

National Commission for Scheduled Tribes

Summary Record of the meeting to review Implementation of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 and Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Rules, 1995 in the State of Jharkhand.

The meeting to review the implementation of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 and Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Rules, 1995 in the State of Jharkhand was held at 11:30 Hrs. on 28/05/2010 in the Conference Room of the National Commission for Scheduled Tribes. The following were present:

National Commission for Scheduled Tribes

1. Shri Maurice Kujur, Hon'ble Vice-Chairperson (in Chair)
2. Shri Tsering Samphel, Member
3. Shri Oris Syiem Myriaw, Member
4. Shri Aditya Mishra, Joint Secretary
5. Shri R.C. Durga, Director

Government of Jharkhand.

1. Shri A.K. Sinha, IG, CID, Ranchi
2. Shri Parvez Hayat, IG and OSD, Jharkhand Bhawan, Delhi

2. Initiating the discussions Hon'ble Vice-Chairperson, National Commission for Scheduled Tribes mentioned that the Commission was in the process of finalisation of its 4th Report for submission to the Hon'ble President as per mandate provided in Article 338A of the Constitution. Since atrocities on Scheduled Tribes by non-Scheduled Tribes was a vital issue, it was decided to highlight the position relating to implementation of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 and Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Rules, 1995 prevailing in the States having Scheduled Areas and in this context this meeting with the officials of the Government of Jharkhand has been convened.

3. The discussion on various issues relating to atrocities on Scheduled Tribes, commenced with the remarks by the Commission that in most of the cases there was

Maurice Kujur

undue delay in furnishing of comments/ reports by the Police authorities and the Distt. Officials of the Govt. on the representations received/ cases dealt in the Commission pertaining to atrocities on the STs. In almost all the cases, while the reply has not been received within the stipulated period of 30 days, in some cases the reports furnished by the Police Authorities have also not been found to be comprehensive with specific comments on the issues raised by the Commission. Copies of FIR, charge-sheets, Medical Examination Reports of the ST victims/ postmortem reports of the ST diseased, information about arrest of the accused and details of relief and rehabilitation provided to the ST victims are generally missing in most of the cases. After reference to some of the important cases it was decided that, in cases of atrocities on Scheduled Tribes the communications sent to the district police authorities may also be sent to the IG (Human Rights) at the Police Headquarter of the State, for proper follow up and directions.

4 Regarding machinery for dealing with the cases of atrocities on Scheduled Tribes received at the Police Stations, the Commission was informed that at the State Level there is a Cell called Human Rights and Social Justice headed by IGP. The complaints can be lodged by the STs at any Police Station and these complaints are taken cognizance by the Police without any delay and the District Magistrates are being informed on reporting of each atrocity case by sending copies of the FIRs as per Rule 5 of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Rules, 1995 after registration of the FIR. The Medical examination of the victim is done immediately.

5. The Commission was also informed that keeping in view the incidence of atrocities on Scheduled Castes and Scheduled Tribes reported being large in number and the fact that as per the Rule 7(1) of POA Rules, 1995, the case under PoA has to be investigated by an Officer not below the rank of Dy. Superintendent of Police, 7 posts of Inspectors have been upgraded to the rank of Dy. SP.

6 With regard to the complaints of atrocities on STs committed by the Police personnels, the Commission was informed that such complaints were investigated by CID. The Commission was of the view that investigation reports in such cases should pass through internal verification mechanism in the Police Deptt. The

Commission also emphasized that suitable guidelines/ instructions/ procedures should be formulated by the State Government for handling such cases.

7 Since the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 deals with cases of atrocities on Scheduled Tribes by non-Scheduled Tribes, it was necessary to ascertain to caste status of the victim as well as accused and the circumstances in which the incident of atrocity took place. The Commission was informed that the case was registered under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 on the basis of the statement of the victim. However, the caste status of both victim as well as accused persons are ascertained later on the basis of statement of the neighbors and caste certificates, if available.

