

NATIONAL COMMISSION FOR SCHEDULED TRIBES
NEW DELHI 110003

SECY/NCST/MOM
Dt/- 28th January 2014

Secretary, NCST visited Chennai and had meeting with officials at Secretariat, Government of Tamil Nadu on 7th and 9th January, 2014. Attached please find Minutes of the Meeting of 7th and 9th January 2014 for your information and further necessary action.

32/200(KDB)/2014
28/1/2014.

K.D. Bhansor
28/1/2014

(K.D. Bhansor)
Deputy Director, NCST

AD(C-cell)
SSA MIC
Ro RU IV

to give copies to
Ro RU IV to further
action and see that
minutes are put
up on website.

K.D. Bhansor
28/1/2014

Minutes

Issue of Community Certificates and Implementation of Forest Rights Act

In the Chair: Shri R. Vijaykumar, PhD., Secretary, NCST

Venue: Old Conference Hall, Secretariat, Chennai – 600009.

Date & Time: 9th January, 2014 at 3.30 PM

Participants:


- i) Smt. Kannegi Packianathan, I.A.S., Secretary to Govt, AD&TW Deptt.
- ii) Dr. B.C. Archana Kalyani, I.F.S., Director of Tribal Welfare.
- iii) Shri S. Sivashanmugaraja, I.A.S., Director of Adidravidar Welfare.
- iv) Dr. S. Sumathi, Anthropologist, University of Madras.
- v) Shri K.V. Giridhar, Conservator of Forest, Trichy (Former Director of Tribal Welfare).
- vi) Dr. C. Maheswaran, Former Director of Tribal Research Centre, Ooty.
- vii) Dr. D.Venkatesan, Director, National Commission for Scheduled Castes, Tamil Nadu
- viii) Shri S. Yuvaraj, Chief Conservator of Forest, O/o P.C.C.F., Chennai -15
- ix) Shri Maruthappan, Law Officer, O/o PCCF, Chennai – 15

Associations (after the agenda discussions):

- i) Tamil Nadu S.T. Federation, Chennai – 32
- ii) Adi Tribal Welfare Association, TNHB Ayappakkam. Chennai -77
- iii) Kattunayakan Community (Scheduled Tribe) Welfare Association, Vellore-632008
- iv) Tamil Nadu Scheduled Tribe Kattunayakan Social Welfare Association, Mylapore, Chennai – 600004
- v) Dharmapuri District Kurumans Welfare Sangam, Dharmapuri
- vi) Kurumans Tribal Peoples' Sangam, Vellore/Chennai.
- vii) Tamil Nadu Adidravidar & Tribals Welfare Committee, Tirunelveli-627011

A meeting was held by Secretary, National Commission of Scheduled Tribes to discuss the working of the State Level Caste (ST) Scrutiny Committee problems on issue of community certificates for STs in Tamil Nadu, and the process of Scrutiny Committee, the issue of bogus certificate claims, and implementation of the Forest Rights Act.

2. Upon learning about the previous meeting conducted by the Secretary, NCST on the 7th January on claims by ineligible communities and the present meeting to review the working of the Caste Scrutiny Committee, a few Tribal Associations, allegedly representing Kattunayakan and Kurumans in Vellore, Dharmapuri districts and other areas in the State, entered the Hall and wished to represent various matters on non-issue of certificates and issue of bogus certificates. They were asked to wait until the completion of the meeting when they would be heard.


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Scrutiny Committee

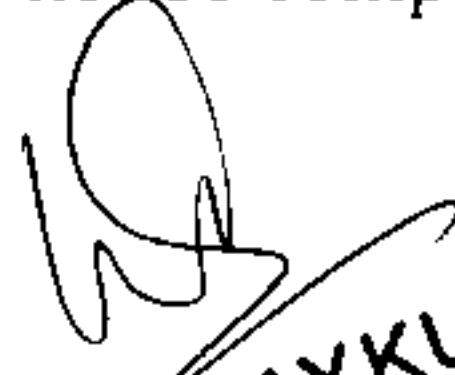
3. Secretary, NCST initiated the discussion on the first agenda issue on Issue of ST Community Certificate and Verification process in the State. He firstly referred to the Minutes of the 51st Meeting of the National Commission (Agenda 9) in which the scope and content of the Act of 1976 (delimitation) was discussed in the context of the lists contained in the Presidential orders of 1950/1956 and various orders of the Supreme Court and also of the Bombay High Court. He explained that it was quite clear from the provisions of the 1976 Act and the directions given in the Act itself to the Registrar of Census that population data had to be collected to identify the migration of STs from their original location or place of residence. This underlies the principle of affinity that was upheld in the Madhuri Patil case before the Supreme Court. Therefore, there cannot be any extraordinary increase in the number of persons who come under any category of ST and their classification as a particular ST has to be relatable to the original communities for which the listing had been made in the orders of 1950/1956. This is also clear from the orders of the Ministry of Tribal Affairs (MTA) issued in respect of Dhankas. A copy of the Minutes and the MTA orders had already been provided to the Secretary, AD & TW. Any claim by an individual for an ST certificate had, therefore, to be established first by the individual and the burden of proof lay entirely upon him. The Secretary was also of the view that this burden of proof was not fulfilled merely upon production of an ST certificate issued to some relative but there should be a clear connection between the person and the community which had been made entitled originally in the Presidential Orders of 1950/1956. It was the duty of the claimant to prove the relationship and failure to do so should inexorably lead to the denial or cancellation of the ST certificate to the claimant. Further, if any certificate had been issued to any of the person's real relatives, they should also simultaneously be cancelled, after due notice as required in law.

