



No.1/11/12-Coord.
Government of India
National Commission for Scheduled Tribes

6th Floor, 'B' Wing,
Lok Nayak Bhawan,
Khan Market,
New Delhi 110003
Dated: 19/12/2012

To,

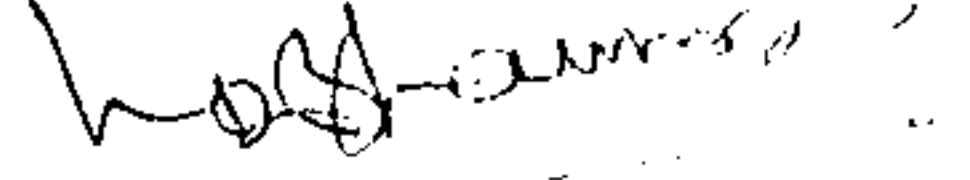
- 1) Dr. Rameshwar Oraon, Chairperson
- 2) Smt. K. Kamala Kumari, Member
- 3) Shri Bheru Lal Meena, Member

Sub: - Summary record of the 40th Meeting of the Commission held at 11:30 hours on 17th December, 2012.

Sir,

I am directed to refer to the above subject and to say that 40th Meeting of the National Commission for Scheduled Tribes was held at 11:30 Hrs. on 17th December, 2012 in the Chamber of Hon'ble Chairperson at Lok Nayak Bhawan, New Delhi. The meeting was presided over by Dr. Rameshwar Oraon, Chairperson, National Commission for Scheduled Tribes. A copy of the Summary Record of the meeting is enclosed for information and record.

Yours faithfully,


(K.D. Bhansor) Mrs.
Deputy Director

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 11th January, 2013 positively.

- (i) Director(RU-I & RU-II,.)
- (ii) Dy. Director (RU-III & RU-IV)
- (iii) AD/RO In-charge – RU-I/RU-II/RU-III/RU-IV/Coord./ AD/OL

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

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

Sr. System Analyst (NIC Cell, NCST) for uploading on the website.


(K.D. Bhansor) Mrs.
Deputy Director



भारत सरकार

राष्ट्रीय अनुसूचित जनजाति आयोग

GOVERNMENT OF INDIA

NATIONAL COMMISSION SCHEDULED TRIBES

(अनुसूचित जनजातियों को दिए गए अधिकारों और सुरक्षाओं के उल्लंघन से संबंधित सभी मामलों का अन्वेषण और अनुवीक्षण करने के लिए संविधान के अनुच्छेद 338क के अधीन स्थापित एक संवैधानिक आयोग)

संख्या/No.-1/11/12-समन्वय

दिनांक/Date:19/12/2012

प्रति,

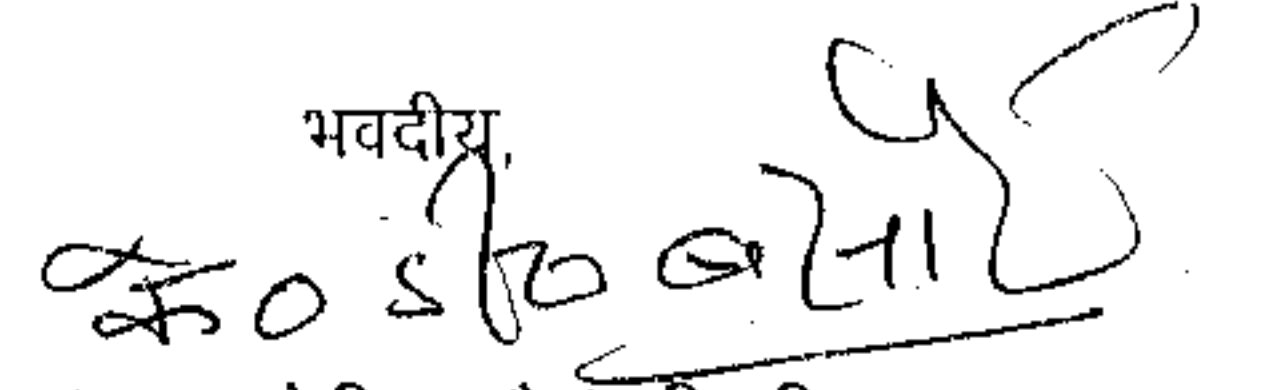
- 1) डा0 रामेश्वर उराँव, अध्यक्ष
- 2) श्रीमती के. कमला कुमारी, सदस्य
- 3) श्री भैरू लाल मीणा, सदस्य

विषय: राष्ट्रीय अनुसूचित जनजाति आयोग की दिनांक 17 दिसम्बर, 2012 को प्रातः 11.30 बजे सम्पन्न 40वीं बैठक का संक्षिप्त अभिलेख।

महोदय,

मुझे उपर्युक्त विषय का उल्लेख करते हुए यह कहना है कि आयोग की 37वीं बैठक आयोग के सम्मलेन कक्ष में दिनांक 17 दिसम्बर, 2012 को प्रातः 11.30 बजे हुई थी। बैठक की अध्यक्षता डा0 रामेश्वर उराँव, अध्यक्ष, अनुसूचित जनजाति आयोग द्वारा की गई। बैठक के संक्षिप्त अभिलेख की एक प्रति सूचना एवं अभिलेख हेतु संलग्न है।

