 (ii)]
- (iii) Where it is not possible either to install hand pumps or dig wells, and where the natural sources of water like streams etc. are available, adequate steps should be taken to protect these water sources from pollution.[Para:3.18.12 (iii)]
- 30(a) The Commission has observed that the programme of constructing of sanitary latrines in the rural areas are not being implemented in a meaningful manner. The latrines which have been constructed are of very poor quality and in most cases are not usable as they are not equipped with the basic minimum facilities and as a result most of them have been abandoned. It is, therefore, necessary that a system of rigorous inspection of the work carried out by the NGOs or other bodies is evolved to ensure that the grants to them are released by the State Govts. on complete satisfaction about the availability of the basic minimum facilities in these latrines like water, doors, etc. at the time of releasing the grants to the NGOs or other bodies entrusted with the work.[Para:3.20.2]
- (b) The programme of constructing sanitary latrines in the rural areas should be given higher priority with focused attention on construction of sanitary latrines in the isolated tribal belts/pockets. There is also need for increased financial allocation to complete the programme in a time-bound manner by involving NGOs and local bodies. [Para:3.20.2]
31. The Ministry of Rural Development, the nodal Ministry for monitoring the implementation of the Rural Employment Guarantee Scheme (REGS) should advise the State Govts. to maintain separate data regarding the beneficiaries of the Scheme belonging to STs and that Ministry in its Annual Report on the status of implementation of the scheme, as required under the Act/scheme should also make a mention of the data of the ST beneficiaries (State-wise) along with other beneficiaries in the following format [Para:3.21.3.4] :

S.No.	Name of the State	No.of districts covered under the Scheme	Population of STs in these districts	Total no. of beneficiaries under the Scheme in the State	No. & %age of ST beneficiaries under the Scheme	Total no. of mandays put in by ST beneficiaries
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- 32(a) The Govt. of Madhya Pradesh is implementing a scheme for providing financial assistance @ Rs.1,000 in each case to the ST parents for conducting group marriages of their daughters in which at least five pairs should have agreed for marriages. The income limit of the ST parents is Rs.12,000 per annum. A similar scheme is being implemented by the State Govt. for marriages of the daughters of the parents belonging to SCs in which there is no restriction of group marriages and the amount of financial assistance per case is Rs.5,000. Ministry of Tribal Affairs should advise the State Govt. of Madhya Pradesh: [Para:3.22.3]
- (i) To have only one scheme which should provide for an equal amount of financial assistance both to the parents of SCs as well as STs. The existing quantum of financial assistance which is Rs.1,000 for ST parents and Rs.5,000 for SC parents should be increased to a minimum of Rs.10,000 both for SC and ST parents having regard to the existing cost of living. [Para:3.22.3 (i)]
  - (ii) To do away with the existing restriction of group marriages in the case of Scheduled Tribes and the financial assistance should be made available on case to case basis and not on the basis of group marriages as in the case of Scheduled Castes. [Para:3.22.3 (ii)]
  - (iii) To increase the income limit under the scheme from Rs.12,000 per annum to double the amount of the annual income under BPL family.[Para:3.22.3 (iii)]
- (b) The Ministry of Tribals Affairs should advise the States and UTs, (which do not have any such scheme) to introduce a scheme for providing financial assistance of at least Rs. 10, 000 in each individual case to the parents of ST brides, whose (i.e. parents') annual income is double the amount of the annual income under BPL family. The States/UTs which have already such schemes in position may be advised to modify the schemes to increase the amount of financial assistance to a minimum of Rs. 10, 000 in each case to the parents of ST brides (in case the existing amount is less than Rs. 10, 000) and also to increase the income limit to double the amount of annual income under BPL family (again in case the existing income limit is less than that). [3.22.4]
- 33(a) Shri Buduru Srinivasulu, Member, National Commission for Scheduled Tribes had a review meeting with the Girijan Cooperative Corporation in the State of Andhra Pradesh at Vishakhapatnam on 12 August, 2005. The Hon'ble Member was given to understand that in order to ensure food security to tribals, the Girijan Cooperative Corporation (GCC) had submitted a proposal to the Ministry of Tribal Affairs, Govt. of India for fixing a minimum Support Price for Minor Forest Produce to the tribals on par with agricultural farmers with a view to enable the Corporation to pay better prices to tribals even during adverse market conditions. The Commission feels that there is merit in the proposal and it deserves to be considered favourably to protect the interest of Scheduled Tribes in adverse market conditions . The Ministry of Tribal Affairs may expedite their decision in this regard with respect to GCC in particular as well as other STDCCs in general.[Para:3.23.4 (i)]
- (b) Minor Forest Produce is the only source of income to many tribals and they depend on this activity for their sustenance. However, procurement of MFP is not a continuous activity since the period from July to October is a lean period during which only meagre MFP can be harvested. It is suggested that one of the thrust areas

to get some employment for the tribals in the lean period could be value addition to MFP by establishing insitu Processing Centres for conversion of MFP into process products in all the divisional areas wherever MFP for conversion is freely available. The Ministry of Tribal Affairs may advise the concerned State Govts. to consider feasibility of this proposal. [Para:3.23.4(ii)]

- (c) DR supply points may be set up at more number of places, at least, within a radius of 5 to 6 kms. from the important tribal habitats. The Commission has observed that the DR depots are not adequately equipped. Some of the depot buildings are in thatched sheds without electrification. There is need to strengthen these depots in phased manner by taking up construction of pucca buildings. The State Govts. need to be suitably advised to take necessary action in this regard.[Para:3.23.4(iii)]
- 34(a) The Ministry of Tribal Affairs should advise the State Govts. to ensure that the State Channelizing Agencies (SCAs) under their control should examine the loan proposals to ensure the genuineness and viability of the schemes within reasonable period of time and forward the same to the National Scheduled Tribes Finance Development Corporation (NSTFDC) for timely release of the loan. SCAs should also devise ways and means to find out whether the loans sanctioned and released have been utilized by the beneficiaries for the purpose for which loan was sanctioned. [Para:3.25.7]
- (b) The NSTFDC should devise suitable ways and means to give adequate publicity in the tribal States about the schemes being implemented by them and also about the procedure to enable them to avail of the benefits under these schemes. [Para:3.25.9 (i)]
- (c) The NSTFDC should also examine the possibilities of allowing the tribals to obtain the loans directly from the Banks at the rate of interest being charged by NSTFDC and providing interest subsidy to the concerned Banks to meet the gap in the rates of interest between NSTFDC and the Bank. In case the NSTFDC do not have funds to provide the said interest subsidy, the Ministry of Tribal Affairs should provide necessary funds to the NSTFDC. [Para:3.25.9(ii)]
- (d) The income eligibility criteria for availing of the loans under various schemes with respect to the family of the beneficiary should be raised to Rs. 1.5 lakh per annum for urban areas against the existing income limit of Rs. 54,500/- and to Rs. 1.00 lakh per annum for rural areas against the existing income ceiling of Rs. 39,500/-. [ Para:3.25.10]
35. NSTFDC as well as concerned SCA should carefully verify the genuineness of the tribal status of the loanees before sanctioning and releasing the loans to ensure that the benefits of the scheme reaches the real STs only and that the actual user of the scheme is a tribal only.[Para:3.25.11]
36. The Ministry of Tribal Affairs should evolve a monitoring mechanism to ensure proper utilization of the money given to the various State Tribal Development Cooperative Corporations for economic advancement of Scheduled Tribes. [Para:3.26.8]
37. The Ministry of Tribal Affairs should initiate action at an early date to draft a suitable bill for introduction in Parliament for making an enabling provision in the