4. A discussion ensued on the various aspects of working of the State Level Scrutiny Committee, the role of the anthropologist and the District Level Vigilance Committees set up to verify and report on the antecedents of claimants to whom certificates had been issued in the past. The Secretary asked if the scope of the Vigilance Committees was clear since their duty was not to confirm the validity of certificates but merely to inquire and report. The Government order by which they were created was not produced during the meeting on 7th January. Shri K. V. Giridhar, IFS, Conservator of Forest, Trichy and former Director of Tribal Welfare, a special invitee to the meeting, explained that since community certificates are issued in the school at the 6th standard level itself, there was sufficient time for the students to get verification completed before they complete the 10th standard in accordance with the Madhuri Patil judgment. The main problem was that various communities with convenient prefixes to their names were making claims of belonging to ST communities and in this matter, different anthropologists were offering divergent interpretations. This had created considerable problems particularly in respect of Kattunayakans who were only available in the Nilgiris and Kurumans of Dharmapuri/Vellore who were quite different from the Kurumba of the Nilgiris. He was of the view that the procedure for the working of the


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Scrutiny Committee needed to be clearly spelt out and he had, during his tenure as Director, prepared a detailed document on "Review of Issue and Scrutiny of ST Certificates." He also added that in accordance with the Madhuri Patil judgment, legislation could be considered (similar to Maharashtra). He said that 21,038 cases were referred for scrutiny in Tamil Nadu during 2012-13 and that much of the problems arose because the old certificates which were improperly issued or were plainly bogus had become the basis of present claims. In this regard, he mentioned that following the recommendations of the State level Caste Scrutiny Committee rejecting a claim for ST certificate, actual cancellation was not being done and was not followed up. This only perpetuated the situation and more and more bogus claimants came up before the Committee.

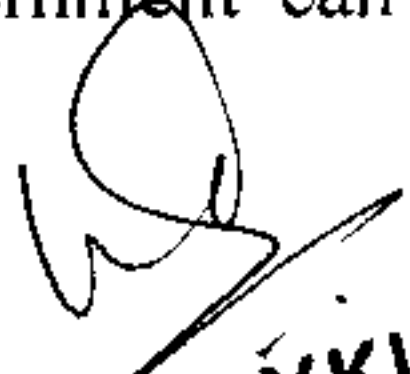
5. Dr. C. Maheswaran, former Director, TRC, Special invitee to the meeting, said that the lack of area restrictions had created problems and he was invited to examine this issue with reference to the Commission's views in its 51st meeting. He explained that following the carving out of the three States of Tamil Nadu, Karnataka, and Kerala, the same tribe had different names in the three States centering around the Nilgiris. For instance, the Kurumba of Tamil Nadu were called Kurumans in Kerala and Kuruba in Karnataka which set them out quite distinctly from the Kurumans of Dharmapuri and Vellore who were claiming ST status. Dr. S. Sumathi, Anthropologist and the Member, State Level Scrutiny Committee, Madras University who had attracted criticism during the meeting on the 7th January on her work supporting this group, referred to the use of the word schedule as implying removal of area restrictions. Secretary, NCST clarified that the original schedule was prepared as part of the Govt. of India Act of 1935 and any identification of ST population as per the listing of 1950/1956 and later Presidential Orders had to be done with reference to the first caste census of 1930 and thereafter. Therefore, there can be no basis for claims that arise due to some voluntary record of ST status recorded in more recent Censuses. Only a full verification and relation of the claimant to the original place of residence on ST could justify the issue of ST certificate and any undue increase of population should be viewed with extreme suspicion since baseless arguments of partisan interests could not be used to subvert the Constitution. He referred to the representations by the TNST (Malayali) Peravai given on 7/01/2014, copy annexed, which listed serious problems in the issue of ST community certificates in the State that needed urgent attention. In particular, they have detailed how the populations of certain communities exploded from 1961 to 2001: Konda Reddy from 8 to 19,653; Kurumans from 112 to 24,963; Kattunayakan from 6459 to 45,221; Kurichan from 5 to 3168; Malai Pandaram from 3 to 168; Malai Vedan from 2 to 6411; and Malai Kuravan from 2 to 6411. The Secretary commented on how these figures supported the views contained in the Commission minutes (51st meeting) and how these were likely to have completely undermined the integrity of ST community certificates in the State of Tamil Nadu. He observed in this regard and in relation to 'affinity', that the Konda Reddys of Andhra were located around the Godavari river and were living in an extremely pitiable condition and could not be compared with the claimants for Konda Reddy of Tamil Nadu and he was of the