भवदीय,



(कृष्णा देवी बन्सौर) श्रीमती
उप निदेशक

प्रतिलिपि : बैठक के संक्षिप्त अभिलेख की एक प्रति सहित, निम्नलिखित अधिकारियों को इस अनुरोध के साथ अग्रेषित है कि बैठक में लिए गए निर्णयों पर की गई कार्रवाई के संबंध में जानकारी प्रत्येक संबंधित एकक/ कार्यालय द्वारा 11 जनवरी, 2013 तक अवश्य ही समन्वय एकक को भेज दी जाए।

- (i) निदेशक (आर0यू0-I एवं आर0यू0-II)
- (ii) उप निदेशक (आर0यू0-III, आर0यू0-IV एवं प्रशासन)
- (iii) सहायक निदेशक/ अनुसंधान अधिकारी प्रभारी-आर0यू0-I/ आर0यू0-II/ आर0यू0-III/ आर0यू0-IV/ समन्वय/ सहायक निदेशक (राजभाषा)।

प्रतिलिपि: बैठक के संक्षिप्त अभिलेख की एक प्रति सहित, सूचनार्थ अग्रेषित:

1. अध्यक्ष के निजी सचिव/संयुक्त सचिव के प्रधान निजी सचिव।
2. निदेशक/ सहायक निदेशक/ अनुसंधान अधिकारी, राष्ट्रीय अनुसूचित जनजाति आयोग के भोपाल/ भुवनेश्वर/ जयपुर/ रायपुर/ रांची/ शिलांग स्थित क्षेत्रीय कार्यालय।
3. वरिष्ठ सिस्टम विश्लेषक (NIC Cell, NCST) - आयोग की वेबसाईट पर जोड़ने हेतु।


(कृष्णा देवी बन्सौर)
उप निदेशक

NATIONAL COMMISSION FOR SCHEDULED TRIBES

Subject: Summary record of the 40th meeting of the Commission held at 11:30 AM on 17-12-2012

The 40th meeting of the Commission was held at 11:30 AM on 17-12-2012 in the Conference Room of the Commission in Loknayak Bhawan, New Delhi. The meeting was presided over by Dr. Rameshwar Oraon, Hon'ble Chairperson, NCST. List of participants is enclosed at Annexure. There were fourteen Agenda Items for discussion in the meeting. In addition, as desired by the Chairperson, NCST important administrative issues of immediate concern relating to functioning of the Commission were also taken up for discussion as additional Agenda item No. XV.

2. The decisions taken and the action points that emerged out of the discussions held in the meeting are given below:

Agenda Item I	Draft EFC for setting up of National Institute of Sports Sciences & Medicine
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3. Ministry of Youth Affairs and Sports, vide letter No. 1-1/2012-ID dated 27/03/2012, have sought the comments of the Commission on the draft EFC for setting up a National Institute of Sports Sciences & Medicine (NISSM) at the Jawaharlal Nehru Stadium Complex, New Delhi. NISSM has been proposed to integrate the study, research and practice of sports science and sports medicine to achieve excellence in sports. The existing facilities at the SAI have been found to be inadequate to raise the levels of sports. NISSM has been proposed at the JLN Stadium. Total 246 posts (including 28 posts on outsource basis) are planned to be filled up in various Deptts. of the NISSM (Annexure-C to the proposal).

4. The Commission discussed the proposal in detail and agreed to the proposal subject to observation that as applicable in respect of all Govt. institutions, NISSM should also provide 7.5% reservation for ST candidates in admission to degree, diploma and post-graduate courses, keeping in view the achievements of ST sports persons in various sports in general and, in particular the excellent achievements in

Rameshwar Oraon

the recently concluded Olympics. Further, 7.5% reservation should also be provided to the STs in different categories of faculties in various disciplines and non-teaching posts. The Commission further noted that, as the number of posts in various Departments could be few, NISSM should apply grouping of posts, having similar pay scales, in accordance with the DoPT guidelines in respect of small cadres, to facilitate better representation of STs. Since outsourcing is resorted to fill the gap due to non-filling of the posts on regular basis, efforts should be made to provide adequate representations to Scheduled Tribes among them.

Agenda Item II	Draft Cabinet Note for Promulgation of Andaman and Nicobar Islands Maritime Board Regulation, 2012
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5. Ministry of Tribal Affairs, vide letter No. 20025/2/2012- C&LM-II dated nil sought the comments of the Commission with reference to the Ministry of Home Affairs OM U-11023/1/2011-UTL dated 16/07/2012 on the Draft Cabinet Note for 'Promulgation of Andaman and Nicobar Islands Maritime Board Regulation, 2012.

