

Agenda Item No. I**AGENDA NOTE****For 12th Meeting of the National Commission for Scheduled Tribes to be held on 30.06.2009**

Sub: Amendment of Rules of Procedure of National Commission for Scheduled Tribes for incorporating regulatory provisions flowing from clause (4) of Article 338A of the Constitution.

It may be recalled that the Constitution (89th) Amendment Act, 2003 amended Art. 338 of the Constitution to enable for setting National Commission for Scheduled Castes and inserted new Art. 388A for setting National Commission for Scheduled Tribes in place of then existing National Commission for Scheduled Castes and Scheduled Tribes set up in March 1992 (vide the Constitution (65th) Amendment Act, 1990). Clause (4) of the pre-amended Article 338 empowered the erstwhile National Commission for Scheduled Castes and Scheduled Tribes to regulate its own procedure. The same provision also exists under clause (4) of amended Art. 338 as well as Art. 338A. In pursuance of this provision the NCSCST and now NCSC and NCST have the power to regulate their own procedure. Accordingly, NCSCST set up in March 1992 had notified the Rules of Procedure in the year 1994. These rules were amended in the year 1999 and a copy of the amended Rules of Procedure of NCSCST is placed below. Rule (3) of the Rules of Procedure indicated the list of 16 State Offices of the NCSCST and **Rule 4 prescribed that the Commission may, if considered necessary, open new Offices and Sub-Offices and upgrade or downgrade the status and change the jurisdiction of any of its State Offices.**

2. Soon after setting up of NCSC and NCST in February, 2004, both the Commissions also framed the Rules of Procedure in respect of each Commission. The Rules of Procedure of NCSC were notified by NCSC on 6th September, 2004 while Rules of Procedure of NCST were notified on 17th September 2004. **Both these Rules did not include the contents of Rule 3 and 4 of the Rules of Procedure of the erstwhile NCSCST**, because MSJE and MTA had not sanctioned any staff and Regional Offices for two separate Commissions and, therefore, it was not possible to make a mention in the Rules of Procedure as to which Regional Office is functioning under NCSC or NCST. The distribution of staff and the then existing 18 Regional Offices of NCSCST among two Commissions could be done in December 2004 only. Therefore, while processing the framing of the Rules of Procedure for NCST a specific query was made by the then Chairperson in the file as to why the contents under Rule 3 and 4 of the RoP of erstwhile NCSCST could not be incorporated in the RoP of NCST. Shri P.C. Rawal, then Secretary who was holding dual charge as the Secretary, NCST as well as Secretary, NCSC clarified vide this Note dated 8/4/2004 as follows:

It is correct that there is no mention of State offices in the draft Rules through the earlier Rules of National Commission for Scheduled Castes and Scheduled Tribes (NCSCST) did contain the list of 18 State Offices. The erstwhile NCSCST had 18 State offices. However, as per the Government decision to bifurcate the then NCSCST into (1) National Commission for Scheduled Castes (NCSC) and (2) National Commission for Scheduled Tribes (NCST) and thus set up two separate Commission for SCs and STs at the national level, the existing 18 State offices of the erstwhile NCSCST are to be divided amongst

the two new Commissions. The division of staff of the Secretariat of the erstwhile NCSCST as well as division of the 18 State offices amongst the two new Commissions is yet to be decided. Therefore, at this stage, it is not possible to make a mention about the State offices in the Rules of Procedure and according to the Government orders received recently, until these matters are decided, the Secretariat and the State offices of the erstwhile NCSCST would assist both the new Commissions. Though both the new Commissions are empowered to decide about opening new State offices, this would require sanction of additional staff and funds by the Government. Accordingly, the draft Rules of Procedure of the NCSC have been approved and sent to the government for notification without any mention of the State offices. At this stage, it is, therefore, not feasible to incorporate the 18 State Offices as well as notification of 3 additional offices in the draft Rules of Procedure for NCST.

3. Keeping in view the privilege of the Commission that it may, if considered necessary, open new Offices and Sub-Offices and upgrade or downgrade the status and change the jurisdiction of any of its State Offices, the NCSCST, and now NCSC as well as NCST have been redeploying the posts and incumbents from Hq. Office/ Regional Office to any other Regional Office and vice-versa as per requirement from time to time.

4. Since Regional Offices and staff under NCST, is now earmarked, it is felt that in order to maintain transparency, the Rules of Procedure of NCST may be amended to incorporate the regulatory power of the Commission, as contained under Rule (3) and (4) of the Rules of Procedure of its predecessor Commission viz; the erstwhile NCSCST. As per discussions held in a meeting with the Secretary, NCST, it was directed that the scope of the functions of the Secretary, NCST mentioned in Chapter II of the Rules of Procedure may be widened to allocate to the Secretary, NCST also with the responsibility to review the working of the implementation of the safeguards provided for the Scheduled Tribes w.r.t any Ministry/ Deptt./ CPSUs and any of the State Governments/ UTs. It is, accordingly, proposed to insert a new Rule (Rule 25) in Chapter II of the proposed revised Rules of Procedure to give effect to the proposal.

5. Certain other amendments to the Rules of Procedure of the Commission were also felt necessary earlier and accordingly a proposal was prepared which got the approval of the then Secretary, NCST. A copy of the approval note is enclosed at **ANNEXURE-I** to this note. Vide the approved amendments, it was proposed to shift the Chapter VII of the Rules of Procedure as Chapter VI and renumber the exiting Chapter VI as Chapter VII in the revised Rules of Procedure. However, those amendments can be notified after approval by the Commission.

6. Accordingly, a self contained statement showing the existing provision under each Rule, amended provision as approved by the then Secretary, NCST in 2007 (on the basis of the amendments already approved by the then Secretary) and comprehensively revised Rules of Procedure including the amendments of existing Rules and insertion of 3 new Rules, as Rule 3, Rule 4 and Rule 25 in the revised Rules of Procedure, now proposed to be notified is enclosed at **ANNEXURE-II** to this note for consideration and approval by the Commission.