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view that such claimants should prove their relationship to this original tribe to support their claims. Dr Maheswaran also said that nomadic communities in the State had some kind of identity crisis due to the prejudice against them and therefore, applied in different names. Secretary, NCST suggested that these were issues of verification and should be handled with care and sympathy by the State authorities.

6. After Secretary AD & TW produced the relevant orders for creating vigilance cells at the District levels, Secretary, NCST observed that these vigilance cells were only for verification and reporting their views and this could be taken into consideration for issuing the final orders on verification. These vigilance cells were not confirmatory authorities even according to the orders of the Govt. of Tamil Nadu and granting them any such status was inconsistent with the orders of the Supreme Court in Madhuri Patil case. He, therefore, endorsed the consideration of the report of the former Director of Tribal Welfare for urgent and serious consideration by the State Government to introduce well-thought out processes to streamline the issue and verification as also cancellation of certificates in the State. He also recommended that legislation could be considered as in Maharashtra and as recently introduced in Andhra Pradesh and in Orissa.

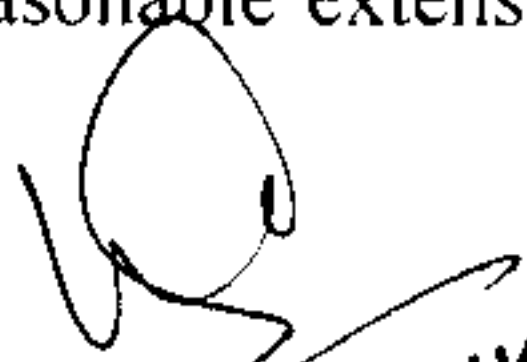
7. An issue was raised regarding some views (obiter dicta) of the High Court in which it was felt that if the complainant had got an ST certificate by relying upon a previously issued certificate to an elder relative and which previous certificate, although quite bogus, was not cancelled, nothing could be done to set the matter right and deny issue of certificate to the younger relative since the issue had become final with the flow of time. In this case, it appears that the High Court had upheld the issue of community certificates to the applicant. Secretary, NCST observed that this decision should have been taken to a larger bench of the High Court since no Court or any other authority in the country can confer ST status for particular persons or group of persons or community and certainly not for an entire extended family of a bogus certificate holder. This would amount to creating a new class of ST for which the powers lay only with the President of India and this matter had already been settled in various judgments of the Supreme Court. The Court had, it would seem, acted ultra vires and therefore, the larger bench of the High Court should be able to quash the orders. He remarked that if community certificates held by the Committee were declared bogus and actual cancellation did not take place, the entire system of certification would be placed in jeopardy. He was of the view that the State Government should act urgently in this matter merely to avoid further problems for itself. He was also of the view that it was not correct for the Honourable Court to presume that the Collectors' or RDOs' orders wrongly granting a particular candidate's elder relative an ST certificate, had become final with the flow of time. If the certificate was issued by misrepresentation and by providing false information or it was found on later inquiry that the person did not belong to a Scheduled Tribe, a wrong which had resulted from the non-existent claim of ST status could always be corrected by the review process inherent in a Government decision granting a benefit as benefits given by Government can just as much be withdrawn with proper reasons, in this case, the bogus


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claim. The larger problem in this case was for using this bogus certificate to support an entire family hierarchy for gaining ST benefits which was clearly improper, amounted to denial of benefits to genuine claimants, and worked against the specific safeguards set out in the Constitution. Further, both Collectors, in the case of certificates issued by the RDO, and the Commissioner of Revenue Administration, in the case of certificates endorsed by the Collectors, had suo motu powers of revision to correct any such errors made by their juniors, either based on misrepresentation or misunderstanding of facts or by an incorrect understanding of Government policy on the method of verification and issue of certificates. There could not be any time limits prescribed for the exercise of these powers. What was a nullity under the Constitution could not be given content by any agency, executive or judicial. In this connection, Secretary, NCST recalled an instance of issue of bogus ST certificate done by a previous Collector which he had referred in 1991, while in the capacity of Collector, to the then Commissioner of Revenue Administration for cancellation. Therefore, it is quite open to the State Government to take up this matter for review of the decision of the bench of the High Court in that case and by other claimants.