6. The Commission observed that the proposal was related to constitution of a Maritime Board for the accelerated management and development of ports in the Andaman and Nicobar Islands in place of the Port Management Board, constituted in Feb., 1989 which had been found to be functioning like a Department of the Andaman and Nicobar Islands Administration. The Commission noted that in accordance with the Section 28 of the draft Regulation, no vessels, which include anything made for the conveyance mainly by water, of human being or of goods can be berthed or brought alongside the wharf/ jetty without permission of the Maritime Board. In this connection, the Commission agreed with the observations of the Directorate of Tribal Welfare, Andaman & Nicobar Administration vide their letter No. 5-41/2012-TW/1077 dated 9/10/2012 that as the Canoes (traditional dinghie) used for their livelihood by the Nicobari tribals for conveyance of passengers and goods from one island to another including fishing are to be berthed or kept in anchorage only along side the Wharf/ Port, (as they have no place/ sea shore other than the minor ports area for this purpose), the tribals are to be given blanket exemption to use the minor port area for berthing their traditional sea crafts. The Commission desired that the Ministry of Home Affairs/ A & N Administration may make necessary amendment in the draft Regulation in this regard.

7. The Commission further noted that under Section 1.4 of Chapter 1 of the proposed Regulation, the provision of the Regulation shall apply to all the minor ports located in the tribal area (reserve area). As brought out by the Directorate of Tribal, Welfare, Andaman & Nicobar Administration vide their letter dated 9/10/2012 quoted above, the land in the reserved area are held by the tribal on community basis. In the past, the land has been acquired for development purposes through negotiations with the tribals on payment of compensation without resorting to Land Acquisition Act. However, Section 23 of the Draft Regulation is entirely meant to acquire land under Land Acquisition Act which in the context of the practices followed in the past, may invite opposition form the local ST inhabitants. The Commission, therefore, desired that the Ministry of Home Affairs/ Andaman & Nicobar Administration may like to review the relevent provisions in the proposed Regulation in the light of the amended Land Acquisition, Rehabilitation & Resettlement Bill, 2011.

Agenda Item III	Memorandum for Expenditure Finance Committee (EFC) on the Scheme – Integrated Child Protection Scheme (ICPS)
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8. Ministry of Tribal Affairs, vide letter No. 170011/16/20`12-P&M dated 15/10/2012 sought the comments of the Commission on the Memorandum for Expenditure Finance Committee (EFC) on the Scheme – Integrated Child Protection Schemes (ICPS)' sought by the Ministry of Women and Child Development (MoWCD) vide their OM No. 14-3/2012-CW-II dated 28/09/2012.

9. The Commission noted that the proposal deals with the financial aspects of the Scheme. However, ICPS is a major Scheme and of vital importance in relation to STs. The Commission observed that in line with the earlier observations of the Commission, all National Missions like ICPS should have a Special Chapter focusing on STs and Scheduled Areas along with allocation of funds which should be earmarked not based merely on the 'population share', but rather on the extent of deprivation of STs i.e., on 'need-based' with particular focus on Particularly Vulnerable Tribal Groups, who are the most socio-economically backward ST communities in the States. The Commission, therefore, recommended that the MoWCD should incorporate necessary provisions in the Scheme.

Agenda Item IV	Draft Note for the Cabinet on the amendments proposed in the Juvenile Justice (Care and Protection of Children) Act, 2000
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10. The proposal of the Ministry of Women & Child Development pertains to the Amendment to Juvenile Justice (Care and Protection of Children) Act, 2000- to make it more comprehensive and effective.

11. The Commission noted the existing and proposed provisions of the Act as well as the rationale for each amendment as placed at Annex. V of the Draft Cabinet Note and agreed with the proposed amendments.

Agenda Item V	Draft Cabinet Note-Extension of Purchase Preference Policy in respect of 102 medicines
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12. Ministry of Tribal Affairs vide letter No.17011/13/2012-P&M dated 29.10.2012 has forwarded the draft Cabinet Note prepared by the Ministry of Chemicals & Fertilizers on the subject. The proposal seeks approval for continuation of Purchase Preference Policy for Pharmaceutical Central Public Sector Enterprises (CPSEs) for next 5 years which had expired with effect from 6th August, 2011. The Commission noted that the proposal envisages strengthening of the CPSEs for equitable participation in the pharma sector through purchase preference policy. The Commission while agreeing to the Note did not offer any comments in the matter.

Agenda Item VI	Draft Cabinet Note on proposal to implement Order dated 10/1/2012 of the Hon'ble Supreme Court in Writ Petition (Civil) No. 540 of 2011 Virendra Pratap & another vs. Union of India and others:Promulgation of the Readjustment of Seats and Territorial Constituencies Ordinance, 2012 under Article 123(1) of the Constitution.
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13. Ministry of Tribal Affairs, vide D.O.Letter No.12014/1/2012-C&LM-II dated 12th Nov., 2012, has forwarded for comments of the Commission the draft Cabinet Note of the Ministry of Law & Justice on 'Proposal for Promulgation of the Readjustment of Seats and Territorial Constituencies Ordinance, 2012 under Article 123(1) of the Constitution aimed at implementing the Order dated 10/1/2012 of the Hon'ble Supreme Court in Writ Petition (Civil) No. 540 of 2011 Virendra Pratap & another vs. Union of India and others.

14. The Commission noted that the need for the readjustment of Parliamentary and Legislative Assembly constituencies has been necessitated on account of variation in the population figures of the Scheduled Castes and Scheduled Tribes by inclusion in or exclusion from the lists of the Scheduled Castes and Scheduled Tribes by Parliamentary Acts enacted subsequent to 2001 Census, on the basis of which the present delimitation of the Parliamentary and Legislative Assembly constituencies is in existence. The proposed legislation empowers the Census Commissioner to ascertain and determine the revised population figures of the Scheduled Castes and Scheduled Tribes, after taking into account the Scheduled Castes and Scheduled Tribes communities which have been included in the respective lists after 2001 census and upto 31st May, 2012 by various Parliamentary Acts .

