



सत्यमेव जयते

भारत सरकार

राष्ट्रीय अनुसूचित जनजाति आयोग

GOVERNMENT OF INDIA

NATIONAL COMMISSION FOR SCHEDULED TRIBES

File No. 1/2/12-Coord.

छठी मंजिल, 'बी' विंग, लोक भयोक भवन,
खान मरकेट, नई दिल्ली - 110002

6th Floor, 'B' Wing, Lok Bhayok Bhawan,
Khan Market, New Delhi-110 002

Dated 21/03/2012

To,

- 1) Dr. Rameshwar Oraon, Chairperson,
- 2) Smt. K. Kamala Kumari, Member,
- 3) Shri Bheru Lal Meena, Member,

Subject : 32nd Meeting of the Commission : Agenda Brief.

Sir/Madam,

I am directed to refer to Notice of even number dated 23/03/2012 for the 32nd meeting of the Commission Scheduled to be held on 28/03/2012 at 11:30 A.M. and to forward herewith a copy each of the following Agenda Notes for consideration in the meeting.

1. Inclusion of "Abujh Maria and Hill Korwa" in the list of STs of Chhattisgarh
2. Re-inclusion of "Marati" community in the list of STs of Kerala.
3. Inclusion of Bodo Kacharis in Karbi Anglong & NC Hills Autonomous Council Area:

You are requested to kindly make it convenient to attend the meeting.

Yours faithfully,

(Aditya Mishra)
Joint Secretary

Copy for information and necessary action to:

1. Secretary
2. Joint Secretary
3. Dy. Director (RU-III & RU-IV)
4. AD Coord
5. Copy for information and record in F.No.1/5/2011-Coord.

Copy to US(Adm.) for making necessary arrangements for conduct of the meeting.

Copy to SSA(NIC) for uploading Agenda brief on the website of NCST.

AGENDA NOTE

Issue: Inclusion of Bodo Kacharis in Karbi Anglong & NC Hills Autonomous Council Area of Assam.

Background:

MTA vide letter No. 12016/2/2008-C&LM-I dated 03/11/2011 have forwarded the proposal for inclusion of Bodo Kacharis in Karbi Anglong & NC Hills autonomous Council Area. MTA has also enclosed D.O. No. N-684/HMP.11 dated 18/10/2011 from the Home Minister to the Minister, MTA and also D.O letter dated 11/09/2006 from the Registrar General and Census Commissioner, which contains, Inter-alia, comments regarding inclusion of of Bodo Kacharis in Karbi Anglong & NC Hills Autonomous Council Area of Assam.

2. MTA has quoted RGI letter dated 11/09/2006 wherein the inclusion of Bodo Kacharis in the list of STs in the autonomous districts of Assam was agreed to in the year 1981. It is further stated that the comments/views of the RGI were sent to the then Home Ministry vide letter No.8/2/81-SS dated 18/03/1981(Annexure- I).

Criteria Prescribed for Inclusion

3. The Constitution of India enjoins on the State a special responsibility for the protection and development of Scheduled Tribes. Clause (25) of article 366 of the Constitution defines, "Scheduled Tribes means 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 for the purposes of this Constitution". The Scheduled Tribes are notified by the Presidential Order under Clause (1) of the article 342 of the Constitution, which is as follows:-

"342. Scheduled Tribes:

- (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 group within tribes or

tribal communities which shall for the purposes of this Constitution be deemed to be Scheduled 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 Tribes specified in a notification issued under clause shall not be varied by any subsequent notification."

(3) The criteria followed for specification of a community as Scheduled Tribe are given below:-

- (a) Indications of primitive traits;
- (b) Distinctive culture;
- (c) Geographical isolation;
- (d) Shyness of contact with the community at large; and
- (e) Backwardness

These criteria are not spelt out in the Constitution but have become well established and accepted. Internal guidelines prepared by the Commission for examination of proposals are annexed.

4. Accordingly, the first specification of Scheduled Tribes in relation to a particular State or Union Territory is by a notified Order of the President, after consultation with the State Government or Union Territory concerned. Any subsequent inclusion in or exclusion from and other modifications in the list of Scheduled Tribes can be made only through an Act of Parliament. On 15th June 1999 (further amended on 25.6.2002) Government has approved modalities for deciding claims for inclusion in, exclusion from and other modifications in the Orders specifying the lists of Scheduled Castes and Scheduled Tribes. Accordingly to modalities, the concerned State Government recommends the proposal along with justification and forwards it to the Central Government. Thereafter, proposals received from State Government are sent to the Registrar General of India (RGI). The RGI, if satisfied with the recommendation of the State Government, recommends the proposal to the Central Government. Thereafter, Central Government refers the proposal to the National Commission for SCs and STs, Commissions for Scheduled Castes (NCSC) and the National Commission for Scheduled Tribes (NCST) for their recommendation. After the National Commission for Scheduled Tribes recommends it, the matter is processed for the decision of the

Cabinet. According to the above procedure only those cases that have been agreed to by the concerned States Government/UT Administration. The Registrar General of India as well as National Commission for Scheduled Tribes are considered for amending legislation. After the matter is decided by the Cabinet, a Bill is introduced in Parliament. In case a proposal is not supported by the RGI, does not agree to the point of view of the State Government/UT Administration on a second reference, the Government of India ma

Comments of RGI:-

5. It is noted from the comments of the ORGI, forwarded vide MTA D.O. letter dated 3/11/2011 that ORGI in 1981 vide D.O.No. 8/2/81-SS dated March, 18, 1981 addressed to the Joint Secretary, MHA had agreed to the inclusion of Boro Kachari, along with Deori, Lalung and Miri in the list of Scheduled Tribes in Autonomous Districts, with the following comments:

"All these tribes except perhaps Lalungs who are found in both hills & plains primarily belong to Assam plains. The proposal is to include them in the list of Schedule Tribe of the Autonomous dist. There is no doubt about their tribal nature and this office do not have any objection in principle, to their inclusion in the list of Scheduled Tribes. In the Autonomous Dist. of Assam, if the State Govt. /MHA is satisfied about their presence in the area."

Earlier views of the Commission

6. In the context of continuing demand for inclusion of new areas / communities, there is a need to review the list of Scheduled Areas/ Tribes objectively in a time-bound manner. Appropriately, therefore, the Scheduled Area & Scheduled Tribes Commission should be constituted every 10 years to look into such demand under Article 339 of the Constitution. SA & ST Commission should be entrusted the review of Scheduled Areas, Scheduled Tribes list and Laws and rules relating to administrative and financial structure.

(Ref: NCST comments on recommendation in Third Report of Standing Committee on Inter-Sectoral Issues Relating to Tribal Development on Standards of Administration and Governance in the Scheduled Areas headed by Dr. Bhalchandra Mungekar, Member, Planning Commission).

7. De-scheduling of certain ST communities as a whole is not in the interests of still poor and backward families among those Scheduled Tribe communities. The Government may, however, devise measures to ensure that share of the weakest amongst the Scheduled Tribes in the development schemes and economic upliftment programmes are not cornered by those members of Scheduled Tribes who have already availed the benefits and have risen to the average of the society. Moreover, the criteria for identifying a community as Scheduled Tribes as adopted so far needs to be followed strictly so that only deserving communities are able to reap the benefits.

(Ref: NCST recommendation contained in Para 5.92 of the 4th Annual Report of NCST for 2008-09).

