



भारत सरकार

राष्ट्रीय अनुसूचित जनजाति आयोग  
GOVERNMENT OF INDIA

NATIONAL COMMISSION FOR SCHEDULED TRIBES

संख्या/ No.- 1/6/09-Coord

दिनांक/ Date: 10/07/2009

To

- 1) Smt. Urmila Singh, Chairperson
- 2) Shri Maurice Kujur, Vice-Chairperson
- 3) Shri Tsering Samphel, Member
- 4) Shri Oris Syiem Myriaw, Member

**Sub: Summary record of the 13th meeting of the National Commission for Scheduled Tribes held on 30/06/2009.**

Sir,

I am to refer to the above subject and to say that 13th meeting of the National Commission for Scheduled Tribes was held at 11:30 hrs. on 03.07.2009 in the Conference room of the Commission in Lok Nayak Bhawan New Delhi. The meeting was presided over by Smt. Urmila Singh, Chairperson, National Commission for Scheduled Tribes. A copy of the Summary Record of the meeting is enclosed for information and record.

Yours faithfully,

  
(R.P. Vasishtha)  
Deputy Secretary

Copy with a copy of the Summary Record of the meeting forwarded to the following officers with the request that information about action taken on the decision taken in the meeting concerning each Unit/ Office may be furnished to Coordination Unit by 30.07.2009 positively:

- (i) Director (RU-I & RU-II)
- (ii) Director (RU-III & Coord.)
- (iii) Dy. Secretary (RU-IV & Admn.)
- (iv) Dy. Director (RU-IV)
- (v) US (Admn.)
- (vi) AD/ RO Incharge-RU-I/ RU-II/ RU-III/ RU-IV/ Coord/ SO (Admn.) / AD(OL).

Copy with a copy of the Summary Record of the meeting forwarded for information to:

1. PS to Chairperson/ PPS to Secretary/ PS to Joint Secretary.
2. Director/ Assistant Director/ Research Officer in Regional Offices of National Commission for Scheduled Tribes at Bhopal/ Bhubaneswar/ Jaipur/ Raipur/ Ranchi/Shillong.

  
(R.P. Vasishtha)  
(Deputy Secretary)

**NATIONAL COMMISSION FOR SCHEDULED TRIBES**

**Sub :** Summary record of the 13th meeting of the National Commission for Scheduled Tribes held at 11:30 hrs. on 03.07.2009.

The 13th meeting of the National Commission for Scheduled Tribes was held at 11:30 Hrs. on 03/07/2009. The meeting was held in the Conference room of the Commission in Lok Nayak Bhawan New Delhi and was presided over by Smt. Urmila Singh, Chairperson, National Commission for Scheduled Tribes. List of participants is enclosed at **ANNEXURE**.

2. There were 7 Agenda Items for discussion. Discussion was held on each Item. Summary record of the discussions held in the meeting, **agenda item-wise**, is given below:

**Agenda Item I**    **Recommendations made by Administrative Reforms Commission in its 7th Report titled "Capacity Building for Conflict Resolution-Friction to Fusion" – Remaining issues**

The Secretary, National Commission for Scheduled Tribes informed the Commission that this Agenda was earlier discussed as Agenda Item II in the 11th meeting of the Commission held on 03/02/2009. The Summary Record of the meeting relating to this Agenda mentions as follows:

The 7th Report of Administrative Reforms Commission contains several other recommendations which have bearing on Scheduled Tribes that need in-depth examination and discussion. The Commission, therefore, decided to discuss the Agenda Item further in a subsequent meeting. Shri O.S. Myriaw, Member, NCST was requested to provide urgently requisite input on recommendations particularly relating to the Scheduled Tribes of North Eastern Areas and Border Areas so that the remaining recommendations in 7th Report of the ARC may be placed before the Commission for consideration.