15. The Commission further observed that there is no provision in the Delimitation Act, 2002 (33 of 2002), in the Representation of the People Act, 1950 (43 of 1950) or in the Representation of the People Act, 1951 (43 of 1951) or in any other statute which empowers the Election Commission of India to carry out further delimitation of constituencies or to determine constituencies reserved for the Scheduled Tribes in any of the State or Union territory where the delimitation exercise was carried out by the Delimitation Commission under the Delimitation Act, 2002 and in terms of the provisions of the Constitution on the basis of 2001 census. The Commission, therefore, agreed with the proposal of the Ministry of Law and Justice for promulgation of the Readjustment of Seats and Territorial Constituencies Ordinance, 2012 under article 123(1) of the Constitution.

Agenda Item VII	Draft Note for the Cabinet on revision in the ceiling of family income for eligibility under the Central Sector Scholarship Scheme on "Top Class Education" for Scheduled Tribe students from the existing ceiling of Rs. 2.00 lakh to Rs. 4.50 lakh per annum. w.e.f. the selection year 2012-13
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16. Ministry of Tribal Affairs vide letter No.11021/07/2012-Education dated 7/11/2012 has requested the Commission for comments on the draft Cabinet Note on revision in the ceiling of annual family income for eligibility under the Central Sector Scholarship Scheme on "Top Class Education" for Scheduled Tribe Students,

from the existing Rs. 2.00 lakh to Rs. 4.50 lakh per annum, w.e.f the selection year 2012-13,

17. The Ministry of Tribal Affairs has recognized 125 premier Institutions of higher learning for grant of Top Class Scholarship to 5 ST Students admitted each year in each of those Institutions. MTA has highlighted that the number of fresh slots utilized in each of the first four years of the Scheme has been far below the maximum no. of 625. One of the reasons for under-utilization of scholarship slots available under the Scheme, is stated to be low ceiling of total family income from all sources viz Rs. 2.00 lakh per annum, fixed in May 2007, because ST students who manage to secure admission in premier institutions (which is invariably merit based) tend to be from the relatively higher income bracket. To facilitate full utilization of scholarship slots under the Scheme, MTA has proposed raising of the eligibility ceiling of total family income from all sources from the existing Rs. 2.00 lakh to Rs.4.50 lakh per annum.

18. The Commission observed that the proposed increase in the ceiling of the income criteria has been suggested considering the increase in the prices of all commodities and services during the last five years. There is 53.5% increase in the consumer price index-from May 2007, to October 2011. The Ministry of Social Justice & Empowerment has also increased the income ceiling from Rs.2.00 lakh to Rs. 4.50 lakh per annum under a similar scheme called Top Class Education for SC students. Central Sector "Scheme of Scholarship for College and University Students" of the Ministry of Human Resource Development already has an Income ceiling of Rs. 4.50 lakh.

19. Considering the position brought out above, the Commission agreed with the proposal for the increase in ceiling of total income from all sources from Rs. 2.00 lakh to Rs. 4.50 lakh per annum with a view to having better utilization of the scholarship slots available under the scheme. The Commission also desired that the MTA should suo-moto periodically revise the income ceiling linking with the increase in Central DA based on consumer price-index w. e. f. 1st July of every year applicable to the Academic Session each year for this as well as all other welfare schemes. The revision should be applicable at least from the current academic session. The students admitted in earlier academic session and continuing their

studies during the current academic session may also be given the benefits, if they were not covered earlier.

20. The Commission also felt that the phenomenally low availing of the scheme may be due to less intake of ST students in the recognized premier Institutions. The Ministry of Tribal Affairs may examine this aspect also and if the situation is found to be correct, remedial steps will have to be taken to increase the intake of ST students into such Institutions.

Agenda Item VIII	Comments on Review of procedure for de-reservation
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21. Department of Personnel & Training (DoPT), Ministry of Personnel Public Grievances and Pensions vide letter No. 36020/2/2007-Estt. (Res.) dated 29/10/2012 have requested the Commission for comments with regard to raising the time-limit for seeking the comments from the DOPT and NCST and NCSC on the proposals for the de-reservation of posts from present 2 weeks to 4 weeks.

22. Joint Secretary, NCST mentioned that in accordance with the procedure prescribed by the DoPT vide DoPT OM No. 36011/ 20/ 79-ESTT (SCT) dated 02/11/1979 for de-reservation of reserved vacancies in case of promotion, and revised procedure prescribed vide DOPT OM No. 36020/2/2007-Estt. (Res.) dated 07/12/2009, the Administrative Ministry/ Deptt. before taking a decision to de-reserve a vacancy under the delegated powers, shall prepare a proposal in the prescribed proforma and send one copy each thereof for comments to the DoPT and the NCSC and NCST, as the case may be. After sending the proposal, the Ministry/ Deptt. shall wait for a period of at least two weeks for the comments of the DoPT and NCSC and NCST. DOPT has now proposed to increase the said notice period from 2 weeks to at least 4 weeks.