Views of the Members of the Commission:

8. The views of the members of the Commission were sought vide letter dated 23/11/2011 (followed by reminders dated 13/03/2012) for discussion in the meeting of the Commission which have not been received as yet. In this connection, it is also mentioned that in the past, the concerned Member has visited the areas populated by the concerned communities to provide an assessment in case the Commission thinks a proposal worthy of consideration.

Examination/Analysis :-

9. In the DO letter dated 18/10/2011 quoted in para 1 above, it has been mentioned that the Joint Secretary (North East) in the Ministry of Home Affairs took a meeting on 12/10/2011 with the representatives of Ministry of Tribal Affairs and RGI on this issue. In that meeting, it was decided that Ministry of Tribal Affairs would refer the matter to the National Commission for Scheduled Tribes for their concurrence. It is, however, pointed out that MTA while forwarding the proposal

have not sent the minutes of the meeting taken by the Ministry of Home Affairs on 12/10/2011. Further, while MTA has forwarded the proposal for inclusion of Boro Kacharis in Karbi Anglong & NC Hills Autonomous Council Area, the quoted comments of RGI in support to the proposal pertain to the Boro Kacharis. Necessary clarification in this regard are required to be obtained from the MTA as well as from the State Govt.

10 It is also noted that the RGI have re-iterated their comments of 1981 in 2006 in the matter. The updated position with regard to social customs, dialect, way of living, level of education, economic development, religious and inter-marriages practices of Borokachari have not been made available by the MTA/RGI/State Govt.

11. It is noted that para 12(b) of Vth Schedule to the Constitution prescribes that:

(b) the Governor may, by public notification, direct that any Act of Parliament or of the Legislature of the State of Assam to which the provisions of clause (a) of this subparagraph do not apply shall not apply to an autonomous district or an autonomous region in that State, or shall apply to such district or region or any part thereof subject to such exceptions or modifications as he may specify in the notification.

In view of the above, it is to be seen whether the State Govt. had obtained concurrence of the Governor of the State before sending the proposal to the Govt. of India

12. It is noted from the list of STs in India that in respect of the State of Assam, Boro and Borokachari communities have been included in the ST list excluding the autonomous Distt. of Boro and Borokachari (Annexure-II). Thus, the proposal has implication of recognizing Borokachari as ST in the whole State of Assam with the

removal of the area restriction as existing in the SF List in respect of Karbi
Anglong & NC Hills Autonomous Council Area of Assam

Proposed views of the Commission

12. In view of the position explained above, Commission may like to consider seeking necessary clarifications from the MTA and the State Govt. as mentioned in para 9, 10 and 11 above.

America I

S.No 5(2)

SECRET/IMMEDIATE

D.O.No. B/2/81-88

P. PADMANABHA

March 18, 1981

Dear Shri. Krishnan,

In continuation of my dem-
official letter of even number dated
7th March, 1981 please find enclosed
two statements containing our comments
on the remaining communities in connection
with the proposed legislation on revision
of the list of Scheduled Castes and
Scheduled Tribes.

With regards,

Yours sincerely,

(P. Padmanabha)

Shri P.S. Krishnan,
Joint Secretary,
Ministry of Home Affairs,
NEW DELHI-110 001.

Encl: As above.

Handwritten notes: 18/3/81

Amended II

**No.NCST/Guidelines/2008-DS(RU-IV)
Govt. of India
National Commission for Scheduled Tribes**

6th Floor, 'B' Wing,
Loknayak Bhawan,
Khan Market,
New Delhi-110003

Dated: 03-07-2008

CIRCULAR

Subject: Internal guidelines for examining the proposals of inclusion in/exclusion from the list of STs.

In continuation of the Circular of even number, dated 10-06-2008, revised draft guidelines on the above subject are enclosed herewith for comments, if any.


(R.P. Vasishta)
Deputy Secretary

To
Director (VA)/Director (RCD)/AD (RU-I)/ AD (Coord.)/ RO (RU-II)/
RO (RU-III)/ RO (RU-IV).

Copy for information to

PPS to Secretary/PS to Joint Secretary.

National Commission for Scheduled Tribes

Draft Internal guidelines for examining the proposals of inclusion in/exclusion from the list of Scheduled Tribes.

In the Constitution of India, no criteria have been spelled out for the specification of a community as a Scheduled Tribe. However, taking into account the definitions in the 1931 Census and the Reports of the first Backward Classes Commission (Kalelkar) 1955, the Advisory Committee on Revision of SC/ST lists (Lokur Committee) 1965 and the Joint Committee of Parliament on the SCs & STs Orders (Amendment) Bill, 1967 (Chanda Committee) 1969, the following criteria are followed for specification of a community as a Scheduled Tribe:-

- a. Indications of primitive traits,
- b. Distinctive culture,
- c. Geographical isolation,
- d. Shyness of contact with the community at large, and
- e. Backwardness.

2. As per the approved modalities for deciding the claims of inclusion/exclusion w.r.t. ST lists, proposals favoured by the State Governments and the RGI are referred to the NCST for opinion by the Ministry of Tribal Affairs. The Commission also directly receives some representations from individuals, associations, etc on the subject. The Commission is not concerned with these representation and therefore the same may be forwarded to the Ministry of Tribal Affairs for appropriate action under intimation to the representationists.

3. The Commission may examine the proposals received from the MTA as per its own procedure. With a view to ascertain that the proposals are based on the broad criteria, referred to in para 1 above, the Commission may apply the following tests with reference to any particular community:-

(A) Way of Living.

- (i) Habitations in geographically isolated areas, hilly terrains, islands, deserts, etc.
- (ii) Prevalence of primitive traits in the matters of clothing, cleanliness etc.

State-wise List of notified Scheduled Tribes in India

Andhra Pradesh

1. Anoh, *Sodhu Andh*
2. Bayata
3. Bilal
4. Chandelur
5. Gadabas, *Goda*
6. *Gadaba, Garab*
7. *Gadaba, Kallayi*
8. *Gadaba, Ganugi*
9. *Gadaba, Kotivera*
10. *Gadaba, Kapu Gadaba*
11. Gond, Halkpod,
12. Gopond, Koitur
13. Gopudu (in the Agency tracts)
14. Hill Reddis
15. Jalaput
16. Kammaru
17. Kattamavakan
18. Kolam, *Kolawar*
19. Konda Dhoras,
20. Konda Kapus
21. Mendareddis
22. Kondhs, Lodi,
23. *Kondhu, Deaya*

1. Kondhs, Dongria
2. Kondhs, Kuttiya
3. Kondhs, Tikiria
4. Kondhs, Yenity
5. Kondhs, *Kuringa*
17. Kotia, Benth
18. Oriya, Bartika, Dulia,
19. Holva, Sanrona,
20. Sidhopaiko
21. Koya, *Doli Koya,*
22. *Gutta Koya, Kammaru*
23. *Koya, Musara*
24. *Koya, Oddi Koya,*
25. *Pottidi Koya, Rajah,*
26. Rasha Koya,
27. Lingadhari Koya
28. (ordinary), Kottu Koya,
29. Bhine Koya,
30. Rajkoya
31. Kulia
32. Malis (excluding
33. Adilabad, Hyderabad,
34. Karimnagar,
35. Khanman,
36. Mahbubnagar,