The Secretary, National Commission for Scheduled Tribes therefore, requested Member (OSM) to provide necessary inputs so that the pending Agenda Item could be placed before the Commission for discussion/ consideration. The Commission, therefore, decided the matter may be resubmitted for consideration in the meeting of the Commission after receipt of requisite note from Member(OSM)

**Agenda Item II**    **Proposal for providing reservation to Economically Backward Classes of General Category (unreserved category)**

The Commission observed that the economic status of an individual is fluctuating. It is also not an easy task to identify such backward persons based upon any criterion of consumption or ownership of assets because of local factors like cultural differences, price variation, etc. Therefore, reservation to Economically Backward Classes of Unreserved Category is neither feasible nor sustainable. Moreover, unless all-out efforts are made to empower such classes of people by

*Urmila Singh*

extending educational and health care facilities at their door-step and preparing them to enjoy the fruits of development, the proposed efforts may be insufficient. Further, sub-categorisation of the UR category may not yield desired benefits in practice, since it is apprehended that in the present system of reservation through Post Based Roster, even if a few vacancies are reserved for the Economically backward classes out of unreserved categories these may well remain unfilled till a vacant post reserved for the particular EBC occurs and a suitably qualified eligible candidate is simultaneously available.

The Commission, therefore, opined that separate schemes may be launched for development of persons belonging to economically backward classes empowering them to avail their share out of UR category instead of providing separate reservation for them treating them as sub-category within UR category.

**Agenda Item III The Constitution (STs) (UTs) Order (Amendment) Bill, 2007 in relation to the UT of Lakshadweep-Non-consideration of the views of National Commission for Scheduled Tribes by the Govt.**

The Commission was informed that the proposal for amendment of Constitution (ST) Order relating to Lakshadweep, in the form of the Constitution (STs) (UTs) Order (Amendment) Bill, 2007; was received for comments, in the Commission from the Ministry of Tribal Affairs on 15/11/2008, which were sent to Ministry of Tribal Affairs on 19/01/2009 after consideration by the Commission. The Ministry of Tribal Affairs, however, informed that the Bill has already been passed by both Houses of Parliament and, the comments received from the National Commission for Scheduled Tribes could not be considered by the Ministry since they were not received in time. Secretary, National Commission for Scheduled Tribes stated that the chronological sequence of events/ delays had been detailed in the Agenda Note, which warrant remedial action. In order to avoid recurrence of such situations in the Commission, draft guidelines for preparation and circulation of Agenda Note/ Minutes have been prepared for information of and compliance by the officers and staff of the Commission. The guidelines were discussed by the Commission and the same were approved.

**Agenda Item IV WP (Civil) No. 590 of 2008 of Shri Surmukh Singh vs Union of India and Ors. in the Supreme Court of India regarding rotation of reserved Assembly and Parliamentary Constituencies in the State of Haryana and also in whole of India after each General Assembly/ Parliamentary Election respectively.**

The Secretary, National Commission for Scheduled Tribes informed the Commission that this Agenda was earlier discussed as Agenda Item III in the 11th meeting of the Commission held on 03/02/2009. In that meeting the Commission had discussed the prayer made in the WP and also noted that the provisions under

Article 330 and 332 of the Constitution relating to reservation of seats for Scheduled Castes and Scheduled Tribes in elections to Parliamentary and Assembly constituencies did not provide for rotation of constituencies while those under Article 243D relating to reservation of seats in local bodies read with Section 4(g) of the Panchayats (Extension to the Scheduled Areas) Act, 1996, inter-alia, 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. As the Commission was of the view that the issue needed further discussions, the matter has been placed before the Commission as one of the Agenda in this meeting.

The Commission was of the view that the spirit of the special provisions relating to conduct of Panchayat elections in the Scheduled Areas as provided under the Panchayats (Extension to the Scheduled Areas) Act, 1996 cannot be made applicable while considering the prayer for rotation of seats reserved for Scheduled Tribes and Scheduled Castes in elections to Parliamentary and Assembly constituencies. The Commission, therefore, decided not to support the prayer made in the WP.

