

**EXPLANATORY MEMORANDUM
ON THE SPECIAL REPORT OF
THE NATIONAL COMMISSION
FOR THE
SCHEDULED TRIBES,
2012**



सत्यमेव जयते

**Government of India
Ministry of Tribal Affairs**

**EXPLANATORY NOTES ON THE
RECOMMENDATIONS OF THE NATIONAL
COMMISSION FOR THE SCHEDULED TRIBES
(NCST), IN THE SPECIAL REPORT, 2012.**

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CHAPTER-1: GOOD GOVERNANCE IN SCHEDULED and TRIBAL AREAS

Recommendation No. 1 [Page No. 86]

Based on the position emerged from the discussion, Commission recommends to the Government for considering the need for amendments of Schedule V and VI to provide a comprehensive Charter for tribal communities incorporating the best practices enumerated in the ILO Convention (s). [Para 1.27]

Explanatory Note(s)

The Ministry of External Affairs (MEA) has stated that the Ministry has no role in implementation of the recommendation. The substantive decision for amending the Schedules V and VI has to be taken by the concerned administrative Ministries. If that decision is taken, the MEA, on request, can give its views on the provisions of the ILO Convention which have been identified for incorporation in the Charter.

2. The Ministry of Labour and Employment while inviting reference to the comments of the Ministry of External Affairs, Ministry of Home Affairs and Ministry of Tribal Affairs as reflected in para 1.22 (a), (b) and (c) in Chapter 1 titled “Good Governance in Scheduled and Tribal Areas,” has stated that the position explained by the said three Ministries does not seem to be conducive for ratification of ILO Convention No. 169. As of now there is no agreement for acceptance of ILO Convention No. 169 among the Ministry of External Affairs, Ministry of Home Affairs and the Ministry of Tribal Affairs. Any ILO convention can only be ratified if all the Ministries/Departments concerned put forth their consensus or give no objection for the ratification of the said Convention. However, if there is any change in status of the concerned Ministries, the issue would be reviewed.

3. The Ministry of Home Affairs has stated that the Integrated Action Plan (IAP) which has been in operation since 2009 is achieving significant results at the ground level.

As per the IAP, a committee, comprising of District Magistrate/Collector, Superintendent of Police and District Forest Officer, oversees the disbursements of the investments and implementation of the programme. It is expected to focus on improvements of Governance through effective monitoring and implementation of the Provisions of the Panchayats (Extension to the Scheduled Areas) Act, 1996 and the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006.

The results obtained therein through this plan needs to be critically examined. This should be done after a period of at least ten years to gauge the effectiveness of the programme.

In view of several stand alone legislations and other options available, it is not considered necessary to amend the Schedules V and VI of the Constitution. What is needed is effective implementation on which Government of India in co-ordination with State Governments is monitoring the results.

4. In the circumstances, the Ministry of Tribal Affairs is of the view that the recommendation of the Commission for amending Schedules V and VI to provide a comprehensive Charter for tribal communities by incorporating the best practices enumerated in the ILO Convention (s), is not supportable at present.

Recommendation No. 2 [Page No. 86]

The Commission has noted that the Government has not taken any decision on the 10th Report of Administrative Reforms Commission- “Refurbishing of Personnel Administration, Scaling New Heights” (November, 2008)- which has important recommendations relating to the Scheduled Tribes. The NCST has noted that general reluctance on the part of the officers and staff for posting in Scheduled Areas/ Tribal Areas on account of lack of housing, medical and education facilities has been exponentially compounded by the general climate of permissiveness fostered by rampant political interference and collusive abandonment of responsibilities in search of greener pastures. In order to address these problems, the Commission is of the view that Government should formulate specific regulations in respect of Scheduled Areas for personnel management with the formation of a

State level Civil Services Authority for Scheduled Areas, which would deal with matters of assignment of functional domains to officers, preparing a panel for posting of officers, fixing tenures for senior posts etc., in line with the Central Civil Services Authority proposed by the ARC. In order to improve personnel management in respect of all category of employees, it is necessary to fix a minimum tenure for various cadre posts, which be filled on the basis of merit, suitability and experience, prescribe norms and guidelines for transfers and posting to maintain continuity and predictability in career advancement and acquisition of necessary skills and experiences as well as promotion of good governance. The normal tenure of all public servants may not be less than two years and Transfers before the specified tenure should only be for valid reasons to be recorded in writing. These recommendations are in accordance with the observations contained in para 8.5.11, 8.5.12 and 8.5.14 of the 10th Report. Department of Personnel and Training may consider the above views of the Commission and issue detailed guidelines for improvement of personnel policies and systems in Tribal Areas in the interest of peace and good governance under intimation to the Commission. [Para 1.45]

Explanatory Note(s)

The Department of Personnel and Training has stated that the Recommendation relates to the formulation of specific regulations in respect of scheduled areas for personnel management with the formation of a State level Civil Services Authority with the mandate of assigning functional domains to officers, preparation of a panel for senior posts is a subject matter falling within the domain of respective State Governments.

2. The Deptt. of Administrative Reforms and Public Grievances has stated that the 10th Report “Refurbishing of Personnel Administration - Scaling New Heights” was considered by Group of Ministers (GoM) in its meeting held on 19.10.2012 and 24.01.2013. However, the GoM is yet to fully consider the 10th Report of 2nd ARC.

3. The Ministry of Home Affairs has stated that the general reluctance stems from the feeling of lack of amenities coupled with some other extraneous factors which discourage public servants from taking postings in these areas. Rather than forcing personnel to take up the postings, which

inevitably leads to poor morale and less output, postings in these areas should be rewarded in some form which will encourage them to take postings voluntarily.

Remedy to this particular problem may lie within creating a dedicated cadre recruited from among the locals who are generally rooted to their place of origin. The routine posts should be filled as far as possible from among the tribal people at the level of Panchayats and at district level by local recruitment.

4. The recommendation of the Commission has been conveyed to the State Governments for consideration and appropriate action.

Recommendation No. 3 [Page No. 87]

The Constitutional provisions in the Vth/ VIth Schedule require to be reviewed and refreshed in the light of past experience, international best practices and necessary administrative reforms. It appears high time that a comprehensive, universal Charter of Rights of Tribal communities was incorporated into the Fifth Schedule (also declaring tribal areas to be Scheduled Areas), incorporating the best practices emerging from the ILO Conventions as well as various bodies like the Administrative Reforms Commission, etc.

- (i) Protection of religious, social, cultural and educational rights**
- (ii) Sustaining traditional means of livelihood and special protection regarding employment**
- (iii) Protection of customary laws and inheritance rights**
- (iv) Protection of habitat and environment**
- (v) Protection of land (surface and sub-surface) rights**
- (vi) Protection from removal from occupied lands for public purposes**
- (vii) Right to Relocation from occupied lands with appropriate compensation/ guarantees**
- (viii) Protection of traditional community institutions**
- (ix) Strengthening of Administrative mechanisms for tribal areas (under Union oversight)**
- (x) Development and Planning for Scheduled Tribes (refurbished development strategy predicated on primary financial and administrative responsibility of the Union Government) [Para 1.52]**

Explanatory Note(s)

The Ministry of Culture has informed that through its various organizations, activities for the protection, preservation and promotion of tribal culture is conducted. The organizations involved are -

- (a) Three (3) Akademies (Sahitya Akademi, Sangeet Natak Akademi, Lalit Kala Adademy).
- (b) Indira Gandhi Rashtriya Manav Sangrahalaya,
- (c) Anthropological Survey of India (An. S. I.),
- (d) Assistance to Museums,
- (e) Zonal Cultural Centres:-

Seven Zonal Cultural Centres encompassing all the States and Union Territories of the Country were set up to extend local creative support to folk and traditional artists and artisans of India. Each centre functions as an autonomous body. The Governor of the State concerned serves as the ex-officio Chairman of the autonomous bodies.

The Ministry of Culture carries out its functions through a network of institutions working in the fields of Archaeology, Archives, Museums, Public Libraries, Anthropology, Buddhist/ Tibetan Art and Culture, etc., and also through some departmentally implemented central schemes. A major portion of the Plan Outlay is earmarked for cultural organizations dealing with promotion and propagation of culture.

As per decision taken in the Task Force meeting by the then Member, Planning Commission to review the operational difficulties in implementing Tribal Sub Plan (TSP) and Scheduled Castes Sub Plan (SCSP) suggested remedial measures through re-examining the existing guidelines. The Ministry has been earmarking 2% of its Plan allocation under TSP from the financial year 2011-12.

Priorities identified for promotion and preservation of tribal culture through the Organizations/ Central Schemes of the Ministry that are likely to be covered under TSP are -

- a. Anthropological Survey of India, Kolkata;
- b. Indira Gandhi Rashtriya Manav Sangrahalaya, Bhopal;

- c. Raja Rammohun Roy Library Foundation, Kolkata;
- d. Zonal Culture Centres;
- e. Namgyal Institute of Tibetology, Sikkim, Gangtok;
- f. Central Institute of Cultural Himalayan Studies, Dahung, Arunachal Pradesh;
- g. National School of Drama;
- h. Centre for Cultural Resources and Training;
- i. Indira Gandhi National Centre for the Arts;
- j. Central Scheme of the Ministry

The Ministry extends financial assistance for specific projects to voluntary organizations/ individuals engaged in cultural development. It also assists persons distinguished in letters, arts, provides scholarship and fellowship, including tribal areas, community. The Ministry also gives grant to the persons/artists' belonging to tribal community or organizations located in tribal area on merit.

2. The Ministry of Panchayati Raj has informed that the Panchayats (Extension to the Scheduled Areas) Act, 1996 (PESA) extended Part IX of the Constitution to the Schedule V Areas and provided for people-centric governance and people's control over community resources and their life, with central role to the Gram Sabhas.

The Gram Sabhas under PESA are deemed to be "competent" to safeguard and preserve the traditions of their people, community resources and customary mode of dispute resolution. The Gram Sabhas further have:

- (a) mandatory executive functions to approve plans of the Village Panchayats, identify beneficiaries for schemes, issue certificates of utilization of funds,
- (b) right to mandatory consultation in matters of land acquisition, resettlement and rehabilitation, and prospecting licenses/ mining leases for minor minerals,
- (c) power to prevent alienation of land and restore alienated land;
- (d) power to regulate and restrict sale/consumption of liquor;
- (e) power to manage village markets, control money lending to STs;
- (f) ownership of minor forest produce;
- (g) power to control institutions and functionaries in all social sectors;
- (h) power to control local plans and resources for such plans including TSP, etc.

3. The Department of Higher Education has supported the recommendation of the Commission for amendment.

4. The Planning Commission has supported the need for a review, but the decision on this issue / recommendation needs to be taken by an appropriate authority.

5. The Ministry of Labour and Employment welcomes any effort intended for good governance in Scheduled and Tribal Areas.

6. The Department of School Education and Literacy has no comments to offer on the recommendation of the Commission.

7. The Ministry of Home Affairs has stated that there is no urgent need to amend the constitution as the specific laws available in this regard, with suitable modifications from time to time, are adequate to counter and mitigate any unforeseen challenges. What is more relevant is to devise ways for effective implementation and monitoring the existing legislations. It is a stark reality that even after protection of several legislations, the vulnerable groups still get targeted and statistically the number of crimes are not showing significant improvement. The vast societal dynamics of the country coupled with socio-economic and political reasons represents a big challenge and there must be coordinated efforts between all three arms - Executive, Legislative and Judiciary to measure up to the challenge.

8. With reference to **Item (ii)** relating to **“Sustaining traditional means of livelihood and special protection regarding employment”**, the Ministry of Environment and Forests has stated that the Forest Rights Act, 2006 clearly addresses the concerns of tribals regarding the issues of forests rights of tribal and other traditional forest dwellers. The Act recognizes and vests these rights and lays down procedure of the same. As this Right is recognized and vested by statute, it adequately addresses the livelihood issues of the ST and Other Traditional Forest Dwellers (OTFD). However, the commensurate responsibility for conservation and sustainable use of forest resources is also required to be addressed to ensure security of livelihood from forest resource. The sustainable use of forest resources for livelihood requires preparing and following appropriate working/management plans subject to carrying capacity of forests in question. Also

strengthening the capacity of local institutions is necessary for discharging their role effectively and efficient use of local resources and that the issue of special protection of employment does not pertain to the Ministry of Environment and Forests.

Item (iii) relating to “Protection of customary laws and inheritance rights”: The Forest Rights Act (FRA) takes care of the issues of customary and traditional rights of ST and Other Traditional Forest Dwellers (OTFD) on forests. In the long run, however, since forest has limited resources, it may not be enough to sustain the current and future needs and aspirations of tribals. So alternative livelihood generating mechanism away from subsistence exploitation of forest land including MFP will have to be thought of for the future.

Item (iv) relating to “Protection of habitat and environment” : The rights of Tribals on forest land, MFP, forest biodiversity, etc., have already been covered under the Indian Forest Act, 1927, Forest Rights Act, 2006, PESA and Biological Diversity Act, 2002. However, the duty of the right holder and tribal communities may be made enforceable so that exploitation of natural resources is done prudently and simultaneously with conservation to ensure sustainability.

The Ministry of Tribal Affairs endorses the views of Ministry of Home Affairs.

Recommendation No. 4 [Page No. 87]

Considering the special provisions of the Constitution relating to Schedule V and Schedule VI in relation to the Scheduled Tribes and Scheduled Areas, opinion of the Attorney General regarding Governors’ role in Scheduled Areas and the inadequacy in formulation and implementation of Tribal Sub-plan both at the State as well as at the Centre, the National Commission for Scheduled Tribes makes the following recommendations in relation to good governance in tribal development administration and administration in Scheduled Areas.

(i) Robust "pre-facto" mechanism have to be grafted to Constitutional provisions which would ensure requisite attention to tribal concerns-foremost of which would be the mandatory inclusion of a separate chapter on Special Provisions for Scheduled Areas/ Scheduled Tribes in every Central or State Legislation affecting the habitat tribals' property rights and enjoyment of lands occupied, the religion, customs and

culture of these people and traditional relationship with their environment (as obligated under UN Conventions) [Para 1.42]

Explanatory Note

The Ministry of Panchayati Raj has informed that the Draft Model Rules for Panchayat (Extention to the Scheduled Areas) Act, 1996 (PESA) were prepared by the Ministry and circulated to all 9 PESA States for adoption with suitable modifications for effective implementation of PESA. Three (3) States viz. Andhra Pradesh, Himachal Pradesh and Rajasthan have notified their PESA Rules. The Ministry is also pursuing with the other 6 States. It is relevant to mention that most of the rights of Tribal Communities like sustaining traditional means of livelihood and special protection regarding employment, protection of habitat and environment, protection of land rights, etc., are already embodied in these Model Rules.

2. The Department of Land Resources has informed that a separate chapter for Scheduled Castes and Scheduled Tribes is already provided in the Land Acquisition, Rehabilitation and Resettlement (LARR) Bill, 2011.

3. The Ministry of Mines has stated that the recommendation of the Commission is agreeable to the Ministry. The Ministry is of the opinion that issues pertaining to providing habitat and livelihood security are primarily guided by the National Rehabilitation and Resettlement Policy of the State Government concerned or the National Rehabilitation and Resettlement Policy, 2007, and in future by the Land Acquisition, Rehabilitation and Resettlement Bill, 2011, recently introduced in the Parliament by the Department of Land Resources, Ministry of Rural Development.

However, in respect of mining activities, the Government has prepared a Mines and Minerals (Development and Regulation) (MMDR) Bill, 2011, in terms of National Mineral Policy, 2008, which provides that over and above the compensation admissible to the persons affected by mining projects in terms of Resettlement and Rehabilitation (R and R) Policy of the State Government concerned, every mining lease holder shall be required to:

(a) share a sum equivalent to royalty in case of non-coal minerals, and in case of coal minerals, a sum equivalent to 26% of profit after tax with the affected persons through a district level mechanism where the affected persons shall have a stake,

- (b) in case of company, to allot atleast one share at par to each person of the family affected by mining operations,
- (c) provide employment and other assistance in terms of R and R Policy of the State.

These provisions are likely to address the concerns adequately on livelihood security to the Scheduled Tribe families affected by mining.

4. The Ministry of Environment and Forests has stated that the tribals are one of the main communities which live inside and on the fringes of the forest areas. Indian Forests Act, 1927, is a regulatory act with the objective of managing and protecting forest resources. Joint Forest Management and other forms of community participation in forest areas, makes tribal community as the primary beneficiaries of conservation of the resource. As such, the Act secures livelihood protection to tribals including those in the Scheduled Areas of the country.

Recommendation No. 4 [Page No. 87]

(ii) There is a need to evolve a mechanism headed by Governor in the States having Scheduled Areas under Fifth and Sixth Schedule, to monitor and ensure implementation, in letter and spirit, the provisions contained in Fifth and Sixth Schedule to the Constitution, so that Governor may play an oversight role in the matter. [Para 1.42]

Explanatory Note

The Governors of the States of the Vth and VIth Scheduled Area States are empowered to monitor and ensure implementation of the provisions enshrined in the Vth and VIth Schedule of the Constitution of India.

The Governor of Vth Scheduled states are required to submit Annual Report or whenever so required by the President make a report on the administration of the Scheduled Areas. In case of VIth Scheduled States, the Governor is empowered to appoint a Commission to inquire into and report on the administration of autonomous district and autonomous regions.

However, the recommendation has been conveyed to the State Governments by the Ministry of Tribal Affairs for consideration and appropriate action. Governors of States have been requested to effectively exercise the powers vested by the Constitution as well by Minister for Tribal Affairs.

Recommendation No. 4 [Page No. 88]

(iii) The Tribes Advisory Councils (TAC) for all States with Scheduled Areas as well as tribal areas may be headed by the Governor as Chairperson of the Council, while Secretariat support may continue to be provided by the Tribal Development Deptt. of the State, till requisite machinery is created in the Governor's Sectt. The Chief Minister of the State may act as Vice Chairperson of the TAC. The TAC should be reconstituted regularly as per the provisions and the meetings of the TAC should be held at least twice in a year or as expedient, as provided in the Constitution. [Para 1.42]

Explanatory Note

The TAC has been constituted in the Vth Schedule States as per Clause 4(1) of the Vth Schedule to the Constitution. The rules and appointment of the Chairman and Members are given clearly in Clause 4(3) of the Schedule.

However, the States have been requested to conduct meetings of TAC at least twice in a year.

The recommendation has been conveyed from the Ministry of Tribal Affairs to the State Governments for consideration and appropriate action.

Recommendation No. 4 [Page No. 88]

(iv) The Governors should promulgate detailed regulations for peace and good governance as suggested in para 1.51 above. [Para 1.42]

Explanatory Note

The recommendation has been conveyed from the Ministry of Tribal Affairs to the State Govts. concerned for consideration and appropriate action.

Recommendation No. 4 [Page No. 88]

(v) It is desirable that all Acts and laws should be reviewed for their adaption to the Scheduled Areas, but this is not practically feasible by the concerned departments. The Law Commission (under the Ministry of Law) should be entrusted this responsibility of review of existing Laws affecting property rights, succession, marriage, land holdings, indebtedness, constitution and management of public/administrative services for adaption to Scheduled Areas in consultation with Ministry of Tribal affairs, State Govts., NCST, etc. Any weak areas in schemes / policies for Tribal areas should be got remedied either directly or indirectly by MTA. [Para 1.42]

Explanatory Note(s)

The Department of Land Resources has informed that a Bill titled “Land Acquisition, Rehabilitation and Resettlement (LARR) Bill, 2011” has already been introduced in the Lok Sabha. This Bill addresses the concerns of the Scheduled Areas with regard to land acquisition and rehabilitation and resettlement.

2. The Department of Legal Affairs has informed that the Law Commission of India is under process of being constituted. The matter will be referred to the Law Commission as and when it is constituted.

Recommendation No. 4 [Page No. 88]

(vi) The strategy for all programmes, particularly the major missions/schemes of the Ministries/Depts, should comprise sub-Chapters for accelerated development of the Scheduled Area. In particular, it is necessary to have specific Tribal Sub Plan (TSP)

component in all the major missions/ schemes/ programmes of all Ministries/Deptts to have a clear focus on formulation of schemes/programmes concerning the STs and their effective implementation and monitoring. The TSP component should not be per population share but according to "problem-share"; and "need-based" taking into account the extent of deprivation, or even more than that to make up the backwardness/ negligence experienced over the years. Unless the earmarking of TSP outlays exceeds the relative share of incidence of residual problems eg. drinking water, primary health care and education, nutritional support, unemployment etc., the relative gap in physical quality of life is likely to persist. [Para 1.42]

Explanatory Note(s)

As per records in the Ministry of Tribal Affairs, in 2010, Planning Commission had Constituted a Task Force under the Chairmanship of Dr. Narendra Jadhav, Member, Planning Commission to :-

- a) Review the operational guidelines in implementing SCSP and TSP.
- b) Suggest remedial measures for an effective and meaningful implementation of SCSP and TSP in future.