37. Medak, Nalgonda,
38. Nizamabad and
39. Warangal districts)
21. Manna Dhora
22. Mukha Dhora,
23. Nooka Dhora
24. Nayaks (in the
25. Agency tracts)
26. Pardhan
27. Porja, Parangiperja
28. Reddi Dhoras
29. Rona, Rena
30. Savaras, Kapu
31. Savaras, Maliya
32. Savaras, Khutto
33. Savaras
34. Sugalis, Lambadis,
35. **Banjara**
36. Thoti (in Adilabad,
37. Hyderabad,
38. Karimnagar,
39. Khamman,
40. Mahbubnagar, Medak,
41. Nalgonda, Nizamabad
42. and Warangal districts)

31. Valmiki (in the
32. Scheduled Areas of
33. Vishakhapatnam,
34. Srikakulam,
35. Vijayanadgram, East.
36. Godavari and West
37. Godavari districts)
38. Yenadis, Chella
39. Yenadi, Kappala
40. Yenadi, Manchi
41. Yenadi, Reddi Yenadi
42. Yerukulas,
43. Koracha, Dabba
44. Yerukula,
45. Kunchapuri
46. Yerukula, Uppu
47. Yerukula
48. Nakkala,
49. Kurvikaran
50. Dhulia, Paiko,
51. Putiya (in the districts
52. of Vishakhapatnam
53. and Vijayanagaram)

Assam

1. All tribes in the State
2. including -
3. Jaintias
4. Khasis
5. Assami
6. Arosan
7. Dima
8. Jaintia
9. Karbi
10. Mishing
11. Naga
12. Santhal
13. Santal
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539. Jaintia
540. Karbi
541. Mishing
542. Naga
543. Santhal
544. Santal
545. Sonowal
546. Uraon
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617. Sonowal
618. Uraon
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621. Karbi
622. Mishing
623. Naga
624. Santhal
625. Santal
626. Sonowal
627. Uraon
628. Warjantia
629. Jaintia
630. Karbi
631. Mishing
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683. Jaintia
684. Karbi
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711. Karbi
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713. Naga
714. Santhal
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730. Mishing
731. Naga
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733. Santal
734. Sonowal
735. Uraon
736. Warjantia
737. Jaintia
738. Karbi
739. Mishing
740. Naga
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743. Sonowal
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747. Karbi
748. Mishing
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756. Karbi
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763. Warjantia
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773. Jaintia
774. Karbi
775. Mishing
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780. Uraon
781. Warjantia
782. Jaintia
783. Karbi
784. Mishing
785. Naga
786. Santhal
787. Santal
788. Sonowal
789. Uraon
790. Warjantia
791. Jaintia
792. Karbi
793. Mishing
794. Naga
795. Santhal
796. Santal
797. Sonowal
798. Uraon
799. Warjantia
800. Jaintia

4. Datta
 5. Galong
 6. Khampti
 7. Khowa
 8. Mishmi, *Idu, Tarvan*
- including: -
- (i) Biate, Biete
 - (ii) Changsan
 - (iii) Chongloi
 - (iv) Doungel
 - (v) Gamalhou
 - (vi) Gange
 - (vii) Gurite
 - (viii) Hammeng
 - (ix) Haokip, Haupt
 - (x) Haolai
 - (xi) Hengna
 - (xii) Hongsungh
 - (xiii) Hrangkhwal,

9. Momba
10. Any Naga tribes
11. Sherdukpen
12. Singpho

- (xiv) Jongbe
- (xv) Khawchung
- (xvi) Khawathlang,
- (xvii) Khothalong
- (xviii) Khelma
- (xix) Kholhou
- (xx) Kipgen
- (xxi) Kuki
- (xxii) Lengthang
- (xxiii) Lhangum
- (xxiv) Lhoujem
- (xxv) Lhouvun
- (xxvi) Lupheng

13. Hrusso
14. Tagin
15. Khamba
16. Adi

(XXXII) Sithou
 (XXXIII) Sakte
 (XXXIV) Thado
 (XXXV) Thanggeu
 (XXXVI) Uibuh
 (XXXVII) Vaiphei

8. Lakher
 9. Man (Tai speaking)
 10. Any Mizo (Lushai) tribes
 11. *Karbi*
 12. Any Naga tribes
 13. Pawi
 14. Syntheng
 15. *Lalung*

IV. Bihar

1. Asur, *Agaria*
 2. Baiga
 3. Banjara
 4. Bathudi
 5. Bedia
 6. Omitted
 7. Binjlia
 8. Birhor
 9. Bircia
 10. Chero

V. Chhattisgarh

1. Agariya
 2. Andh
 3. Baiga
 4. Bhaina
 5. Bharia Bhumia, Bhuinhar Bhumia, Bhumiya, Bharia, Paliha, Pando
 6. Bhattra
 7. Bhil, Bhillala, Barela, Patelia
 8. Bhil Mina
 9. Bhunjia
 10. Biar, Biyar
 11. Binjhar
 12. Birhul, Birhor
 13. Danor, Damaria
 14. Dhanwar
 15. Gadaba, Gadba
 16. Gond, Arakh, Arrakh, Agaria, Asur,

****II. In the State of Assam including the Bodo land territorial Areas District and excluding the autonomous districts of Karbi Anglong and North Cachar Hills**

1. Barmans in Cachar
 2. Bofo,
Borokachari

11. Chik Baraik
 12. Gond
 13. Gorait
 14. Ho
 15. Karmali
 16. Kharia, *Dhelki Kharia, Dudh Kharia, Hill Kharia*
 17. Kharwar
 18. Khond

Badi Maria, Bada Maria, Bhatola, Bhinma, Bhuta, Koliabhuta, Koliabhuti, Bhar, Bisonhorn Maria, Chota Maria, Dandami Maria, Dhuru, Dhurwa, Dhoba, Dhulia, Dorla, Gaiki, Gatta, Gatti, Gaita, Gomi Gowari, Hill Maria, Kandra, Kalanga, Khatola, Koitar, Koya, Khirwar, Khirwara, Kucha Maria, Kuchaki Maria, Madia, Maria, Mana, Mannewar, Moghya, Mogia, Monghya, Mudia, Muria, Nagarchi, Nagwanshi, Ojha, Raj, Sonjhari, Jhareka, Thatia,

3. Deori
 4. Hojai
 5. Kachari, Sonwal
 6. Lalung
 7. Mech
 8. Miri
 9. Rabha
 10. *Dimasa*
 11. *Hajong*

19. Kisan, *Nagesia*
 20. Kora, *Mudi-Kora*
 21. Korwa
 22. Lohara, Lohra
 23. Mahli
 24. Mal Paharia, *Kumarbhag Paharia*
 25. Munda, *Patar*
 26. Oraon, *Dhangar(Oraon)*

Thotya, Wade Maria, Vade Maria, Daroi
 17. Halba, Halbi
 18. Kamar
 19. Karku
 20. Kawar, Kanwar, Kaur, Cherwa, Rathia, Tanwar, Chattri
 21. Khairwar, Kondar
 22. Kharia
 23. Kondh,
 Khond, Kandh
 24. Kol
 25. Kolam
 26. Korku, Bopchi, Mouasi, Nihal, Nahul
 Bondhi, Bondeya
 27. Korwa, Kodaku
 28. Majhi
 29. Majhwar
 30. Mawasi
 31. Munda.