Delimitation Act, 2002 for taking into account for the purpose of delimitation of the constituencies with respect to Lok Sabha, State Assemblies and Panchayats such tribal communities which were recognized as Scheduled Tribes after 2001 Census and such other tribes which might be recognized in future subsequent to the submission of Census report(s) by the Registrar General and Census Commissioner of India. [Para:3.27.2]

#### **Chaper-4 Resettlement and Rehabilitation of Displaced Tribals**

- 19(a) There is a need to formulate a suitable central legislation on resettlement and rehabilitation of the persons likely to be displaced due to acquisition of their lands for various development projects, either separately or as a part of the Land Acquisition Act, 1894 and to advise the State Govts. to enact similar legislations to ensure adoption of a uniform resettlement and rehabilitation packages by all of them. [Para: 4.1.2]
- (b) Pending enactment of the central legislation and similar legislations by the State Govts., there is need to advise the State Govts. to the effect that the resettlement and the rehabilitation packages should, inter alia, provide that [Para:4.1.3]:
- (i) The displaced persons are given land for land, which is of the similar quality and of equal legal status as that of the land previously occupied by them with a view to enable them to take care of their present needs and future development, and in case the affected persons express desire for compensation in cash or kind, they should be so compensated under appropriate guarantees.
- (ii) To ensure stable livelihood to all members of displaced tribal families, each adult person of that family should be allotted 5 acres of irrigated land in the new place of settlement, while also ensuring that all allottees from one family are given land at one place.
- (c) The State Govts. should also be advised to ensure that:
- (i) The resettlement and rehabilitation of the tribals likely to be displaced from their lands should be finalized to their satisfaction before the process of acquisition of their lands is initiated. [Para: 4.1.4 (i)]
- (ii) The rate of compensation for the land to acquire should be determined on the basis of the market value of the land prevailing at the time of acquisition and not on the basis of transaction rates of the old registries of the lands in the area, which may have occurred several years ago. Another component which should go into the determination of rates of compensation is the fact that the agricultural land was being acquired for setting up industrial projects and therefore, the cost of the land will be much more and therefore, this increased value of the land should also be taken into account to determine the rates of compensation. [Para: 4.1.4(ii)]
- (iii) While acquiring the tribal lands for industrial purposes, steps should be taken to ensure that the likely displacement of the tribal families is minimal and where such displacement is unavoidable, the State Governments should also ensure while framing the resettlement and rehabilitation policies that the displaced tribal families are

resettled in tribal belts where other tribal communities are residing with view to protect their cultural heritage. [Para: 4.1.4(iii)]

- (iv) To issue suitable instructions to the effect that the owners of the industries shall give preference to the members of the affected tribal families (i.e. whose lands were acquired) for running tea shops, snack bars, giving licenses for operating canteens in the premises of the industrial plants etc. [Para: 4.1.4(iv)]
  - (v) To make it mandatory for the upcoming industries in newly acquired areas to ensure that, over and above the compensation and the allotment of replacement land, at least one person of each displaced tribal family is given a suitable job in the industrial/mining etc. project within a reasonable period of time.[Para: 4.1.4(v)]
  - (vi) In case the displaced tribal family had land in more than one village before acquisition, suitable job should be given to one person each against acquisition of their land in each village. [Para: 4.1.4(vi)]
  - (d) The State Govts. may also be advised to ensure that the tribal families which have been assigned lands by the Government and which is being cultivated by them for the past many years say, for 10 years or more and for which those tribal families have not been granted pattas should also be treated on par with the holders of pattas or those who are having ancestral landed properties for the purposes of payment of compensation for their lands proposed to be acquired for development purposes. [Para: 4.1.5]
- 20(a). The Ministry of Water Resources have informed that out of a total of 51,447 Project Affected Families in respect of the three States (i.e. Madhya Pradesh, Gujarat and Maharashtra) 33,153 families have already been resettled and 18,294 families are yet to be settled (As on 31.1.2006). The Commission cannot but concern over the slow process of resettlement of the Project Affected Families having regard to the fact that 75% of the Project Affected Families are Scheduled Tribes. The Commission, therefore, notes with grave concern that 18,294 Project Affected Families are yet to be resettled. It is, therefore, necessary that the entire matter relating to the resettlement and rehabilitation of the tribals displaced by Sardar Sarovar Project in respect of the State of Madhya Pradesh is placed before the Tribal Advisory Council and the Commission apprised of the Council's views as also the action taken thereon.[Paras:4.3.6 & 4.3.8]
- (b) The State Govts. of Gujarat, Madhya Pradesh and Maharashtra may be advised:
    - (i) To take urgent action on the early resettlement of the balance of 18,294 (as informed by the Ministry of Water Resources) Project Affected Families of the Sardar Sarovar (Narmada) Project. They may be also advised to prepare a time bound programme for their resettlement and rehabilitation. [Para: 4.3.9]
    - (ii) To identify the number of tribal families out of the balance families of 18,294 (i.e.the Project Affected Families of Sardar Sarovar Project) which are yet to be resettled and rehabilitated and also about the action taken by the respective State Govts. for their (i.e. tribals) early settlement in realization of the hard fact that the Scheduled Tribes belong to the most vulnerable section of the society and any further delay to resettle

the displaced/ affected tribal families will aggravate their livelihood problems.  
[Para: 4.3.9]