The Task Force after having extensive consultations with identified Central Ministries / Departments had recommended a classification of Ministries / Departments according to their obligation towards earmarking of the respective plan outlays under SCSP and TSP. The report of the Task Force laid emphasis on :-

- i) Classification of Central Ministries/Departments according to their obligation to earmark their Plan Outlay / Expenditure and SCSP / TSP
- ii) Central Ministries / Department-wise Plan Outlay under SCSP / TSP
- iii) Categorizing Plan Expenditure under SCSP/TSP
- iv) Placing of earmarked funds for SCSP/TSP under separate budget heads of '789' and '796'
- v) Strengthening of administrative arrangements for planning and implementation of SCSP/TSP and,
- vi) implementation of non-lapsability feature.

The said recommendations were accepted by the Planning Commission and the details are given in Annexure-I. Accordingly, all Central Ministries / Departments are required to implement the recommendation of the task force beginning from the Annual Plan 2011-12. The status for 2012-13 is given in Annexure-II. Member Secretary, Planning Commission also urged

in her letter dated 15.12.2010 that those Ministries / Departments who do not have any binding commitments to provide allocation under SCSP and TSP to also make efforts at providing some allocation on a voluntary basis.

The Planning Commission has recently constituted an Inter-Ministerial Committee to effectively implement SCSP / TSP as the essential instrument for accomplishing inclusive growth in tandem with the principal goals towards empowerment of SC/ST communities as envisaged in the draft 12th Five Year Plan Document. One of the terms of reference of the said committee is to explore the possibility of converting the 'post-facto accounting approach' into a robust 'pro-active planning approach' to the SCSP and TSP with a view to ensure inclusive growth. This is to focus on new and innovative schemes having the potential to bridge the gaps in development between SCs/STs and others rather than focusing only on earmarking funds on pro-rata accounting basis in the existing scheme.

In the regional workshops organized by the Ministry of Tribal Affairs at Ranchi, Raipur and Gandhi Nagar, in January – February 2013 on effective formulation, implementation and monitoring of Tribal Sub Plan, the change in approach towards getting the desired results by implementing Tribal Sub Plan has been extensively discussed and views were exchanged with the participating States and the Ministry for effective intervention both from Central and State Governments.

One of the Recommendations was on the felt needs of different States which are different and may also vary within the various districts of a particular State. Therefore, it was felt that monitoring and planning are to be focused on with the primary responsibility of completing the jobs.

The Government of Andhra Pradesh has enacted a legislation titled, "Andhra Pradesh Scheduled Castes Sub Plan and Tribal Sub Plan (Planning Allocation and Utilization of Financial Resources) Act, 2013" which gives statutory backing to the important subject.

Another Statement showing the Ministry / Department – wise outlays in 2013-14 is at Annexure-III.

2. The Department of Land Resources has informed that it has earmarked 16.20% for Scheduled Castes sub-plan (SCSP) and 10% of the plan outlay for Tribal Sub-Plan (TSP). These have been reflected in the Demand-for-Grants of the Department.

Recommendation No. 4 [Page No. 88]

(vii) The National Tribes Advisory Council should be established with clear definition of scope and terms and condition. It should also co-ordinate the governance of Scheduled Areas. [Para 1.42]

Explanatory Note

The Recommendation of the Commission for the establishment of a National Tribes Advisory Council forms one of the recommendations of the Mungekar Committee which is under finalization in the Ministry of Tribal Affairs.

A meeting with the Secretaries of Tribal / Welfare Departments of Scheduled V States had been convened on 21.02.2013 and another meeting with stakeholders Ministries was also held on 17.04.2013 to discuss the recommendations.

Recommendation No. 4 [Page No. 88]

(viii) The Ministry of Tribal Affairs should prescribe a uniform format for preparation and submission of the reports by the Governors in respect of 5th Schedule States with particular reference to its contents. The Ministry of Tribal Affairs should also issue the following instructions to the State Governments to the effect that [Para 1.52] :

Explanatory Note

There is already a set of format/guidelines for the preparation and submission of the Governor's Report on the Administration of the Scheduled Areas. The same has been revised by the Ministry of Tribal Affairs and sent to the States and NCST for comments.

Recommendation No. 4 (viii) [Page No. 88]

(a) The Report relating to the financial year should reach the Government of India (Ministry of Tribal Affairs) within a period of six months of closing of the financial year. [Para 1.42]

The existing guidelines already issued by the Ministry of Tribal Affairs, inter - alia, stipulate that the Governor's Report should be submitted within a period of six months of the closing of the financial year i.e. 30th September of each year.

Recommendation No. 4 (viii) [Page No. 88-89]

(b) The reports should contain a detailed note on the implementation of the constitutional safeguards for promotion of educational and socio-economic development of the Scheduled Tribes. These reports should also contain a brief on problems relating to law and order, naxal movements and tribal unrest. The reports should also make a mention about Central and State laws enacted in the State during the report period, and action taken regarding extension/applicability of those laws to Scheduled Areas in the light of the powers of the President, Governor under Fifth and Sixth Schedule. Working of PESA Act in the State should also be integral part of the Governor's report. [Para 1.42]

Explanatory Note

As per the existing Guidelines issued by the Ministry of Tribal Affairs, the contents of the Governor's report should be such as to lead to specific action both by the State and the Union Government with the avowed objective of improving the level of administration and development of Scheduled Area.

The observations/suggestions of the NCST have been taken care of by the Ministry. The format of the Governor's report mentions about the effective implementation of various State/Central Acts and Laws including PESA.

Recommendation No. 4 (viii) [Page No. 89]

(c) Considering the comprehensive nature of the task, it is not pragmatic to expect the desired report to be compiled by the Governor.

Every department in the State should submit a report about the schemes/policies being run by them to the Tribal Welfare department of the State, which in turn should compile these reports to identify the strong areas and weak points for presentation to the Governor. [Para 1.42]

Explanatory Note

The existing guidelines issued by the Ministry of Tribal Affairs, inter-alia, stipulate that each Department at the State level should prepare a Report for the Scheduled Areas in respect of its functional jurisdiction and that a Department-wise analysis should also be included in the report.

Recommendation No. 4 [Page No. 89]

(d) In case the reports do not contain the observations of TAC, they may be sent back to the State Governments advising them to apprise the Central Government of the observations of the TACs and action taken on the observations of TAC. [Para 1.42]

Explanatory Note

The Ministry of Tribal Affairs is in touch with the State Governments concerned on this issue. As per the guidelines, the report of the Governor should be placed before Tribes Advisory Council (TAC) and the observation(s) made by the TAC should be dealt within the report indicating therein the steps taken on the observations/ recommendations of the TAC.

Recommendation No. 4 [Page No. 89]

(e) The reports should be thoroughly examined in the Ministry of Tribal Affairs on the basis of the material contained in them and the State Governments should be apprised of the assessment to enable them to take necessary follow-up action. [Para 1.42]

Explanatory Note

The Ministry of Tribal Affairs (MTA) examines the report and sends it, along with the observations of the MTA, to the President's Secretariat for

kind perusal of the Hon'ble President. The observations are also sent to the State Governments concerned for compliance after the Hon'ble President has perused the report.

Recommendation No. 4 [Page No. 89]

(f) A copy of the Governor's Report should be made available to the National Commission for Scheduled Tribes immediately after receipt of the Report in the Ministry to enable the Commission to examine the same and offer its comments thereon. [Para 1.42]

Explanatory Note

A copy of the Report of the Governor will be sent to the National Commission for the Scheduled Tribes (NCST) by the Ministry of Tribal Affairs after the Hon'ble President has perused the Report.

Recommendation No. 4 [Page No. 89]

(g) The States, which have TACs, should ensure that TACs are constituted/ reconstituted timely and that their meetings are held regularly as per Constitutional provisions. The agenda of the TAC should inevitably include the subject of adaptation of Central or State laws enacted during the interregnum of its meetings so that the same are not routinely extended to Scheduled Areas/Tribes. A similar mechanism (like TAC) should be established for Schedule VI States also. [Para 1.42]

Explanatory Note

The State Governments have been advised by the Ministry of Tribal Affairs to take appropriate action in the light of the recommendations of National Commission for the Scheduled Tribes and to ensure that the Tribes Advisory Council (TAC) meetings are held regularly.

As regards establishment of a similar mechanism (like TAC) for Schedule VI States, the matter has been referred to the Ministry of Home Affairs as that Ministry is concerned with the Schedule VI States.

Recommendation No. 4 [Page No. 89]

(ix) Notwithstanding the specific provisions in the Fifth and the Sixth Schedule, the legislative proposals mooted by the Union and the State Governments especially those relating to Tribal Rights Charter should have a separate Chapter “Applicability to Scheduled Tribes and the Scheduled Areas (under Fifth and Sixth Schedule)” This would compulsorily require consultations with all the stake holders, including States having Scheduled Areas under Fifth and Sixth Schedule, Ministry of Tribal Affairs and the National Commission for Scheduled Tribes also and the question relating to adaptation of any Act to Scheduled Tribes and the Scheduled Areas may not be always necessary. [Ref Para 1.42]

Explanatory Note(s)

The Deptt. of Legal Affairs has stated that different subject matters have been allocated to different Ministries/ Departments of the Government of India. Therefore, all the Ministries/ Departments should be apprised that when any legislative proposal is mooted by them, including the matters related to Tribal Rights Chapters, it should have a separate Chapter “Applicability to Scheduled Tribes and the Scheduled Areas (under Fifth and Sixth Schedule)” and also that all the stakeholders including States having Scheduled Areas under Vth and VIth Schedules, Ministry of Tribal Affairs and National Commission for Scheduled Tribes should be consulted.

The Deptt. of Legal Affairs will come in picture when such a proposal in the form of a draft Note for the Cabinet will be received from the concerned administrative Ministry for examination from legal and constitutional angle.

2. The Ministry of Environment and Forests has informed that a Bill “Amendment to Indian Forest Act, Bill, 2012 (a Bill further to amend the Indian Forest Act, 1927) regarding compounding of the forest offences was introduced in the Rajya Sabha on 26.03.2012 during the Budget Session.

The Amendment Bill is to ensure that in instances of such petty forest violations, the local people are not put to undue harassment through prosecutions which entails litigation in courts. This will be achieved by

enhancing the power vested with forest officials to compound a forest offence upto a limit of Rupees ten thousand. The amendment Bill has also inserted a subsection as under:

“In Schedule V areas, the Forest Officer shall before exercising the power vested by this section, obtain and record the views of the Gram Sabha concerned.”

The Bill was referred to the Standing Committee on Science and Technology, Environment and Forests of the Parliament for consideration and examination. The Standing Committee has tabled its report in Rajya Sabha on 26th November, 2012.

The provision has been introduced in the Amendment Bill to include the concerns of the stakeholders in the protection of forests.

CHAPTER-2: REGULATIONS REGARDING PEACE and GOOD GOVERNANCE

Recommendation No. 1 [Page No.90]

The increasing Competition for political power, resources and opportunities in the Indian State has witnessed strident demand from the relatively more developed sections of society in different parts of the country to be declared as Scheduled Tribes, defying earlier norms for such identification viz; backwardness and isolation. These demands are stoked by political parties in order to derive political advantage without care for their deleterious impact on the rights of tribal communities as well as erosion of Constitutional safeguards. Commission recommends that in the context of continuing demand for inclusion of new areas /communities, there is a need to review the list of Scheduled Areas/ Scheduled Tribes objectively in a time-bound manner. Appropriately, therefore, the Scheduled Area and Scheduled Tribes Commission should be constituted every 10 years to look into such demands under Article 339 of the Constitution. SA and ST Commission should be entrusted the review of Scheduled Areas, Scheduled Tribes list and Laws and rules relating to administrative and financial structure. [Para 2.4]

Explanatory Note

The 2nd Scheduled Areas and Scheduled Tribes Commission was constituted on 18.7.2002 which had submitted its report in July, 2004. Suggestions to constitute the next Scheduled Areas and Scheduled Tribes Commission have been made and the Ministry of Tribal Affairs is to take a decision on it. The recommendation of the Commission will be taken into account, as and when the next Scheduled Areas and Scheduled Tribes Commission is constituted under Article 339(1) of the Constitution.

Recommendation No. 2 [Page No. 90]

Involuntary relocation of tribal communities because of calamity, insurgency, and large development projects has also entailed forfeiture

of Constitutional Safeguards because their tribal status is not legally maintainable. There is need to advise the State Governments that:-

(a) they should issue instructions to provide that the families and children of the in-voluntarily migrated ST parents will continue to enjoy the same status in the State where they are resettled in case the community/ communities to which they belong has already been notified as Scheduled Tribe/ Scheduled Tribes in that State, and avail the benefits admissible to the Scheduled Tribes in that State.

(b) In case the community/ communities to which the resettled tribals belong has/ have not been notified as Scheduled Tribes in the State of resettlement, they (i.e. the State Govts.) should immediately initiate action to get that/ those community/ communities notified as Scheduled Tribe/ Scheduled Tribes effective from the date of resettlement; and also ensure that pending the issue of said notification, the resettled tribals are allowed to avail the benefits admissible to Scheduled Tribes in that State. [Para 2.6]

Explanatory Note

Article 342 of the Constitution does not stipulate Scheduled Tribes' status on all India basis. The lists of Scheduled Tribes notified under Article 342 of the Constitution is State/Union Territory specific and persons belonging to the notified Scheduled Tribes are eligible to get the benefit meant for such Tribes only in the State/Union Territory in respect of which it has been notified.

A community notified as Scheduled Tribe in a State/Union Territory need not necessarily be so in other State/Union Territory.

In the circumstances, the Ministry of Tribal Affairs is of view that the State Govts. concerned should sort out the issues involved as per provisions of the Constitution and other rules/regulations issued by Government from time to time.

Recommendation No. 3 [Page No. 90-91]

It was felt that since the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 is a special Act for protection of the

Scheduled Tribes, similar provision should be incorporated in this Act also. While the provision for setting up Special Courts in the Act was aimed at speedy disposal of cases registered under the Act, experience so far had belied this expectation. The Commission, therefore, suggested that the cases registered under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 should be disposed by the Special Courts within 6 months. To meet this objective, the Act could also be amended to provide for setting up exclusive Special Courts (instead of designating a Session Court as a Special Court) for trial of cases under this Act. (The recommendation of the Commission was forwarded to the Ministry of Social Justice and Empowerment vide letter, dated 16/07/2009). [Para 2.8]

Explanatory Note

The Ministry of Social Justice and Empowerment has informed that it is separately conducting an exercise to elicit the comments of various stakeholders for amending the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, which, inter - alia includes the proposal for setting up of exclusive special courts.

Recommendation No. 4 [Page No. 91]

The Commission noted that at present, there is no definition of heinous offences in the Indian Penal Code. It is also not mandatory under the Criminal Procedure Code to register an FIR immediately when a complaint is made. The Commission has also observed that a large number of atrocities against Scheduled Tribes primarily pertain to grabbing of tribal land and crimes against (their) women folk. Therefore, it is advisable to report cases registered under sub-clause (iii), (v), (xi) or (xii) of sub-section (1) of Section 3 too for monitoring purposes. The Commission also feels that there should be prompt reporting of all such complaints made to the police, without awaiting the registration of an FIR. [Para 2.9]

Explanatory Note

The Ministry of Social Justice and Empowerment has informed that a proposal was initiated by the Ministry to insert Rule 7-A in the Scheduled Castes

and the Scheduled Tribes (Prevention of Atrocities) Rules, 1995, regarding submission of reports to the Central Government, etc., in case of serious offences, was not agreed to by the Ministry of Home Affairs (MHA), which, as per the Government of India (Allocation of Business) Rules, 1961, is concerned with the subject matter of criminal offences against members of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989. The MHA had taken the view that the reporting mechanism be simplified and the District Magistrate may be required to report to only one Nodal Authority/ Department in the State and then that Nodal Authority/ Department may disseminate the information to the relevant agencies including the Union Government. Since MHA did not agree to the aforesaid proposal, it could not be further processed.

Recommendation No. 5 [Page No.91]

The policy should aim at the development of the most vulnerable PTGs, while protecting them from cross infection and exploitation by the outside world. They should be regularly provided with food items and health services beside special schools for education of their children. The following measures may also be suitably incorporated in the policy :

- (a) The number of regulated contact points may be increased suitably.
[Para 2.10]**

Explanatory Note

The Ministry of Tribal Affairs is already implementing a Scheme of “Development of PTGs” The PTG scheme is extremely flexible and activities under it may include housing, land distribution, land development, agricultural development, cattle development, construction of link roads and installation on non-conventional sources of energy for lighting purpose, social security including Janshree Beema Yojana or any other innovative activity meant for the socio-development approach for the comprehensive socio-economic development of PTGs. The State Governments have been requested to design local specific livelihood proposals for inclusion under the Conservation-Cum-Development (CCD) Plan.

The scheme is being revised and the recommendation of the Commission will be taken into account in the revised scheme and the State Governments will also be suitably advised.

Recommendation No. 5 [Page No. 91]

(b) Instead of keeping PTGs entirely dependent on forest for livelihood, they may also be introduced to settled agriculture (by supplying them improved seeds, agricultural kits, plough bullocks, bullock carts etc.), horticulture and animal husbandry (by supplying them crossbreed cows, she buffaloes, sheep/piggery units etc. and providing suitable training therefor). [Para 2.10]

Explanatory Note(s)

The Deptt. of Animal Husbandry, Dairying and Fisheries has informed that the schemes of the Deptt. are aimed at increasing livestock productivity and production in sustainable manner while protecting environment and preserving animal diversity and that Department is not involved in the supply of Cross breed cows, buffalos, sheep, pigger units, etc. The Deptt. implements a number of schemes with the objective to ensure development in dairy sector, livestock health sector, fodder development, poultry development of small ruminants and rabbits, pig development etc.

The dairy entrepreneurship development programme is being administered through National Bank for Agricultural and Rural Development (NABARD) and provides for financial assistance to commercially bankable project with loans from commercial banks along with a capital subsidy of 25% (33.33% for SC and ST beneficiaries) as central assistance. The schemes inter-alia entails promoting setting up of small dairy farms, generating employment, upgradation of quality and traditional technology to handle milk on a commercial scale. Similarly, under the intensive dairy development programme, the developments of dairy infrastructure in hilly and backward areas are encouraged on 100% grant-in-aid basis from Central Government to State Governments. Centrally sponsored schemes for poultry development in the form of assistance to State Poultry Farms, Rural backyard poultry development, poultry estates are also being administered by the Department.

The States which have potential for sheep/goat rearing may also participate in the Central sector schemes of Integrated Development of

Small Ruminant and Rabbits (IDSRR). The IDSRR provides for setting up cluster of small rearing units for farmers for which subsidy to the extent of 25%-33% are available. A Central sector scheme for pig development provides for setting up of Pig Rearing Units and Pig Breeding Farms for farmers for which subsidy to the extent of 25% (33% for NER) are available. NGOs are involved in the project and NABARD plays the funding role for some of the schemes.

2. The Department of Agriculture and Cooperation has informed as under:

i) No PTG specific scheme is being implemented by Deptt. of Agriculture and Cooperation.

ii) However, various centrally sponsored schemes are currently being operated by the said Department to provide financial assistance to States/UTs relating to various agriculture related activities to support the farmers of all categories to enhance productivity and production of agriculture commodities and make agriculture a sustainable and viable vocation for livelihood. These agriculture activities cover production and distribution of quality seeds, machinery and equipments used in farming/ harvesting, distribution of fertilizers/ pesticides, promotion of horticulture, dissemination of technology/ information to farmers, agriculture credit, setting up of agriculture markets in rural areas, etc. These programmes cover all category of farmers including Particular Vulnerable Tribal Groups (PTGs). Prior to 2011-12, there was no separate provision for benefits of STs in the detailed Demand for Grants of the said Deptt. However, since 2011-12, the Deptt. has been releasing the funds for SC/ST/General category separately, for utilization of funds for the respective category as per instructions of the Planning Commission.

After instructions from Ministry of Finance and Planning Commission, separate provisions for Tribal Sub Plan (TSP) have been provided in relevant Minor Head (796) in the detailed Demand for Grants from 2011-12 onwards.