8. Secretary, NCST recollected that in his previous visit, he had suggested increasing the number of anthropologists in the Caste Scrutiny Committee's team as it would assist in expediting verification by the SLSC. However, the present discussion suggested that adding anthropologists was not sufficient and there was need for a coherent and systematic procedure to be put in place. Moreover, it was also evident that some of the anthropologists have not understood the scope of the Acts or were acting at the instance of partisan interests and they had consequently erred in their recommendations. Secretary suggested that the State Govt. should be more circumspect in the kind of anthropologists they appoint to the State Level Scrutiny Committee and avoid those who had committed such errors on previous occasions and who had now become the focus of complaints.

9. In the course of discussions, the Director, Tribal Welfare explained the status of disposal of claims in the State Level Scrutiny Committee. She said that of 335 cases received in 2012-13, 234 were sent back for evidence, 28 were cancelled, 4 were taken to Court by the individuals and 69 were confirmed as genuine. She also said that SLSC had not fixed any time limit. Secretary observed that in the Madhuri Patil case, the Supreme Court had specifically laid down that it was the duty of the individual to apply for and obtain verification of the State Level Scrutiny Committee before applying for a job or before getting any benefits. The procedure now being adopted by claimants was quite opposite to Court directions and had enabled them to survive in their present jobs or complete their degrees, thereby defeating the purpose of the enactments. A strict process was necessary to ensure that the safeguards held out to genuine tribals was ensured. He also suggested that the claimants should be given two weeks from the receipt of the notice to produce all the evidence which they would have already collected at the time of issue of certificates and if in case of delays, further time of two weeks could be considered based on the reasons given but no unreasonable extension should be offered to the claimant since this itself suggested that the


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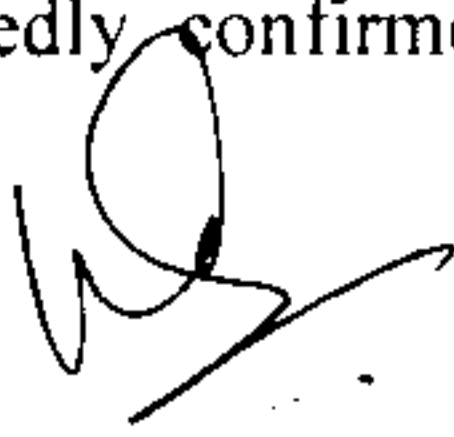
claim was bogus and required immediate action for cancellation of certificate, denial of consequential benefits to the individual, and for initiating criminal action. The Secretary, therefore, emphasized the need for efficient working by the State Level Scrutiny Committee and strict adherence to principles laid down by the Supreme Court and in the enactment as clarified by the orders of the MTA and the observations of the Commission.

Forest Rights Act enforcement

10. On the considerable delay and backlog in formation of Gram Sabhas for tribal hamlets, the discussion revealed that the District Adi Dravida Welfare Officer was responsible for this work and had inadequate staff in addition to numerous other responsibilities. Secretary, AD&TW, Govt of Tamil Nadu was requested to look into this matter and develop a time schedule to quickly complete the task. Following the discussion which built on the discussions of the 7th January, Secretary, NCST said that a focus on FRA appeared necessary as it remained pending for a long time. Multiple claims arising from jhumming practices as in the Kalvarayan Hills were to be tackled as part of this process and early completion was urged.

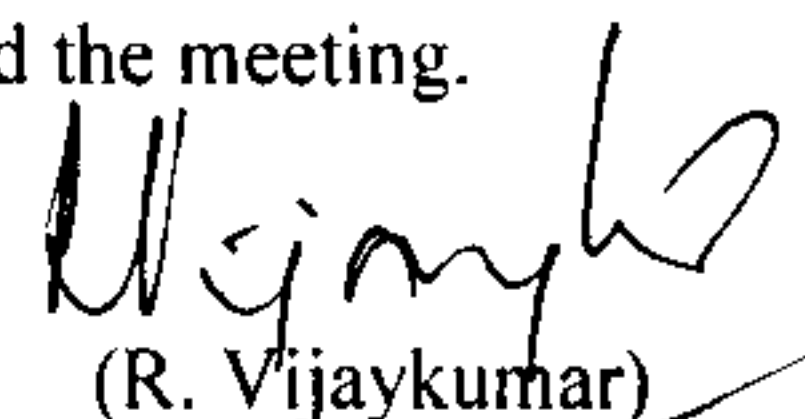
Representations of Associations (refer para 2)