## **Chapter-5: Educational Development of Scheduled Tribes**

- 1(a) The State Govts. may be advised to launch awareness programmes in the tribal areas, through NGOs and social activists, to inform the tribal parents about the importance of education and the benefits which flows out of it to induce them to send their children to schools.[Para:5.2.3(ii)]
- (b) Most of primary schools in tribal areas are run by a single teacher. In case he/ she takes leave due to illness or for any other domestic reason, there is no teacher left in the school with the result the education of the children suffers. There is therefore, an urgent need to post one more teacher in all the single teacher schools in tribal areas. [Para: 5.2.3 (iii)]
- (c) It has been observed that the major part of the funds relating to educational development of Scheduled Tribes, as also other areas are not released or utilized to the implementing agencies by the State Govts. There is also a tendency on the part of the State Govts. to divert the funds to other areas. It is, therefore, necessary that the State Govts. are advised to ensure the release of funds to the implementing agencies for activities identified for socio-economic development of Scheduled Tribes including the imparting of education to tribal children and also to avoid diversion of funds meant for education to other areas. [Para: 5.2.4(i)]
- (d) The State Govts. may be advised:
  - (i) to open more and more primary schools in tribal areas with a view to arrest the dropout among ST children and also to open more girls hostels in low female literacy pockets. [Para: 5.2.4 (ii)]
  - (ii) To open atleast one school of excellence such as Kendriya Vidyalaya or Navodya Vidyalaya or Eklavya Model Residential School etc. in each block of a district.[Para:5.2.4(iii)]
  - (iii) To appoint teachers in schools in tribal areas from the tribal communities itself having knowledge of local dialect or to create a separate cadre of teachers for tribal areas with some incentives. As there is already shortage of teachers in the schools in tribal areas, the teachers in these schools should be exempted not only from the enumeration duties at the time of Census operations but also from other survey duties.[Para:5.2.4(iv)]
- (e) To ensure that the residential schools and hostels for ST students are properly maintained and the basic minimum facilities like drinking water, sanitation, toilets and bathrooms are made available and also further to improve the quality of food as also its quantity being served to the children in the residential schools and hostels. [Para: 5.2.4(v)]
- (f) There is a need to provide attractive incentives to the parents of the girls for sending them to the schools, apart from the existing incentives which are being given to the

ST children in the form of free textbooks, uniforms, stationery, school bags, cooked food through mid-day-meal Scheme etc. [Para: 5.2.4(vi)]

2. Keeping in view the successful functioning of the Shiksha Karmi Project in Rajasthan, other educationally backward States where the education level among the ST is still poor may be advised to start similar Project for benefit of children belonging Scheduled Tribes. [Para: 5.5.3]
3. The Commissions has observed that the National Policy on Education 1986, as amended in 1992, inter alia, provides for opening of a primary school within 1 k.m. walking distance from the SC/ST habitations up to 200 population . No norms have been fixed for opening of middle and higher secondary schools. The Commission recommends that there should be at least one middle school in tribal areas within a radius of three kilometers and at least one higher secondary school within a radius of five kilometers in tribal areas. [Para: 5.7.6]
4. The objective of SSA is to make all the children educated throughout the country. However, the existing two tier system of education in the country through CBSE and through State Boards of Education is not aimed at giving them uniform quality of education. Each State Board has its own syllabus, books, course contents educational infrastructure and standard of examination. Most of the ST students do not have access to schools affiliated to CBSE. Students pursuing CBSE pattern are in advantage for taking admissions in institutes of higher studies and for joining organized services. Therefore, the Commission is of the view that educational pattern and pattern of examination should be same throughout the country so that ST students who generally join Govt. schools in the local areas are not put to disadvantage and are able to compete for admissions in institutes for higher studies. [Para: 5.7.7]
5. The Ministry of Human Resource Development should advise the Govt. NCT of Delhi and Delhi University to modify their existing policy/ instructions to provide for: [Para: 5.9.2]
  - (i) To fill up the vacant seats in B Pharma/ D Pharma courses or other course reserved for ST candidates for the Delhi region from amongst the ST candidates belonging to non-Delhi region in the event of sufficient number of ST candidates in Delhi region being not available. [Para: 5.9.2(i)]
  - (ii) The existing arrangement of filling the vacant seat reserved for ST candidates from SC candidates from Delhi region should be stopped forthwith. [Para: 5.9.2(ii)]
- 6(a) The conditions of the ST hostels in various States have not been found to be satisfactory. It has been noticed that even the basic facilities like drinking water, sanitation, light, cooking gas etc. are not available in adequate quantities. It is, therefore, necessary that the Ministry of Tribal Affairs should advise the State Govts. to take up corrective steps to provide the basic facilities in the ST hostels to ensure retention of students at the Middle and Higher Secondary levels of school education. [Para: 5.10.4 (i)]
- (b) It has been observed that a considerable number of hostels are functioning in the rented buildings, which do not have basic facilities. The Commission has also noticed

during the field visits in tribal areas that the seat capacity of hostels for ST girls as also of boys is much less than the demand. The Commission, therefore, is of the opinion that the Ministry of Tribal Affairs should advise the State Govts. to frame a time-bound programme to construct more hostel buildings with all the requisite facilities of light, water, electricity, kitchen, library etc. under the Centrally Sponsored Scheme for Construction of Hostels for ST Girls and Boys to attract students belonging to ST communities and to ensure their retention in the schools. [Para: 5.10.4 (ii)]

- (c) There is need to make the learning a joyous experience and in order to do this, it is essential to take help of the Distance Education System through visual media i.e. T.V. films etc. specially in the schools in rural far flung tribal areas. [Para: 5.10.4 (iii)]
- (d) The basic reason behind the drop out of ST students can be attributed to the poor economic condition of the family and this situation compels the tribals to utilize their children as an economic unit to bring some income to the family. It is also necessary that some economic incentives are given to such parents of the children whose income is below the poverty line with a view to wean them away from the compulsion of using their children as economic units instead of sending them to schools. [Para: 5.10.4 (iv)]
- (e) There is a need to launch awareness programme to inform the ST parents, particularly the mothers about the importance of education in making their children self-dependent and also in improving their economic condition. These programme can be undertaken in tribal areas through NGOs etc. [Para: 5.10.4 (v)]
- (f) The Ministry of Tribal Affairs should advise all the concerned State Govts./UT Administrations to fill up the vacancies of teachers by evolving schemes of giving various incentives such as descent accommodation, medical facilities etc. to teachers and also by ensuring that the posts of teachers in schools in tribal areas are filled, as far as possible, by appointing teachers from amongst local tribal candidates. [Para: 5.10.4 (vi)]
- (g) In most of the cases one of the reasons for dropouts is the repeated failure of tribal children in a class. This can be cured by identifying weak and below average tribal students and making arrangements for providing them extra coaching at no cost to them either on the holidays or at night. The Ministry of Tribal Affairs may be advised to write to concerned State Govts. to make the necessary arrangements in this regard by providing some cash incentives to the teachers. [Para: 5.10.4 (vii)]
- (h) One of the major constraints in the dissemination of education among STs is that their parents resort to seasonal migration to other places in search of livelihood during the period from April to middle of June and this is the period for the examination of the children. When the parents move out of their habitations to other places, they have to take their studying children along with them as they can't leave them back. This necessitates the dropout of the children. This seasonal migration problem is particularly prevalent of the States of Orissa, Madhya Pradesh, Rajasthan, Andhra Pradesh and Chhattisgarh which have sizeable number of ST population (all these States being the Scheduled Area States). The respective State Govts. may be advised to formulate suitable schemes for board and lodging of the studying children of those ST families who decide to temporarily migrate to other places in search of their livelihood and who agree to leave their children back to enable them to continue their

studies and complete their examinations. Alternatively, these State Govts. may be advised to make special arrangements for conducting special examinations of the ST children when they return to their original habitations from the places of their temporary migration. This will help the successful ST children to be promoted to the next higher classes. [Para: 5.10.4 (viii)]