23. The Commission observed that de-reservation of posts reserved for STs was being sought mainly due to inability on the part of the various Ministries/ Deptts. to fill up such posts by promotion even after waiting for considerable period. The Commission felt that this situation has arisen as necessary corrective measures to improve representation of STs have not been taken. In this connection, the Commission re-iterated its earlier recommendations, as under, to improve better representation of STs:

(i)	There should be total ban on dereservation of posts reserved for Scheduled Tribes to be filled by any method i.e. whether Direct Recruitment or promotion in all Ministries/Depts./Organisations except those where reservation is exempted..
(ii)	The ban on dereservation in Direct Recruitment should be monitored strictly as many Ministries/Depts./Organisations including DoPT have failed to appoint Scheduled Tribes candidates against Direct Recruitment posts/ grades of general nature, for which there should be no paucity of qualified/ eligible ST candidates.
(iii)	Recruitment Rules in r/o each post must specifically mention about applicability of reservation for Scheduled Tribes, Scheduled Castes and OBCs (where admissible).
(iv)	There should be total ban on dereservation in general, excluding certain exceptional categories of posts. The exceptional posts should be decided in consultation with the Ministry of Tribal Affairs as well as National Commission for Scheduled Tribes also.
(v)	No exchange of vacancies be permitted between ST, SC or OBC or vice-versa.
(vi)	Instead of seeking dereservation of the post, provisions of the DoPT OM No. 36011/14/83-Estt.(ST) dated 30/04/1983 relating to consideration of cases of ad-hoc promotion of SC/ ST employees should be applied in the matter of promotion of ST candidates against reserved posts. The relaxation in period of ad-hoc appointments upto 3 years agreed in respect of Group 'C' and 'D' posts vide DoPT OM No. 28036/01/2007-Estt(D) dated 14/11/2007 may be allowed, with suitable amendments, in case of ad-hoc promotion of ST candidates appointed against all categories of posts reserved for Scheduled Tribes.
(vii)	To check various issues and problems connected with de-reservation and to ensure accomplishment of the targets of achieving required percentage of reservation for Scheduled Tribes in all categories of posts, the DoPT OM No. 36011/14/83-Estt.(ST) dated 30/04/1983 may be revised to prescribe drawing of separate lists of eligible ST and SC candidates in respect of all kinds of promotion on regular as well as ad-hoc basis in all categories of posts.
(viii)	If no ST candidate is likely to become available for a long time, steps should be taken to fill the reserved post from ST candidates through direct recruitment by amending the RRs if the existing RRs do not provide for the same or relaxing them, instead of seeking de-reservation of the post.
(ix)	Action should simultaneously be taken to amend the RRs for each post to provide for element of direct recruitment in all cases where appointment is being made 100% by promotion, by incorporation of 'failing which' clause, or, at least provision for relaxation of the same for filling up ST vacancies.
(x)	In normal course Recruitment Rules should provide elements of Direct Recruitment as well as deputation/transfer on deputation, beside promotion, instead of 100% by promotion, so that deficiencies due to non-availability of reserved category candidate(s) in the seniority list of the feeder grade may be made up through Direct Recruitment or deputation/transfer on deputation as the case may be. In this connection, DoP&T O.M. No. AB.14017/30/89-Estt.RR dated 10.07.1990 also provide that reserved vacancy can be temporarily transferred from one mode of recruitment to other and this relaxation of RRs can be exercised by Ministries/Departments themselves subject to approval of UPSC.
(x)	As per instructions of the Supreme Court of India separate list of eligible ST and SC candidates, fulfilling the prescribed conditions relating to educational and experience qualification may be prepared for filling the posts reserved for Scheduled Tribes and Scheduled Castes respectively.
(xii)	In case of non-availability of ST/SC candidates in the feeder grade, in the near future, the post may be filled by deputation and the reserved point to be carried forward as shortfall/ backlog vacancy till such time the eligible ST/SC candidates becomes available for promotion.
(xiii)	In case of non-availability of ST/SC candidates, at all, in the feeder grade the post(s) could be filled by Direct Recruitment from the candidates belonging to the concerned reserved category to the extent of shortfall/backlog. This may be done by resorting to Special Recruitment Drive.

24. The Commission also noted that in general, de-reservation of posts is sought in respect of the posts which remain vacant for years while no action is taken by the

concerned Ministries/ Deptt. to amend Recruitment Rules to facilitate better representation of STs. Under such circumstances, fixation of time-frame for receiving recommendations of the Commission needs to be re-viewed. In this connection, **the Commission also re-iterated its earlier recommendations that there should be total ban on dereservation of posts reserved for Scheduled Tribes to be filled by any method** i.e. whether Direct Recruitment or promotion as on an overall basis sincere efforts to fill up the vacant posts reserved for STs has been found to be missing as reflected through considerably lower level of representation in various organisations, especially at higher levels almost in all organisations.