The total allocation under various Centrally Sponsored Schemes and Central Sector Schemes and funds allocated for TSP during the 11th Five Year Plan and the current year i.e. 2012-13 are as follows:

Sl. No.	Year	Total Allocation under Centrally Sponsored and Central Sector Scheme of DAC# (RE)	Allocation under TSP*
1	2007-08 (RE)	5887.94	471.03
2	2008-09 (RE)	6933.98	554.72
3	2009-10 (RE)	7218.16	577.45
4	2010-11 (RE)	10492.00	839.36
5	2011-12 (RE)	8654.18	692.33*
6	2012-13 (BE)	10991.00	882.59*

This total allocation excludes allocations under the RKVY, which is a State Plan scheme and Shifting Cultivation scheme.

* Allocations made for TSP under the separate head i.e Minor Head (796).

Recommendation No. 5 [Page No.91]

(c) Efforts may also be made to provide education and play way/ sports activities to children of PTG community for which the staff and officers may have to make special efforts to make sporting contacts with them and persuade them to send their children to the special residential schools where every need of the children should be fulfilled free of cost. This may also help in checking the trend of diminishing population. This would certainly need careful selection of the staff and giving them suitable training for enabling them to have peaceful and fruitful relations with the PTGs. As and when possible, local eligible and suitably trained youth/women should be appointed as Teacher in the special schools. [Para 2.10]

Explanatory Note(s)

The Department of Sports has informed that since 'sports' is in State List, the primary responsibility of promotion and development of sports including in tribal areas is that of the State Governments. However, the Ministry of Youth Affairs and Sports and the Sports Authority of India supplement the efforts of the State Governments under their various schemes.

Sports Authority of India is implementing Special Area Games (SAG) Scheme, which is particularly aimed at tribal children. The objective of the SAG scheme is to scout natural talent for modern competitive games and sports from tribal, rural, coastal and hilly areas of the country and also from regions/communities having genetic/geographic advantages in a particular discipline. The trainees are adopted in the age group of 14-21 years.

The Special Area Games Centres are set up in collaboration/consultation with the State Government/UT Administration. Under the Scheme, the State Government is supposed to provide requisite land with infrastructure. In case of non-availability of infrastructure, the State has to provide developed land on long term lease basis to SAI for creating required facilities.

The financial assistance provided are meant for both residential and non-residential trainees to cover boarding expenses (both for non-hilly and hilly areas), sports kit, competition exposure, education expenses, medical expenses, insurance, other expenses. Stipend is also provided which is only for non-residential trainees.

The disciplines covered are Athletics, Archery, Badminton, Boxing, Basketball, Kayaking and Canoeing, Cycling, Canoeing, Football, Gymnastics, Handball, Hockey, Judo, Karate, Kabaddi, Kayaking, Rowing, Shooting, Swimming, Taekwondo, Volleyball, Weightlifting, Wrestling and Wushu.

2. The Department of Youth Affairs has informed that action is being taken by the Deptt. to safeguard and promote the rights of Scheduled Tribes through the main schemes, as briefly indicated below:-

(a) **National Service Scheme (NSS):** This is a centrally sponsored scheme and its main objective is Personality Development of Youth through Community Service. The expenditure on implementation of the programmes is to be shared in the ratio of 7:5 except in the case of North

Eastern States, including Sikkim, Himachal Pradesh and other Hilly Areas in which case the sharing of expenditure is at the ratio of 3:1. The entire expenditure in the case of JandK and Union Territories (without Legislature) is met by the Central Government. An amount of Rs. 4.54 crore has been released for tribal plan during 2011-12 against an allocation of Rs. 4.58 crores. For the year 2012-13 there is an allocation of Rs. 6.42 crore against which Rs 4.86 crore has been spent upto the middle of Nov., 2012.

(b) **Nehru Yuva Kendra Sangathan (NYKS):** This is an autonomous body which organizes programmes for development of the youth. It has 623 district level offices at district headquarters, 28 zonal offices at state headquarters, with its head Office in Delhi. It is actively involved in the conduct of various programmes / activities for skill development and vocational training in tribal youth in North Eastern States and has undertaken awareness building programmes for the Prevention of Drug Abuse and Alcoholism in the State of Manipur. An amount of Rs. 4.12 crore has been released for tribal plan during 2011-12

(c) **Rajiv Gandhi National Institute of Youth Development (RGNIYD):** It was set up as an autonomous body. There is no separate allocation for tribal Sub-Plan.

3. The primary responsibility for education lies with the Ministry of Human Resource Development and the State Governments. However, the Ministry of Tribal Affairs also implements the scheme of grants-in-aid to Voluntary Organisations /Non-Government Organisations for the residential and non-residential schools, to bridge the development deficit. Financial assistance is also provided to the State Governments as per their Conservation-Cum-Development (CCD) Plan proposals under the scheme of “Development of PTGs” for education purposes. The State Governments have also been asked to provide adequate training before posting and provide incentive to staff posted in PTG areas.

The scheme is being revised and the recommendation will be taken into account in the revised scheme.

Recommendation No. 5 [Page No. 91]

(d) The Primary Health Centres (PHCs) are generally located far away from the habitations of sparse PTG population and, therefore, they are not in a position to avail of medical facilities in the time of emergency. In order to provide emergency and regular treatment facilities, one Medical Mobile Van equipped with primary treatment facilities and medicines along with minor surgical equipments should be arranged at each contact point for the PTGs. [Para 2.10]

Explanatory Note(s)

With reference to Para 2.10, 5 (d) and Para 2.13, the Ministry of Health and Family Welfare has informed that the National Health Policy, 1983 (Reviewed in 2002), categorically emphasizes the urgent need for improving the tribal health especially through detection and treatment of endemic and other diseases specific to tribal. In pursuance of policy commitments, the Ministry of Health and Family Welfare continued to give focused attention to improve the health conditions of Scheduled Tribes (STs) by implementing various health care programmes besides relaxing norms with a major objective to attend to the health needs of STs. A separate Tribal Development Planning Cell has been functioning under the Department of Health and Family Welfare to co-ordinate the policy, planning, monitoring and evaluation of the health care schemes for the welfare and development of STs. Keeping in view that most of the tribal habitations are concentrated in far-flung areas, forest land, hills, inaccessible and remote villages, the population coverage norms have been relaxed as –

- (i) Sub-centers are permitted for 3000 population in tribal areas as against 5000 population in general areas.
- (ii) Primary Health Centers are provided for every 20,000 population in tribal areas as against 30,000 population in general areas and
- (iii) Community Health Centers are provided for every 80,000 population in tribal areas as against 1, 20, 000 population in general areas.
- (iv) Further, a new norm of setting up a Sub Health Centre (SHC) based on ‘time to care’ within 30 minutes by walk from a habitation has been

introduced in selected districts of hilly states which have predominant tribal population.

“Health” is a state subject and it is the primary responsibility of the State Government to ensure adequate and accessible health care to its people. The Central Government only supplements the efforts of the State Governments through funding under Central and Centrally sponsored Schemes. Funds are released for health facilities in the states, as per their requirements including for Mobile Medical Units (MMUs) and Emergency Response and Patient Transport System, as reflected in the Annual State Programme Implementation Plan, which is apprised and approved by the National Programme Coordination Committee under National Rural Health Mission (NRHM). Since the PHCs are generally located far away from the inhabitations of sparse Particularly Vulnerable Tribal Groups (PTGs) population and hence, find it difficult to avail medical facilities provided by the Government. Mobile Medical Units (MMUs) have proved to be an effective means of providing primary health care services to PTGs located in remote areas. As such, the State Governments have been requested by this Ministry to incorporate suitable proposal for a sufficient number of MMUs in Tribal areas in their State’s Programme Implementation Plans (PIPs) to cater to the requirements in the areas inhabited by the PTGs. In order to motivate Doctors, Paramedics and other health workers like Accredited Social Health Activist (ASHA) to serve in Tribal areas, special incentives /allowances have been provided under (NRHM). Birth Waiting homes have been provided where women can stay before the expected date of delivery. Boat clinics have been provided for such tribal areas of States like Assam which is only accessible by boats. Doli/Palki is also provided in tribal areas without motor-able roads, such as Mamta Doli in Gujarat.

Recommendation No. 5 [Page No. 91]

(e) The local administration may be advised to arrange free distribution of food and consumer items available under PDS to needy persons. [Para 2.10]

Explanatory Note

The Department of Food and Public Distribution has informed that it is implementing Targeted Public Distribution Systems (TPDS) for distribution of foodgrains at affordable prices, especially to the poor. Under

TPDS, foodgrains are being allocated at highly subsidized prices by this Department of States/UTs for distribution to the accepted number of Below Poverty Line (BPL) families, including Antyodaya Anna Yojana (AAY) families @ 35 kg per family per month. Depending upon the availability of foodgrains in the central pool and past offtake, foodgrains are also allocated at subsidized prices to Above Poverty Line (APL) families. Presently, the allocations of foodgrains to APL families range between 15 kg. and 35 kg. per family per month. The selection of the beneficiary is done by the respective State Governments / UT administrations.

As regards the recommendation for free distribution by local administration of food and consumer items under PDS to needy persons, it is to state that there is no provision under TPDS for free distribution of food and consumer items. However, as some States/UTs are further subsidizing TPDS commodities being distributed to the beneficiaries, these recommendations have been conveyed to all States/UTs vide this Department's letter 19.10.2012 for necessary action at their end.

Recommendation No. 6 [Page No. 92]

In order to increase the attendance and also to decrease the drop-out rates of PTGs students in the schools, one Primary school for each village may be opened in each PTG village/hamlet. [Para 2.11]

Explanatory Note(s)

Department of School Education and Literacy has informed that Sarva Shiksha Abhiyan (SSA) provides for schools as per the neighbourhood norms given in the Rules of State/UT concerned. SSA also provides for residential schools/ hostels in area with sparse population and in difficult areas. So far 438 hostels have been sanctioned under SSA.

2. From the Ministry of Tribal Affairs financial assistance is provided to State Governments as per their Conservation-Cum-Development (CCD) plan proposals under the scheme of "Development of PTGs" for education purposes. The State Governments have also been requested to provide adequate training before posting and to provide incentive to staff posted in PTG areas.

The scheme is being revised and this recommendation will be taken into account in the revised scheme.

Recommendation No. 7 [Page No. 92]

One mini deep tube well for each PTG village/hamlet may be installed to make safe drinking water available to the PTGs throughout the year. In areas where there is no supply of electricity, hand pumps may be installed. The Commission further recommends that till such time the facilities of tube well/hand pumps are provided in the PTGs villages/hamlets, arrangements should be made for disinfecting of drinking wells during rainy seasons. [Para 2.12]

Explanatory Note

The Ministry of Drinking Water and Sanitation has informed that Drinking Water Supply is a State subject and that the Ministry only administers the National Rural Drinking Water Programme (NRDWP), in which technical and financial assistance is provided to the State Governments to supplement their efforts in providing adequate and safe drinking water to the rural population.

Under the NRDWP, the State Rural Water Supply Departments take steps to plan, implement, operate and maintain rural water supply schemes, directly, or with the assistance of local Governments, in all habitations including Tribal concentrated habitation, which also include those where Primitive Tribes reside. States, strive to provide water supply of at least 40 litres per capita per day. Some States have higher service levels. The NRDWP envisages that each and every rural habitation of the country be covered with adequate and probable water supply. There is now no restriction in terms of population or distance for provision of hand pumps or tubewells. Thus, every household in every habitation needs to be covered. Though, the distribution of PTG habitations is not available, the status of coverage of ST concentrated habitations with respect to drinking water supply as reported by the State Governments, including habitations where the PTGs reside, is that out of 3,59,949 ST concentrated habitations, 2,44,831 are Fully Covered (FC), 88,287 are Partially Covered (PC) and 23,891 are Quality Affected (QA) by water quality problem. In the Annual Action Plans prepared by the States every year, the States are urged to focus on covering PC and QA habitations in the ST category to achieve FC Status. However, the Ministry has noted the suggestions of NCST regarding the

need to ensure disinfection of drinking wells during rainy season. Instructions regarding this, will be issued to the States. It is also informed that the Ministry is in the process of implementing a scheme for installing solar powered dual pump water supply scheme in 10000 habitations in 82 IAP districts of the country, which is populated mainly by tribal population which in some districts also include primitive groups. It is expected that this will have a significant impact as it will extend piped water supply to many remote habitations where access to other infrastructure is low.

Recommendation No. 8 [Page No. 92]

In order to provide emergency and regular treatment facilities to the PTGs, one Medical Mobile Van equipped with primary treatment facilities and medicines along with minor surgical equipments should be arranged for each block in the interior areas. The State Govts. having PTGs should also make special arrangements to provide nutrition-rich items like ragi, minor millets, tubers etc. to lactating and expectant mothers to combat malnutrition. [Para 2.13]

Explanatory Note

The reply is the same from the Ministry of Health and Family Welfare as given against Sl. No. 5 (d) of Para 2.10 under heading Explanatory Note.

Recommendation No. 9 [Page No. 92]

The State Govts. should arrange distribution of consumer items available under PDS through mobile vans in respect of such PTGs who live in inaccessible forest/hilly areas where PDS outlets within reasonable distance are not available. The Commission further recommends that the State Government should make arrangements for organizing weekly markets (haat bazaar) where PTGs could come, sell the products crafted by them and purchase items of their needs. [Para 2.14]

Explanatory Note

Under the guidelines issued by the Department of Food and Public Distribution for strengthening of Public Distribution System, the States/UTs are to ensure that no consumer/card holder has to travel more than 3 Kms. to reach his Fair Price Shop (FPS). As per the guidelines, in areas which cannot be covered by static fair price shops, mobile vans may be introduced to cover the consumers residing in hilly, remote, far-flung, desert, tribal and inaccessible areas. It was also suggested that in some rural areas, particularly in Tribal Areas, sales centre at weekly Haats to provide essential commodities at fixed prices, will be a great boon to consumers of these areas. Some of the States / UTs are also supplying items other than foodgrains through FPS. These recommendations have been sent to all State/UT Governments under letter dated 19.10.2012 for taking necessary action in the matter.

Recommendation No. 10 [Page No.92]

The State Govts. are advised to provide financial assistance to the PTGs families to enable them to construct houses as per their needs. [Para 2.15]

Explanatory Note

The Ministry of Rural Development has informed that the Indira Awaas Yojana (IAY) is a centrally sponsored scheme being implemented in the rural areas of the States/UTs with an objective to provide financial assistance to BPL rural households for construction of houses. Under the Scheme, there is already a provision for the tribals. As per scheme guidelines, 60% of the funds are to be utilized for the benefit of Scheduled Castes and Scheduled Tribes and a maximum of 40% can be utilized for non-SC/ST rural households. PTGs, if their name is in BPL list are eligible under Indira Awaas Yojana.

The Department has been earmarking the funds for Scheduled Caste Special Plan (SCSP) and Tribal Sub Plan (TSP) under Indira Awaas Yojana (IAY) and Swarn Jayanti Gram Swarajgar Yojana (SGSY) from 2011-12 onwards. The details of the funds earmarked for SCSP and TSP under these schemes for 2011-12 are as under:

Schemes	Year	Total	SCSP	TSP
SGSY	2011-12	2681.29	845.06	611.94
	2012-13	3915.00	1033.76	723.74
IAY	2011-12	10000.00	3530.00	2470.00
	2012-13	11075.00	3908.37	2736.63
	2012-13	3050.00	494.10	305.00

Recommendation No. 11 [Page No. 92]

Almost all the PTG families are BPL families and, therefore, there is an imperative need to involve them in income generating activities. Efforts should be made to encourage them to take to settled agriculture. They should also be provided training in cane and bamboo craft, carpentry, LMV driving, tailoring and coir craft to generate self-employment among them. [Para 2.16]

Explanatory Note(s)

The Particularly Vulnerable Tribal Groups (PTGs) scheme implemented by the Ministry of Tribal Affairs is extremely flexible and activities under it may include housing, land distribution, land development, agricultural development, cattle development, construction of link roads and installation on non-conventional sources of energy for lighting purpose, social security including Janshree Beema Yojana or any other innovative activity meant for the socio-development approach for the comprehensive socio-economic development of PTGs. The State Governments have been requested to design local specific livelihood proposals for inclusion under the Conservation-Cum-Development (CCD) Plan. The scheme is being revised and the recommendation of the Commission will be taken into account in the revised scheme.

2. The Department of Agriculture and Cooperation has stated that distribution of land for agriculture is a State subject. Hence, the issue relating to encouraging Particularly Vulnerable Tribal Groups (PTGs) families to adopt settled farming falls under the purview of the respective State Govts. to take appropriate action.

3. The Ministry of Rural Development has informed that the Ministry is implementing National Rural Livelihoods Mission (NRLM) in a mission mode for targeted and time bound delivery of results. It is being implemented in a phased manner. It aims at reducing poverty by enabling poor households to access gainful self-employment and skilled wage employment opportunities.

There is definitely a need to provide special thrust for livelihood promotion for the Particularly Vulnerable Tribal Group (PTG) families. Therefore, the Ministry is broadly in agreement with the recommendations made by the Commission for the Scheduled Tribes. All the State Rural Livelihoods Missions will be advised to submit a separate chapter which will describe in detail the programme for the benefit of PTG families.

4. The Ministry of Micro, Small and Medium Enterprises has informed as under:-

(a) **The Khadi and Villages Industries Commission (KVIC), Guwahati (Assam)**, is implementing Prime Minister's Employment Generation Programme (PMEGP) for generating employment opportunities for all the categories of persons, including the Scheduled Tribes. The STs can set up their own units in cane and bamboo, carpentry, tailoring and coir based activities in their villages and are eligible for 35% Margin Money subsidy and their own contribution is only 5 % of the total project cost under the same scheme. The KVIC is also implementing SFURTI Programme for providing employment opportunities to the STs, apart from other categories. The KVIC is engaged in imparting training on Skill Development to the PTGS. A number of training programmes are designed and conducted at training centers of KVIC and through Accredited Training Centres by organizing peripatetic training programmes like – in Assam: Don Bosco Reach Out, Ulubari, Guwahati, Anchalik Gram Unnayan Parishad, Barpeta (Assam), in Arunachal Pradesh: National Youth Project, E Sector, in Odisha: National Rural Resource Education and Training Centre, Deogarh, in Chhattisgarh: TRIWE, in the UT of Andaman and Nicobar Islands: Dr. B.R. Ambedkar Institute of Technology, Port Blair.

(b) **Indian Institute of Entrepreneurship (IIE), Guwahati, Assam:** A number of training programmes have been organized for the

benefit of ST population, including the PTGs in Bakery Products, Black Smithy, Carpentry, Food Procession, Leather Products, Mushroom Cultivation, Soap and Detergent powder, Welding and Fabrication, Plumbing and Sanitary Fittings, Hosiery and Woolen Garments, Steel Fabrication, Mobile Repairing, Handloom, Carpet Making, Aggarbatti Making, Coir Yarn and Mat making, Mask Craft, Motor Mechanics, Readymade Garments, Dairy Processing, Piggery and Meat Processing, Spices Processing, Woolen Garment Knitting, Leaf Plate Making, etc. The year-wise break-up of the programmes undertaken for both in the North East Region (NER) and Non- North East Region (Non-NER) from 2010-11 to 2012-13 is as under:-

Year	NER		Non-NER	
	Programme	Participants	Programme	Participants
2010-11	102	3060	4	120
2011-12	116	3480	11	330
2012-13	145	4350	4	120
Total	363	10890	19	570

(c) **Office of the Development Commissioner (MSME):** The Office of the Development Commissioner (MSME) provides Skill Development Trainings for employable and self-employable skills on various topics through its Entrepreneurship Development Programmes (EDPs) Scheme. 20% of the EDP and ESDP are earmarked for weaker sections of society including the Scheduled Tribes. The STs also participate in the General Programmes which are open to all sections of the society. In addition, Training is also imparted to the STs through Tool Rooms (including specialized training institutes) under the office of DC (MSME).

The number of STs trained through EDP Scheme and Tool Rooms during the 11th Plan was 68467 and 19068, respectively and during the year 2012-13, it was 22343 and 8416, respectively.

Recommendation No. 12 [Page No. 92]

The State Governments which have PTGs should be advised to formulate schemes for recruitment of candidates belonging to PTGs in Group C and D posts of Teaching category in various grades without

subjecting them to the recruitment process provided they possess the minimum qualification prescribed for the posts [Para 2.17]

Explanatory Note

The Recommendation of the Commission has been conveyed to the State Govts. by the Ministry of Tribal Affairs for consideration and appropriate action.