**Agenda Item V Amendment of Scheduled Castes and Scheduled Tribes (PoA) Act, 1989 for providing time bound disposal of cases by Special Courts – Proposal by NCST**

The Secretary, National Commission for Scheduled Tribes informed the Commission that the above proposal was mooted on the basis of analysis of data relating to disposal of cases of atrocities on Scheduled Tribes by the Courts, discussed in the meeting of a Special Committee set up by the Ministry of Social Justice & Empowerment. It was noted that in many cases it took several years to dispose the cases, which, possibly, led to acquittal in large number of cases. The Commission was informed that the Consumer Protection Act, 1986 provided for time bound disposal of the cases by the Consumer Forums (between 3 to 5 months), while the National Commission for Women had recommended that the Courts may dispose the cases relating to rape in a time bound manner (within 6 months). Since the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 is also a special Act for protection of the Scheduled Tribes, it was for consideration whether similar provision should be incorporated in the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

The Commission discussed the proposal in detail and recommended appropriate amendment to the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. It was noted that while the provision for setting up special courts in the Act was aimed at speedy disposal of cases registered under the Act, experience so far had belied this expectation. The Commission,

*Ulenila Sinha*

halted till the new system was developed, the appointments and promotions continued to be made as per then existing system of VBR. Although the period by which preponement is sought is two years only and only a few appointments / promotions have been made, yet it will be not advisable to consider reverting the promotees or terminating the services of those appointed as DR against backlog vacancies on the basis of then existing VBR. Moreover, the provision regarding the seniority of SCs and STs in matter of promotion made in Article 16(4A) of the Constitution vide the Constitution ( 85th Amendment) Act 2001, having retrospective effect after the Supreme Court judgment dated 10.02.1995, and the same having been upheld by the Supreme Court of India, has also to be kept in view.

In view of the above, Commission **recommended** that:

a) In case of promotions of SC/ST candidates effected prior to 10.02.1995.

In case of R. K. Sabharwal case, Supreme Court had clearly stated in its judgment that

"We, however, direct that the interpretation given by us to the working of the roster and our findings in this point shall be operative prospectively".

It is mentioned that as Post Based Roster is operative only after 10.02.1995, the excess promotions as determined by PBR cannot be worked out prior to 10.02.1995, or considered ad hoc since these were made as per guidelines then in vogue. Therefore, it will not be feasible to disturb the promotions effected before 10.02.1995. Excess therein, if any, may be adjusted against future vacancies in that category.

b) In case of promotions of SC/ST candidates effected between 10.02.1995 and 02.07.1997.

In view of the Supreme Court judgment in the case of R. K. Sabharwal and in absence of any instructions/guidelines from DOPT thereon, the persons belonging to SC/ST category promoted in excess to the vacancies, determined by PBR between 10.02.1995 and 02.07.1997 may not be reverted, as proposed by DOPT, and should be considered on ad hoc basis, till their regularization against the vacancies arising in future in that category or on merit, whichever is earlier.

3. The meeting ended with vote of thanks to the Chairperson.

*U. Venkatesh*  
 Director  
 State Commission for SC/ST  
 Hyderabad

**ANNEXURE**  
(w.r.t. Para 1 of the Summary Record)

**National Commission for Scheduled Tribes**

Meeting of the Commission held on 03.07.2009 at 11:30 hrs. in the Conference Room of the Commission- List of participants.

**S.No.    Name and Designation**

1. Smt. Urmila Singh, Chairperson (In chair)
2. Shri Maurice Kujur, Vice-Chairperson
3. Shri Tsering Samphel, Member
4. Shri Oris Syiem Myriaw, Member
5. Shri R.S. Sirohi, Secretary
6. Shri Aditya Mishra, Joint Secretary
7. Shri R.C. Durga, Director
8. Shri Vinod Aggarwal, Director
9. Shri R.P.Vasishth, Deputy Secretary
10. Shri K.D. Bhansor, Deputy Director
11. Shri K.N. Singh, PS to Chairperson