25. The Commission, however, observed that proposals for dereservation are likely to be received in the Commission till such time directions for total ban on dereservation of vacancies reserved for Scheduled Tribes and Scheduled Castes were issued by the Government and therefore, the above proposal received from DoPT may have to be considered for the time being. In this context, the Joint Secretary, NCST informed the Commission that to facilitate proper examination of the dereservation proposals and to ensure uniformity, the Commission has framed standardized internal guidelines for dealing with dereservation proposals and their disposal, which are based on the DoPT's instructions. These guidelines, *inter-alia*, provide that in order to ensure that the rights of Scheduled Tribes are not likely to be encroached through the process of dereservation, the Commission should call for and examine the following information from the concerned authorities.

- Recruitment Rules for the post for which dereservation has been sought
- Post-based Roster and up-to-date Seniority list of the Officers holding the posts (one of which has been proposed for dereservation)
- Recruitment Rules for the post which is a feeder post for the post which has been proposed to be dereserved.
- Post-based Rosters and up-to-date Seniority list of the Officers holding the feeder cadre posts.
- Reasons for non-availability of ST candidates in near future from amongst the officers of the feeder cadre posts and efforts made in the past to fill the vacancies reserved for Scheduled Tribes in the feeder cadre as well as the posts out of which dereservation is sought.

26. The examination of proposals for de-reservation of posts have revealed that very often, the proposal require clarifications/details from the concerned Ministry/Deptts. Further, the proposals are submitted to the concerned Member as

per the procedure being followed in the Commission. The scrutiny of the cases reveals that following time period is generally involved in the whole process:

	Activity	Assessed Time-frame
i)	Postal time taken in actual receipt of the proposal from the concerned Ministry/ Deptt. in the Commission	1 week
ii)	Examination of the proposal in the Commission	1 week
iii)	Submission of requisite clarifications/details by the concerned Ministry/Deptt	2-4 week
iv)	Submission/consideration of the proposal to the concerned Member	1 week
v)	Communication of recommendations of the Commission and its receipt by the concerned Ministry/Deptt.	1 week
	Total time involved	6-8 weeks

27. Considering the position explained above, the Commission is of the view that the time limit for seeking comments from the DOPT and NCSC and NCST by the Ministries/Deptts. on the proposals for de-reservation of posts should be raised from existing 2 weeks to at least 2 months. The Commission further recommended that it should be mandatory for the Ministries/Deptts. to wait for the comments of the NCST before taking decision for de-reservation of posts reserved for STs and also to accept recommendations of the Commission in the matter.

Agenda Item IX	Comments on Draft Memorandum for Standing Finance Committee (SFC) for the 'Scheme for containing population decline of small minority community, Parsis
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28. The Ministry of Minority Affairs vide letter No. 3/1/1210- Parsi (Vol. III) dated 26/11/2012 have sought the comments of the Commission on the Draft Memorandum.

29. The Commission noted that the draft Memorandum is proposed to be submitted for consideration of the Standing Finance Committee. As the Parsi community is not covered under STs, the Commission has no comments to offer in the matter.

Agenda Item X	Comments on the Draft EFC proposal for converting Rajiv Gandhi National Institute of Youth Development into an institute of National Importance.
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30. Ministry of Youth Affairs and Sports vide letter No. F-15-2/2012-RGNIYD dated 27/11/2012 have sought the views of the Commission on the draft EFC on the subject.

31. The Commission noted that the proposal has been submitted for consideration of the EFC, with financial implications for which the Commission has no comments to offer. The Commission, however desired that Institute should have special focus on tribal youths with allocation of at least 7.5% of their budgetary allocations for the programmes/schemes targeting ST youths. Further, 7.5% reservation should also be provided to the STs in different categories of faculties/staff. The Commission further noted that, as the number of posts in various categories of faculties/staff were few, the Institute should apply grouping of posts in accordance with the DoPT guidelines in respect of small cadres to facilitate better representation of STs.

Agenda Item XI	Comments on the Cabinet Note for the official amendments to the Land Acquisition, Rehabilitation & Resettlement Bill, 2011
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32. The Ministry of Tribal Affairs vide letter No.4/21/2011-CP&R dated 6/12/2012 has sought the comments of the Commission on the Cabinet Note.

33. The Commission noted that as reported in the media, the Govt. has already approved the Cabinet Note on 13/12/2012. The Commission further recalled that the Minister, MoRD vide letter dated 23/07/2012 had forwarded responses of the MoRD to the earlier recommendations of the Commission on the Draft Bill. Subsequently, the views/ comments of the Commission on the Draft Cabinet Note were discussed in the meeting of the Union Minister of Rural Development, Drinking Water and Sanitation on 24/07/2012 and based thereon, revised comments on the Bill were forwarded vide NCST letter No.2008/REHAB/01-Coord dated 25/07/2012.

34. The Commission observed with appreciation that its major recommendations regarding inclusion of a special chapter in respect of Scheduled Areas to have a

clearly defined perspective of tribal rights has been accepted through inclusion of Clause 38A and 38B in the Bill. The Commission, however, noted:

- i) There is still a need for another R&R legislation as, the LARR Bill does not include cases of involuntary displacement of permanent nature due to disasters/natural calamity, external/internal, conflicts and diversion of forest land, etc.
- ii) Other legislations providing for acquisition of land/or occupation of the land under emergency in times of conflict, calamity, etc. without prior payment of compensation and SIA should also be reviewed/amended to provide appropriate rehabilitation and resettlement timely and also to align them with the Land Acquisition, Rehabilitation & Resettlement Bill, 2011.