- (i) The dropout among the tribal boys is particularly high at middle and secondary level of education. The enrolment and retention of ST girls upto secondary level is very essential for uplifting the economic status of tribal families, but due to poverty, parents are reluctant to send their children, particularly girls, to schools. The following measures are suggested to increase enrolment and retention of ST boys and girls in schools: [Para: 5.10.4 (ix)]
  - (a) Financial assistance should be provided right at the time of the admission itself towards admission fees, books, copies and stationery material, school dress and washing expenses/ material for the dress. For this purpose, State Govts. should make necessary arrangements much before the start of academic session.
  - (b) Pre-matric stipend should be disbursed regularly, keeping in view the daily requirement of the students- day scholars or hostellers, as the case may be, so that the children feel encouraged to attend school on regular basis.
  - (c) Additional incentives in the form of cash award should also be granted to each student having more than 75% attendance plus the work done in the school note books. Besides, those students who secure 60% or above marks in the examinations should also be given cash awards.
  - (d) Scheme of Mid -day meals should be extended up to matric level for at least ST girl students. This will provide huge relief to the family of the ST girl students and it will improve enrolment of ST girl students and also reduce their dropouts.
  - (e) Special coaching in English, Math, Physics, Chemistry, Biology, Commerce and Economics should also be imparted to students in XI and XII classes. This will help them in taking admission in the colleges of general as well as professional courses.
- 7(a) The income ceiling in respect of the parents of the students for the purpose of grant of the Post-Matric Scholarship may be raised from Rs.1 lakh to 2.5 lakh per annum and the amount of scholarship may be upgraded from Rs.235 to Rs.500 and from Rs.740 to Rs.1000 in respect of students residing in hostels and from Rs.140 to Rs.500 and from Rs.330 to Rs.750 in respect of day scholars. [Para:5.11.1.2(i)]
- (b) The tribal students who are day scholars but who reside in rented accommodation should be treated on par with hostellers and the amount of scholarship in their case also should be equal to that of hostellers. [Para:5.11.1.2(ii)]
- (c) The Commission has observed that the State Govts. have also schemes for providing scholarships to tribal students at pre-matric levels and that some of the State Govts. (such as the State Govt. of Uttranchal) have kept an income ceiling of Rs. 2,500/- per month in respect of the parents of the tribal children studying in Class IX and X. The Ministry of Tribal Affairs should, therefore, advise all the State Govts./ UT Administrations which are operating such schemes to abolish the income ceiling in

respect of the parents of all the tribal children studying in Classes from I to X. [Para:5.11.1.3]

- (d) The Commission has observed that most of the tribal parents are not aware of this Scheme and therefore, there is a need to give wide publicity about this Scheme in the tribal areas of the country to ensure that more and more ST students will come forward to pursue higher and technical courses. Ministry of Tribal Affairs may also advise all the States which have sizeable number of tribals that each Tribal Welfare Deptt. of these States should develop their own website to disseminate information about various schemes for tribal development including the Post-Matric Scholarship Scheme. These websites should also provide link with the website of the Ministry of Tribal Affairs. [Para: 5.11.1.7]
- (e) It has been brought to the notice of the Commission that the disbursement of Post-Matric Scholarship in most of the States is being delayed due to non release of funds both from the Govt. of India (i.e. over and above the committed liability of the State Govts.) and the State Govts. The Commission, therefore, recommends that the Ministry of Tribal Affairs should ensure the timely release of the funds to the State Govts. over and above States' committed liability. The Ministry should also issue instructions to the State Govts. that requisite funds to the district authorities up to the committed liability is released in time to ensure timely disbursement of these scholarships to the ST students. The State Govts. may be also advised to explore the possibilities of disbursing the scholarship money to the students through their Bank Accounts. [Para: 5.11.1.8]
8. On the lines of the Scheme for providing free coaching facilities to ST students to enable them to compete in various civil service examinations, the Ministry of Tribal Affairs should also consider providing financial assistance to ST students for providing pre-admission coaching in various disciplines relating to Management and Technical courses. On similar lines, the State Govts. may be advised to provide pre-admission coaching to tribal students for taking admission in various professional courses. [Para: 5.11.1.9]
9. The scheme of Book Banks in its present form permits giving one set of books for two students in all degree level professional courses and one set per student in case of Post- Graduate Courses in Medical, Engineering, Business Management, Law and Bio-Sciences and Chartered Accountancy. The former position inhibits carrying on of independent studies by the students. This handicap needs to be addressed to and removed. Each student in respect of Post-Graduate professional courses also should be provided one set of books as in the case of Degree Courses. [Para: 5.11.1.13]
- 10(a) In the Annual Reports of the Ministry of Tribal Affairs, no information is available about the total number of hostels for girls ever since the inception of this Scheme in the Third Plan period (which was later on merged with the Scheme for construction of hostels for ST boys). Similarly, no information is available about the total number of hostels constructed for ST boys since 1989-90 when the Scheme was started. The Ministry of Tribal Affairs is accordingly advised to furnish in their next Annual Reports State-wise information about the total number of hostels constructed under the Scheme separately for boys and girls alongwith sanctioned seat capacity of each hostel. The Commission further recommends that the norms for admission into the

hostels should be suitably relaxed in case all the seats are not utilized with reference to the normal eligibility requirements. [Para:5.11.1.19]

- (b) The Commission has observed during its field visits in tribal areas that the seats capacity of hostels particularly for ST girls is much less than the requirement and this is one of the major reasons for less enrolment and increased dropout of girl students, finally leading to low female literacy among STs. The Commission, therefore, recommends that there is an urgent need of construction of more hostels for ST girls. [Para: 5.11.1.20]
- 11(a) The Ministry of Tribal Affairs is advised to furnish information about the total number of Ashram schools (State-wise) in the next Annual Reports (2006-07 onwards) functioning in the 21 TSP States and 2 Union Territories. [Para: 5.11.1.24]
- (b) As on date, no information is available about the functioning of the Ashram schools, the facilities available in them and the quality of the teaching, mess facilities etc. The Ministry of Tribal Affairs should, therefore, get a suitable evaluation study conducted regarding the functioning of the Ashram schools in the 21 TSP States and 2 Union Territories through the Tribal Research Institutes.. [Para: 4.11.1.24]
12. The existing income ceiling of Rs. 44, 500/- per annum from all sources in respect of the candidates (if in employment) or their parents income is not realistic having regard to the increase in the cost of living over the last couple of years and, therefore, the Ministry of Tribal Affairs to raise this income ceiling at least to Rs.1.00 lakh per annum. [Para: 5.11.2.6]
- 13.(i) Only such NGOs which have considerable experience and good reputation should be given grants for running the pre-examination centres in the tribal areas for providing free coaching facilities to ST candidates to help them compete in various competitive examinations for recruitment to various posts held by UPSC, State Public Service Commissions, SSC etc.(wherever such Centres are being run by NGOs). [Para: 5.11.2.8 (i)]
- (ii) As far as possible, these NGOs (referred to above) which are given grants for running the pre-examination coaching centres should be located in the tribal areas. [Para: 5.11.2.8 (ii)]
- (iii) It has been brought to the notice of the Commission that an NGO is given grant under the scheme and with the help of the grant, the concerned NGO creates an infrastructure for running the pre-examination centres and the next year that NGO is not given grant. This results in the total wastage of the grants given in the previous year. It has also come to the notice of the Commission that such infrastructure/buildings are utilized by these NGOs for residential purposes. The Ministry of Tribal Affairs, therefore, should ensure that the selection of NGOs at the initial stage itself is made very carefully and judicially and once an NGO with established reputation is selected, further grants should not be stopped to that NGO unless non-satisfactory performance or any other complaint is received by the Ministry about that NGO. The Ministry of Tribal Affairs should also take steps to take over the infrastructure/building created by an NGO with the help of grants given by the Ministry in case the grant to that NGO is stopped by the Ministry in the subsequent year/years on account of bad performance or any other complaint. [Para: 5.11.2.8 (iii)]