Recommendation No. 13 [Page No.92]

Educational standards and pattern of examination should be comparable throughout the country so that ST students who generally join local Government schools are not put to disadvantage and are able to compete for admissions in institutes for higher studies. [Para 2.18]

Explanatory Note

The Deptt. of School Education and Literacy has informed that there are no Board examinations till class VIII as per the Right to Education Act (RTE) Act. For Secondary and Higher Secondary Education, there are Central and States Board of Education which conduct the School Leaving Examinations. Since the National Curriculum Framework (NCF) 2005, has been adopted, most States have also aligned their curriculum likewise while other States are in the process or doing so. The adoption of NCF by all States would go a long way in promoting comparable standards of education across the country.

Recommendation No. 14 [Page No. 92-93]

The National Council of Educational Research and Training (N.C.E.R.T.) and State Council of Educational Research and Training (S.C.E.R.T), Non-Governmental Organisations (NGOs) should take up preparation and induction of bi-lingual text books in first two standards wherever that particular dialect is the mother tongue of a sizeable population. N.C.E.R.T should be made responsible for the introduction of such text books in all the States and Union Territories of the country at least by the end of next plan period. [Para 2.19]

Explanatory Note

The Deptt. of School Education and Literacy has stated that several policy documents and the constitutional provision (350 A) have recognized the importance of linguistic minorities being educated in their home language at the primary level. The National Council of Educational Research and Training (NCERT) also shares the concern of national Commission of Scheduled Tribes as stated above regarding bilingual textbooks in first two standards where that particular dialect is the mother tongue of a sizeable population. The National Curriculum Framework (NCF) – 2005, developed after nationwide debates and discussions involving practicing teachers, NGOs working in the field, State Governments, academicians, etc., also advocates that at least, at primary level education may be imparted through home language/ mother tongue. For this, the three language formula needs to be implemented in its spirit, promoting multilingual communicative abilities to address the needs of learners belonging to linguistic minorities including the tribal people. The Position Papers of National Focus Group on problems of SC and ST children and on Teaching of Indian languages also highlights the importance of mother tongue/ home language as medium of education at least at primary level.

In view of the above, the NCERT has been conducting activities, such as empowerment of teachers of schools in tribal dominated areas, in the multilingual context. Also, State specific guidelines were developed for implementing the linguistic minorities related concerns including the tribal languages, as reflected in the NCF, 2005 and NFG Paper, for three North-eastern States.

Education is in the Concurrent list, which makes both States and Central Government responsible for the quality improvement of education of children in school. However, the NCERT has been providing academic support whenever the States have initiated process of development of bilingual primers etc., for primary level using tribal languages.

Recommendation No. 15 [Page No. 93]

As each region of tribal areas follow their own ritual and agricultural calendar, the concerned tribal research institutes should prepare teaching calendars either region-wise or tribe-wise and furnish the same to the education department for taking necessary action. [Para 2.20]

Explanatory Note

The recommendation has been conveyed to the State Governments concerned by the Ministry of Tribal Affairs for consideration and appropriate action.

Recommendation No. 16 [Page No.93]

Mid-Day Meal programmes in tribal areas should take into account the locally available food material and culinary habits of the local tribals, besides ensuring that food items served under the programme are hygienic and contain necessary nutrients. [Para 2.21]

Explanatory Note

The Deptt. of School Education and Literacy has stated that under the the Mid-Day Meal (MDM) guidelines, School Managements are encouraged to use local material for providing nutritious food to the children. The hygiene of food provided is monitored through the involvement of local communities.

Recommendation No. 17 [Page No. 93]

Teaching-aids should be prepared based on local culture and environment. Local Tribal Folk dances, and Music-both Vocal and Instrumental, should be included in the curricular and co-curricular activities. [Para 2.22]

Explanatory Note

The Deptt. of School Education and Literacy has informed that it is advocated by NCF 2005 and the NFG Paper on SC/ST problems that teaching aids should be prepared based on local culture and environment. Accordingly, NCERT in all its training programmes for teachers working in schools in tribal dominated areas, has devoted at least one session on how to make use of local specific materials for preparing teaching aids for different subjects. In these programmes, the Department we have had sessions on activities based teaching of science, social science, mathematics and languages. Further, the Department had undertaken a project for developing ethnographic profiles of tribal communities such as Jaunsaris in Uttarakhand and of Kharias in Jharkhand. Further, the Department had also conducted a study of approaches and strategies for educating children from socially disadvantaged groups which highlighted that some of the voluntary

organizations have included the local tribal folk dances, music, etc., in their curricular and co-curricular activities. During the current year the Department is also going to develop supplementary reading materials comprising folk tales, songs etc., of various tribal communities.

Further, there are sessions on how their strengths, such as capacity to compose and sing spontaneously, to think in riddles and metaphors, cultural practice of dance and drama and their intimate knowledge of their environment, can be utilized in educating the children of tribal people.

Recommendation No. 18 [Page No.93]

Most of primary schools in tribal areas are run by a single teacher. In case he/ she takes leave due to illness or for any other domestic reason, there is no teacher left in the school with the result the education of the children suffers. There is therefore, an urgent need to post one more teacher in all the single teacher schools in tribal areas. The State Govts./UT Administrations should fill up vacancies of teachers by evolving schemes of giving various incentives; such as decent accommodation, medical facilities etc. to teachers and also by ensuring that the posts of teachers in schools in tribal areas are filled, as far as possible, by appointing teachers from amongst local tribal candidates. [Para 2.23]

Explanatory Note

The Deptt. of School Education and Literacy has informed that as per the RTE Act, PTR is to be maintained at the school level and every school has to have at least 2 teachers. States/UTs are filling vacancies as per the mandate of RTE Act. As per 2011-12 District Information System for Education (DISE), there are 1,17,358 single teacher schools (8.3%). The States have been advised to redeploy teacher to maintain school-wise PTR before the next academic session.

Recommendation No. 19 [Page No. 93]

The basic reason behind the drop out of ST students can be attributed to the poor economic condition of the family and this situation compels the tribals to utilize their children as an economic unit to bring some income to the family. It is also necessary that some National Scheme of economic incentives are given to such

parents of the children whose income is below the poverty line with a view to wean them away from the compulsion of using their children as economic support instead of sending them to schools. [Para 2.24]

Explanatory Note

The Department of Rural Development has informed that it is implementing Swarnjayanti Gram Swarajgar Yojana (SGSY) which has been reconstituted as National Rural Livelihood Mission (NRLM), a major programme for the self employment of the rural poor. The basic objective of the SGSY is to bring the assisted poor families above the poverty line by providing them income generating assets through a mix of bank credit and subsidy. As mentioned above, the Department has also been earmarking the funds for Scheduled Castes Sub Plan (SCSP) and Tribal Sub Plan (TSP) under Swarn Jayanti Gram Swarajgar Yojana (SGSY) from 2011-12 onwards.

Recommendation No. 20 [Page No. 93-94]

Another reason for dropouts is the repeated failure of tribal children in a class, which may be reduced by identifying weak and below average tribal students and making arrangements for providing them remedial instructions/ coaching on the holidays or at night by providing some cash incentives to the teachers. Additional incentives in the form of cash award should also be granted to each student having more than 75% attendance/ work done in the school note books. Besides, those students who secure 60% or above marks in the examinations should also be given cash awards. [Para 2.25]

Explanatory Note(s)

The Department of School Education and Literacy has informed that Sarva Shiksha Abhiyan (SSA) does not provide cash reward for attendance or marks in school examination. Continuous Comprehensive Evaluation (CCE) has been introduced in almost all States where a child is constantly evaluated and remedial support provided by the teacher in the classrooms. RTE has also introduced no retention policy till class VIII.

2. The Recommendation of the Commission has been noted in the Ministry of Tribal Affairs.

Recommendation No. 21 [Page No.94]

There is a need to provide attractive incentives to the parents of the girls for sending them to the schools, apart from the existing incentives which are being given to the ST children in the form of free textbooks, uniforms, stationery, school bags, cooked food through mid-day-meal Scheme etc. [Para 2.26]

Explanatory Note

The Department of School Education and Literacy has stated that Sarva Shiksha Abhiyan (SSA)/RTE provides for free and compulsory elementary education. The SSA also provides for following in ST areas – opening of new schools, additional teachers as per PTR, infrastructure support in schools, including construction of toilets as important facility specially for girls, residential schools and hostels, free uniforms, free text books and bridge materials in tribal languages to help children transit from home language to language of instruction. The intervention under SSA such as Kasturba Gandhi Balika Vidyalaya are specially designed to enroll and retain ST girls in schools.

2. The Recommendation of the Commission has been noted in the Ministry of Tribal Affairs

Recommendation No. 22 [Page No. 94]

The State Governments which have schemes for providing scholarships to tribal students at pre-matric levels should abolish the income ceiling in respect of the parents of all the tribal children studying in Classes from I to X. [Para 2.27]

Explanatory Note

The Recommendation of the Commission has been conveyed to the State Governments by the Ministry of Tribal Affairs for consideration and appropriate action.

Recommendation No. 23 [Page No. 94]

The Central assistance for cooked mid-day meal during summer vacations to school children in drought affected areas should be extended to the children in tribal areas as about 60% or more ST children are undernourished in the States like Gujarat, Himachal Pradesh, Karnataka, Kerala, Andhra Pradesh, Madhya Pradesh and Maharashtra. [Para 2.28]

Explanatory Note

The Department of School Education and Literacy has informed that the Mid-Day Meal (MDM) guidelines provide for cooked Mid-Day-Meal during summer vacation to school going children in districts which are declared as drought affected by the States. It may be difficult to extend this facility to all tribal districts due to resource constraints.

Recommendation No. 24 [Page No.94]

One of the major constraints in the dissemination of education among STs is that their parents resort to seasonal migration to other places in search of livelihood during the period from April to middle of June and this is the period for the school examinations. When the parents move out of their habitations to other places, they have to take their children along with them leading to dropouts. State Govts. may be advised to formulate suitable schemes for boarding and lodging of children of those ST families who decide to temporarily migrate to other places in search of their livelihood. Alternatively, special arrangements be made for conducting special examinations of the ST children when they return to their original habitations from the places of their temporary migration. [Para 2.29]

Explanatory Note

The Department of School Education and Literacy has informed that the Continuous Comprehensive Evaluation (CCE) has replaced the annual examination system as was prevalent earlier for migrating children. Sarva Shiksha Abhiyan (SSA) also provide for seasonal hostels, dormitories to cover children who have dropped out due to migration. There is provision of

special training of Out of School Children for admission into age appropriate classes.

Recommendation No. 25 [Page No. 94]

The income ceiling in respect of the parents of the students for the purpose of grant of the Post-Matric Scholarship may be raised. [Para 2.30]

Explanatory Note

The income ceiling of the parents of students has been revised from Rs. 2.00 lakh to Rs. 2.50 lakh w.e.f. 1.4.2013 under the Post-Matric Scholarship scheme of the Ministry of Tribal Affairs.

Recommendation No. 26 [Page No. 94]

The tribal students who are day-scholars but who reside in rented accommodation due to non-availability of hostel accommodation should be treated on par with hostellers and the amount of scholarship in their case also should not be less than to that of hostellers. [Para 2.31]

Explanatory Note

It is already covered under the Scheme of Post Matric Scholarship of the Ministry of Tribal Affairs. As per the provisions contained in the Note 3 under item No. V relating to “Value of Scholarship” it is stipulated that “In case the college authorities are unable to provide accommodation in the college hostel, an approved place of residence can also be treated as Hostel for the purpose of this scheme. The place will be approved by the Head of the Institution after due inspection and keeping in view the rules and regulations laid down by the University, if any. In such case, a certificate to the effect that the student is residing in an approved place of residence as he is unable to get accommodation in the college hostel should be furnished by the Head of Institution.”

Recommendation No. 27 [Page No. 94]

The disbursement of Post-Matric Scholarship in most of the States is being delayed due to non release of funds both from the Government of India (over and above the committed liability of the State Govts.) and the State Govts. Ministry of Tribal Affairs should also ensure timely release of the funds to the State Govts. The State Governments should release their share of funds to the district authorities (upto the committed liability) in time to ensure timely disbursement of these scholarships and explore the possibilities of disbursing the scholarship money to the students through their Bank Accounts. [Para 2.32]

Explanatory Note

The Ministry of Tribal Affairs provides, based on the release of previous year, 50% grant-in-aid over and above the committed liability to States/UTs on ad-hoc basis without waiting for formal proposal from the States/UTs, so that the scholarship may be disbursed to ST students without delay. The State Govts. have already been advised to disburse the scholarship money to students through their Bank Accounts and wherever possible the State Government may make payment by this mode.

Recommendation No. 28 [Page No. 94-95]

There should be 8.2% (proportion of STs to the total population of the country as per 2001 Census) reservation for Scheduled Tribes in awarding fellowships and/or in granting scholarships in the schools, colleges, Universities, Educational and Technical Institutions etc. The Ministry of HRD and the Ministry of Minority Affairs should consider suitable amendment in the Central Educational Institutions (Reservation in Admission) Act, 2006 to ensure that reservation for STs is made applicable in admissions to those Government run educational institutions also which have been granted minority status. The scope of reservation should also be extended to such educational institutions, hospitals etc. which though not funded by the Government had received/continue to receive concessions from the Government in respect of acquisition of lands, buildings electricity, water, provision of public transport etc. [Para 2.33]

Explanatory Note(s)

The Ministry of Minority Affairs has stated that its mandate is to serve the Minority communities notified by the Central Government. The function of the Ministry does not fall in the general sectors and it may not be possible for its schemes to earmark outlays for SCSP and TSP.

Further, the subject matter of the recommendation is the concern of the Ministry of Human Resource Development.

2. The Department of Higher Education has informed that the percentage of reservation in civil posts and services under the Union of India is prescribed by Department of Personnel and Training (DoPT) which is the nodal ministry in this regard. The percentage of reservation as decided by DoPT for SCs/STs/OBCs, etc., is followed by Ministry of HRD in Central Educational Institutions. At present, the percentage of reservation for STs is 7.5 %. The percentage of reservation in State Educational Institutions is decided by the respective State Governments.

In the case of the Centrally Funded Educational Institutions Reservation in admissions are governed by the Central Educational Institutions (Reservation in Admission) Act, 2006 and the Central Educational Institutions (Reservation in Admissions) Amendment Act, 2012.

The Central Educational Institutions (Reservation in Admission) Act, 2006 and the Central Educational Institutions (Reservation in Admissions) Amendment Act, 2012 provides for reservation in admission for the students belonging to the Scheduled Castes, Scheduled Tribes and Other Backward Classes, in certain Central Educational Institutions established, maintained or aided by the Central Government except minority educational institutions referred to in Article 30(1) of the Constitution of India.

An amendment to the said Act as recommended by the Commission to provide for reservation in Government run educational institutions which have been granted minority status, will not be in conformity with the provisions of the Constitution.

3. Incidentally, in response to the recommendation of the Commission in para No. 6.2.5 in Chapter 6 under “Service Safeguards” in the Ist Report of the NCST for the years 2004-05 and 2005-06, the DOPT had informed the Ministry of Tribal Affairs that a Nine-Judge Constitution Bench of the Supreme Court in the case of Indira Sawhney Vs. Union of India has observed that clause (4) of Article 16 of the Constitution (which empowers the State to provide reservation for the Scheduled Castes, the Scheduled Tribes and the Other Backward Classes) speaks of adequate representation and not proportionate representation. The Apex Court observed that it is not possible to accept the theory of proportionate representation though the proportion of population of Backward Classes to the total population would certainly be relevant and held that the power conferred by clause (4) of Article 16 of the Constitution should be exercised in a fair manner and within reasonable limits so that reservation does not exceed 50%. Total reservation for SCs, STs and OBCs is, at present, 49.5%, and in some cases 50%. The DOP and T has, therefore, informed that it may not be possible to increase the quantum of reservation for any category.

4. The Department of School Education and Literacy has informed that it operates a National Means-cum-Merit Scholarship Scheme. The Scheme was launched in May 2001. Scholarship is provided to one lakh students at Class IX stage and continues till the student passes out from Class XII. The Scheme is meant for meritorious students of economically weaker sections and provides for quota for Scheduled tribe students as per reservation applicable for Scheduled Tribes in respective States/UTs. The Department also operates a National Scheme of Incentives to Girl Child to promote enrolment of girls belonging to Scheduled Caste/Scheduled Tribe communities in secondary school and to ensure their retention up to the age of 18 in the school system so that they complete their education at least up to Class X. A sum of Rs. 3000/= is deposited in the name of unmarried eligible girls as fixed deposit. They are entitled to withdraw this amount along with interest on attaining the age of 18 years and after passing Class X examination. In the current year, 3,10,985 girls have been covered under the Scheme. An amount of Rs. 93.30 crore has been released during the year 2012-13.

5. The Ministry of Health and Family Welfare has informed that it follows the guidelines on reservation framed by various Nodal Ministries/Departments in the Government of India such as Department of Personnel and Training (DoPT) and Ministry of Human Resource Development (HRD), in respect of reservation in admission to various medical courses in Central Institutions.

Recommendation No. 29 [Page No. 95]

Scheme of Mid -day meals should be extended up to high-school level at least for ST girl students. This will provide huge relief to the family of the ST girl students and it will improve enrolment of ST girl students and also reduce their dropout. [Para 2.34]

Explanatory Note

The Department of School Education and Literacy has informed that the Working Group for 12th Five Year Plan had recommended extension of Mid-Day-Meal to Secondary Schools. However, this was not agreed to by the Planning Commission.

Recommendation No. 30 [Page No. 95]

In tribal areas, the capacity of hostels particularly for ST girls is much less than the requirement and this is one of the major reasons for less enrolment and increased dropout of ST girl students. There is an urgent need of construction of more hostels for ST girls. The number of Ashram Schools, Kasturba Gandhi Balika Vidyalayas in ST concentration blocks should be increased. [Para 2.35]

Explanatory Note(s)

The Deptt. of School Education and Literary has informed that a Centrally Sponsored Scheme of “Construction and Running of Girls” Hostel for students of Secondary and Higher Secondary Schools launched in 2008-09, is being implemented from 2009-10. The Scheme envisages construction of a hostel with the capacity of 100 girls in each of 3479 Educationally Backward Blocks (EBBs) in the country. The main objective of the Scheme is to improve access to and retain the girl child in secondary and higher secondary classes (IX-XII) so that the girl students are not denied the opportunity to continue their study due to distance to school, parents financial affordability and other connected societal factors.

The girl students in the age group of 14-18 yrs studying in classes IX to XII belonging to SC,ST, OBC, Minority Communities and BPL families form the target group of the Scheme. Atleast 50 % of girls students should be from SC, ST, OBC and Minority communities. The number of Girls

Hostels sanctioned is 208 and the amount of non-recurring central grant released is Rs. 85.42 Lakhs/Crore from 2009-10 to 2013-14 to 12 States of Andhra Pradesh, Assam, Arunachal Pradesh, Chhattisgarh, Jammu and Kashmir, Jharkhand, Madhya Pradesh, Maharashtra, Meghalaya, Mizoram, Nagaland and Rajasthan.

The Kasturba Gandhi Balika Vidyalaya (KGBV) Scheme provides for setting up residential schools at upper primary level for girls belonging predominantly to the SC, ST, OBC and minority communities in Educationally Backward Blocks (EBBs). Out of 3.44 lakh girls enrolled in these KGBVs, 30.73 % belong to the SCs, 25.29 % belong to the STs, 30.22 % belong to the OBCs, 7.46% belong to Muslim Minority Community and 6.24 % belong to Below Poverty Line (BPL) families. Out of the total number of 3,609 KGBVs sanctioned in the country, 508 KGBVs have been sanctioned in the Scheduled Tribe Concentration areas with 71.45 % enrollment of ST girls.

The State Govts./UT Adms./Universities intimate the requirements of hostels for ST girls or boys under the relevant scheme of the Ministry of Tribal Affairs. However, the Ministry has relaxed the norms of the scheme w.e.f. 1.4. 2008 to the extent that in case of ST girls hostels, 100% central grant is provided and State Governments/Universities are free from any burden of matching share for girls hostels. This step taken by the Ministry is aimed at augmenting of ST girls' education.

2. The proposals for Eklavya Model Residential Schools (EMRS) are submitted to the Ministry of Tribal Affairs. This is an innovative approach for providing quality education to ST Girls and Boys at the residential schools. The proposals are considered on need-based projections from the State Governments.

The Ministry of Tribal Affairs is also implementing a Scheme of "Strengthening education among Scheduled Tribe (ST) Girls in Low Literacy Districts". This is being implemented through Voluntary Organizations (VOs) / Non Government Organizations (NGOs) and autonomous societies/ institutions of State Governments. This recommendation of the commission will also be taken into account while revising the scheme pertaining to VOs/NGOs in respect of residential school projects.