35. The Commission further observed that there was need to formulate rules/guidelines for effective implementation of the proposed legislation which should, inter-alia, take into consideration the following observations of the Commission which were also communicated to the MoRD earlier.

- i) The Bill seeks to provide R&R benefits to affected families on sale/ purchase of land on a mutually agreed basis where the sale/purchase of the land is equal to or more than 100 acre in rural areas and 50 acres or more in urban areas. MoRD has accepted the suggestions of the Standing Committee for the extension of the threshold limit to be decided by the concerned States for incorporating the same appropriately in the Bill. However, in the Scheduled Areas, R&R benefits should be inseparable part of land acquisition and no threshold limit should be imposed for this purposes. The proposed flexibility to the State Govt. for the extension of the threshold limit beyond 100 acres in rural areas and 50 acres in urban areas should not be applicable in respect of Scheduled Areas.
- ii) Special Impact Assessment (SIA) should also include emotional and psychological impacts and should also identify affected areas (including contiguous forest lands wherein Scheduled Tribes individual as well as community have rights) and enumerate all affected (interested) persons to facilitate enquiry into objections and subsequent determination of 'public purpose'.

- iii) Since land transfer Regulations in Scheduled Areas generally provide for transfer of tribal land only with the permission of designated authorities, the Collector (Land Acquisition) should also be tasked with certifying reasonability of the sale prices (comparable with his award) before private transfers are permitted/registered.
- iv) In the event of the acquired land remaining unutilized, it should be returned back to the original tribal owners wherever possible, without insisting on the re-payment of the compensation amount since the livelihood loss caused to the landowners may have eroded the compensation received (as is done on expiry of a lease). In case the land is subsequently utilized by the Govt. for a different purpose (e.g. for real estate development after mining, etc.), the earnings from such activity should also be shared with the original land owners in similar fashion for appreciation in land values.
- v) MoRD has proposed return of the un-utilized land to the State Land Bank. In such a case, the Land Bank should offer the land which was acquired from the tribals, first to the original tribal land holders and thereafter, to other tribals from the same area. In case no tribal offers to take the land, the same may be retained with the Bank for future development activities only.

Agenda Item XII	Draft recommendations of the NCoPoA for amendment to the SC & ST (Prevention of Atrocities) Act,1989
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36. Ministry of Tribal Affairs vide letter No. 16/4/2012 CP&R dated 07/12/2012 has requested the Commission for comments/views on the draft proposal of the National Coalition for Strengthening PoA Act & implementation for amendment in the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 particularly with reference to the land alienation, money lending and economic and social alienation concerning tribals vis-à-vis SCs and STs (PoA) Act. The views/comments of the Commission has been sought to enable the Ministry to finalize their views in the matter.

37. Joint Secretary, NCST mentioned that the Cabinet Secretariat, vide D. O. letter No.703/1/1/2011-CA.V dated 16/02/2012 from the Secretary (Coord. & PG), while reiterated the instructions contained in the D.O. letter dated 4th Jan., 2012 regarding mandatory consultation by the sponsoring Ministries/ Departments with the

Commission on major policy matters concerning STs, had advised all Ministries/Depts. to ensure that the National Commission for the Scheduled Castes, and the National Commission for the Scheduled Tribes, as the case may be, shall mandatorily be consulted by them through the Ministry/Department administratively concerned with the Commission before finalization of notes for consideration of the Cabinet/Cabinet Committees. The Commission noted that in the instance case, the views of the Commission have been sought at an intermediate stage when the concerned sponsoring Ministry viz. MSJ&E has not finalised their views on the proposed amendment to the Act. The Commission, therefore, desired that MTA may be informed that the views/comments of the Commission would be formulated after finalization of the Note for consideration of the Cabinet Committee by the MSJ&E on the subject.

Agenda Item XIII	Draft Cabinet Note for relaxation for Tribal (Schedule-V) areas (other than areas already included in 82 IAKP districts) and Border Area Development Programmes (BADP) International Blocks under Pradhan Mantri Gram Sadak Yojana (PMGSY)
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38. Ministry of Tribal Affairs vide letter No. 17011/15/2012-P&M dated 16/10/2012 have sought comments of the Commission on the draft Note received from the MoRD.

39. The Commission noted that the proposal has been submitted to enable the States to cover left out eligible habitations (2637) and upgrade some selected eligible roads in Tribal (Schedule – V) areas and Border Area Development (BADP) International blocks under the Pradhan Mantri Gram Sadak Yojana (PMGSY). The Commission observed that as there was an imperative need to strengthen the infrastructural facilities in the Schedule/ Tribal Areas, the proposal required urgent processing as well as implementation within the 12th Five Year Plan 2012-17.

Agenda Item XIV	Review of procedure regarding L – Shaped (14 Point) Roster
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40. MTA have requested for views/comments of the Commission vide letter No.36036/1/2011-Estt.(Res.) dated 07/11/2012 for review of L Shaped (14 point) Roster in relation to earmarking of one more point to SCs with reference to the representation received from Shri Gurcharan Singh Sandhu, President, ICMR

(Hqrs.). The Commission has no comments to offer in the matter except that, while reviewing the L-shaped (14 Point) Roster, 7.5% reservation for STs should not be affected.