12. *Singphoo*
 13. *Khampli*
 14. *Oaro*

27. Patharya
 28. Santal
 29. Sauria Paharia
 30. Savar
 31. *Kawar*
 32. *Kol*
 33. *Tharu*

32. Nagesia, Nagesia
 33. Oraon, Dhaul a. Dhangad
 34. Pao
 35. Pardham, Patlari, Saroti
 36. Pardhi, Bahelir, Bahelha, Chita Pardhi, Langoli Pardhi, Hans Pardhi, Shikari, Takankar, Taki (Hasti) Bastar, Dantewara, Kanker, Raigarh, Jashpuragar, Surguja and Korba districts, and (ii) Katghora, Pali, Kartala and Korba tahsils of Korba district, (iii) Bilaspur, Pendra, Kota and Takhatpur tahsils of Bilaspur district, (iv)

- (iii) Engagement in occupations like hunting, trapping of bird & animals, stone carving, making of articles from forest wood and bamboo, hide & skin work, etc.
- (iv) Mostly non-vegetarians with distinctive food habits like consuming roots and tubers, meat of animals, home made alcoholic drinks etc.

(B) Social customs and Religious practices.

- (i) Distinctive and specific sphere/circle for marriages. Most of the tribal groups are Endogamous and the system of consanguineous marriages is prevalent in most of the tribal areas.
- (ii) Peculiar rituals and ceremonies for marriages.
- (iii) Specific 'Deities' and peculiar ways of worshipping.
- (iv) Peculiarity in dress, e.g. wearing of headgears including turbans, ornaments, body marking, tattooing, etc.
- (v) Unflinching faith in the dictates of Clan Heads.

(C) Dialect.

Peculiarity of language/dialect generally distinct from the general population in the area.

(D) Educational and Economic Status

- (i) Very low rate of literacy as compared to the general literacy rate in the area.
- (ii) Living in very poor conditions much below the poverty line. No sense of savings and dependence on money lenders.

4. The above criteria/tests have to be applied keeping in view the fact that the tribes in India are tribes in transition. The criterion of backwardness thus remains as the main criterion. The relative backwardness of a community as compared to the society at large and other communities in the area has therefore to be judged. For this purpose, data on economic development, educational development and social development of the community should be analysed. Such data should, inter-alia, include the data on the representation of the community in government/public sector services, political institutions like Parliament, State Assemblies and local bodies.

5. The following procedure may be adopted for applying the above tests:-

- (a) The opinion/comments from public (supporters as well as opponents) may be obtained. For this purpose, necessary notices may be got published in the newspapers and also put up on the website of the Commission. Thereafter, interested persons/associations may be called in the Commission for discussion. If necessary, a public hearing may also be held.
- (b) Recommendations of the State Government and RGI may be examined thoroughly. Reasons for not inclusion in the ST list earlier may be ascertained. Relevant data from 1931 Census and onwards may be scrutinized. If necessary, the concerned officers from the State Government and RGI may be called for a meeting in the Commission.
- (c) Report on the ethnographical survey, and case studies, if available, may be taken into account.
- (d) Opinion of experts in the field of Anthropology/Sociology may also be obtained if considered necessary.
- (e) If considered necessary, a study may be entrusted to some expert agency for determining the relative backwardness of the community.

6. A final view on any proposal may be taken by the Commission in its meeting after the matter has been examined by applying the above procedure.

Annexure-I

No.NCST/Guidelines/2008-DS(RU-IV)
Govt. of India
National Commission for Scheduled Tribes


6th Floor, 'B' Wing,
Loknayak Bhawan,
Khan Market,
New Delhi-110003

Dated: 03-07-2008

CIRCULAR

Subject: Internal guidelines for examining the proposals of inclusion in/exclusion from the list of STs.

In continuation of the Circular of even number, dated 10-06-2008, revised draft guidelines on the above subject are enclosed herewith for comments, if any.


(R.P. Vasishtha)
Deputy Secretary

To
Director (VA)/Director (RCD)/AD (RU-I)/ AD (Coord.)/ RO (RU-II)/
RO (RU-III)/ RO (RU-IV).

Copy for information to,

PPS to Secretary/PS to Joint Secretary.

National Commission for Scheduled Tribes

Draft Internal guidelines for examining the proposals of inclusion in/exclusion from the list of Scheduled Tribes.

In the Constitution of India, no criteria have been spelt out for the specification of a community as a Scheduled Tribe. However, taking into account the definitions in the 1931 Census and the Reports of the first Backward Classes Commission (Kalelkar) 1955, the Advisory Committee on Revision of SC/ST lists (Lokur Committee) 1965 and the Joint Committee of Parliament on the SCs & STs Orders (Amendment) Bill, 1967 (Chanda Committee) 1969, the following criteria are followed for specification of a community as a Scheduled Tribe:-

- a. Indications of primitive traits,
- b. Distinctive culture,
- c. Geographical isolation,
- d. Shyness of contact with the community at large, and
- e. Backwardness.

2. As per the approved modalities for deciding the claims of inclusion/exclusion w.r.t. ST lists, proposals favoured by the State Governments and the RGI are referred to the NCST for opinion by the Ministry of Tribal Affairs. The Commission also directly receives some representations from individuals, associations, etc on the subject. The Commission is not concerned with these representation and therefore the same may be forwarded to the Ministry of Tribal Affairs for appropriate action under intimation to the representationists.

3. The Commission may examine the proposals received from the MTA as per its own procedure. With a view to ascertain that the proposals are based on the broad criteria, referred to in para 1 above, the Commission may apply the following tests with reference to any particular community:-

(A) Way of Living.

- (i) Habitations in geographically isolated areas, hilly terrains, islands, deserts, etc.
- (ii) Prevalence of primitive traits in the matters of clothing, cleanliness etc.

- (iii) Engagement in occupations like hunting, trapping of bird & animals, stone carving, making of articles from forest wood and bamboo, hide & skin work, etc.
- (iv) Mostly non-vegetarians with distinctive food habits like consuming roots and tubers, meat of animals, home made alcoholic drinks etc.

(B) Social customs and Religious practices.

- (i) Distinctive and specific sphere/circle for marriages. Most of the tribal groups are Endogamous and the system of consanguineous marriages is prevalent in most of the tribal areas.
- (ii) Peculiar rituals and ceremonies for marriages.
- (iii) Specific 'Deities' and peculiar ways of worshipping.
- (iv) Peculiarity in dress, e.g. wearing of headgears including turbans, ornaments, body marking, tattooing, etc.
- (v) Unflinching faith in the dictates of Clan Heads.

(C) Dialect.

Peculiarity of language/dialect generally distinct from the general population in the area.

(D) Educational and Economic Status

- (i) Very low rate of literacy as compared to the general literacy rate in the area.
- (ii) Living in very poor conditions much below the poverty line. No sense of savings and dependence on money lenders.

4. The above criteria/tests have to be applied keeping in view the fact that the tribes in India are tribes in transition. The criterion of backwardness thus remains as the main criterion. The relative backwardness of a community as compared to the society at large and other communities in the area has therefore to be judged. For this purpose, data on economic development, educational development and social development of the community should be analysed. Such data should, inter-alia, include the data on the representation of the community in government/public sector services, political institutions like Parliament, State Assemblies and local bodies.