14. Against an allocation of Rs. 30.25 crore in the Ninth Plan, Rs.18.45 crore were released by the Ministry of Tribal Affairs to the State Governments and NGOs implementing the scheme. Similarly, out of the allocation of Rs. 5.40 crore for the year 2005-06, an amount of Rs.2.47 crore was released to State Governments. The Commission fails to understand the reasons for release of only 40-50 percent of the actual allocations to the State Govts. This scenario, in the opinion of the Commission, might be due to lack of adequate awareness about this scheme among the ST population. The Ministry of Tribal Affairs should, therefore, advise the State Govts. and the NGOs to make intensive and wide publicity of this Scheme through mass media and other channels to inform the tribal people throughout the country about the benefits under the scheme so that the tribals living in the remote and isolated pockets could also avail of the benefits of the scheme. **[Para: 5.11.2.16]**
- 15(a) The Commission has observed that one of the major constraints in successful implementation of this Scheme is that the State Govts. often do not release the funds in time to the implementing agencies. The Ministry of Tribal Affairs should take up the matter with the respective State Govts. and impress upon them the need to release the funds to the implementing agencies in time to ensure that the various components of scheme do not suffer in any way on account of delay in release of funds. **[Para: 5.13.5]**
- (b) There is a genuine need to increase the number of Eklavaya Modal Residential Schools in States/UTs which have sizeable number of ST population and that the 32 Residential Schools under the Scheme (out of the total of 100 sanctioned for various States) which are not yet functional, should be made functional at an early date. **[Para: 5.13.6]**
- (c) There is a need to open more and more Govt. Schools of Excellence and Central Schools in tribal areas to ensure that all meritorious ST students are accommodated/ admitted in these schools. **[Para: 5.13.7]**
16. The scope of reservation should also be extended to such public schools and other schools, and institutions such as hospitals etc. which though not funded by the Government had received/continue to receive concessions from the Government in respect of acquisition of lands, buildings or other concessions respecting recognition/affiliation in regard to running of those institutions like electricity, water, provision of public transport etc. **[Para: 5.14.2(i)]**
17. There should be 8.2% (i.e. in proportion to the population of STs to the total population of the country as per 2001 Census) reservation for Scheduled Tribes in awarding fellowships and/or in granting scholarships in the schools, colleges, Universities, Educational and Technical Institutions etc. **[Para: 5.14.2(ii)]**
18. 8.2% of seats in the hostels attached to schools, colleges, educational and technical institutions should be reserved in favour of Scheduled Tribes. **[Para: 5.10.2(iii)]**

## Chapter-6: Service Safeguards

1. There should be upward revision of the reservation percentage in services and posts for Scheduled Tribes from the existing 7.5% to 8.2% having regard to the increase in the total population of the Scheduled Tribes to the total population of the country on the basis of 2001 Census (i.e. 8.2%) [Para 6.2.5]
2. The rule of reservation should be extended in promotion by selection within Group 'A' posts in terms of the Constitution (77<sup>th</sup> Amendment) Act, 1995 and the Constitution (85<sup>th</sup> Amendment) Act, 2001, which amended Article 16 (4) to provide inter alia for making reservation in matters of promotion, with consequential seniority, to any class or classes of posts in services under the State in favour of SCs and STs. [Para 6.2.9]
3. The matter regarding whether there should be reservation in promotion by selection within Group A in favour of Scheduled Castes and Scheduled Tribes on the basis of the amendments made in Article 16(4) of the Constitution by adding a new Article 16 (4A) is presently sub judice before the Constitution bench of the Hon'ble Supreme Court. The Government should engage an eminent jurist well- conversant with the subject matter to ensure that the case was effectively presented and argued well before the Constitution bench with a view to protect the interests of Scheduled Tribes as also of Scheduled Castes. [Para:6.3.2]
4. The unfilled vacancies reserved for Scheduled Tribes in cadres having 13 or less number of posts should be carried forward indefinitely as in the case of cadres having more than 13 posts with respect to which there is no lapsing of reserved points. [Para 6.5.1(x)]
5. As per the existing instructions, there is a ban on dereservation of reserved posts in direct recruitment. A similar ban should be imposed on dereservation of posts to be filled by promotion in view of the implementation of the post- based roster, with a view to protect the interests of candidates belonging to Scheduled Tribes in the matter of their promotions. [Para 6.6.2]
6. Where the existing Recruitment Rules provide for filling up of the vacant posts 100% by promotion, the Recruitment Rules should be suitably amended to provide for the element of direct recruitment to ensure that in case the eligible ST candidates are not available in the feeder grade for promotion to the next higher post, the ST reserved points can be temporarily diverted to DR quota and dereservation avoided. [ Para 6.6.3]
7. A separate representative belonging to Scheduled Tribes should be associated in all the Departmental Promotion Committees/Boards/Selection Committees to protect the interest of ST candidates. [Para 6.7.2]
8. The principle of positive discrimination i.e. the rule of reservation should be extended to private sector also to fulfill the constitutional obligations of bringing about social equality. [Para 6.8.2]
9. There should be a binding clause at the time of disinvestments of PSEs that the new management shall observe and continue the reservation policy for appointment to

various posts. The Govt. should also consider enacting a legislation to that effect. **[Para 6.8.3]**