Agenda Item XV	Additional items: important administrative issues
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- a. Insufficient allocation of funds for the current year 2012-13 under some of the sub-heads, particularly 'Office Expenses',

41. The Commission noted with concern that despite assurance given in the meeting taken by the Chairperson with the Secretary, MTA and the Joint Secretary and Financial Advisor on 17.05.2012 regarding additional allocation of funds through re-appropriation, particularly under the sub-head 'Office Expenses', repeated reminders, latest being DO letter dated 10/12/2012, no action in the matter was taken by the MTA and the IFD. Further, cuts were applied in the projections without consultation and consideration to the requirements of the Commission, which itself were meager. The request of the Commission, before the pre-budget discussion held under the Chairmanship of Secretary (Expenditure), vide letter dated 25.10.2012 that the projections made by the Commission for allocation of funds in the RE 2012-13 and BE 2013-14, may kindly be got taken care of, was also not paid due regard. The non-availability of requisite funds has resulted in Commission's inability to meet committed expenditure to the service providers, suppliers/contractors and also reimbursement of expenditure being incurred by staff members etc. The obvious impact of failure to meet contractual payments is likely withdrawal of services of Data Entry operators and consultants very soon which will totally stop normal working of the Commission.

42. The Commission also noted that that the PMO had issued directive to the MTA strengthen the NCST. On the other hand, necessary support even for its skeleton strength, with deficiency of more than 40%, is also not being made available. Chairman, NCST desired that the MTA and the IFD should be requested to take immediate action to provide requisite funds by 21st December, 2012, as requested, and also advise the P & AO to process the Bills urgently to avoid contractual defaults and its obvious implications. In case, necessary allocation is not

made by 21st, 2012, a meeting with the Secretary, MTA and the Financial Advisor, MTA should be convened immediately.

43. Chairman, NCST observed that the Commission continues to suffer due to non-availability of requisite manpower. Chairman, NCST further desired that the MTA should be again requested to take effective steps to improve manpower positioning in the Commission. The Commission also decided that a proposal to engage consultants to support normal functioning of the Commission should be urgently formulated and submitted to the MTA for consideration.

44. The Commission further noted that certain important issues, as appended, are still pending with the MTA for a considerable period. The Commission desired that the MTA should be requested to look into the pending cases urgently.

Rameshwar Oraon

डा० रामेश्वर उरांव / Dr. RAMESHWAR ORAON
अध्यक्ष / Chairman
राष्ट्रीय अनुसूचित जनजाति आयोग
National Commission for Scheduled Tribes
भारत सरकार / Govt. of India
नई दिल्ली / New Delhi

APPENDIX

S.No.	File No.	Subject	Date of forwarding
01.	27/1/NCST/06-Admn.	Exemption from disqualification in r/o Chairperson, NCST from contesting Parliamentary and Assembly elections.	03-03-2006
02.	4/1/NCST/04-Admn.	(iii) Upgradation/ creation of posts in the personal staff of Chairperson/ VC/Members. (iv) Creation of Group 'D' posts for the Secretariat of the Commission.	19-12-2008
03.	16/1/NCST/09-Admn.	Upgradation for the post of Accountant	03-03-2009
04.	5/1/NCST/2011-Admn.	Proposal for engagement of Safai Karamchari through outsourcing [There is only one lady Safai Karamchari posted in the Commission. Engagement of at least one more Safai Karamchari remains the barest minimum requirement.]	09-07-2009
05.	20/02/NCST/2009-Admn.	Recruitment Rules for Sr. Investigators/ Investigators [Proposal mooted to maintain an exclusive cadre of investigators/ Sr. Investigators and to fill-up the vacancies consequent to bifurcation of erstwhile NCSCST Commission.]	21.10.2009
06.	13/1/NCST/2009-Admn.	Financial Autonomy to NCST- [Delegation of Powers to Chairperson, NCST for creation of post, re-appropriation of funds, purchase of vehicles and permitting any Officer of the Commission to participate in Seminars, Conferences or etc.]	26-10-2010
07.	1/2/NCST/2011	Extension of term of Shri. K.C. Sharma, Consultant with revised remuneration	11-10-2012

ATTENDANCE SHEET

NATIONAL COMMISSION FOR SCHEDULED TRIBES

40th Meeting of the Commission held on 17/12/2012 in the Conference Room of the Commission – List of participants.

NATIONAL COMMISSION FOR SCHEDULED TRIBES

Sl. No.	Name and Designation	
1.	Dr. Rameshwar Oraon, Chairperson	In Chair
2.	Smt. K. Kamala Kumari, Member	
3.	Shri. Bheru Lal Meena, Member	
4.	Shri Aditya Mishra, Joint Secretary	
	In Attendance	
1.	Shri M. S. Chopra, Director	
2.	Smt. K. D. Bhansor, Deputy Director	
3.	Shri Pradeep Agarwal, SSA	
4.	Shri S. P. Meena, Assistant Director	
5.	Shri R. C. Durga, Consultant	
6.	Shri O. P. Verma, Consultant	
7.	Shri K. C. Sharma, Consultant	