Recommendation No. 31 [Page No. 95]

There is a genuine need to increase the number of Government schools of excellence/ Central Schools/ Eklavya Modal Residential Schools (EMRS) in States/UTs which have sizeable number of ST population. Norms of opening of EMRS should be urgently reviewed. [Para 2.36]

Explanatory Note

Revised guidelines for setting up of Eklavya Model Residential School (EMRS) were issued by the Ministry of Tribal Affairs in June 2010. The States / UTs are now free to apportion funds out of their Art 275(1) grants to construct and run additional EMRSs over the number sanctioned by the Ministry. The setting up of new EMRS is based on the needs of the State Governments which are supposed to ask for new EMRS after ensuring that all the existing EMRSs have been made functional. The Ministry's support to the States/UTs for the EMRS programmes and their expansion is also subject to the States/UTs ensuring high quality of management and running of the Schools.

It is, therefore, incumbent upon the State Governments concerned to ask for fresh intervention from the Central Government for establishment of new EMRSs.

The Ministry is currently engaged in deciding the way forward regarding the setting up, continuance of the existing as well as the future EMRSs.

Recommendation No. 32 [Page No. 95]

The higher participation of the STs among the beneficiaries of the MGNREGA scheme is the indication of the fact that this section of the society needs more attention in this regard. There is need to incorporate a TSP component in the implementation of the Scheme in order to meet the objective of inclusive growth, which should not be based merely on the population share, but rather on the extent of deprivation. Considering the fragile economic condition of the tribals, and their poor agricultural practices including single crop culture, rather than relying on capricious demand estimates, it is desirable to ensure a minimum 100 days of employment to all tribal families as per the latest census in the

tribal areas; and earmark sufficient funds, under the TSP component of the Scheme to ensure adequate livelihood opportunity in these areas. The Scheme should be designed for providing sustainable rural livelihood in respect of STs, strengthening its convergence with use of natural resources, productivity, human development, etc. It should also be ensured that the focus on the unemployed poor is not diluted by enlarging coverage to other groups in the guise of promoting skill development graduating to semi-skilled to skilled work, etc.
[Para 2.37]

Recommendation No. 33 [Page No. 95-96]

Keeping in view the lack of managerial capacity in the Panchayats, the MGNREGA Scheme should develop a need based approach/plan of implementation based upon pro-active assessment of the demand for work in tribal areas. The demand for the work should be properly anticipated through local surveys in ST areas and villages having ST population, taking into account all factors such as availability of work on account of industries, agriculture and other seasonal activity, schooling of children, wage level of households, etc. The communication with tribals should also be strengthened to build up their capacity to articulate and demand rights. [Para 2.38]

Explanatory Note

In response to the recommendations of the Commission contained in paras 2.37 and 2.38, the Ministry of Rural Development has informed that the Mahatma Gandhi National Rural Employment Guarantee Act (MGNREGA) is demand based. All rural households are eligible to register themselves for issue of a job card and apply for employment subject to a maximum of 100 days per household in a financial year. The primary objective of MGNREGA is to enhance the livelihood security of the rural households, by providing on demand upto 100 days of guaranteed wage employment in a year to every rural household including SC/ST households for doing unskilled manual work. Schedule-I of MGNREGA as amended from time to time lists the category of works which shall be included in the Schemes formulated by the State Governments under Section 4(1) of the Act for giving effect to the provisions of the Act. There is also provision in Schedule-I of the Act to take up the following activities under MGNREGA on land or homestead owned by households belonging to the Scheduled Castes and the Scheduled Tribes:-

- (i) provision of irrigation facility, dug out farm pond, horticulture, plantation, farm bunding and land development;
- (ii) agriculture related works, such as NADEP composting, vermin-composting, liquid bio-manures;
- (iii) livestock related works, such as, poultry shelter, goat shelter, construction of pucca floor, urine tank and fodder trough for cattle, azolla as cattle-feed supplement;
- (iv) works in costal areas, such as, fish drying yards, belt vegetation;
- (v) rural drinking water related works, such as, soak pits, recharge pits;
- (vi) rural sanitation related works, such as, individual household latrines, etc.

Recommendation No. 34 [Page No. 96]

The limit of providing maximum 100 days employment to a household in a given financial year under MGNREGA should be removed, as in tribal areas agriculture work is available only for a period of 2-3 months during the year. If need be, the concerned Ministry may bring amendments in the Act to this effect/ necessary adaption may be made by State Governors using the powers given in the Fifth Schedule. [Para 2.39]

Explanatory Note

The Ministry of Rural Development has informed that the primary objective of Mahatma Gandhi National Rural Employment Guarantee Act (MGNREGA) is to enhance the livelihood security of the rural households, by providing up to 100 days of guaranteed wage employment in a year to every household on demand for doing unskilled manual work. The objective of MGNREGA is to supplement the income of a rural household and it is not intended to be the sole means of earning livelihood for the rural population. The workers are free to avail any other employment opportunities available to them. Under Section 3(4) of the MGNREG Act provision already exists to the effect that Central Government or State Government may within limits of their economic capacity and development make provisions for securing work to every adult member of a household under a Scheme for any period beyond the period of 100 days guaranteed under Section 3 (1) as may be expedient.

Recommendation No. 35 [Page No. 96]

The Commission has noted that requisite entries relating to the work demanded by the MGNREGA Job Card Holders and the details of work done by him/ her and the amount paid/ due to be paid to him/ her are not made in the Job Cards as also in the Rozgar Registers maintained in the Gram Panchayats. In most of the cases pages in the Job Cards were blank while Rozgar Registers carried some entries but not all the entries corresponding to the entries in the concerned Muster Rolls. Consequently, the Job Card Holder has no Certificate about any work having been done by him/ her in a particular week/ fortnight and therefore, in absence of the Certificate, he/ she may not be able to claim payment of wages for the work done. In order to ensure effective implementation of the Act it is necessary to maintain transparency in every field of action envisaged under the Act. It has also been noted with concern that adequate mandays of work have not been generated under several Gram Panchayats. This is despite the fact that each Panchayat is also assisted by an Assistant Secretary or the Village Rozgar Sahayak specifically in matters relating to MGNREGA. This indicates lack of action on the part of Gram Panchayat and the Panchayat Secretariat in anticipating and creation of the works required for development of the villages and for creation of employment/ man days in the villages for the needy wage earners/ Job Card holders. This requires immediate amendment to the MIS under MGNREGA. [Para 2.40]

Explanatory Note

The Ministry of Rural Development has informed that the implementation of the MGNREGA is the responsibility of the State Governments (in accordance with the Schemes formulated by them as per the provisions of the Act), all complaints received in the Ministry are forwarded to the concerned State Governments for taking appropriate action, including investigation, as per law. Hence, it is for the State Governments concerned to devise procedures and measures to deal with such irregularities.

For effective programme management and to meet the disclosure norms as mandated in MGNREGA, an Information and Communication Technology (ICT) enabled Management Information System (MIS) has been deployed (www.mgnrega.gov.in). The architecture of the MIS is constructed

on the requirements of the legal processes mandated by or under the Act. All physical and financial performance data is required to be available in public domain. This infuses transparency in MGNREGA implementation and enables monitoring of implementation gaps and acts as a deterrent on agencies responsible for data entry in MIS from resorting to malpractices.

All critical parameters like workers' entitlement data and documents such as registration, job cards, muster rolls, shelf of approved and sanctioned works, works under execution, measurement, employment provided, financial indicators including wage payment, etc., are captured in the MIS with checks to validate the data entered and prevent wrong entries. The output of the MIS is available for viewing by the general public.

Recommendation No. 36 [Page No.96]

MoRD may consider amending MGNREGA for partial reimbursement (out of GoI funds) of payment of unemployment allowance, while instituting controls to minimize chances of persons drawing unemployment allowance. This is required to be implemented in the tribal districts on priority as the tribals are generally illiterate, don't know their rights and are easily victimized. In the present scenario, since State Govts. have to provide funds for payment of unemployment allowance, there is an incentive for non-transparent recording of employment demand. [Para 2.41]

Explanatory Note

The Ministry of Rural Development has stated that the primary objective of Mahatma Gandhi National Rural Employment Guarantee Act (MGNREGA) is to enhance the livelihood security of the rural households by providing upto 100 days of guaranteed wage employment in a year to every household on demand for doing unskilled manual work.

Recommendation No. 37 [Page No.96-97]

There is a need to strengthen existing mechanism in MGNREGA for enforcing accountability in respect of the following in ST dominated areas:

- (i) Section 25: Fine for failure to perform duty under the Act.**

- (ii) Schedule II Section 30: Compensating workers for delays in payment.**
- (iii) Section 19: Urgent framing of Grievance and Redressal Rules.**
- (iv) Need for independent grievance Redressal Mechanism.**
- (v) STs' participation in Social Audit [Para 2.42]**

Explanatory Note

The Ministry of Rural Development has informed that the National Rural Employment Guarantee Act, 2005 aims at the enhancement of livelihood security of rural households by providing for at least 100 days of unskilled manual work every year to every registered household in the notified areas of the country. In the event of failure in the allotment of work by the State, the Act stipulates grant of unemployment allowance to the work applicants. The Act also mandates prompt and fair payment of wages at the statutory wage rate for each day of work and disbursement of daily wages in a prescribed manner. In other words, the Act confers statutory right of unskilled manual work for at least 100 days and for payment of statutory wages in a prescribed manner, and failing that, payment of unemployment allowance.

In order to enable the work applicants to enjoy their rights, the Act prescribes a definite methodology for the disposal of the complaints.

Recommendation No. 38 [Page No.97]

As per 'The Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979', no principal employer of an establishment to which the Act applies shall employ inter-State migrant workmen in the establishment unless a certificate of registration in respect of such establishment issued under this Act is in force. Further, a contractor has to obtain a license to employ inter-State workmen. A contractor is required to issue a pass-book to every inter-State migrant workman with a passport size photograph, name and place of establishment, period of employment, the proposed rates and modes of payment of wages, displacement allowance payable, return fare payable on expiry of period of employment, deductions made and other such particulars. As per provisions, inter-State migrant workman shall in no case be paid less than wages fixed under the Minimum

Wages Act, 1948. However, this Act is applicable only to inter-State migrant workman employed in an establishment. The Commission, therefore, recommended that provision of the Act should also be made applicable to the placement agencies in respect of Migrant Domestic Workers from tribal areas, which are being driven by indigence to seek traditional employment. [Para 2.43]

Explanatory Note

The Ministry of Labour and Employment has informed that the Inter-State Migrant Workmen (RECS) Act, 1979, regulates the employment of inter-state migrant workmen and provides for conditions of service. It applies to every establishment and the contractor, who employ five or more inter-state migrant workmen. The Act has provision for issue of Pass-Book to every inter-state migrant workman with full details, payment of displacement allowance equivalent to 50% of monthly wages or Rs. 75/- whichever is higher, payment of journey allowance including payment of wage during the period of journey, suitable residential accommodation, medical facilities and protective clothing, payment of wages, equal pay for equal work, etc.

The main responsibility for enforcement of the provisions of the Act lies with the Central and the State Governments/Union Territories in the establishment falling in the Central and State sphere, respectively.

The Government is contemplating to formulate a National Policy for Domestic Workers which will, inter-alia, provide for regulations relating to placement agencies.

Recommendation No. 39 [Page No. 97]

After the commencement of 'The Bonded labour System (Abolition) Act, 1976, every obligation of a bonded labourer to repay any bonded debt shall be deemed to have been extinguished. All the property of bonded labourer mortgaged in connection with any bonded debt shall stand freed and discharged. No creditor shall accept any payment against any bonded debt, which has been fully satisfied by virtue of the provisions of this Act. These provisions need to be adapted for overseeing contract labour to ensure humane treatment of Migrant workers who are easily exploited by greedy contractors. [Para 2.44]

Explanatory Note

The Ministry of Labour and Employment has stated that as per the Bonded Labour System (Abolition) Act, 1976, bonded labour system means the system of forced, or partly forced, labour under which a debtor enters, or has, or is presumed to have entered, into an agreement with the creditor to the effect that:-

- (i) in consideration of an advance obtained by him or by any of his lineal ascendants or descendants (Whether or not such advance is evidenced by any document) and in consideration of the interest, if any, on such advance, or
 - (ii) in pursuance of any customary or social obligation, or
 - (iii) in pursuance of an obligation devolving on him by succession, or
 - (iv) for any economic consideration received by him or by any of his lineal ascendants or descendants, or
 - (v) by reason of his birth in any particular caste or community
- render, by himself or through any member of his family, or any person dependent on him, labour or service to the creditor, or for the benefit of the creditor, for a specified period or for an unspecified period, either without wages or for nominal wages, or
 - forfeit the freedom of employment or other means of livelihood for a specified period or for an unspecified period, or
 - forfeit the right to move freely throughout the territory or India, or
 - forfeit the right to appropriate or sell at market value any of his property or product of his labour or the labour of a member of his family or any person dependent on him.

The Act also defines bonded labour and bonded labourer. Bonded labour means any labour or service rendered under the bonded labour system and bonded labourer means a labourer who incurs, or has, or is presumed to have, incurred a bonded debt.

Under the Bonded Labour System (Abolition) Act, 1976 identification, release and rehabilitation of freed bonded labour is the direct responsibility of the State Government/ Union Territory concerned. For these functions, District Magistrates and Sub-Divisional Magistrates have been entrusted with certain duties/ responsibilities. Under the Act it is the duty of every District Magistrate or every officer specified by him to enquire whether any bonded labour system is being enforced within the local limits of his jurisdiction.

Recommendation No. 40 [Page No.97]

Both availability of food grains and affordability are inter-meshed problems; and food security is not merely a question of subsidizing the prices for the poorer sections of the populace in these areas. Therefore, there is compelling reason to recognize these special characteristics; and have a differentiated approach for Scheduled Areas by way of provision of adequate entitlement of requisite food stocks, strengthening of warehousing and logistics, financial resources and responsibilities. [Para 2.45]

Explanatory Note

The Department of Food and Public Distribution has informed as under:-

- (a) PROCUREMENT: The Central Government extends price support to paddy, coarse grains and wheat through the FCI and State Agencies. All the foodgrains conforming to the prescribed specifications offered for sale at specified centres are bought by the public procurement agencies at the Minimum Support Price (MSP). The producers have the option to sell their produce to FCI/State Agencies at MSP or in the open market as is advantageous to them. Foodgrains procured by the State Governments and their agencies are ultimately taken over by the FCI for distribution throughout the country.

In order to enhance efficiency of procurement and encourage local procurement to maximum thereby extending the benefits of MSP to local farmers, the Government is implementing Decentralized Procurement (DCP) scheme under which States undertake the responsibility of procurement of foodgrains, its storage and distribution.

- (b) STORAGE: The Plan Scheme for construction of storage godowns is funded by the Government of India with the approval of the Planning Commission and the funds are released to the FCI in the form of equity for land acquisition and constructing new godowns and strengthening infrastructure in existing godowns, like railway sidings, including electrification, installation of weighbridge, etc. Under the Scheme, funds are also released in the form of Grants-in-Aid to the State Governments of North East

Region including Sikkim and State Government of Jammu and Kashmir for construction of storage godowns by the State Governments. Under this scheme, a component of construction of godowns in difficult and deficient area of States other than NE States, has also been planned to be introduced in coming period. This scheme will help in developing the required warehousing facilities in scheduled areas to some extent. The State Governments have further been requested to develop intermediate storage facilities for stocking of foodgrains required for TPDS and other Welfare Schemes for atleast a period of four months using Rural Godowns Scheme of the Ministry of Agriculture and Rural Infrastructure Development Fund RIDF set up by National Bank For Agricultural and Rural Development (NABARD).

Recommendation No. 41 [Page No. 97-98]

The public distribution system must assure reasonable food availability to all residents in Scheduled Areas keeping in view their special problems of availability and affordability. The number of priority households should not be arbitrarily determined; and they should be identified on the basis of discernible wealth/income-related criterion. Special arrangements, including build-up of inventory have to be made for remote, inaccessible areas, so that food availability is not often compromised by logistical failures. It is not sufficient, or desirable, to provide an allowance in lieu thereof because that leaves availability issues unresolved. [Para 2.46]

Explanatory Note

The Department of Food and Public Distribution has informed that in so far as determination of number of priority households is concerned, the Planning Commission is the nodal agency in the Government of India for estimating poverty at National and State levels. For allocation of foodgrains to States and UTs under Targeted Public Distribution System (TPDS), the Department of Food and Public Distribution uses the number of BPL families based on 1993-94 poverty estimates of the Planning Commission and population estimates of the Registrar General of India as on 01.03.2000. Based on the above, the accepted number of Below Poverty Line (BPL) families is 6.52 crore, which includes 2.50 crore targeted number of Antyodaya Anna Yojana (AAY) families. It is also to state that the guidelines issued by the Department for identification of AAY families

includes the coverage of all primitive tribal households among other categories. The identification of BPL families including AAY families within the target given to each State/UT is the responsibility of the State/UT Government concerned.

The Government of India makes allocation of foodgrains (rice/wheat) to States/Union Territories (UTs) at highly subsidized Central Issue Prices (CIPs) through TPDS @ 35 kg per family per month for Below Poverty Line (BPL) and AAY households, the poorest of the poor across the country. The foodgrains are issued to the AAY and BPL families at highly subsidised prices of Rs.3 per kg and Rs.2 per kg for rice and wheat respectively, in the case of AAY families and Rs.4.15 per kg and Rs.5.65 per kg for wheat and rice respectively, in the case of BPL families. In addition to the above normal allocation under TPDS, the Government of India is also making additional allocation of foodgrains to BPL families from time to time. During the current year, the Government of India has made an additional allocation of 50 lakh tonnes of foodgrains for the additional BPL families in the States/UTs and 19.42 lakh tonnes for the additional BPL and AAY families of the poorest districts of the States. Thus, through TPDS Government is ensuring Food availability to the vulnerable population at affordable prices.

Recommendation No. 42 [Page No.98]

Since remote tribal areas also have acute problems of availability/ marketing infrastructure, food grain entitlements should not be differentiated according to economic status, which is relevant only for the quantum of eligible subsidy. Food entitlement should be specified on the basis of recommended nutritional requirements to enable purchase of needed quantity at option; or yearly aggregate entitlements may be specified instead, since the average off-take may fluctuate at different times of the year depending upon prices or alternate sources of supply, and it may be more relevant for planning subsidy/ logistic requirements. [Para 2.47]

Explanatory Note

Regarding the recommendation for food entitlements under the Targeted Public Distribution System (TPDS) to be based on nutritional requirements, the Deptt. of Food and Public Distribution has informed that

allocations of foodgrains under TPDS are supplemental in nature and are not intended to provide the entire requirement of any of the commodities distributed under it to a household or a section of the society.

With regard to the recommendation for yearly aggregate entitlements to be given, it is stated that in so far as entitlements of foodgrains under TPDS are concerned, the Government of India has been making annual allocation of subsidized foodgrains before commencement of the allocation year for distribution to accepted number of Below Poverty Line (BPL) families including Antyodaya Anna Yojana (AAY) families @ 35 kg per family per month. Presently, allocation of foodgrains to APL families is also made to the States / UTs ranging between 15 kg. and 35 kg. per family per month.

The Department has no objection if foodgrains are given to the beneficiaries on the basis of yearly aggregate entitlements. However, this may involve setting up requisite infrastructure at State / local levels such as intermediate storage facility, transportation, etc., to manage the requirements of foodgrains for one year's period as well as funds.

Recommendation No. 43 [Page No. 98]

Use of information technology for increasing transparency of transactions, the monitoring mechanisms in Scheduled Areas should be strengthened through reliable reporting systems to enable rapid awareness of related transactions – stocks, movement, issues, etc - at all locations upto fair price shop level, and providing timely feedback for prompt remedial action to rectify logistical failures which imperil food security in remote areas. [Para 2.48]

Explanatory Note

The Department of Food and Public Distribution that strengthening and streamlining of targeted Public Distribution System (TPDS) is a continuous process, which includes computerization of TPDS operations for introducing transparency, strengthening the monitoring mechanism, etc. States/UT have taken initiatives for computerization of TPDS comprising aspects like allocation, off-take, distribution, stock management, etc. A plan scheme on 'End-to-End Computerization of TPDS Operations' has also been prepared for extending financial assistance to all States/UTs during 12th Five Year Plan (2012-2017). In the first phase, the scheme comprises of

activities, namely, digitization of ration cards/ beneficiary and other database; computerization of supply-chain management, i.e. allocation, storage and movement; setting up of transparency portal containing all PDS related information; and grievance redressal mechanisms through toll free helpline number, web portal, etc.

