

## **AGENDA NOTE**

**Subject** : Comments of NCST required by Ministry of Tribal Affairs on recommendation no 45, 47 & 76 related to MTA out of total 76 recommendations in its Report submitted by National Commission for Denotified Nomadic and Semi-Nomadic Tribes (NCDNSNT), constituted in March, 2005.

Ministry of Social Justice and empowerment has requested advice on NCST on recommendation no 53 and 55 of the NCDNSNT's Report.

### **I. Proposal in brief.**

**Ministry of Tribal Affairs** has requested the comments on the following recommendations of NCDNSNT.

45. The DNTs are also victims of atrocities like Scheduled Castes committed by anti- social elements. It is, therefore, necessary that the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 be, mutatis mutandis, made applicable to DNTs as well and the central assistance be granted to the States in the same ratio as in the case of SCs and STs. Similarly, special cells may be set up by the States for the implementation of the above Act. To expeditiously prosecute cases under this Act, the number of Special Courts be suitably increased to effectively deal with the cases relating to DNTs.
47. It has been observed that in most of the cases of atrocities committed against the DNTs the villagers or a group of villagers are involved and all the accused get acquitted due to lack of identification and evidence. Hence it is recommended that whenever such a crime takes place where all the villagers or a group of villagers are involved, the entire village should be collectively punished. The punishment may be in the form of stopping or holding up the

financial assistance, or loans which are supposed to come to the village for at least 2/3 years

76. As stated earlier, a number of castes/communities from amongst the Denotified, Nomadic and Semi-nomadic Tribes have been included in the lists of SCs, STs, and OBCs from time to time. It has been noticed that in many cases the same caste/community has been included in the list of SCs in one or more States, and the same caste/community has been included in the lists of STs or OBCs in some other States and has not been included in any list at all in some States. Similarly, a caste/community has been included in one list in some Districts of the State and in another list in some other Districts and in no list in the remaining Districts. This is not only unreasonable but also discriminatory and iniquitous and has created anger and dissatisfaction among various castes/communities in the country. Such examples have been referred to in the chapter in 'Anomalies'. It is, therefore, strongly recommended that all such anomalies be identified and corrected to ensure that a caste/community is in the same list in all the States and also within the same State.

It has also been noticed that various Denotified, Nomadic and Semi-nomadic Tribes have been identified district-wise in the same State. This is also unreasonable. In an age of occupational mobility, if a family moves from one district to another, it should not mean a loss of status of that family. A typical example of this is the State of U.P. It is, therefore, recommended that narrow area restrictions be removed forthwith and castes/communities ordinarily be allowed to enjoy the same status throughout the State.

**Ministry of Social Justice and Empowerment** has asked for advice of NCST on the following recommendations of NCDNSNT.

- 53 Considering their socio-economic conditions, which are generally worse than those of the Scheduled Castes and the Scheduled Tribes, it is suggested that they may be given constitutional status and support on the same lines as

given to the Scheduled Castes and the Scheduled Tribes under Article 341 and Article 342 of the Constitution. Accordingly, the Constitution may be amended by adding Article 342 A as follows:-

“342-A. Scheduled Communities -

- (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 castes, races or tribes or parts of or groups within castes, races or tribes which shall for the purpose of this Constitution be deemed to be Scheduled Communities (Denotified and Nomadic Tribes), in relation to that State or Union Territory, as the case may be.
- (2) Parliament may, by law, include in or exclude from the list of Scheduled Communities specified in a notification issued under clause (1) any caste, race or tribe or part of or group within any caste, race or tribe, but have as aforesaid a notification issued under the said clause shall not be varied by any subsequent notification. ”

55. Simultaneously, Scheduled Communities (Denotified & Nomadic Tribes) which have been included in the list of Scheduled Castes and in the list of Scheduled Tribes may be excluded from these lists in accordance with Article 341 (2) and Article 342 (2) of the Constitution. Also, such Scheduled Communities as have been included in the list of the OBCs may be excluded from such list in accordance with the provisions of National Commission for Backward Classes Act, 1993.

## **II. Implication of the Recommendations**

45. In case of implementation of POA Act, 1989 to DNTs, then the scope of this act will increase and its significance is lost. It will be harmful to the STs, in the sense that if atrocity is done by a DN tribe on a ST, in the current system, a case will be registered under POA Act, 1989 along with other sections of IPC , but as per this recommendation, the case will be registered under IPC only.

47. Generally STs and DNTs are living in remote villages and with this recommendation, Govt. assistance to STs can be stopped even by filing false cases.

76. This recommendation will lead to reservation benefit to those communities which have not faced the social or economic deprivation.

53. The reservation benefit will exceed 50 % limit, which will have negative effect on the society.

55. It will lead to recasting of complete reservation system.

## **III. Proposed recommendation of the Commission on the Draft O.M.**

In the light of implications as stated above, the Commission may like to consider the following recommendations on different recommendations of NCDNSNT.

45. As data given by NCDNSNT in its report vide para 3.2 and 3.3, 97 % of DT and 84 % of NT population is already categorized as SC,ST or OBC, there is no need of it.

47. This problem can be addressed by having a member of DNT in Gram Sabha.

76. Declaration of any community as ST, SC or OBC is done on the basis of their deprivation of Social or Economic rights in a particular area. Therefore, declaration is area specific and can't be generalized. If any community is deprived of some rights uniformly throughout the country, then it is declared like that.
53. As already mentioned, the NCDNSNT in its report have mentioned in para 3.2 and 3.3 that majority of DNTs are already declared as ST, SC or OBC, there is no need of amendment of Constitution.
55. In view of proposed recommendation for recommendation no. 53 of NCDNSNT, this is not required.