10. The scientific and technical posts including those intended for conducting research, or for organizing, guiding and directing research were brought for the first time within the scheme of reservation for SCs and STs up to the lowest rung of Group 'A' vide DP&AR's O.M. dated 23 June 1975. The Commission recommends that the scheme of reservation for SCs and STs in scientific and technical posts should also be extended beyond the lowest rung of Group 'A' posts/ services (i.e. within Group 'A'). **[Para 6.9.6]**
11. A separate zone of consideration for eligible ST and SC officers in the feeder grade should be drawn up in replacement of the existing system of drawal of a single zone of consideration for general as well as ST/ SC officers for the purpose of their promotion by selection from Group 'C' to Group 'B', within Grpoup 'B' and from Group 'B' to the lowest rung of Group 'A', in compliance of the directions of the Hon'ble Supreme Court which has inter-alia held that clubbing the STs/SCs with general category in the same zone of consideration would defeat the very purpose of reservation. **[Para 6.13.3]**
12. The percentage of reservation for recruitment of Group 'C' and 'D' posts in the Central Govt. offices where recruitment is made on local/ regional basis should be increased from the existing 0% to 12% in the State of Goa having regard to marked increase in the ST population after 2001 Census on account of inclusion of certain communities in the list of Scheduled Tribes of the State in the year 2002. **[Para 6.14.5]**
13. The Ministry of Home Affairs should issue instructions to all the Union Territories to the effect that the candidates belonging to Scheduled Castes and Scheduled Tribes irrespective of their State of origin will be eligible to apply for and being considered for appointment in civil posts/ services in those Union Territories or in offices/ organizations under their administrative control, in compliance with the directions of the Hon'ble Supreme Court in its judgment dated 11.02.2005. **[Para 6.14.7]**
14. The Department of Personnel & Training may consider (i) removing the ceiling of 5% of direct recruitment quota for the purpose of compassionate appointments in respect of candidates belonging to Scheduled Tribes. **[Para: 6.17.2]**
15. Consequent upon the decision of the Govt. of NCT of Delhi to provide reservation to candidates belonging to Scheduled Tribes irrespective of their nativity communicated to Chairman, DSSSB and all Heads of Departments vide their letter dated 30 June, 2005, the Govt. of NCT of Delhi should launch a special time-bound recruitment drive to fill up the backlog vacancies reserved for STs both in direct recruitment and in promotion. The Commission vide its letter dated 14 July 2005 has already requested the Chief Secretary, Govt. of NCT of Delhi to send an action taken report for filling up of back log vacancies reserved for STs. **[Para 6.18.14]**
16. The SCs, STs and OBCs (Reservation in Posts and Services) Bill, 2004 should be included in the Ninth Schedule of the Constitution after it is passed by the Parliament and becomes an Act. **[Para:6.19.2 (i)]**

17. Judiciary, Lok Sabha/Rajya Sabha Secretariat and Armed Forces should also be brought within the purview of reservation for Scheduled Castes and Scheduled Tribes as per recommendations of the erstwhile National Commission for Scheduled Castes and Scheduled Tribes as contained in para 4.75 and 4.77 of its Seventh Annual Report for the year 2001-02. [Para:6.19.2 (ii)]
18. There should be reservation in appointments for work-charged posts as well as for appointments for a period of less than 45 days duration.[Para 6.19.2 (iii)]
19. The scope of reservation for SC/ST candidates should be extended above the lowest rung of Group 'A' in respect of scientific and technical posts which are required for conducting research or for organizing, guiding and directing research. [As per the existing instructions, the reservation for SC/ST candidates in such posts is available only upto the lowest rung of Group 'A' posts.] [Para 6.19.2 (iv)]
20. The minimum experience required for promotion to a post may be relaxed in the case of members of Scheduled Tribes if at any stage of their consideration for such promotion, sufficient number of candidates belonging to these communities possessing the requisite experience is not available to fill the reserved posts. [Para 6.19.2 (v)]
21. Section 13(3) of the proposed bill provides that where any case of negligence or lapse in relation to providing reservation for members of SC/ST/OBC comes to the notice of the Liaison Officer during the course of the inspection carried out by him, or otherwise, he will submit his report to the concerned Secretary to the Govt. or to the Head of the Department, as the case may be, and that Secretary or Head of the Department, will issue appropriate orders in the matter to the concerned appointing authority. In its comments, the Commission suggested the following addition to be made at the end of this Section:- [Para 6.19.2 (vi)]
 

“The Secretary or the Head of the Department will send a copy of the action taken report to the nodal department dealing with the reservation matters i.e. Department of Personnel & Training and the National Commission for Scheduled Castes or National Commission for Scheduled Tribes, as the case may be.”
- 22(i) The percentage of reservation for STs in case of direct recruitment to Group 'C' and Group 'D' posts normally attracting candidates from a locality or a region should be fixed taking into consideration the population of the communities/ tribes recognized as STs vide Constitution (Scheduled Castes and Scheduled Tribes) order (Amendment) Act 2002 and other similar amendments issued after conclusion of Census 2001 with a view to ensure that the persons belonging to these communities are not deprived of their constitutional rights. [Para 6.20.1(i)]
- (ii) The Commission has observed that one third of the cadre strength of all India services i.e. IAS, IPS and IFS are filled by nomination from amongst the State Civil Services officers. There should be reservation in such induction/ nomination for the candidates belonging to Scheduled Tribes. [Para 6.20.1(ii)]

- (iii) The ST officers who are senior enough in their respective organizations should also be given opportunity for being nominated as Liaison Officers and also to work in the SC/ST Cell. [Para 6.20.1(iii)]
- 23.(a) The Department of Personnel & Training should impress upon all the Central Ministries/Departments particularly those which are the cadre controlling authorities with respect to various posts/services to make special efforts to increase the representation of Scheduled Tribes in all the Groups of services, particularly in Group A and B by filling up backlog of vacancies reserved for them. [Para: 6.21.1.2]
- (b) The representation of Scheduled Tribes in Group A and B posts is far below the prescribed percentage of 7.5 in the Central Public Sector Enterprises. The Department of Public Enterprises should impress upon all the administrative Ministries/Departments which exercise control over these Enterprises to make concerted efforts to achieve the prescribed level of representation of Scheduled Tribes in these Groups.[Para:6.21.2.2]
- 24(i) The representation of Scheduled Tribes in all the three cadres i.e. officers, clerical and sub-staff is very poor in most of the public sector Banks. This situation has arisen mainly because the Chief Executives of these Banks who are the cadre controlling authorities as well as appointing authorities in respect of all posts, have failed to discharge their constitutional obligations in implementing the reservation policy of the Govt. of India in respect of Scheduled Tribes. This grave situation calls for taking stringent action against the Chief Executives of these Banks for their failure in proper implementation of the reservation policy. Apart from this, the Banking Division of the Department of Economic Affairs (Ministry of Finance) should also issue instructions to the defaulter Banks to fill up the backlog/shortfall of ST vacancies in a time-bound manner. [Para:6.21.3.5]
- (ii) In case the response from ST candidates to the press advertisement released by the Banks inviting application from ST candidates to fill up the backlog is not good, the Banking Division should advise the Banks to depute recruiting teams in the areas where there is high concentration of ST population in the country to locate eligible candidates for various posts.[Para:6.21.3.5]
- 25(i) The Ministry of Human Resource Development should either consider stopping the annual grants to the Aligarh Muslim University in toto or effecting a suitable cut in the quantum of the grant, as considered appropriate by them until such time this University agrees to implement the reservation policy of the Govt. of India in respect of Scheduled Tribes in appointment of Lecturers and initiate necessary action in this regard by appointing Lecturers belonging to Scheduled Tribes within a reasonable period of time. [Para:6.21.4.5(i)]
- (ii) The Ministry of Human Resource Development should issue instructions to all the Central Universities to follow the reservation in appointment to the posts of Readers and Professors, which are filled up by direct recruitment in compliance with the reservation policy of the Govt. of India. [Para:6.21.4.5 (ii)]