Recommendation No. 44 [Page No.98]

In view of the special Constitutional mandate to the Union Government for Scheduled Areas, and the persisting poor health and economic standards of tribals, full financial/ logistical responsibility to ensure food security in such areas should vest in the Union Government. It is not appropriate to cast such responsibility on the State Governments, also because they have limited capacity to mobilize food grains from low-production regions, arrange credit and subsidize logistical/ distribution costs. [Para 2.49]

Explanatory Note

The Deptt. of Food and Public Distribution has informed that the Targeted Public Distribution System (TPDS) is operated under the joint responsibility of Central and State/UT Governments. The Central Government is undertaking the procurement of foodgrains at Minimum Support Prices from farmers, allocating these foodgrains at highly subsidized prices to States/UTs and transporting the foodgrains upto the designated depots of the Food Corporation of India. The Central Government also supports States/UTs, through measures such as decentralized procurement, financial assistance for creation of storage facilities under various schemes, hill transport subsidy in selected States and allowing States/UTs flexibility in fixing the subsidized prices of foodgrains sold at Fair Price Shops so as to cover the logistical/distribution costs. In view of the joint responsibility under TPDS, it may, therefore, not be possible for the Central Government to assume full financial/logistical responsibility for implementation of TPDS.

Recommendation No. 45 [Page No. 98]

The special obligations of the Central Government in Scheduled Areas should include provision of food grains in desired quantity (as per nutritional requirements) for all residents, supplemental logistical arrangements (road/rail transportation, depots/ issue points and

increased inventory) as well as priority in food grain allocations, (since resort to payment of allowance is not a feasible option because the same will compromise food security) [Para 2.50]

Explanatory Note(s)

The Department of Food and Public Distribution has informed that the Targeted Public Distribution System (TPDS) has been one of the major initiatives of the Government of India in its efforts to provide food security to millions of poor in the country. The Government of India makes allocation of foodgrains (rice/wheat) to States/Union Territories (UTs) at highly subsidized Central Issue Prices (CIPs) through TPDS @ 35 kg per family per month for 6.52 crore Below Poverty Line (BPL) families, including 2.43 crore Antyodaya Anna Yojana (AAY) households, the poorest of the poor across the country. Thus, TPDS is an important instrument of Government policy for ensuring food availability to the vulnerable population at affordable prices.

Government also allocates substantial quantity of additional foodgrains under TPDS for distribution to BPL families from time to time over and above normal TPDS allocation to BPL/AAY families. During the current year 2012-13, the Department has allocated 276.78 lakh tons of foodgrains to the States/UTs under normal TPDS allocation for distribution to the AAY/BPL families. In addition, 50 lakh tonnes of foodgrains have been allocated in July, 2012 to the States/UTs for distribution to the additional BPL families upto March 2013. Further, 43.11 lakh tonnes of foodgrains have been allocated for distribution to the additional AAY and BPL families in the poorest districts across the country. This includes a quantity of 23.69 lakh tonnes allocated during 2011-12 and 19.42 lakh tonnes during 2012-13.

The majority of beneficiaries under AAY and BPL categories in the country's population belong to Scheduled Tribes and Scheduled Castes living in different States/UTs of the country.

The Plan Scheme for construction of storage godowns is funded by the Government of India with the approval of the Planning Commission and the funds are released to the FCI in the form of equity for land acquisition and constructing new and strengthening infrastructure in existing godowns, like railway sidings, including electrification, installation of weighbridge, etc. Under the Scheme, funds are also released in the form of Grants in Aid to the State Governments of North East Region including Sikkim and State

Government of Jammu and Kashmir for construction of storage godowns by the State Governments. Under this scheme a component of construction of godowns in difficult and deficient area of States other than NE States has also been planned to be introduced in coming period. This scheme will help in developing the required warehousing facilities in scheduled areas to some extent. The State Governments have further been requested to develop intermediate storage facilities for stocking of foodgrains required for TPDS and other Welfare Schemes for at least a period of four months using Rural Godowns Scheme of the Ministry of Agriculture and RIDF set up by National Bank for Agricultural and Rural Development (NABARD).

With regard to augmentation of rail/road transportation facilities in scheduled areas, there is no specific arrangement but the Department is implementing a Hill Transport Subsidy Scheme (HTS) under which Hilly State Governments, with poor or no railway network and poor road communication, are reimbursed the cost of transportation of foodgrains, on actual basis, for lifting of foodgrains from base depots of FCI to the designated Principal Distribution Centres (PDCs). This Scheme is being implemented in NE States including Sikkim (excluding Assam), Himachal Pradesh, Andaman and Nicobar Islands and Lakshadweep and covers the Scheduled Areas of these States/UTs.

2. The Ministry of Road Transport and Highways has informed that it is responsible for development and maintenance of National Highways in the country and outlays for National Highways are not made on the basis of caste, creed and religion. The National Highways are not developed on the basis of the demographic pattern of the country. Some of the National Highways passing through the tribal areas are indirectly benefiting the tribal population.

The Ministry has taken up Special Accelerated Road Development Programme in the North East (SARDP-NE) including Arunachal Pradesh Package and Special programme for development of Roads in the Left Wing Extremism (LWE) affected areas. An allocation of Rs. 1,500.00 crore has been made from GBS under Annual Plan during 2012-13 for LWE which includes Rs.500.00 crore for Tribal Sub-Plan (TSP). It is targeted to complete of about 1,300 km of roads under this program during 2012-13. Further, an allocation of Rs. 2,000.00 crore has been made from GBS under Annual Plan during 2012-13 for SARDP-NE including Arunachal Pradesh Package. During 2012-13, it targeted to complete 300 km length

under Phase 'A' and Arunachal Pradesh Package of Roads and Highways of SARDP-NE.

3. The Ministry of Railways of has stated that movement of foodgrain is governed by Ministry of Consumer Affairs, Food and Public Distribution, Department of Food and Public Distribution and Food Corporation of India (FCI) throughout the country. Railways accord higher priority (priority 'B') to the movement of foodgrains for Public Distribution System or other welfare scheme sponsored by FCI. Only movement of military traffic is given higher priority (priority 'A').

Recommendation No. 46 [Page No. 98]

Custom, as is well-recognised, varies from people to people and region to region; and needs to be codified for the guidance of legal forums/ practitioners as has been done in the State of Madhya Pradesh, where customary laws have been codified as "Madhya Pradesh Rajya Ki Anusuchit Janjatiyon Ki Roodijanya Vidhi Sanhita,1992". [Para 2.53]

Explanatory Note

The Recommendation of the Commission has been conveyed to the State Govts. by the Ministry of Tribal Affairs for consideration and appropriate action.

Recommendation No. 47 [Page No. 98-99]

Suitable amendments should be made in the Indian Forest Act, 1927 to make its provision consistent with the provisions of PESA Act, 1996 in respect of endowing Panchayats at the appropriate level and the Gram Sabhas with necessary powers with respect to conferring ownership of minor forest produce [Para 2.55]

Explanatory Note

The Ministry of Environment and Forests (MoEF) has informed that harmonization of Indian Forest Act (IFA), Forest Rights Act (FRA) and Panchayats Extension to Scheduled Areas (PESA) is already under consideration of the Committee constituted by Ministry of Law and Justice.

The PESA, 1996 vests the full rights of ownership over the Minor Forest Produce (MFP) with the tribals in the form of Gram Sabhas and Gram Panchayats. Section-4 (m) of PESA, while endowing Panchayats in the scheduled areas with such powers and authority as may be necessary to enable them to function as institutions of self government, a State Legislature shall ensure that the Panchayat at the appropriate level and under sub section-(ii) the Gram Sabha are endowed specifically with the ownership of MFPs. Many State Govts. like Maharashtra are already transferring income from MFPs to Primary Collectors/Communities/Gram Sabha after deducting expenses. It was agreed that the ownership of MFP may be with Gram Sabha within their territorial jurisdiction.

Recommendation No. 48 [Page No. 99]

All the cases of alleged encroachment of forest land by the Scheduled Tribes which were registered prior to 31.12.2007 may be withdrawn by the concerned authorities and their claims on forest lands may be settled as per provisions under the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 and the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Rules, 2007. [Para 2.56]

Explanatory Note(s)

The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 only seeks to recognize and vest the forest rights and occupation in forest land in forest dwelling Scheduled Tribes and other traditional forest dwellers who have been residing in such forests for generations but whose rights could not be recorded. This Act was notified for operation with effect from 31.12.2007.

The Scheduled Tribes and other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 does not deal with the withdrawal of cases of alleged encroachment of forest land by the forest dwelling Scheduled Tribes, registered prior to 31.12.2007.

This recommendation has apparently been made in the context of the charges / prosecution pending against the forest dwelling Scheduled Tribes

under different provisions of the Indian Forest Act, 1927 prior to enactment of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006. As the Indian Forest Act, 1927 is administered by the Ministry of Environment and Forests, action on this recommendation has to be taken by the Ministry of Environment and Forests and the State Governments concerned.

It may be mentioned that in a two day Conference of Chief Ministers, State Ministers (Tribal/ Social Welfare and Forest Deptts.) convened by this Ministry on 4th-5th November, 2009 to take stock of the implementation of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 in various States/ UTs, the Hon'ble Prime Minister in his inaugural address had highlighted, inter-alia the need for withdrawal of petty cases against tribals related to laws which were pending in various courts. The Hon'ble Minister of Tribal Affairs had conveyed the said observation of the Hon'ble Prime Minister to the Chief Ministers of all States on 19.11.2009 for necessary follow up action.

2. The Ministry of Environment and Forests has issued guidelines to accord general approval under the Forest (Conservation) Act, 1980 (FCA) for diversion of 2.0 ha of forest land in each case for implementation of various projects under 13 categories of projects as mentioned in Section 3 (ii) of the FRA being executed by various Government Departments in these districts.

The Ministry has further relaxed the above general approval upto 5 ha of forest land in each case for 60 districts identified for implementation of Integrated Action Plan (IAP) by Ministry of Home Affairs and Planning Commission. Further, this special approval has already been extended to remaining 22 Districts vide letter of the Ministry dated 10th December, 2012.

In addition to the above, the Ministry has issued an Advisory to Secretary (Forests) of all States/UTs on 28.01.2010 for withdrawal of petty forest offence related cases against tribals. Further, an advisory was issued to all Secretaries (Forests) of Left Wing Extremism (LWE) affected states on 16.09.2010 for withdrawal of petty forest offences related cases against tribals for violation of various forest laws keeping in view the provisions of FRA, 2006.

As per information available with the Ministry, no case against tribal was found reported in the NCT of Delhi and a total number of 3123 cases involving 9035 tribals and other villagers have been withdrawn by the State Government of Jharkhand.

Recommendation No. 49 [Page No.99]

The Scheduled Tribes and Other Forest Dwellers (Recognition of Forest Rights) Act, 2006 and Rules provide for settlement of individual as well as community claims. The claim of community over land and resources is of much relevance to all the inhabitants of the area and therefore, distribution of title deeds about community rights also has same relevance as the settlement of individual claims. The Ministry of Tribal Affairs and the State Governments should evolve a strategy (i) for disposal of all the claims within a prescribed time frame, (ii) ensuring that genuine claims are not rejected, (iii) title deeds are distributed to all the approved claimants within the set time frame and (iv) furnishing full details in respect of individual claims as well as community claims separately under Forest Right Act. [Para 2.57]

Explanatory Note

The Ministry of Tribal Affairs agrees with the observations of the NCST that the claim of community over land and resources is of much relevance to all the inhabitants of the area and, therefore, settlement of community claims and distribution of the title deeds about community rights also has same relevance as the settlement of individual claims. Recognising the importance of 'community rights', the Ministry had issued instructions to the State Government on 20th July, 2010 to launch a special campaign for generating wide-spread awareness about the community rights, if necessary, by re-training field level functionaries engaged in the processing of such applications. The State Governments were also advised to enlist the support of local resource institutions under the State Government for this purpose. The State/UT Governments were again requested on 8th February, 2011 to take necessary steps under the Act and the Rules for inviting more claims for community rights and for expeditious processing and disposal of all the pending community claims.

The Ministry has recently issued comprehensive guidelines to all States/ UT Governments on 12.7.2012 and also notified the Scheduled Tribes and other Traditional Forest Dwellers (Recognition of Forest Rights)

Amendment Rules, 2012 on 6.9.2012, laying down the process for expeditious recognition of individual rights, community rights and community forest resource rights, etc., for better implementation of the Act.

As regards furnishing of full details in respect of individual claims as well as community claims separately under Forest Rights Act (FRA), it may be stated that the Amendment Rules, 2012 notified on 6.9.2012 already prescribe a format for furnishing a quarterly report by the State Governments on the process of recognition, verification and vesting of forest rights, including separate details of individual right, community forest rights, and details of Community Forest Resources being managed, etc. The Ministry is also separately in the process of reviewing the current reporting and monitoring mechanism (including formats) on implementation of FRA and developing comprehensive Reporting Formats (for State, District and Sub-division level) by the State /UT Governments for assessing the implementation of the Act in the light of the guidelines/ Amendment Rules notified by the Ministry.

Recommendation No. 50 [Page No. 99]

It is necessary to incorporate an essential, specifically delineated provision for rehabilitation and resettlement for the project affected/ displaced persons under the obligations set out in a mining lease. (It may be mentioned that the draft Land Acquisition, Rehabilitation and Resettlement Bill, 2011, which is awaiting approval of the Parliament, has integrated the provisions of rehabilitation and resettlement with the land acquisition process, but doesn't explicitly cover R and R in respect of the project-affected/ displaced persons as a result of diversion of forest land/ private lands leased for mining). The R and R obligations also need to be ensured in respect of incremental leasing of adjacent areas and extension of current leases in perpetuity also. Rehabilitation and Resettlement (R and R) plans should be linked to the Mining Plan, so that R and R activities are satisfactorily completed before the lessee ceases operations in a specified area. Similar to the corporate social responsibility document, there should also be a R and R document which should document the obligation/ efforts and outcomes achieved. Before granting approval for extension of a mining lease, special report regarding implementation of R and R obligation should also be sought.

Besides failure or delay in commencement of mining operations, leases should also lapse in case R and R obligations have not been discharged. [Para 2.59]

Explanatory Note(s)

The Department of Land Resources has formulated the National Rehabilitation and Resettlement Policy, 2007. One of its aim is to minimize large-scale displacement, as far as possible. Only the minimum area of land commensurate with the purpose of the project may be acquired. Also, as far as possible, projects may be set up on wasteland, degraded or un-irrigated land. Acquisition of agriculture land for non-agriculture use in the project may be kept to the minimum, multi cropped land may be avoided to the extent possible for such purposes, and acquisition of irrigated land if unavoidable, may be kept to the minimum. The policy also provides comprehensive rehabilitation and resettlement benefits to the displaced families.

To give legal backing to the provision of the aforesaid Policy the Land Acquisition, Rehabilitation and Resettlement Bill (LARR), 2011 had been prepared by the Department. The LARR Bill, 2011 was approved by the Cabinet in its meeting held on 5th Sept. 2011. It was introduced in the Parliament on 7th Sept. 2011. The Bill was referred to the Parliamentary Standing Committee on Rural Development by the Hon'ble Speaker Lok Sabha on 13th Sept. 2011. The Committee after detailed examination has submitted its 31st Report on the above Bill to the Lok Sabha on 17th May, 2012 which was laid in the Rajya Sabha on same day. The recommendations contained in the 31st Report had been examined in the Department. Based on the recommendations or otherwise, note for the Cabinet for the official amendments to the LARR Bill, 2011 was prepared and sent to the Cabinet Secretariat. The Cabinet Note for the amendments to the LARR Bill, 2011 was considered by the Cabinet in its meeting held on 28th Aug., 2012. As per the decision taken by the Cabinet, the matter was considered by a Group of Ministries (GoM) in its three meetings held on 27th Sept., 2012, 8th and 16th Oct., 2012 at the J.C. Bose Hall (Room No. 142) Krishi Bhawan, New Delhi.

The matter will be placed before the Cabinet after Report of the GoM is finalized.

2. The Ministry of Mines agrees with the recommendation of the Commission. The Rehabilitation and Resettlement (RandR) measures would be a component of the Sustainable Development Framework, which would be suitably integrated with the Mining Plan and the Mine Closure Plan proposed in the MMDR Bill, 2011. However, as the jurisdiction for monitoring compliance is separate, i.e RandR plan is with the State Government and the Mining Plan is with the Indian Bureau of Mines, an RandR plan though linked through the Sustainable Development Framework with the Mining Plan and Mine Closure Plan cannot directly be part of Mining Plan or the Mine Closure Plan.

3. The Ministry of Tribal Affairs agrees with the recommendations of the Commission. Comments in this line would be provided while forwarding this Ministry's views on the LARR Bill, 2011. The Ministry has also proposed that the State Governments should obtain clearance of the Rehabilitation and Resettlement Plan from this Ministry on all the developmental projects. A Note for Committee of Secretaries (CoS) is under issue in the matter.

Recommendation No. 51 [Page No.99-100]

Land is the only asset tribals are having and is also the source of their livelihood. Tribals are facing difficulties in meeting special needs like marriages, educational needs, housing etc. On the lines of the Credit Guarantee Fund set up for the comfort of the lenders under the scheme of Ministry of Micro, Small and Medium Enterprises, a similar scheme may also be considered for the benefit of the tribals. To safeguard the livelihood of tribal farmers, the Government could consider setting up Land Banks comprising lands resumed by the Government in cases of mortgage default; and such lands may be leased to the previous ST owners with the opportunity/ right to re-purchase the same at any subsequent stage of time, beside rights to additional potential compensation due to change in land use pattern in future. [Para 2.61]

Explanatory Note(s)

The Department of Land Resources has stated that land and its management falls within the exclusive legislative and administrative jurisdiction of the respective States as provided under Entry No.18 of List II (State List) of the Seventh Schedule to the Constitution. The role of the Central Government in the field of land reforms is only of an advisory and coordinating nature. However, implementation of Land Reforms

Programmes is reviewed from time to time at various fora including Conferences of Revenue Ministers and Revenue Secretaries of the States/UTs organized by the Ministry of Rural Development. The State Governments/UT Administrations have been requested from time to time for effective implementation of land reform programmes / schemes including distribution of ceiling surplus land to eligible rural poor, prevention of alienation of tribal land and restoration of alienated land, etc.

With a view to look into various issues related to Land Reforms, a “Committee on State Agrarian Relations and the Unfinished Task in Land Reforms” was constituted under the Chairmanship of Minister of Rural Development vide Resolution dated 9.1.2008. The terms of reference of the Committee, inter-alia, included in-depth review of the issues related to land ceiling Programme / tenancy, etc. The Committee has submitted its Report, and has made recommendations on various aspects of Land Reforms. The Report of the Committee is to be placed before the “National Council for Land Reforms” constituted under the Chairmanship of the Prime Minister for consideration and directions. However, it has been decided that the recommendations of the Committee may be examined by an appropriate Committee of Secretaries (CoS) before these are placed for consideration of the “National Council for Land Reforms”. Accordingly, the recommendations have been examined by the CoS. Now, further action on the recommendations would be taken as per decision of the National Council for Land Reforms. The first meeting of the ‘National Council for Land Reforms’ is yet to be held. However, a preparatory meeting for the ‘National Council for Land Reforms’ has been held on 26th June, 2012 with the non-official members under the Chairmanship of Hon’ble Minister of Rural Development.

2. The Department of Rural Development has informed that it does not have any comments to offer.

3. The recommendation of the Commission is under examination of the Ministry of Tribal Affairs.

Recommendation No. 52 [Page No. 100]

Since mineral extraction is generally destructive of soil surface, it can’t usually be restored to original land use subsequently. An effective and equitable compensation arrangement should ensure lifelong annuities sufficient to substitute income deprivation for the land owners

(adjusted for likely inflation), besides creating alternative vocations for them. The land owners should also get a reasonable share in the profits distributed/ retained by the mining enterprise. Besides annual compensation in lieu of land surface rights, future (and sometimes windfall) earnings from mining activity should also be shared with land rights holders in reasonable measure. If some land rights are being ceded in perpetuity, the retained earnings from the project activity should also be shared with the land owners in the forms of “sweat-equity” (beside compensation for denial of use of land surface). Share of earnings from alternative users of land should also be provided, if future land use is of a commercial nature. Benefits/privileges available to mineral right holders may also be accorded to ordinary landholders also in Scheduled areas. [Para 2.63]

Explanatory Note

The Ministry of Mines has informed that Mines and Minerals (Development and Regulation) (MMDR) Bill provides that over and above the compensation eligible to the persons affected by mining projects in terms of RandR Policy of the State Government concerned, every mining lease holder shall be required to:

- (a) share a sum equivalent to royalty in case of non-coal minerals, and in case of coal minerals, a sum equivalent to 26% of profit after tax with the affected persons through a district level mechanism where the affected persons shall have a stake.
- (b) in case of a company, to allot at-least one share at par to each person of the family affected by mining operations,
- (c) provide employment and other assistance in terms of RandR Policy of the State.