8. The Commission was informed that the population of Scheduled Castes in the State was much less than the population of Scheduled Tribes, but the cases of atrocities on Scheduled Castes registered in the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 was much higher than the cases of atrocities on Scheduled Tribes. Hon'ble Vice-Chairperson mentioned that the reason for less number of cases may be due to less awareness among the tribals about the provisions of PoA Act. The Principal Secretary, SC & ST Development Department mentioned that the State Government have recently set up a (short number) Toll Free Help line Number (155335) to receive, during 10:00 AM to 5:00 PM, complaints from SCs , STs and other weaker sections relating to about 10 Departments of the State.

9. The Toll Free Number remains under the control of ST & SC Development Department and the grievance received on the Help Line Number is immediately transferred to the concerned authorities/ district administration by E-mail and Fax. It was further informed that the response has been very good as 37 complaints were received within first two days of installation of the help line. It was also noted that various NGOs were taking the cause of STs and SCs in the State and various issues and problems relating to Scheduled Castes and Scheduled Tribes were being highlighted by them from various parts of the State. It was, therefore, suggested to the State Government that Fax facility may also be attached with the Toll Free Help

Line Number so that clear and confirmed complaint could be received from the STs, SCs and the NGOs/ Associations working for ST/ SC Welfare. Hon'ble Vice-Chairperson, however, emphasized that the Police has to act in such a way that people must have trust in the system and it also has to be ensured that the cases do not get dismissed in the Court due to technical and procedural flaws.

10. The Commission noted that the number of cases of atrocities registered in the State was not available. The Commission advised the State Government to take suitable measures for timely disposal of cases by the Police, otherwise delayed submission of the case with the Court may lead to further delay in trial and leading the cases to disposal due to lack of interest by the victims and the witnesses. The State Govt. was also advised.

11. The Commission was informed that there are 12 designated Special Courts in 12 out of 25 districts in the State; the State Government was considering to set up three exclusive Special Courts under PoA Act in the districts where pendency was very high, in order to ensure disposal of PoA cases, particularly those relating to serious crimes, on day to day basis. It was, however, stated that the conviction rate in atrocity cases was 40-50% which is same in general cases.

12. Actual details of registration and disposal of cases of atrocities on Scheduled Tribes registered the Police as well as Special Courts were not available. The State Government will furnish these details in respect of last 4 years i.e. 2006, 2007, 2008, and 2009 by Fax as well as SPEED POST.

13. As regards, identification of atrocity prone areas in the State, the Commission was informed that various areas extending over 12 districts of the State had been identified as atrocity prone areas. The details of atrocity prone areas were not available. The Commission advised that a copy of the Notification indicating details of the atrocity prone areas in the State of Jharkhand may be furnished to the Commission by FAX/ SPEED POST.

14. Rule 16 of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Rules, 1995 provide for constituting State Level Vigilance and Monitoring Committee

to review the implementation of the provisions of the PoA Act and relief and rehabilitation facilities provided to the victims and other matter connected therewith. The Director of the Commission is also Member of the SLVMC. The Committee is expected to meet at least twice in a year. Similar Committee has to be constituted at District Level under the provision of Rule 17 of the PoA Rules and this Committee is expected to meet at least once in three months. The Commission was informed that the meetings of SLVMC were not being held due to political instability. However, such meetings were being taken by the Chief Secretary. The meetings of DLVMC were stated to be held regularly, but details were not available. The State Government may furnish the dates of meeting of SLVMC taken by Chief Secretary and the DLVMC held during the year 2008, 2009 and 2010. The Commission expressed that the matters relating to atrocities on Scheduled Tribes should not be taken lightly and the State Level as well as District Level Committees should meet regularly to review the implementation of the PoA Act and PoA Rules in the State.