- (iii) The representation of Scheduled Tribes in most of the Central Universities in the Grade of Lecturers is very low. The Ministry of HRD (Department of Secondary and Higher Education) and the University Grants Commission should advise the Central Ministries to identify the backlog vacancies of Lecturers and to chalk out a time-bound programme to fill them up within a specified period of two years.[Para:6.21.4.5(iii)]
  - (iv) In case the defaulter Central Universities fail to fill up the backlog vacancies reserved for Scheduled Tribes within two years period, the Ministry of HRD/ UGC while releasing the instalments of grants should put a condition that unless they make up the shortfall of posts reserved for STs, the next instalments shall not be released. [Para 6.21.4.5 (iii)]
  - (v) The representation of Scheduled Tribes in non-teaching category posts is negligible in all the Central Universities barring a few. The Ministry of HRD should advise all defaulter Central Universities to identify the backlog of the vacancies reserved for Scheduled Tribes in non-teaching category posts and to chalk out a time-bound programme to fill up these vacancies within a specified period of one year.[Para:5.21.4.8]
  - (vi) In case the defaulter Universities fail to fill up the backlog vacancies reserved for STs within that period of one year, the Ministry of HRD/UGC while releasing the instalments of the grants should put a condition that unless they make up the shortfall of ST vacancies, the next instalment of the grant shall not be released. [Para:6.21.4.8]
26. The Ministry of Tribal Affairs should advise the 15 States/Union Territories (other than Madhya Pradesh) having Primitive Tribal Groups (PTGs) to make provisions for recruitment of candidates belonging to PTGs in Group C and D posts etc. without subjecting them to go through the recruitment process provided they possess the minimum qualification for these posts on the lines of a similar scheme introduced by the Govt. of Madhya Pradesh. [Para:6.22]

## **Chapter: 7 Issuance and Verification of Scheduled Tribe Certificates**

- 1(a) The existing format prescribed for issue of the community certificates should be amended to list all the Orders/Acts relating to recognition of castes/tribes as STs on the back of the format to enable the issuing authorities to write the name of the relevant Orders/Act in the certificate. A copy of the amended format, which also contains certain other changes to make it more clear and intelligible is placed at Annex.6.1.[Para:7.1.2]
  - (b) There is a need to reintroduce the second caste/tribe certificate format, which was prescribed by DoPT in the year 1982 for those SCs/STs who had migrated from original State to another State to enable them to obtain a certificate from the State of migration on the basis of caste/tribe certificate issued to their father/mother. A copy of this format, with requisite modifications, is placed at Annex.7.II. [Para:7.1.3]
2. The administrative Ministries/Departments should be advised that at the time of promotion of ST candidates they should themselves verify the community status of the ST candidates proposed to be promoted, from the records available with them and in case the upto-date records are not available with them, they should approach the

Ministry of Tribal Affairs to ascertain whether the community of the said ST candidates continues to figure in the list of Scheduled Tribes at the time of promotion or not. [Para:7.2.2(a)]

3. The Ministry of Tribal Affairs, which is the nodal Ministry for the purpose of scheduling or descheduling of any community as Scheduled Tribe, should invariably make available a copy of the notification, which is issued under Article 342 to all the Central Ministries/Departments etc. for their information, record and use at appropriate time. [Para:7.2.2 (b)]
4. The State Govts. should issue instructions to the district level authorities (competent to issue certificates) to the effect that the community certificates should be issued to the applicants within a maximum period of 30 days from the date of receipt of the applications. [Para:7.2.3]
5. In pursuance of Govt. instructions and Supreme Court's directions some States have set up Scrutiny Committees at district and State levels for verification of the community status of certificate holders belonging to SC/ST. Such Committees have been set up in Andhra Pradesh, Karnataka, Kerala, M.P., Maharashtra, Tamil Nadu, Uttar Pradesh and UT of Chandigarh. The Ministry of Tribal Affairs/DoPT may advise the remaining States/UTs to put in place similar mechanisms for the purpose of verification of community status of such employees who claim to belong to Scheduled Castes/ Scheduled Tribes. [Para:7.3.2]
6. The Department of Personnel & Training may advise all the State Govts./UT Administrations to stop forthwith the practice of issuing temporary caste/tribe certificates valid for a period of six months and that community certificates should be issued after full verification of the community status of the applicant, within a period of 30 days (as stated above).[Para:7.6.1]
7. The certificate issuing authorities need to be advised that the sons and daughters of persons already having caste/tribe certificates duly issued by a competent authority are issued community certificates without fresh inquiry in a separate format placed at Annex.7.II.[Para:7.6.2]
8. The Ministry of Tribal Affairs and Ministry of Personnel & Training should direct all the State Govts to review the instructions for issue of caste/tribe certificates, issued by them to the district or taluka level authorities and advise them to use standard format for issuing the community certificates as prescribed by GOL.[Para:7.6.3 (i)]
9. The requests for issue of caste/tribe certificates should be entered in a register specifically maintained for the purpose at taluka/district level and that the certificate issuing authorities should ensure that the certificates issued by them contain the serial number or the registration number in the register recording requests for issue of caste/tribe certificate, Certificate Book No. & the Certificate No. on the face of the certificates which should bear the clear seal and stamp of the issuing authority.[Para:7.6.3 (ii)]
10. The Department of Personnel & Training should advise all the State Govts./UT Administrations to issue instructions to the district/taluk level authorities to ensure that the certificates are issued bilingually i.e. in regional language as well as in

English or Hindi language with a view to avoid harassment to the certificate holders as also to check their misuse. [Para: 7.6.4]