5. The following procedure may be adopted for applying the above tests:-
- (a) The opinion/comments from public (supporters as well as opponents) may be obtained. For this purpose, necessary notices may be got published in the newspapers and also put up on the website of the Commission. Thereafter, interested persons/associations may be called in the Commission for discussion. If necessary, a public hearing may also be held.
 - (b) Recommendations of the State Government and RGI may be examined thoroughly. Reasons for not inclusion in the ST list earlier may be ascertained. Relevant data from 1931 Census and onwards may be scrutinized. If necessary, the concerned officers from the State Government and RGI may be called for a meeting in the Commission.
 - (c) Report on the ethnographical survey, and case studies, if available, may be taken into account.
 - (d) Opinion of experts in the field of Anthropology/Sociology may also be obtained if considered necessary.
 - (e) If considered necessary, a study may be entrusted to some expert agency for determining the relative backwardness of the community.
6. A final view on any proposal may be taken by the Commission in its meeting after the matter has been examined by applying the above procedure.

S. NO. 3 (R)

Amended
11

F.No.12026/03/2011-C&LM-1
Government of India
Ministry of Tribal Affairs

Shastri Bhawan, New Delhi-110001
Dated: 27 January, 2012

To

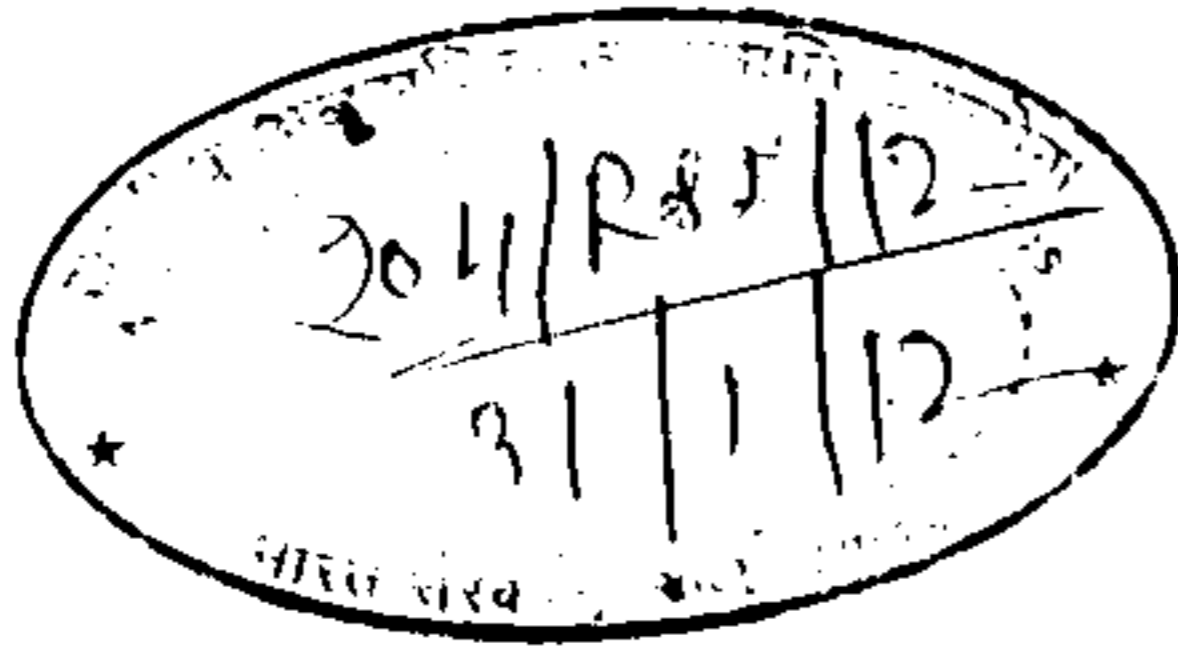
The Secretary,
National Commission for Scheduled Tribes,
6th Floor, Lok Nayak Bhawan,
Khan Market,
New Delhi-110 023.

Subject: Inclusion of 'Abujh Maria' and 'Hill Korwa' in the list of STs of Chhattisgarh regarding.

I am directed to refer to your letter No. 16/01/inclusion/2012/RU-III dated 31/1/2012 on the above subject. The requisite comment/views of the Govt. of Chhattisgarh received on the proposal are enclosed herewith for further necessary action.

Encl: As above.

Yours faithfully,



Purnima
27/01-12
(Purnima Tudu)

Under Secretary to the Government of India
Tel: 23383965

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file in
31/1/12

DNKAB
S.P.S.T

छत्तीसगढ़ शासन
आदिम जाति तथा अनुसूचित जाति विकास विभाग
मंत्रालय
दाउ कल्याण सिंह भवन, रायपुर

189
54
12

रायपुर, दिनांक जुलाई, 2011

प्रेषक : मनोज कुमार पिंगुआ
सचिव
छत्तीसगढ़ शासन
आदिम जाति तथा अनुसूचित जाति विकास विभाग
रायपुर

प्रेषित : सचिव
भारत सरकार
जनजातीय कार्य मंत्रालय
शास्त्री भवन
नई दिल्ली

विषय : छत्तीसगढ़ की अनुसूचित जनजाति की सूची में अबूझमाड़िया एवं पहाड़ी कोरवा के समावेशन के संबंध में

महोदय,


कृपया विषयांकित संबंध में भारत सरकार, जनजातीय कार्य मंत्रालय के पत्र क्रमांक/12026/3/2011-C&LM-1 दिनांक 27 मई, 2011 का अवलोकन करने का कष्ट करें, जिसके द्वारा छत्तीसगढ़ राज्य की अनुसूचित जनजाति सूची में अबूझमाड़िया एवं पहाड़ी कोरवा को समावेशित करने हेतु प्रस्ताव प्रेषित करने हेतु लेख किया गया है।

2- छत्तीसगढ़ राज्य की अनुसूचित जनजाति की सूची के सरल क्रमांक 16 पर गोंड जनजाति समूह के साथ माड़िया जनजाति शामिल है। गोंड जनजाति भारत का सबसे बड़ा जनजाति समूह है। सरल क्रमांक 16 में बड़ी मारिया, बड़ा मारिया, बायसनहार्न मारिया, छोटा मारिया, दंडामी मारिया, हिल मारिया, कुचा मारिया, कुचाकी मारिया, माड़िया, मारिया, मुड़िया, मुरिया, बड़े माड़िया तथा बड़्डे माड़िया आदि जनजाति शामिल है। इसी समूह के वे लोग जो बस्तर संभाग के अबूझमाड़ क्षेत्र में निवास करते हैं अबूझमाड़िया के नाम से जाने जाते हैं यद्यपि अधिकांश शासकीय अभिलेखों में उनकी जाति की प्रविष्टि माड़िया अंकित है। बस्तर का अबूझमाड़ भौगोलिक रूप से अत्यंत दुर्गम क्षेत्र है जिसके कारण इस क्षेत्र के निवासी माड़िया कृषि पूर्व अर्थ व्यवस्था, स्थिर जनसंख्या, न्यून साक्षरता एवं पृथक्कीकरण आदि लक्षणों के कारण अन्य क्षेत्र के माड़िया लोगों की अपेक्षा अधिक पिछड़े हुए हैं। अबूझमाड़ क्षेत्र के माड़िया लोगों को पंचवी पंचवर्षीय योजना अवधि में भारत सरकार के द्वारा निर्धारित मापदण्डों के अनुसार विशेष पिछड़े जनजाति समूह का दर्जा दिया गया है। वर्ष 2002 में विभाग द्वारा किए गए सर्वेक्षण अनुसार अबूझमाड़िया जनजाति की जनसंख्या 19,401 है। उक्त जनजाति माड़िया जनजाति समूह का ही अंश है तथा रहवास क्षेत्र के कारण अबूझमाड़िया के नाम से जाने जाते हैं। अतः छत्तीसगढ़ राज्य की अनुसूचित जनजाति सूची के सरल क्रमांक 16 में "अबूझमाड़िया" जनजाति को समावेशित किया जाना प्रस्तावित है।