11. The seven Associations allegedly representing Kattunayakan and Kurumans communities were invited to present their views and were heard in the presence of official members. Their main complaint was that various communities were posing as Malayali, a Scheduled Tribe, and these included various types of Gounders, Karalar, Vellalar, Jakirthar, Pachamalai Malayalis, Kollimalai Malayalis, etc and that certificates were being issued to them. In this regard, they adverted to orders of the Madras High Court in WP No. 11823 dated 1/07/2009 disposing a petition filed by the Tamil Nadu Scheduled Tribe (Malayali) Peravai, demanding cancellation of orders passed by a District Level Scrutiny Committee (?) conferring certificates to Kurumans and the imposition of a fine by the Court. Although the fine was related to the wrong venue for filing such a petition and was for the abuse of writ jurisdiction, the matter needed examination. They also complained about the non-issue of certificates to several such communities located in different parts of the State and in particular, in Vellore and Dharmapuri. The Secretary, NCST assured them that their complaints would be looked into and that these issues had been discussed in terms of the specified communities on the 7th and also during the day's meeting in terms of procedure. However, the letter of Secretary, AD&TW to Collectors No. 19574/CM1/2013-1 dated 13.12.2013 (copy annexed) appeared to recommend issue of ST certificates to Kurumans in an indirect manner which contradicted executive decisions, Court orders, orders of the Home Ministry, Ministry of Tribal Affairs, NCST and the provisions of the Constitution. He also later queried the role and powers of the District Level Vigilance Committee which had allegedly confirmed the issue of certificates and requested the Secretary, AD&TW to


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examine and also to review the Government orders which conferred any such powers on the District Committee.

Secretary, NCST thanked the participants and concluded the meeting.



(R. Vijaykumar)

Secretary

National Commission for Scheduled Tribes

New Delhi.

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Secretary

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Minutes

Meeting on follow-up of Commission's visit, Safeguards and benefits to tribals, Complaints on issue of community certificates, and Forest Rights.

In the Chair: Shri R. Vijaykumar, PhD, IAS, Secretary, National Commission for Scheduled Tribes, New Delhi

Venue: Conference hall, School Education Dept, Secretariat, Chennai.

Date & Time: 7.1.2014 at 11.00 A.M.

Official Participants:

- i) Smt. Kannegi Packianathan, I.A.S., Secretary to Govt., Adi Dravidar and Tribal Welfare
- ii) Smt. A. Suganthi, I.A.S., Managing Director, TAHDCO
- iii) Shri K. Muthukaruppan, I.P.S., D.G.P., SJ & HR Wing, Chennai-4
- iv) Shri Pari, I.P.S., D.I.G., SJ & HR Wing, Chennai-4
- v) Shri Ojha, I.F.S., Chief Conservator of Forests, Forest Department, Ch-15.
- vi) Smt. Pechiammal, Joint Director, Tribal Welfare Department

Tribal Representatives/Participants:

- i) Shri Murugesan, Tamil Nadu Tribal Federation, Dharmapuri – 636905 (two petitions)
- ii) Shri Gunesekaran, Tribal Peoples' Council (Tamil Nadu) Sankari, Salem Distt -637301
- iii) Shri Alwas, Secretary, The Nilgiris Adivasis Welfare Association (NAWA), Ooty;
- iv) Shri Annamalai, Advocate & Patron, NAWA
- v) Shri Mohan, General Secretary, TN Scheduled Tribes (Malyali) Peravai, Elagiri, Vellore Distt.
- vi) Shri Sivalingam, TN Scheduled Tribes (Malayali) Peravai, Vellore District
- vii) Shri P. Chandran, Nilgiris Kurumbas and Kurumanas Association, Pandalur, Nilgiri (two petitions)

Secretary, NCST welcomed the participants and after introductions, the tribal representatives were asked to present their views following which various issues were discussed as below:

General and Community Certificates:

2. The main issues and suggestions of the Tribal Welfare Associations were:
 - a) They emphasized the need for an independent and properly equipped Dept. of Tribal Welfare.
 - b) There was a need to streamline the instructions to districts on the issue of community certificates for Kurumans, Konda Reddy and Kattunayakans and also expressed their reservations on such bogus claims including those of Kurumans being considered favourably for issue of community certificates of STs and that has happened because


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of inadequately framed guidelines and also because of poor quality of information and non-transparent operation of the State Level Scrutiny Committee. The Home Ministry Order No. BC 12025/2/76-SCT(1) dated 22.3.1977 had been ignored although attention of the department had been drawn to this circular.