11. The amendments to original Presidential Orders issued under Article 342(1) of the Constitution should invariably include a clause clarifying that the place of ordinary residence in respect of persons belonging to the communities included in the Schedule for the first time or in cases where area restriction has been removed, the place of ordinary residence shall be determined with reference to the date of notification of the amendment to the original Order/Act. [Para:7.6.5]
12. All the original orders along with the amendments made therein regarding inclusion in or exclusion from the list of Scheduled Tribes should be made available on the website of the Ministry of Tribal Affairs. A State/UT-wise up to date list of Scheduled Tribes should also be put on the website of the Ministry of Tribal Affairs. [Para:7.6.6]
13. The existing procedure of post appointment verification of the genuineness of the community certificates should be replaced by a mechanism for pre-appointment verification with a view to effectively curb the increasing practice of getting appointments on the basis of false community certificates. The period during which the character and antecedents of the recommended candidates are got verified from police authorities should also be utilized for verification of the genuineness of the community certificates issued to the candidates claiming to belong to Scheduled Tribes/Scheduled Castes from the district authorities. The concerned appointing authorities which write to the police authorities of the respective State for verification of character and antecedents should also be advised to write simultaneously to the concerned district authorities viz. District Collectors, Deputy Commissioners, District Magistrates etc. for verifying the authenticity of the certificates or to certify that the candidate actually belongs to a Scheduled Tribe in case the records are not available for any reason. [Para: 7.6.7. (i)]
14. The appointing authorities should generally issue the offer of appointment on receipt of a satisfactory verification report with respect to the genuineness of the community certificates produced by them in support of their claim of belonging to Scheduled Tribes. However, in case the verification report from the District authorities regarding the authenticity (or otherwise) of the community certificates produced by the candidates along with their applications is not received within a maximum period of six months, offer of appointment on provisional basis may be given to the ST candidate subject to the condition that his probation should not be clear until receipt of verification report (Attention, in this regard is invited to the recommendation at S. No. 16). [Para: 7.6.7 (ii)]
15. Pending switch- over to the proposed system of pre-appointment verification of the genuineness of the community certificates, (as mentioned against serial number 13) of getting the community certificates verified by the issuing authorities prior to the appointment of the candidates, the existing instructions of verifying the community certificates through the issuing authorities after the candidate has been appointed on provisional basis must be completed within a period of six months after the appointment of the candidate and in the event of failure to complete the verification within the specified period, the appointing authority should fix the responsibility on the concerned officer for this failure and take necessary action against the officer/ official held responsible for this failure. [Para: 7.6.7 (iii)]

16. In case a candidate belonging to ST category has been appointed against a vacancy reserved for ST quota on provisional basis pending verification of his/her community certificate, his probation should not be cleared until the process of verification of the genuineness of the community certificates produced by him is completed and a satisfactory report received in this regard from the concerned district authorities. This will help the Government to straightaway terminate the services of such candidate/candidates under Rule 5 of the Central Civil Services (Temporary Service) Rules, 1965 by giving one month's notice in writing to him/them, in case the community certificate produced by him/them is/are found to be fake/bogus or false. **[Para:7.6.7 (iv)]**
17. If the post-appointment verification by the appointing authority through the concerned District authorities/Scrutiny Committee reveals that the candidate had produced a fake/bogus or false certificate and he/she does not belong to a recognized Scheduled Tribe, his/her services (in case he has been appointed on regular/substantive basis), should be dispensed with straightaway without giving him/her any further notice in terms of the procedure laid down by Hon'ble Supreme Court in Civil Appeal No. 5834-Kumari Madhuri Patil, Vrs. Govt. of Maharashtra, 1994 [referred to in Para 7.3.1 (xiii)]. The appointing authority should simultaneously also take up the matter with the CBI for the purpose of launching of criminal proceedings under IPC against the fake/false community certificate holders. **[Para: 7.6.7 (v)]**
18. In no case should the false ST certificate holders be allowed to work as a general candidate. The services of such fake/false certificate holders should be terminated after following the due procedure and the posts/seats so vacated filled from ST for whom it was originally reserved. **[Para: 7.6.8]**
19. The Ministry of Social Justice & Empowerment should expedite the process of finalizing the Bill already drafted by them to regulate the issue of community certificate relating to SCs/STs/OBCs and introduce it in the Parliament at an early date after consulting NCST. The Ministry should also advise the State/UT Govts. to enact similar legislations to curb the growing menace of issuance of false community certificate. **[Para: 7.6.9]**
20. There is a need to reiterate the instructions that the tribe/community status of a person is determined on the tribe/community status of his/her father and not mother and, therefore, the certificates to be issued to a female applicant are required to be verified with reference to (i) the tribe/community status of her father and not of her husband, and (ii) her place of ordinary residence with reference to the place of residence of her father or grandfather and not that of her husband's family. In case the matriarchal system is in vogue, the tribe status of the person will be determined on the tribe status of his/her mother and not father and in this case the certificates to be issued to a female applicant are required to be verified with reference to the community status of her mother and not of her husband and her place of ordinary residence with reference to the place of residence of her mother or grandmother and not that of her husband's family. These instructions further imply that an ST woman marrying a non-ST person will continue to be an ST. Similarly, in case of inter-caste marriage, the children of that family would get the community/tribe status of their father. **[Para: 7.6.10]**

## Chapter 8: Crime and Atrocity on the Scheduled Tribes

1. Suitable amendments need to be carried out in Rule 7 (1) and also Rule 5 (3) of the SCs and STs (POA) Rules, 1995 to empower, apart from the Deputy Supdts. of Police, the Police Inspectors also with a view to expedite the investigation of cases of atrocity on members of Scheduled Tribes.. [Para: 8.11.2]
2. In all the districts of the Fifth Schedule States, Special Courts may be exclusively set up instead of designating Additional Session Courts or Session Courts as a Special Courts. There is also need to appoint Special Public Prosecutors.[Para:8.12.3]
3. Chief Secretaries of the nine 5<sup>th</sup> Schedule States which have not yet prepared and notified the Contingency Plans in terms of Rule 15 of the SCs and STs (POA) Rules, 1995 may be requested to the needful. [Para: 8.13.3]
4. State/UT Govts. may be requested to make necessary arrangements to ensure that the investigation process is completed within the prescribed period of 30 days and that the victims/their dependents are provided economic assistance immediately after the incident. [Para: 8.14.2]
5. In case the ST victim is not satisfied with the performance of the Public Prosecutor (PP), he/she should be allowed to change the P.P. and engage a private layer/advocate and the expenses for engaging private layer should be borne by the State Govt. [Para: 8.14.3 (i)]
6. Legal aid, for which there is provision in the SCs and STs (POA) 1989, should be disbursed to the ST victim as early as possible. Awareness programme about grant of legal aid should be launched in tribal areas so that the victims could come to know about availability of free legal aids. [Para: 8.14.3 (ii)]
7. The amount of financial relief under Rule 12(4) of the SCs & STs (POA) Rules, 1995 is required to be provided to the victim immediately after the incident. However, it has been noticed that some of the district authorities are not providing the relief particularly in cases of murder, grievous hurt, rape and arson immediately after the incident. Necessary orders should be issued to all the District Magistrates to ensure immediate payment of financial relief especially in heinous offences and in other offences of atrocity as per provision of these Rules. [Para: 8.14.3 (iii)]
8. The amount of financial relief to the victims of the atrocities under Rule 12(4) of the SCs & STs (POA) Rules, 1995 should be reviewed and suitably increased in recognition of the hard fact that the cost of living over the past one decade, starting from 1995 has enormously gone up. [Para: 8.14.3 (iv)]