3 छत्तीसगढ़ राज्य की अनुसूचित जनजाति की सूची के सरल क्रमांक 27 पर कोरवा तथा पहाड़ी कोरवा जनजाति शामिल हैं। ये राज्य जशपुर, सरगुजा तथा कोरबा जिले में निवासरत हैं। यह जनजाति मुख्य रूप से पहाड़ों में निवास करती है, कालांतर में इस जनजाति की कुछ जनसंख्या मैदानी क्षेत्रों में भी निवास करने लगी थी फलस्वरूप पहाड़ों में रहने वाले पहाड़ी कोरवा तथा मैदानों में रहने वाले पहाड़ी कोरवा के नाम से जाने जाते हैं पहाड़ों में रहने वाला समूह कृषि पूर्व अर्थ व्यवस्था, स्थिर जनसंख्या, न्यून साक्षरता एवं पृथक्कीकरण आदि लक्षणों के कारण मैदानी क्षेत्र के कोरवा लोगों की अपेक्षा अधिक पिछड़े हुए हैं। पहाड़ी क्षेत्र के कोरवा लोगों को पाँचवी पंचवर्षीय योजना अवधि में भारत सरकार के द्वारा निर्धारित मापदण्डों के अनुसार विशेष पिछड़े जनजाति समूह का दर्जा दिया गया है। वर्ष 2002 में विभाग द्वारा किए गए सर्वेक्षण अनुसार कोरवा जनजाति की जनसंख्या 33,380 है। उक्त जनजाति कोरवा जनजाति समूह का ही अंश है तथा रहवास क्षेत्र के कारण पहाड़ी कोरवा के नाम से जाने जाते हैं। अतः छत्तीसगढ़ राज्य की अनुसूचित जनजाति सूची के सरल क्रमांक 27 में "पहाड़ी कोरवा" जनजाति को समावेशित किया जाना प्रस्तावित है।

4- कृपया छत्तीसगढ़ राज्य की अनुसूचित जनजाति सूची के सरल क्रमांक 16 पर "अडूझभाड़िया" तथा सरल क्रमांक 27 पर "पहाड़ी कोरवा" को समावेशित किए जाने का अनुरोध है।

भवदीय


(मनोज कुमार पिंगुआ)

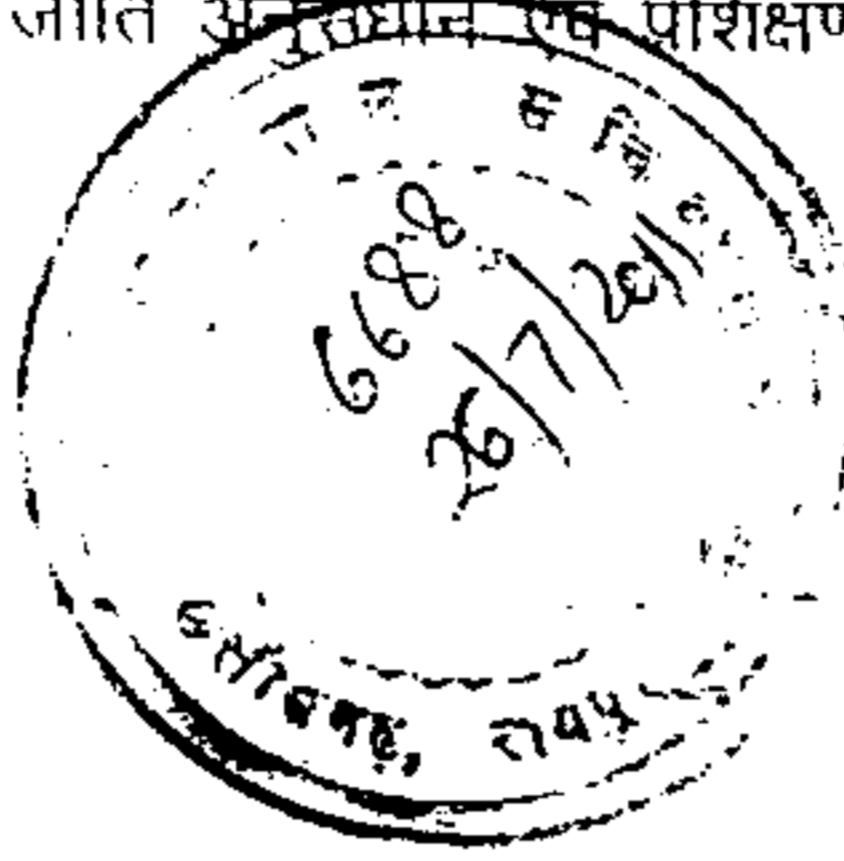
26 JUL 2011

पत्र क्रमांक/आर-318/2011/25-3/आजावि
प्रतिलिपि,

रायपुर, दिनांक 23 जुलाई, 2011

56
14

1. सचिव राज्यपाल, राजभवन, रायपुर की ओर महामहिम राज्यपाल महोदय के अर्द्ध शासकीय पत्र क्रमांक/78-VIP/2010/RS/CS/308 दिनांक 8/9 मार्च, 2011 के संदर्भ में सूचनार्थ.
2. प्रमुख सचिव मुख्यमंत्री, छत्तीसगढ़ शासन, मंत्रालय, रायपुर की ओर माननीय मुख्य मंत्री जी के अर्द्ध शासकीय पत्र क्रमांक/554/CMS/VIP/11 दिनांक 26-2-11 के संदर्भ में सूचनार्थ.
3. संचालक आदिम जाति अनुसूचान एवं प्रशिक्षण संस्थान, छत्तीसगढ़, रायपुर को सूचनार्थ.



[Handwritten Signature]
सचिव

छत्तीसगढ़ शासन

आदिम जाति तथा अनुसूचित जाति विकास
विभाग

[Handwritten Signature]

AGENDA NOTE

Sub: Re inclusion of "Marati" community in list of STs of Kerala

Background:

The Ministry of Tribal Affairs vide letter 12016/13/2001-T.A. (R.I.)/C&LM-1 dated 10.02.2012 have submitted a proposal for re-inclusion of "Marati" community in the list of STs of Kerala. MTA has mentioned that the SC/ST Development (G) Department, Government of Kerala, vide their letter No 12703/G1/2010/SCSTDD dated 31-8-2010 has recommended the proposal for re-inclusion of Marati community in the list of STs of the State. The above proposal of the State Government of Kerala was processed, as per the modalities approved by the Government of India on 15-6-1999 (and further amended on 25-6-2002) for deciding the claims for inclusion in, exclusion from and other modifications in the Orders specifying the lists of SCs and STs and referred by the MTA to the Registrar General of India (RGI), for their comments/ views, vide letter of even no dated 7-10-2010.