- c) The Tribal Research Centre was intended to be a knowledge asset for the Department but it was now practically dormant in the State.
- d) The Vigilance Committees in the districts and especially in Vellore had been recommending the issue of ST certificates.
- e) They complained about the support given by Prof. S. Sumathi, Anthropologist for grant of ST status to Kurumans of Vellore who are quite different from the distinct tribe of Kurumba of the Nilgiris and were completely unrelated to them. As a result of the issue of a large number of bogus certificates, the backlog in the State Level Caste Scrutiny Committee had considerably increased which seriously affected genuine Scheduled Tribes.
- f) The Associations further requested that until a separate arrangement was created for channeling financial schemes to tribals, TAHDCO should continue to offer programmes under NSTFDC etc.
- g) While asking for special schemes for tribals with 50% subsidy and ITDP in Bargur area of Erode, they also expressed the view that HADP had now given greater emphasis to providing funds to the forest departments for forest watchers and rest houses and many non-tribals were employed since HADP was not taking consent of the Gram Sabhas of tribals where they were available, and which needed to be enforced.
- h) Since a few Taluks had been formed in which tribal population exceeded 50%, they suggested that these can be declared under the 5th Schedule. However, since the State has 0.77% tribals, they requested that at least one Parliamentary Constituency should be allotted for STs. In this connection, they regretted that tribals had lost one seat in the Legislative Assembly in the delimitation process. They also urged the State to set up a Tribal Council for the entire State.
- i) The Panchayat (Extension to Scheduled Areas) Act 1996 had not been implemented in the State in full spirit.
- j) The Forest Rights Act 2006 had not been properly implemented in the State and as a result, tribals in some areas were facing threats of eviction from forest officials. Since Gram Sabhas had not been formed in accordance with FRA in many places and sometimes functioned under the domination of non-tribals. In some cases, the Gram Sabhas refused transport rights for MFP for tribals and in Bargur, foresters had auctioned MFP even in Gram Sabha areas. The associations specified incidents in this regard:


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- In Pandalur Taluk Gudalur Division, Pannikal village Kattunaicken Community was threatened with eviction and two houses were damaged by Range Officers.
 - In Ooty south division near Thalaphtheri Mund ACF is forcing for eviction.
 - In Erode District Thalamalai area Forest Department is not allowing to renovate their temple at Ramapatham.
 - MFP is still auctioned or allotted to VFC/SHG by the Range Officer taking lease amount, which is against the Forest Rights Act, e.g. in Erode (Bargur Range) and Nilgiris North Division.
 - They also complained that Tiger Reserves had been established before settling the rights of tribal under FRA, 2006.
- k) They complained that although they had 1% reservations for tribals, the roster system set ST at the 51st rotation which denied them the chance of getting jobs since most employment opportunities were less than 50. They requested a change in this roster system. In reference to the TN Transport Corporation which employs about 1 lakh persons, only 400 tribals were stated to be employed and this was also the case with the TNEB. They complained that even non-skilled jobs like Conductors were not offered to tribals.
- l) They were thankful to the Govt. of Tamil Nadu for allotting funds for tribal development through TAHDCO after a period of 12 years and requested for more funds.
- m) Again urging action on the issue of bogus certificates, they mentioned the case of a resident of Madurai: Ms. S. Nagalakshmi, D/o Dr. R. Selvarajan, S. Arasapatti village, Peraiyur Taluk who was issued Konda Reddy Certificate by the RDO, Usilampatti on 05.08.2003 despite even the observations of the Lokur Committee. They said that the Tahsildar in Tirupattur had issued nearly 2500 certificates after G.O. No.388 dated 6/05/1977 until it was withdrawn as cancelled at the instance of the NCSCST in Govt. Orders (G.O.No.748 dated 27/10/1977). However, none of these certificates had been actually cancelled and formal orders of the Govt. were required. They also urged that the State's Govt. Order No. 111 dated 6/07/2005 and 108-2D dated 12/09/2007 which was protecting bogus certificates holders should be re-examined so that constitutional safeguards to tribals are ensured.
- n) They mentioned in this regard some Court orders and reports namely:
- i) Sri Prabha Sridevan WP No. 35025 of 2007
 - ii) Justice M. Srinivasan and by Justice Sri Iqbal, judgment.
 - iii) Justice Elipe Dharma Rao judgment
 - iv) Dr. Sathianarayan, TRC Report to National Commission for ST
 - v) Mr. Giridhar, IFS report


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- vi) Mrs. Petchiammal, Jt. Director's Report
- vii) Justice Murugesan, Justice Jyothimani Judgment in respect of forming Vigilance Cell.