These provisions adequately ensure compensation and livelihood security to the Scheduled Tribe families affected by mining activities as stakeholders till such activities continue. Therefore “sweat equity” concept may not be applicable in this context.

Recommendation No. 53 [Page No. 100]

Considering current life cycles of investments, tribal land should be mortgaged/ given on lease rather than transfer of ownership, with

provision for continued sharing of cost appreciation/windfall gains. Since profit is their overriding consideration, PPP/private owned projects necessarily embed tribal hazard, in that they cannot eschew temptation to substitute cheaply obtained land for more expensive capital requirements. In order to discourage circumventing of constitutional safeguards, the declaration of public purpose should also be justifiable in respect of Scheduled Area. [Para 2.68]

Explanatory Note(s)

The Department of Land Resources has stated that “Mortgage / Lease” are outside the purview of the Land Acquisition, Rehabilitation and Resettlement (LARR) Bill, 2011. However, it provides comprehensive definition of the ‘Public Purpose’ and informed consultation process for land acquisition in Scheduled Areas.

2. The Ministry of Home Affairs has stated that considering the enormous investments required for setting up of new projects, gestation period, their future profitability and other concerns it needs to be ascertained how investments could be attracted in these areas which are mostly backward without giving transfer of ownership. Focus should be on meaningful rehabilitation, the modus of which needs to be chalked up. In this era of ever burgeoning economic development hunger for resources is insatiable. Unfortunately, many of these resources are concentrated in few forested tribal belts. Total ban on acquiring forest / tribal land may severely impede the growth of economy. Hence, a middle path needs to be carved out, whereby the safety and security, both economic and physical, of the Tribals will be virtually guaranteed through legislation while the resource rich regions are opened up with sufficient checks relating to atmosphere and other related concerns.

Recommendation No. 54 [Page No. 100]

Social Impact Assessment (SIA) should also identify affected areas (including contiguous forest lands wherein tribals have rights) and enumerate all affected (interested) persons to facilitate enquiry into objections and subsequent determination of 'public purpose'. Individual notices may be issued in Scheduled Areas to all persons known to have an interest in the land besides public notice, so that they may also be enabled to seek judicial determination regarding the public purpose of acquisition. [Para 2.69]

Explanatory Note(s)

The Department of Land Resources has stated that Land Acquisition, Rehabilitation and Resettlement (LARR) Bill has comprehensive provision for Social impact Assessment (SIA) study in the affected area. The Bill covers not only the land losers but also families whose livelihood is affected due to acquisition of the land.

2. The Ministry of Mines has informed that the recommendation of the Commission is agreeable to the Ministry. In terms of provisions in Mines and Minerals (Development and Regulation) (MMDR) Bill, 2011, the Central Government shall prepare a National Sustainable Development Framework consisting of project level practices for sustainable mining and would include Social Impact Assessment (SIA) in consultation with the Gram Sabha and District Councils in Scheduled Areas and Panchayats in non-Scheduled areas by the project proponent as one of mandatory activity for all mining projects. In this regard the Ministry has already prepared a draft Sustainable Development Framework, which is being put through pilot study.

Recommendation No. 55 [Page No. 100-101]

Compensation should also be given for forest rights which may become unavailable because of displacement and also sub-surface rights (water/minerals etc.) as Scheduled Tribes have been (and also continue to be so in Schedule VI areas) traditional owners of land (rather than tenure holders with heritable rights to cultivate land). Multiple uses of the land acquired must also be accounted for in the compensation. If agricultural land is to be used for mining, then besides compensation for use of land surface, the future earnings from mining activity should also be shared with land owners. Further, where land is acquired by the Government for projects meant for production of goods and services, compensation for land acquired has to be supplemented with (and not adjusted against) allotment of shares and debentures, as part of the long-term profit sharing of the project derivable from land as a factor of production. The quantum of such “sweat” equity must be reasonably relatable to the nature of economic activity of the project and the equity base. 50% developed land/sweat equity/share in the future profits should be provided for land owners in case of land development projects, because land is the principal ingredient of the activity and its

value continues to rise exponentially while other appurtenances depreciate. [Para 2.71]

Explanatory Note(s)

The Ministry of Tribal Affairs is of the view that so far as the Scheduled Tribes and other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 is concerned, as per Section 4(4) of the Act, the forest rights conferred to the forest dwelling Scheduled Tribes and other traditional forest dwellers under the Act are heritable but not alienable or transferable. Section 4(8) of the Act further provides that the forest rights recognized and vested under the Act shall include the right of land to forest dwelling Scheduled Tribes and other traditional forest dwellers who can establish that they were displaced from dwelling and cultivation without land compensation due to State development interventions, and where the land has not been used for the purpose for which it was acquired within five years of the said acquisition.

2. The Department of Land Resources has stated that the Land Acquisition, Rehabilitation and Resettlement (LARR) Bill has comprehensive provision for Social impact Assessment Study, so that the impact of the project on the affected families is properly redressed. Further, it ensures comprehensive land compensation and rehabilitation and resettlement package of the affected families.

3. The Ministry of Mines has informed that the recommendation of the Commission is agreeable to the Ministry. The Mines and Minerals (Development and Regulation) (MMDR) Bill provides that over and above the compensation eligible to the persons affected by mining projects in terms of Rehabilitation and Resettlement (R and R) Policy of the State Government concerned, every mining lease holder shall be required to share benefits of mining with not only owners of land rights, but also holders of usufruct and traditional rights. Every lessee shall be required to :

a) share a sum equivalent to royalty in case of non-coal minerals, and in case of coal minerals, a sum equivalent to 26% of profit after tax with the affected persons through a district level mechanism where the affected persons shall have a stake.

- (b) in case of a company, to allot at-least one share at par to each person of the family affected by mining operations,
- (c) provide employment and other assistance in terms of RandR Policy of the State.

4. The Ministry of Home Affairs has stated that it has been a common experience that prices of land increases exponentially, when on growth path. Hence valuation done on 30 year period will throw up humungous figures which if made applicable will totally jeopardize the viability of any project, at inception stage. Some other parameter for obtaining Net Present Value (NPV) may have to be devised.

Sub-surface rights are also a contentious issue. Small land holdings, in case of marginal farmers and no-holdings in case of hunter gatherers make it difficult to quantify the quantum of compensation and rights. These gives rise to litigation which in turn affect the time line of the project.

Recommendation No. 56 [Page No.101]

In the event of the acquired land remaining unutilized, it should be returned back to the original tribal owner 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 Government 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. [Para 2.72]

Explanatory Note(s)

The Department of Land Resources has stated that the Land Acquisition, Rehabilitation and Resettlement (LARR) Bill, provides that when any land acquired under the Act remains unutilized for a period of five years from the date of taking over the possession the same shall return to land bank of the appropriate Government by reversion. It has also provisions for sharing of 20% of appreciated value if acquired land is transferred.

2. The Ministry of Mines has stated that the acquisition of land is a State subject and does not come within the purview of Mines and Minerals (Development and Regulation) Act, 1957.

Recommendation No. 57 [Page No. 101]

There is a need to specify to fix timelines for the entire process, involving land acquisition and R andR. The (maximum) period entailed in the process (from SIA upto award) needs to be shortened to 3 years through larger involvement and devolution of responsibility to the Requiring body for rehabilitation planning and implementation in the interest of project implementation as well as speedy resettlement of affected persons. [Para 2.73]

Explanatory Note(s)

The Department of Land Resources has stated that the timelines for various activities have been specified in the Land Acquisition, Rehabilitation and Resettlement (LARR) Bill. However, the Rehabilitation and Resettlement (RandR) is to be ensured by the Government and it cannot be left to the private companies.

2. The Ministry of Mines has stated that the Mines and Minerals (Development and Regulation) (MMDR) Bill clearly provides for specific timelines for disposal of applications for grant of mineral concessions.

Recommendation No. 58 [Page No.101]

In case of displacement due to disasters/ natural calamity and conflicts, the responsibility for resettlement and rehabilitation lies on the appropriate Government, while in the case of displacement occasioned by development projects, this responsibility should be of the requiring body (individual/ corporate house/ Government). In the case of displacement arising from projects implemented by non-government/ corporate bodies, the entire onus of implementing rehabilitation and resettlement plans should be that of the requiring body (individual/ corporate house) to avoid fragmentation/ dereliction of responsibility. Only in default, the appropriate Government may undertake rehabilitation/ resettlement (as for Government investments) at their cost. [Para 2.75]

Explanatory Note(s)

The Department of Land Resources has stated that for the families displaced by disaster/ natural calamities etc. a separate Bill may be considered by the Department.

The rehabilitation and resettlement for development projects will be ensured by the appropriate Government, as per the provisions of the Land Acquisition, Rehabilitation and Resettlement (LARR) Bill, 2011. This responsibility cannot be left to the requiring body only. However, the requiring body will ensure deposition of required funds for the Rehabilitation and Resettlement (RandR) to the appropriate Government.

2. The Ministry of Mines has informed that the Rehabilitation and Resettlement (RandR) expenditure is borne by the project proponent in terms of the RandR policy and the recently proposed Land Acquisition, Rehabilitation and Resettlement Bill, 2011. The draft Mines and Minerals (Development and Regulation) (MMDR) Bill provides for sharing of mining benefits with the local population by making it mandatory for every mining lease holder to share a sum equivalent to royalty in case of non-coal minerals, and in case of coal minerals, a sum equivalent to 26% of profit after tax with the affected persons through a district level mechanism where the affected persons shall have a stake.

3. The Ministry of Corporate Affairs has informed that it does not have any policy nor does it contemplates any policy initiation for Good Governance for Tribal Development and Administration, since the Ministry of Corporate Affairs only administers the provisions of the Companies Act, 1956 along with providing enlightened regulation and the Act does not provide for Tribal Development in the case of their displacement arising from projects implemented by non-government/corporate bodies.

Recommendation No. 59 [Page No. 101]

The responsibility for SIA, preparation of RR plans and implementation should be that of the requiring body which may do the job itself or outsource it to other agencies. Baseline survey should essentially aim to enumerate all the affected persons, nature of rights affected by displacement and resettlement requirements which could

form the basis of the R and R plan. The RR plan should be approved and implemented under the supervision of an RR Committee constituted at the local level. [Para 2.79]

Explanatory Note(s)

The Department of Land Resources has informed that the responsibility for Social Impact Assessment (SIA), preparation of Rehabilitation and Resettlement (RandR) plan and their implementation has been entrusted to the appropriate Government as per the provision of the Land Acquisition, Rehabilitation and Resettlement (LARR) Bill, 2011. It cannot be left to the requiring body as it may lead to many disputes and delays. The baselines survey is already provided in the Bill. Further, the implementation of the R and R plan will be monitored by the Rehabilitation and Resettlement (R & R) Committee at the local level.

2. The Ministry of Mines has stated that the Social Impact Assessment (SIA) would be the responsibility of the project proponent and that it would be an essential component of the Sustainable Development Framework (SDF). This SDF would also ensure appropriate baseline survey data on affected persons.

3. The Ministry of Tribal Affairs is of the view that as per Panchayats (Extension to Scheduled Areas) Act (PESA), 1996, the Gram Sabha or the Panchayat shall be consulted before the acquisition of land in the Scheduled Area for development projects and before resettling or rehabilitating persons affected by the projects.

Recommendation No. 60 [Page No.101-102]

The Resettlement site should aim to offer better living conditions to families affected and should recognize subsequent division of joint families/ separation of adult members in the matter of benefits till the RR plan is published. Forest dwellers affected by diversion of forest land should be resettled in the forest. Compensation in lieu of land should be discouraged. Resettled tribals should also continue to enjoy reservation benefits in the resettlement area by concurrent modification of the Scheduled Tribes Reservation Orders. [Para 2.80]

Explanatory Note(s)

The Department of Land Resources has stated that the Land Acquisition, Rehabilitation Resettlement (LARR) Bill, 2011 already strives for comprehensive land compensation and rehabilitation and resettlement package to the affected families. The families existing at the time of notification under clause 11 will be considered for the purpose of benefits under the Bill. 'Forest land' is outside the purview of the Bill. Further, the Bill already extends reservation benefits to the displaced families in the Resettlement Areas.

2. The Ministry of Environment and Forests has informed that the Rehabilitation and Resettlement (RR) Plans should holistically address the genuine needs and concerns of forest dwellers affected by diversion of forest lands and efforts should be made to develop forest resources at new/resettlements areas with their involvement and active participation in planning, implementation, protection and management. Resettlement in forest areas may require clearance under Forest (Conservation) Act, 1980.

Recommendation No. 61 [Page No.102]

The State legislations on Panchayats should conform with the customary law, social and religious practices and traditional management practices of community resources. In terms of Section 4(n) of the PESA Act, 1996 Panchayats should be equipped with requisite powers and authority to enable them to function as institution of self-government. [Para 2.81]

Explanatory Note

The Ministry of Panchayati Raj has informed that the Panchayats (Extension to the Scheduled Area) Act, 1996 extended Part IX of the Constitution to the Schedule V Areas and provided for people centric governance and people control over community resources and their life, with central role to the Gram Sabha. Gram Sabha is competent to safeguard and preserve the traditions and community resources, and resolve disputes. It also approves plans, programmes and projects for social and economic development for implementation by the Gram Sabha at the village level. Gram Sabha is responsible for the identification/ selection of beneficiaries under the poverty alleviation, issues Utilization Certificates of funds utilized

by the Gram Sabha. It also enjoys power to enforce prohibition and the sale and consumption of intoxicant, commands ownership over Minor Forest Produce (MFP), prevents land alienation and takes necessary action to restore unlawfully alienated land, rehabilitate and resettle the displaced, manages village markets, exercises control over money lending and above all exercises control over institutions of functions in social sectors, exercise control over local plans and resources for plans, including tribal sub-plans. The State Governments concerned have been requested to amend these subject laws in conformity with the PESA.

Recommendation No. 62 [Page No.102]

PESA envisaged democratic institutions of administration. To provide sustained co-ordinated emphasis to the problems of Scheduled Tribes/Areas, multiplicity of agencies should be avoided and ITDAs should be merged with ZPs. [Para 2.84]

Explanatory Note

The Recommendation of the Commission has been conveyed to the State Govts. concerned by the Ministry of Tribal Affairs for consideration and appropriate action.

Recommendation No. 63 [Page No.102]

There is a need to devise a mechanism, which would enable the field formations to receive funds directly instead of being routed through State Hqrs. by enforcing on them a system of accountability for proper utilization of those funds. [Para 2.85]

Explanatory Note(s)

As per the present guidelines for the two Special Area Programmes, viz. Special Central Assistance to Tribal sub-plan and grants under Article 275(1) of the Constitution of India, funds are released to the State Governments concerned by the Ministry of Tribal Affairs. However, the recommendation has been noted in the Ministry.

(b) There are certain schemes which are Centrally Sponsored where respective State Governments are required to give their share of contribution. In such cases direct transfer from Central Government may not be possible. In respect of some Central Sector Scholarship Schemes, the funds are not routed through State Government, but directly to the institute where the student is studying. There are three such schemes as under:-

- (i) Top Class Education for ST students
- (ii) Rajiv Gandhi National Fellowship for STs
- (iii) National Overseas Scholarship

(c) The scheme for the Development Particularly Vulnerable Groups (PTGs) is a central sector Scheme under which 100% assistance is provided to the State Governments for implementing crucial projects for the survival and development of PTGs. In all 17 States where the PTGs reside, the State Governments are the implementing authorities and the funds are released to the State Governments on the basis of their demand. In so far as intervention by other agencies such as Voluntary Organisations (VOs)/Non Governmental Organisations (NGOs) is concerned, the funds are released to them directly. However, comments of State Governments in this regard will be requested for.

Recommendation No. 64 [Page No. 102]

Commission is of the view that Government should formulate specific regulations in respect of Scheduled Areas for personnel management with the formation of a State level Civil Services Authority for Scheduled Areas, which would deal with matters of assignment of functional domains to officers, preparing a panel for posting of officers, fixing tenures for senior posts etc., in line with the Central Civil Services Authority proposed by the ARC. In order to improve personnel management in respect of all category of employees, it is necessary to fix a minimum tenure for various cadre posts, which be filled on the basis of merit, suitability and experience, prescribe norms and guidelines for transfers and posting to maintain continuity and predictability in career advancement and acquisition of necessary skills and experiences as well as promotion of good governance. The normal tenure of all public servants may not be less than two years and Transfers before the specified tenure should only be for valid reasons to be recorded in writing. These recommendations are in accordance with the

observations contained in para 8.5.11, 8.5.12 and 8.5.14 of the 10th Report of the 2nd Administrative Reforms Commission. Department of Personnel and Training may issue detailed guidelines for improvement of personnel policies and systems in Tribal Areas in the interest of peace and good governance. Defence forces, financial institutions etc have formulated personnel policies for “hardship areas” prescribing minimum periods of mandatory service in such locations during their career – which can be emulated to pool services of personnel from all Central/ All-India Services (irrespective of other service conditions) and meet skilled personnel/ managerial requirements in tribal/ Scheduled areas. [Para 2.87]

Explanatory Note(s)

The Department of Personnel and Training has stated that the recommendation of the Commission is about evaluation of personnel policies for ‘hardship areas’ prescribing minimum period of mandatory service in such location during their career in the case of AIS officers, would need no special dispensation from this Department as per the AIS Act and Rules Government for an AIS officer is the State Government when he is serving in connection with the affairs of the state. Therefore, only the respective State Governments can create the state level Civil Services Authority, AIS officers will automatically come under its ambit.

2. The Ministry of Home Affairs has stated that the general reluctance stems from the feeling of lack of amenities coupled with some other extraneous factors which discourage public servants from taking postings in these areas. Rather than forcing personnel to take up the postings, which inevitably leads to poor morale and less output, postings in these areas should be rewarded in some form which will encourage them to take postings voluntarily.

Remedy to this particular problem may lie within creating a dedicated cadre recruited from among the locals who are generally rooted to their place of origin. The routine posts should be filled as far as possible from among the tribal people at the level of Panchayats and at district level by local recruitment.

Recommendation No. 65 [Page No. 103]

Both Planning Commission and Ministry of Tribal Affairs should take immediate steps to ensure strict formulation and implementation of Tribal Sub-Plan by States/ UTS as well as Central Ministries/ Departments. [Para 2.98]

Explanatory Note(s)

The Planning Commission has informed that it has already taken steps to ensure strict formulation and implementation of Tribal Sub Plan by States as well as Central Ministries/ Departments. It now proposes a shift from Post-facto Accounting to Pro-Active Planning as mentioned in the 12th Plan documents.

2. The Ministry of Tribal Affairs is in correspondence regularly with the States/UTs and Central Ministries/Departments to ensure strict formulation and implementation of TSP. In addition, meetings are organized at national level with the Principal Secretaries / Secretaries / Commissioners of the States and officers of Central Ministries regularly to evaluate the progress in implementation of TSP and also for sensitization of the State functionaries and Central Ministries/ Deptts. about the objectives, strategies and problems for proper implementation of TSP. During 2012-13, four regional workshops on TSP have already been organized successfully.

Recommendation No. 66 [Page No. 103]

The strategy for all development programmes, particularly the major missions/ schemes of the Ministries/ Departments, should comprise sub-Chapters for accelerated development of the tribal areas. In particular, it is necessary to have specific Tribal Sub Plan (TSP) component in all the major missions/ schemes/ programmes of all Ministries/ Deptts to have a clear focus on formulation of schemes/ programmes concerning the STs and their effective implementation and monitoring. The TSP component should not be per population share but according to "problem-share"; and "need-based" taking into account the extent of deprivation, or even more than that to make up the backwardness/ negligence experienced over the years. Unless the earmarking of TSP outlays exceeds the relative share of incidence of residual problems eg. drinking water, primary health care and

education, nutritional support, unemployment etc., the relative gap in physical quality of life is likely to persist. [Para 2.99]

Explanatory Note(s)

The Ministry of Drinking Water and Sanitation has informed that a separate sub-chapter on strategy for STs for provision of drinking water and sanitation has been included in the Working Group Report on Rural Domestic Water and Sanitation for the 12th Five Year Plan.