Criteria prescribed for inclusion

2. The Constitution of India enjoins on the State a special responsibility for the protection and development of Scheduled Tribes. Clause (25) of Article 366 of the Constitution defines, "Scheduled Tribes means 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 for the purposes of this Constitution". The Scheduled Tribes are notified by the Presidential Order under Clause (1) of the article 342 of the Constitution, which is as follows:--

"342. Scheduled Tribes:

(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 purposes of this Constitution be deemed to be Scheduled Tribes in relation to that State or Union territory, as the case may be.

(II) Parliament may by law include in or excluded from the list of Scheduled Tribes specified in a notification issued under clause (1) any tribes or tribal community of 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."

3. The criteria followed for specification of a community as Scheduled Tribe are given below:-

- (a) Indications of primitive traits;
- (b) Distinctive culture;
- (c) Geographical isolation;
- (d) Shyness of contact with the community at large; and
- (e) Backwardness

These criteria are not spelt out in the Constitution but have become well established and accepted. Internal guidelines prepared by the Commission for examination of proposals are annexed.

4. Accordingly, the first specification of Scheduled Tribes in relation to a particular State or Union Territory is by a notified Order of the President, after consultation with the State Government or Union Territory concerned. Any subsequent inclusion in or exclusion from and other modifications in the list of Scheduled Tribes can be made only through an Act of Parliament. On 15th June 1999 (further amended on 25.6.2002) Government has approved modalities for deciding claims for inclusion in, exclusion from and other modifications in the Orders specifying the lists of Scheduled Castes and Scheduled Tribes. According to modalities, the concerned State Government recommends the proposal along with justification and forwards it to the Central Government. Thereafter, proposal received from State Government are sent to the Registrar General of India (RGI).

The RGI, if satisfied with the recommendation of the State Government, recommends the proposal to the Central Government. Thereafter, Central Government to the National Commission for SCs and STs (now the National Commission for Scheduled Castes (NCSC) and the National Commission for Scheduled Tribes (NCST)) for their recommendation. After the National Commission for Tribes recommends it, the matter is processed for the decision of the decision of the Cabinet. According to the above procedure only those cases cases that have been agreed to by the concerned State Government/UT Administration, the Registrar General of India as well as National Commission for Scheduled Tribes are considered for amending legislation. After the matter is decided by the Cabinet, a Bill is introduced State Government for reviewing or further justifying their recommendation in the light of the observations of the RGI. In such cases, where the RGI does not agree to the point of view of the State Government/UT Administration on a second reference, the Government of India may consider for rejection. Those cases with which the State Government and the RGI are in agreement, but which the Commission (NCST) have not supported, would be rejected at the level of Minister for Tribal Affairs.

5. Comments of RGI

The RGI vide letter No.8/1/2002-SS(Kerala) dated 2-2-2012 have furnished the following comments/ views for the inclusion of Marathi community in the list of Kerala at Sl.No. The views/ comments are as under:-

5.1. The Office of RGI collects the data strictly as per the list of SCs/STs notified in Presidential Notification vide the Constitution (Scheduled Castes and Scheduled Tribes) Order, 1950) as amended from time to time. These lists are State & UT specific and as per the Gazette Notification. RG&CCI is not authorized to carry out any changes whatsoever, eg. Change in spellings, addition of synonyms, sections etc. in the SCs/STs list. Any change in the STs and SCs list can be made only through the amendment in the Presidential Notification.

5.2. With area restriction proposal concerning re inclusion of Marati community in the STs list of Kerala was examined by this office twice earlier in the years 2003 and 2004. In response to the comments of this office sent in the years 2004 seeking further justification particularly on the extent of isolation and primitiveness by which the Marati community suffers at present in the Hosdurg and Kasargod taluks of Kasargod district the State Government has furnished requisite justification contained in the study report prepared by Smt. Mercy C.J. an Anthropologist in support of the present Report are given below:

5.3. Regarding ethnicity of the community the anthropologist has quoted earlier ethnographic publications viz. the Castes and Tribes of South India, by Edgar Thurstone, 1909, Madaras Census Report of 1891 Tribes of Kerala by A.A.D. Luiz, 1957-58, Sri. A. Ayyappan; 1948, Sri A. Damodharan; 1974 which inform that term Marati/Marathi denotes various Marathi non Brahmins castes who came to South either as soldiers or camp followers. They were the migrants from the Maharashtra as soldiers or agriculturists to the area. The Report has also referred the volume "People of India" brought out the Anthropological Survey of India in 1994 which explains the tribal characteristics of Marati tribe being similar to other STs of Kerala (page;2-3)

5.4. Regarding primitiveness of the community, the report highlights that 'Marati' profess 'Animism', a type of primitive religion. Their religious performances include ancestral and spirit worship, animal sacrifices to their indigenous folk deities who are different from those of Hindu pantheon. Each clan worships their own clan deities. The community has a number of totemistic clans in the form of wild plants and animals. These are worshipped and revered as sacred objects during each life cycle ritual. Killing or harming these totemic objects is strictly prohibited (page-5)

5.5. They mainly reside in forest and hilly tracts of Kasaragod district. They do not have proper transport, communication and other basic civic and health facilities. They returned 27, 828 population at 2001 Census. Out of this , 320 persons returned from urban areas indicating only 1.17% of their total population live in urban areas. Majority of them live in thatched houses (page-8)

5.6. The Report states that these people still practice shifting or slash and burn cultivation which is one of the most primitive types of cultivation practiced by a number of tribes by using pre-agricultural level of technology. Collection of consumable forest produces and hunting of small wild games are their subsidiary economic pursuits. Very few members of this community own small pockets of and areca plantations. There exists labourer in their farms. They do not have commensal relationship with neighboring caste Hindu.

5.7. Like many tribal communities they have also community leader known as "Gothukaran". All disputes of communities are settled by him. He has important role in the social organization of the community. During life cycle rituals, the presence of community leader is almost necessary. They institution of bride price an important trait among the tribes is prevalent among Marati.

5.8. The 'Marati' is an endogamous community whether they happen to live in Kerala or Karnataka. Marital relationships between the Marati people of Kerala and Karnataka are common since it is a single bio-cultural entity. They also speak the same language i.e. Marati.

5.9. Since 1950 Marati enjoyed the status of Scheduled Tribe both in Dakshin Kannada and Hosdurg and Kasargod Taluk of Kasargod District of Karnataka and Kerala respectively. During the reorganization of the State in 1956, part of the community living in Kasaragod region

went to Kerala state and the remaining part living in the erstwhile Dakshina Kannada district went to Karnataka state. **While the said communities still have ST status in Karnataka, it lost its ST status in Kerala in 2002 as per the Scheduled Castes & Scheduled Tribes Order (Amendment) Act, 2002.**

5.10. The Marati of Kasargod district have distinct socio cultural traits akin to other tribes of the State. They exhibit tribal characteristics with primitiveness in their social structure, in observance of life cycle rituals, during sacred performances etc. They still practice slash and burn or shifting cultivation by means of primitive technique, though they mainly work as agricultural labourers now a days. Hunting and trapping small games and collection of consumable forest produces are their subsidiary economic activities. The said means of subsistence are prevalent among many tribes.

5.11. Probably no Scheduled Tribes community in India lives in complete isolation today except some of the primitive tribes of Andaman & Nicobar Islands but they have been continued in the ST list. The concerned community is isolated to some extent so far their habitation, settlement pattern, material culture and other socio economic and religious features are concerned.