They also urged that the Courts had upheld the State Govt. order in 1977 classifying Kurumans etc. of the plains as Most Backward Caste and this had been endorsed by the Ministry of Tribal Affairs and NCST as also by a recent Committee headed by the Director of Tribal Welfare. They strongly questioned the purposes in issuing Lr. No. 19574/CM 1/2013-1 dated 10.12.2013 by the Secretary to Collectors which recommended issue of ST certificate to Kurumans.

- o) On the implementation of the Atrocities Act., 1989 & 1995, they requested action on four cases:
 - (i) Salem District, Palamendu Tribal village – case study annexed.
 - (ii) Selvi. Muthuselvi – Murder case, Tribal hamlets of Poovanur. The direction of National Commission for Scheduled Tribe has not been honored till this date.
 - (iii) Registering complaints under this Act is being given least importance, especially the land grabbing and money lending etc.
 - (iv) D.Mani S/o S.T. Duraisamy, Kolli Hills – File No. 11036/14/2013 – PC&V of 17.10.2013 of Ministry of Tribal Affairs, New Delhi. No action by the Tamil Nadu Government.
- p) They complained that Ekalavya schools in the State were in dormant condition.

3. These views were noted by the Chairman and endorsed to the State Govt. for urgent action. He said that the National Commission had been urging the States to improve the capacity of the Tribal Welfare Deptt to ensure safeguards and the provision of benefits in an effective manner to these most backward communities. Only a strong department could ensure that bogus claimants could be dissuaded including by launching criminal prosecution against a few cases.

4. Secretary, NCST appreciated the follow-up action taken on the issues raised during the last visit of the Commission and of the Secretary. He further requested replies on few pending complaints received on 20.9.2013 from Shri A. Annamalai on the Vigilance Committee, Vellore and on 27.12.2012 from Ms. C. Nagarathinam of Erode regarding delay in issue of ST certificate.

5. In regard to Vigilance Committees in the districts, the Secretary inquired about the basis on which they were formulating recommendations of issue of certificates but the Govt. Orders were not readily available. When produced, it turned out that they were only established to enquire and sent their views to the State Level Scrutiny Committee (SLSC). This was in line with the Supreme Court Orders in the Madhuri Patil case. He observed that the SLSC should function in a transparent manner and the proceedings must necessarily be placed on the website of the department for pro-active access under the RTI Act. On the complaint that the Secretariat in the State was not paying attention to pressing issues of tribals and their safeguards but was only focusing on issue of certificates, Secretary, NCST


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requested the Secretary AD & TW to provide adequate attention to this matter and take cooperation of genuine tribal associations to achieve the objectives of scheduling such tribes in the Constitution. On the complaint that the focus of the Secretariat is only on issue of certificates and only mildly on safeguards, benefits, FRA, PESA etc., that land alienation of tribal lands was rampant, that there was a need to declare some areas as Schedule V areas, and to adopt an ITDP Project approach for welfare schemes, Secretary, NCST advised the Secretary, AD & TW to take appropriate action.


6. Secretary, NCST requested the Secretary, AD&TW to carefully look into this matter and send a special report with her views on the various issues including with reference to Court Judgments cited so that it can be placed before the Commission and views obtained. Secretary, NCST later obtained a copy of this letter and found it to refer to a representation by a Kurumans Association, Vellore and endorsed issue of certificates to them despite their not being included in the ST list for which even Courts had no powers either to include or afford sympathetic consideration.

7. She was also requested to take prompt action to ensure that the department functions to meet the urgent needs of genuine tribals. In respect of reservations and the roster system, the Commission has even previously recommended that educational institutions or employers should not split up the various categories in terms of educational subjects in the cases of colleges/universities or job categories in the case of employers which prevent STs from getting their entitled jobs. This was all the more important for educational institutions because the interaction of tribals with the mainstream population in an educational institution was the first step for promoting better integration of such tribals with the general population and to help them contribute to their jobs when they obtain employment. He urged the State Govt to take positive steps in this regard.

8. The Secretary appreciated the action taken following the previous visit of the Commission and of the Secretary. He requested emergent action for recruitment of local persons for GTR schools. He also urged the strengthening of the Tribal Welfare Department and for constitution of the State Level Commission for STs. In regard to district level reservations, he requested that early action may be taken by the State to decide on the proposals submitted by the Director.

Atrocities on Tribals

9. The Secretary, NCST briefed the participants on the amendment to Section 370 IPC issued in February 2013 that replaced 'Slavery' with the new term 'Trafficking' with an expanded definition that also prescribed heavy penalties on the traffickers beginning from the original village of the victim to the place of atrocity and this was irrespective of whether the labour was voluntary or not. He explained how the Commission had intervened and had got a positive response from the SP, Namakkal on abuse of tribal labour used in a quarry in that district. He also urged the need for the police and the tribal department to examine if the


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domestic maids in Chennai were being sourced from tribal areas especially from Central India. There was an urgent need to develop some kind of reporting system for non-local domestic maids to look into the issue of juvenile employment and abuse of girls and women. He appreciated the efforts of the Tamil Nadu Police to involve an NGO (IJM) in sensitizing and training constables on these issues and suggested documentation of their experience so that this could be distributed across the country for adoption.