15 Rule 12 (4) of the PoA Rules provide for grant of relief and rehabilitation to the ST victims of atrocity. The Commission was informed that the Contingency Plan has been prepared by the State Government with reference to the measures to be taken by the district administration, as prescribed in Rule 12. The relief was also granted to the victims as per the norms prescribed by the Government of India. Rule 11 of the PoA Rules provide for grant of Traveling Allowance, Daily Allowance, Maintenance Expenses and Transfer facilities to the victims of atrocity, his/ her dependents and witnesses. It was noted that the State Government had prescribed for payment of daily maintenance allowance, but details were not available. Since the guidelines of the State Government were not available, the Commission suggested that instead of prescribing a particular fixed amount as the amount of daily maintenance allowance, the State Government may provide for payment of the allowance which may be not less than the minimum wages as may be fixed from time to time.

16 The Commission was also informed that free legal aid is provided to all SCs and Scheduled Tribes, but details of the schemes were not available. The State Govt. may furnish a copy of the scheme relating to free legal aid provided to STs.

Maurice Kujur

मोरीस कुजुर/MAURICE KUJUR
उपाध्यक्ष/Vice-Chairperson
राष्ट्रीय अनुसूचित जनजाति आयोग
National Commission for Scheduled Tribes
भारत सरकार/Govt. of India
नई दिल्ली/New Delhi

17 Issue relating to migration of tribal girls to cities in the name of employment and exploitation by the agency and the employers also came up for discussion. The Commission was informed that the phenomenon was prevalent in all the States. Girls from poor tribal families were taken away by persons belonging to the same village as he/ she is able to generate trust. He / she also make advance payments to the families of those girls. The local district administration comes to know only when parents of the girl make a complaint in the event of some mis-happening with the girl while working in the city. However, as a measure to check migration instructions were issued to General Railway Police to have a vigil over movement or traveling of group of girls/ women by any train from any station of the State. It was expressed that effective measures have to be taken by the State Governments as well as Central Governments to check and monitor migration followed by exploitation. The State Governments of the concerned city should exercise some control over the placement agencies and also direct them to get the Police verification of their employees done before giving them placements.

18 The problems of naxalism in the State also came up for discussion. The State Government informed that the nature and extent of naxalism was different from that in other States. It was felt that development of the areas and employment to the educated youth and creation of sources of livelihood for the people was the need of the time. Since the State of Jharkhand is full of resources and many primal industries had come up while many more were expected to come up to exploit those resources, it was felt that such industries should give priority to local people particularly Scheduled Tribes in the matter of employment and as stake holders.

19 It was also felt that there was need to create awareness through Press and Media about the provisions of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 and Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Rules, 1995 and the measures taken by the State Government and Central Government. The Ministry of Social Justice & Empowerment and the Ministry of Tribal Affairs provide funds to the State Government as Central Assistance for implementation of the PoA Act. The State Government may utilize to the funds for creating awareness among the public. The Commission also supported the view of the Principal Secretary (TW) that issues relating to SCs and STs and PoA Act and

महाराज कुजुर/MAURICE KURUR
6, जम्हाईर/ Vice-Chairperson
राष्ट्रीय अनुसूचित जनजाती आयोग
National Commission for Scheduled Tribes
भारत सरकार/Govt of India

PoA Rules may be made as part of syllabus for Civil Service Examination and also State Level Examinations. It was decided that the Commission will take up the matter with the UPSC, the Government of India and the State Governments.

20 In the context of any problems or suggestions relating to implementation of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 and Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Rules, 1995 the Commission was informed that the State Government have sent some suggestions to the Ministry of Social Justice & Empowerment for amendment of the Act and the Rules. Since the details of the proposed amendments were not readily available, it was agreed that the State Government will send the details by FAX/ SPEED POST.

21 The Commission invited the attention of the State Government to the list of cases of atrocities on Scheduled Tribes sent by the Commission vide letter dated 13/05/2010 and emphasized that the detailed information on points (i) to (x) mentioned in the letter may be furnished w.r.t each case indicated in the list, urgently so as to incorporate the same in the Report of the Commission.

Maurice Kujur

मोरीस कुजुर/MAURICE KUJUR
उपाध्यक्ष/Vice-Chairman
राष्ट्रीय अनुसूचित जात-जाति आयोग
National Commission for Scheduled Castes
भारत सरकार/Govt. of India
नई दिल्ली/New Delhi