5.12. In view of the above facts contained in the Study Report and substantiated by the standard published literature Marati community of Kasargod District of Kerala State standard published literature Marati community of Kasargod District of Kerala State should be re-included in the Scheduled Tribe list. The basis on which the community was notified as Scheduled Tribes with area restriction since 1956 as per the Scheduled Caste and Scheduled Tribes List (modification) order, 1956 is still relevant and there is no perceptible change in their socio-economic condition. This office has no objection for the re inclusion of Marati of

the Housdurg and Kasargo Taluks of Kasaragod district of Kerala in the Scheduled Tribes list of Kerala State.

Comments of the Govt. of Kerala

6. The SC/ST Development (G) Department, Government of Kerala, Thiruvananthapuram, vide their letter No 12703/G1/2010/SCSTDD dated 31-3-2010 has recommended the proposal for re-inclusion of Marati community in list of STs of the State. (Annexure - 1).

Views of Members of the Commission.

7. The views of the Members of the Commission were sought vide letter dated 17.02.2012 for discussion in the meeting of the Commission which have not been received as yet.

Earlier views of Commission

8. MTA vide letter 12016/13/2001-T.A. (R.L)/ C&LM-1 dated 10.02.2012 has forwarded the tour note on the visit of Shri Tapir Gao, Member to Kasargod Distict in Kerala from 7th to 8th February, 2003 from the State office of the NCSC and ST, (Kerala and Lakshdweep), Trivandram in the matter (Annexure II). The observation of the Member have been quoted as under:

“The Member felt that there is no Justification for exclusion of the Maratis in the ST list”.

“The Member said that he would issue summons to the Govt. of Kerala soon for examination of the records, etc for taking a decision on the retention of Marathi community in the STs list of Kerala”.

9. In the context of continuing demand for inclusion of new areas / communities, there is a need to review the list of Scheduled Areas/ Tribes objectively in a time-bound manner. Appropriately, therefore, the Scheduled Area & Scheduled Tribes Commission should be constituted every 10 years to look into such demand under Article 339 of the Constitution. SA & ST Commission should be entrusted the review of Scheduled Areas, Scheduled Tribes list and Laws and rules relating to administrative and financial structure.

(Ref: NCST comments on recommendation in Third Report of Standing Committee on Inter-Sectoral Issues Relating to Tribal Development on Standards of Administration and Governance in the Scheduled Areas headed by Dr. Bhalchandra Mungekar, Member, Planning Commission).

10. De-scheduling of certain ST communities as a whole is not in the interests of still poor and backward families among those Scheduled Tribe communities. The Government may, however, devise measures to ensure that share of the weakest amongst the Scheduled Tribes in the development schemes and economic upliftment programmes are not cornered by those members of Scheduled Tribes who have already availed the benefits and have risen to the average of the society. Moreover, the criteria for identifying a community as Scheduled Tribes as adopted so far needs to be followed strictly so that only deserving communities are able to reap the benefits.

(Ref: NCST recommendation contained in Para 5.92 of the 4th Annual Report of NCST for 2008-09).

Analysis/Recommendations:

11. The Madras High Court with reference to Writ Petition No. 44932 of 2006 filed by the President, Tamil Nadu Scheduled Tribes (Malyali) Peravi, Chennai has highlighted the importance of fulfillment of the criterion of geographical isolation by any community for specification as an ST community (para23) Hon'ble High Court has also emphasized the existence of tribal elements in social life of any

community for considering inclusion in the list of STs, while highlighting the need to protect the interest of real STs (Annexure – II).

12. The Supreme Court in its recent Judgement in the Civil Appeal No.654 of 2002 dated 18/01/2012 has also observed that

"In *Murlidhar Dayandeo Kesekar v. Vishwanath Pandu Barde* 1995 Supp. (2) SCC 549 and *R. Chandevappa v. State of Karnataka* (1995) 6 SCC 309; JT (1995) 7 SC 93, this Court had held that economic empowerment is a fundamental right to the poor and the State is enjoined under Articles 15(3) 46 and 39 to provide them opportunities. Thus, education, employment and economic empowerment are some of the programmes the State has evolved and also provided reservation in admission into educational institutions, or in case of the other economic benefits under Articles 15(4) and 46, or in appointment to an office or a post under the State under Article 16(4). **Therefore, when a member is transplanted into the Dalits, Tribes and OBCs, he/she must of necessity also have had undergone the same handicaps, and must have been subjected to the same disabilities, disadvantages, indignities or sufferings**

13. On perusal of the comments of the RGI quoted in para 5.9 above, it is noted that the Marathi community lost its ST status in Kerala in 2002 as per the Scheduled Castes & Scheduled Tribes Order (Amendment) Act, 2002. However, the reasons for the exclusion are not available in the documents forwarded by the MTA. MTA has been requested to communicate the same by 27th March, 2012 vide DO letter dated 26/03/2012

14. The MTA has not provided any information/ reasons why the community was excluded in the Scheduled Castes & Scheduled Tribes Order (Amendment) Act, 2002. The proposal should be considered by the Commission per internal guidelines after the clarification is available.

Annexure-I

No.NCST/Guidelines/2008-DS(RU-IV)
Govt. of India
National Commission for Scheduled Tribes

6th Floor, 'B' Wing,
Loknayak Bhawan,
Khan Market,
New Delhi-110003

Dated: 03-07-2008

CIRCULAR

Subject: Internal guidelines for examining the proposals of inclusion/in/exclusion from the list of STs.

In continuation of the Circular of even number, dated 10-06-2008, revised draft guidelines on the above subject are enclosed herewith for comments, if any.


(R.P. Vasishtha)
Deputy Secretary

To
Director (VA)/Director (RCD)/AD (RU-I)/ AD (Coord.)/ RO (RU-II)/
RO (RU-III)/ RO (RU-IV).

Copy for information to

PPS to Secretary/PS to Joint Secretary.

National Commission for Scheduled Tribes

Draft Internal guidelines for examining the proposals of inclusion in/exclusion from the list of Scheduled Tribes.

In the Constitution of India, no criteria have been spelt out for the specification of a community as a Scheduled Tribe. However, taking into account the definitions in the 1931 Census and the Reports of the first Backward Classes Commission (Kalelkar) 1955, the Advisory Committee on Revision of SC/ST lists (Lokur Committee) 1965 and the Joint Committee of Parliament on the SCs & STs Order (Amendment) Bill, 1967 (Chanda Committee) 1969, the following criteria are followed for specification of a community as a Scheduled Tribe:-

- a. Indications of primitive traits,
- b. Distinctive culture,
- c. Geographical isolation,
- d. Shyness of contact with the community at large, and
- e. Backwardness.

2. - As per the approved modalities for deciding the claims of inclusion/exclusion w.r.t. ST lists, proposals favoured by the State Governments and the RGA are referred to the NCST for opinion by the Ministry of Tribal Affairs. The Commission also directly receives some representations from individuals, associations, etc on the subject. The Commission is not concerned with these representation and therefore the same may be forwarded to the Ministry of Tribal Affairs for appropriate action under intimation to the representationists.

3. - The Commission may examine the proposals received from the MTA as per its own procedure. With a view to ascertain that the proposals are based on the broad criteria, referred to in para 1 above, the Commission may apply the following tests with reference to any particular community:-

(A) Way of Living.

- (i) Habitations in geographically isolated areas, hilly terrains, islands, deserts, etc.
- (ii) Prevalence of primitive traits in the matters of clothing, cleanliness, etc.