10. While noting the declining incidence of cases of atrocity, the DGP observed that there was 25% conviction. Most of these cases came from Viluppuram district in Eastern Tamil Nadu and related to name calling of Irulas. Relief measures were also being promptly taken but this was affected by delays in issue of community certificates. Secretary, NCST urged the Govt. to ensure that the claims were made by genuine tribals quickly since the existence of this community of Irula in Viluppuram district could be easily verified from revenue and forest records. Secretary, NCST also urged attention to land grabbing and money lending which led eventually to land alienation.

Forest Rights Act

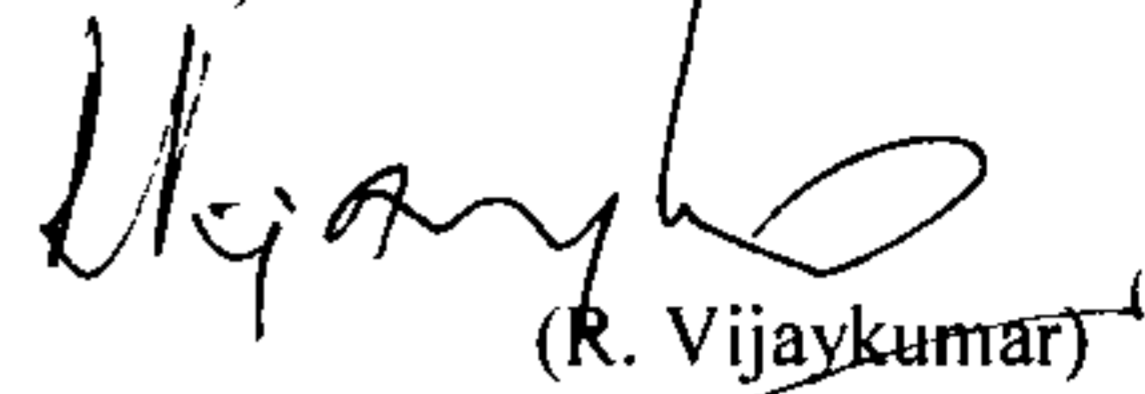
11. Both in respect of creation of Gram Sabhas and from the high level of pendency in disposal of claims at 24853 out of 27895 new claims, much work needed to be done. In this regard, the figures provided by the Tribal Welfare Deptt differed from the Forest Deptt. and they were requested to reconcile their statistics. Secretary, NCST requested that Collectors may be held accountable in this matter and to ensure that Forest Rights are not delayed any further. In regard to the case being pursued in the High Court, which was being offered as a reason as pendency in claim, Secretary NCST observed that even during his previous visit on 8/05/2013, he had requested the Secretary, AD&TW to approach the Advocate General and seek his intervention because the purposes of the Act cannot be stymied by some unconcerned and unrelated forester on the plea of bogus claims for which a Committee had been specifically established under the Act. There was no machinery in the Court to query the assessment and decision of the Committee which was formed with senior officers under the supervision of the Govt. The entire argument was hypothetical and plainly bogus. The petitioner had also not given any alternatives nor was he in any way directly affected by the grant of such rights. The Act has already been passed by Parliament after due consideration of all aspects including the possibility of bogus claims and, therefore, only if there were any specific incidents of bogus claims which had to be documented by a petitioner, should the Court have taken up this matter. Secretary, NCST regretted the lack of expeditious action by the department on this issue.

12. In regard to the grant of transport permission and the continued practice of certain forest officers in granting movement permits, the Secretary, NCST urged the quick establishment of guidelines to Gram Sabhas to give transport permission. While reviewing the pendency in grant of post matric scholarships to tribals, it was noticed that the State Govt. had already requested the Govt. of India as early as 30/09/2013 for release of Central


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assistance for the year 2013-14. The Secretary, AD&TW said they had not been advised on the reasons for delay and Secretary, NCST agreed to take up this matter with the Ministry of Tribal Affairs.

Secretary concluded the meeting and requested for detailed discussions on issue of community certificates on the 9th January. He wanted the Govt. Orders to be obtained and scrutinized to set out the clear position of the matter. He, thereafter, thanked the invitees for their participation.



(R. Vijaykumar)

Secretary

National Commission for Scheduled Tribes

New Delhi.

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