From 2011-12, the National Rural Drinking Water Programme (NRDWP) has a Tribal sub Plan component under which 10% of National Allocation is provided. States are urged to specially focus on enhancing the coverage status of Tribal concentrated habitations in their Annual Action Plans.

2. The Planning Commission has informed that it agrees to the formulation of Tribal Sub Plan (TSP) by Central Ministries/Departments as recommended by the Commission.

The Planning Commission is of the view that allocation for Tribal Sub Plan (TSP) needs to be continued on population share basis. However, TSP schemes/ programmes need to be formulated to address the problem and needs of the ST community.

3. It is in record of the Ministry of Tribal Affairs that in 2010, Planning Commission Constituted a Task Force under the Chairmanship of Dr. Narendra Jadhav, Member, Planning Commission to :-

- a) review the operational guidelines in implementing SCSP and TSP.
- b) suggest remedial measures for an effective and meaningful implementation of SCSP and TSP in future.

The Task Force after having extensive consultations with identified Central Ministry/ Departments had recommended a classification of Ministries/Departments according to their obligation towards earmarking of the respective plan outlays under SCSP and TSP. The report of the Task Force laid emphasis on :-

- i) classification of Central Ministries/Departments according to their obligation to earmark their Plan Outlay / Expenditure and SCSP / TSP
- ii) central Ministries / Department-wise Plan Outlay under SCSP / TSP
- iii) categorizing Plan Expenditure under SCSP/TSP
- iv) placing of earmarked funds for SCSP/TSP under separate budget heads of '789' and '796'
- v) strengthening of administrative arrangements for planning and implementation of SCSP/TSP and,
- vi) implementation of non-lapsability feature.

The same recommendations were accepted by Planning Commission and the details are given in Annexure-I. Accordingly, all Central Ministries / Departments are required to implement the recommendation of the task force beginning from the Annual Plan 2011-12. The status for 2012-13 is given in Annexure-II. Member Secretary, Planning Commission also urged in the letter dated 15.12.2010 those Ministries / Departments who do not have any binding commitments to provide allocation under SCSP and TSP to also make efforts at providing some allocation on a voluntary basis.

The Planning Commission has recently constituted an Inter-Ministerial Committee to effectively implement SCSP / TSP as the essential instrument for accomplishing inclusive growth in tandem with the principal goals towards empowerment of SC/ST communities as envisaged in the draft 12th Five Year Plan Document. One of the terms of reference of the said Committee is to explore the possibility of converting the 'post-facto accounting approach' into a robust 'pro-active planning approach' to the SCSP and TSP with a view to ensure inclusive growth. This is to focus on new and innovative schemes having the potential to bridge the gaps in development between SCs/STs and others rather than focusing only on earmarking funds on pro-rata accounting basis in the existing scheme.

In the regional workshops organized by this Ministry at Ranchi, Raipur and Gandhi Nagar, in January – February 2013 on effective formulation, implementation and monitoring of Tribal Sub Plan, the change in approach towards getting the desired results by implementing Tribal Sub

Plan has been extensively discussed and views were exchanged with the participating States and this Ministry for effective intervention both from Central and State Governments.

One of the recommendations was on the felt needs of different States which are different and may also vary within the various districts of a particular State. Therefore, it was felt that monitoring and planning are to be focused with the primary responsibility of completing the jobs.

The Government of Andhra Pradesh has already enacted a legislation titled, “Andhra Pradesh Scheduled Castes Sub Plan and Tribal Sub Plan (Planning Allocation and Utilisation of Financial Resources) Act, 2013” which gives statutory backing to the important subject.

All the above are being shared and discussed with the State Govts. for effective application in meaningful implementation of TSP as far as possible.

Recommendation No. 67 [Page No.103]

Constitutional provisions have to be interpreted in proper context. Since no regulatory matter is involved, it is quite niggardly for the Union Government to confine its development support for Scheduled / tribal Areas to the issue of directions. Appropriately, it must shoulder direct financial responsibility for the accelerated development of scheduled areas/their population through all the Ministries and Departments. [Para 2.100]

Explanatory Note

The Ministry of Tribal Affairs is coordinating with the Ministries and Departments and persuading them to provide maximum financial support under Tribal sub plan from their respective budgets.

Recommendation No. 68 [Page No. 103]

The Government of India should bear the responsibility for infrastructure development/ upgradation of Administration in Scheduled Areas under Art. 275 of the Constitution. The costs of governance framework/ manpower in tribal areas should also be funded under Article 275(i) grants. Besides, financial support for Tribal Sub Plan should not be per population share but according to "problem-share" and "need-based".[Para 2.101]

Explanatory Note(s)

The Planning Commission has informed that it supports the view regarding infrastructure development / upgradation of such area and also for governance of manpower in Tribal Area. However, there may be need to consult the stakeholders in this regard. Financial support to TSP needs to be continued on population share basis.

2. The objective of the special area programme of Grants under Art 275(1) of the Constitution of India being implemented by the Ministry of Tribal Affairs is the promotion of the welfare of ST population and upgradation of the levels of administration of Scheduled Areas to that of the administration of the rest of the areas of that State, as enshrined in the Constitution of India. Accordingly, focus is given on generation of community welfare assets like schools, skill teaching, nutritional support, drinking water, innovative schemes in terms of final output / outcome or method of delivery etc. The States are required to identify the areas / sectors critical to enhancement of the Human Development Index (HDI) and projects can be taken for bridging gaps in critical infrastructure with peoples' participation in planning and implementation of schemes / project. Integrated and holistic approach for preparing micro plans for Integrated Tribal Development Project (ITDP) / Modified Area Development Approach (MADA) / Clusters through multi disciplinary teams is also envisaged. The proposals received under the programme are generally on the basis of critical needs and for mitigation of problems.

Recommendation No. 69 [Page No. 103]

The funds allocated under Tribal Sub-Plan of the States should be non-divertible and non-lapsable with the objective of bridging the gap in socio-economic development of the Scheduled Tribes/ Scheduled Areas and other areas in a time bound manner. The Ministry of Finance, Ministry of Tribal Affairs and the Planning Commission may take necessary steps for creation of a non-lapsable Tribal Sub-Plan fund under each State/ UT having Tribal Sub-Plan and formulate guidelines for utilisation of such funds. Infrastructure development aimed at accelerated development of the Tribal Sub-Plan areas should be a priority area for expenditure from the non-lapsable fund. [Para 2.102]

Explanatory Note(s)

The Planning Commission has informed that the recommendation of the Commission needs to be examined in consultation with Ministries/ Departments concerned implementing the TSP, Nodal Ministry namely the Ministry of Tribal Affairs and the Planning Commission.

2. The Department of Economic Affairs has stated that creation of non-lapsable pool of this nature exposes Government to liabilities arising out due to inability of Departments to spend the budgetary allocations provided for a financial year and may prove to be fiscally unsustainable in the long run. Therefore, the idea of creation of non-lapsable TSP fund is not supported. Budgetary allocations for the activities of a financial year must be sought from the Parliament and unutilized amount should lapse at the closure of financial year.

3. As per the existing guidelines of Planning Commission, the funds allocated under TSP should be made non-divertible and non-lapsable. A number of States have already taken necessary action in this regard in opening separate budget heads. The Ministry of Tribal Affairs is of the view that the Planning Commission has to take action for the formulation of further guidelines for utilization of TSP funds for infrastructure development aimed for accelerated growth of the Tribal population.

Recommendation No. 70[Page No.103-104]

The Planning Commission, in its communication to the State Governments, regarding preparation of Annual Plan and Five Year Plan should invariably emphasize that the Plan proposals of the State Government for Annual Plan as well as Five Year Plan will not be considered unless Tribal Sub-Plan document is also received. The communication should also clearly specify that the State Governments will simultaneously send the copies of State Plan documents and Tribal Sub-Plan documents to the National Commission for Scheduled Tribes. [Ref Para 2.103]

Explanatory Note

The Planning Commission has informed that it agrees with the recommendation of the Commission.

Recommendation No. 71 [Page No. 104]

As has been the practice in the past, the draft Tribal Sub-Plan of the State should also be discussed by the Planning Commission in the first phase by the Ministry of Tribal Affairs and the revised Tribal Sub-Plan document may be discussed for final approval in the Planning Commission, after finalization of the Five Year Plan/ Annual Plan size of the State. The Tribal Sub-Plan outlays approved in the meeting in the Planning Commission should be adhered by the State Government. [Ref Para 2.104]

Explanatory Note(s)

The Planning Commission has informed that it supports the view of the Commission.

2. The recommendation of the Commission has been noted in the Ministry of Tribal Affairs.

Recommendation No. 72 [Page No. 104]

In order to ensure non-diversion of Tribal Sub-Plan funds, the Planning Commission and the Ministry of Tribal Affairs should ensure that each State Government budgets the earmarked TSP funds under a single budget demand head under the control of the State Tribal Welfare/ Development Department of the State, (as envisaged in the Maharashtra Model and advocated by Planning Commission as well as Ministry of Tribal Affairs from time to time). [Ref Para 2.105]

Explanatory Note(s)

The Planning Commission has informed that it has already issued guidelines for SCS/TSP to States/UTs in 2005 which inter-alia emphasized that funds under TSP should be earmarked as per the percentage of ST population in the States/UTs ; ii) States should open separate budget heads for STs; Secretary ST Deptt. should be empowered as Planning and Finance Secretary for TSP funds; TSP funds should be non-divertable. The Planning Commission has stressed that TSP guidelines are adhered to by State Govts.,

at the time of Working Group Meeting to finalize Annual Plan proposals of State Government

2. As per the existing guidelines of Planning Commission the funds allocated under TSP should be made non-divertible and non-lapsable. A number of States have already taken necessary action in this regard in opening separate budget heads. The Ministry of Tribal Affairs is of the view that the Planning Commission has to take action for the formulation of further guidelines for utilization of TSP funds for infrastructure development aimed for accelerated growth of the Tribal population. The State Governments are already putting TSP allocations under minor budget head '796'.

Recommendation No. 73 [Page No.104]

The Commission has noted that some of the Ministries/ Departments which have been listed by the task force in 'No Obligation' category for the Tribal Sub-Plan are responsible for infrastructure development and public services in critical areas. The Commission, therefore, recommend that appropriate outlays for TSP should also be earmarked in respect of all these Ministries/ Departments, to ensure that TSP areas/ Scheduled Areas don't continue to be hamstrung by poor infrastructure/services. [Ref Para 2.106]

Explanatory Note(s)

The Planning Commission has emphasized that Ministries/ Departments falling under 'No Obligation' should make efforts to formulate and implement the schemes aimed at benefitting the STs.

2. The Department of Economic Affairs has stated that creation of non-lapsable pool of this nature exposes Government to liabilities arising out due to inability of Departments to spend the budgetary allocations provided for a financial year and may prove to be fiscally unsustainable in the long run. Therefore, the idea of creation of non-lapsable TSP fund is not supported. Budgetary allocations for the activities of a financial year must be sought from the Parliament and unutilized amount should lapse at the closure of financial year.

3. The Member Secretary, Planning Commission also urged in the letter dated 15.12.2010 that those Ministries / Departments who do not have any binding commitments to provide allocation under SCSP and TSP to also make efforts at providing some allocation on a voluntary basis.

Recommendation No. 74[Page No.104]

In the recent past various Ministries concerned with development and services have formulated National Missions on crucial services like National Rural Health Mission, National Drinking Water Mission, MGNREGA. These missions have direct impact on the life of Scheduled Tribes but do not make specific provisions for Scheduled Tribe beneficiaries. The Commission recommends that the Ministries/ Departments administering the National Missions must ensure that adequate investments/ benefits are earmarked for Scheduled Tribes under Tribal Sub-Plan of the Ministry/ Department during each plan period so as to provide for their accelerated development and in general each Ministry/ Department should consult the National Commission for Scheduled Tribes in all policy matters affecting Scheduled Tribes, as provided under Article 338A(9) of the Constitution. [Ref Para 2.107]

Explanatory Note(s)

The Department of Health and Family Welfare has informed that allocations are made for implementation of health programmes across all segments of the society. However, Programme Officers have been directed to ensure allocation of funds to an extent of 8.2% towards Tribal Sub-Plan(TSP). Under National Rural Health Mission (NRHM), the State Governments have been advised to earmark certain percentage of allocation to districts with SC/ST population above 35% and propose the same in the Programme Implementation Plan (PIP). The details of allocation made for last three years under TSP by the Department of Health and Family Welfare are as under :

Year	Total Plan outlay for the Department (Rs. in crore)	Plan outlay under TSP (Rs. in crore)	% of total plan outlay of the Department
2011-12	23560.00	1932.00	8.2%
2012-13	27127.00	2224.41	8.2%
2013-14	29165.00	2391.53	8.2%

2. Ministry of Drinking Water and Sanitation has informed that 10% of Annual Allocation under NRDWP provided to States from 2011-12 onwards is under the Tribal Sub Plan (TSP). For 2012-13, Rs. 1050 cr. is provided for the same for rural water supply.

Under Nirmal Bharat Abhiyan (NBA) from 2011-12, 10% of total funds are allocated towards Tribal Sub-Plan (TSP) each year. The progress achieved under NBA for STs is also being monitored.

3. The reply is the same from the Ministry of Rural Development as given against Sl. No. 10 (vide Para 2.15) under heading Explanatory Note.

4. The Ministry of Tribal Affairs is of the view that as per Cabinet Secretariat's instructions, it is mandatory for all Ministries/ Depts. of Government of India to consult the National Commission for the Scheduled Tribes (NCST) / the Ministry of Tribal Affairs (MTA) before embarking on any project/ mission having policy affecting the Tribal population. The project mission is not to be approved by the competent authority without a "No Objection Certificate" from NCST/MTA.

Recommendation No. 75 [Page No.104]

It is suggested that unutilized TSP funds should be placed by Central Ministries in a non-lapsable infrastructure development fund administered by the MTA. For this purpose, appropriate guidelines should be formulated, on the lines of the guidelines issued by the Ministry of Development of North Eastern Region for administration of non-lapsable central pool of resources, to ensure utilization consistent with objectives. [Para 2.108]

Explanatory Note(s)

The Planning Commission has informed that this recommendation needs to be discussed with the Ministry of Finance, Ministries/Departments concerned, the Nodal Ministry and the Planning Commission.

2. The Ministry of Tribal Affairs through its coordinating committee is making all out efforts in pursuing central Ministries to optimally utilize the earmarked budget of TSP in a manner so that no fund remains unutilized. However, in case if funds remain unutilized, the Ministries will be asked to

utilize the same in the next financial year. To this effect appropriate guidelines may be framed by the Planning Commission.

Recommendation No. 76 [Page No.105]

The Planning Commission should not consider the Five Year Plan/ Annual Plan proposal of any Ministry/ Department which is not accompanied by the Tribal Sub-Plan, which should be finalized after discussion with the representatives of the Ministry of Tribal Affairs. [Para 2.109]

Explanatory Note:

The Planning Commission has supported the recommendation of the Commission.

Recommendation No. 77[Page No. 105]

Each Ministry should set up TSP Cell as in the past. The TSP Cell should be functional throughout the year like the Official Language Section in each Ministry/ Department. The TSP Cell will monitor implementation of TSP schemes of the Ministry and, by using the inputs received through monitoring, prepare the TSP component, of Annual Plan and Five Year Plan of the Ministry/ Department in terms of financial and physical aspects. The TSP Cells should be manned by personnel having special background and expertise in various fields of Tribal development and Administration. In order to ensure continuous monitoring of TSP, the posts in TSP Cell should not be allowed to remain unfilled. This will be possible only if the personnel for these Cells belong to an organised cadre of specialised experts. Personnel for Tribal Sub-Plan Cells in the Ministries/ Departments should be drawn from the separate specialised Organised Cadre proposed for the National Commission for Scheduled Tribes and its Regional Offices (presently part of Joint Cadre of National Commission for Scheduled Tribes, National Commission for Scheduled Castes, Ministry of Social Justice and Empowerment and the Ministry of Tribal Affairs). This Cadre should be developed and function on the lines of the specialised cadre of Official Language Department of Ministry of Home Affairs and personnel for TSP Cell in each Ministry/ Department should be made available from the above mentioned organised specialised Cadre. [Para 2.110]

Explanatory Note(s):

The Department of Personnel and Training has informed that it supports the recommendation of the Commission.

2. The Planning Commission supports the strengthening of TSP Cell in each Ministry/ Development to ensure proper implementation and monitoring of TSP.

3. The Ministry of Social Justice and Empowerment has informed that it is mandated to deal with the development of specific target groups viz. Scheduled Castes, Other Backward Classes, Old age persons, Victims of alcohol and drug Abuse and persons with disabilities. The matters relating to the development of Scheduled Tribes do not come within the mandate of the Ministry. Therefore, setting of a TSP Cell is not called for in the Ministry.

4. The recommendation of the Commission is agreeable to the Ministry of Tribal Affairs. To showcase, the nodal ministry needs to have a dedicated TSP cell to look into various aspects of implementation of TSP and its monitoring both at State and Central levels. The dedicated TSP cell should be headed exclusively by an officer of Joint Secretary rank and supported by appropriate strength of staff.

CHAPTER-3: NEED FOR MEANINGFUL CONSULTATIONS WITH COMMISSION

Recommendation No. 1 [Page No. 105]

The Commission therefore recommends that the revised instructions issued by the Cabinet Sect. vide OM dated 16/02/2012 should be amended, on the lines of directions contained in Instruction No. 46 and 47 of the Handbook of Instructions, with advise to the sponsoring Ministries, to provide for directly seeking the advice` of the NCST on policy related matters/ legislative proposals under Article 338A(9) of the Constitution and not through the Administrative Ministry as that Ministry has a role different from that of the NCST and the Ministry cannot play an oversight role in obliging/ restricting the Commission to make a particular recommendation or in a particular manner. [Para 3.49]

Explanatory Note:

The Cabinet Secretariat has intimated the Ministry of Tribal Affairs as under :-

The recommendation of the Commission has been examined in the context of the following :

- i). the observations of the Commission in paragraph 3.4 of Chapter 3 of its report where it has been observed that Bills were referred to the Commission at the preliminary drafting stage and that it was not appropriate
- ii). for the Commission to comment on draft legislation(s) received from any intermediate level organization of the Government;
- iii). the contents of paragraph 3.25 of its present report, where the Commission is reported to have emphasized upon Secretary, Department of Land Resources that the matter (for advice under the provisions of Article 338A(9) may be referred to the Commission after completion of internal process of drafting the Bill and before submission of cases of the Cabinet;

- iv). the fact that consultations with NMCC and the BRPSE are held a stage much earlier than finalization of the note(s) for the Cabinet/ Cabinet Committees as explained in the subsequent paragraph;
- v). The responsibility of the Ministry of Tribal Affairs under the Government of India (Transaction of Business) Rules, 1961 and the Government of India (Allocation of Business) Rules, 1961 in matters concerning Scheduled Tribes; and
- vi). The fact that as per Article 338A(9) of the Constitution of India, the Union and every State Government shall consult the NCST on all major Policy matters affecting the Scheduled Tribes.

2. In the above context, it is seen that the existing instructions relating to consultation with the NMCC and BRPSE under reference do not relate to consultations undertaken on draft Cabinet notes. The consultation with these bodies is invariably carried out at a much earlier stage i.e. when the respective proposals are being formulated. These instructions only to ensure that Ministries/ Departments do not lose sight of this aspect when Cabinet/ Cabinet Committees' approval is being sought. Such consultations enable the Ministries/ Departments concerned to take inputs of the NMCC and the BRPSE into account while formulating proposals for inter-ministerial consultation prior to approval by the competent authority. In the circumstances, matters referred to the NMCC, or the BRPSE, may not, in certain cases, even get placed before the Cabinet/ Cabinet Committees. The inter-ministerial consultations, as distinct from consultations with bodies such as the NMCC or the BRPSE referred to in these documents, are therefore, carried out only after the advice/ recommendation of the BRPSE and NMCC, if sought, has been obtained and incorporated in the draft notes for the Cabinet. As observed by the Commission elsewhere in its Report under reference, and briefly referred to above, the Commission also does not wish to be consulted till well after completion of the internal processes and as per its advice, the stage when it should be consulted, would be only before submission of the note for consideration of the Cabinet. In this background, it is considered that consultations with the NCST and NMCC or BRPSE are not on the same footing.

3. The Business of the Government of India is transacted in the Ministerial/ Department. The manner of disposal of business allocated to the Ministries/

Departments is laid down in the Government of India (Transaction of Business) Rules, 1961. In terms of these Rules, all cases other than those reserved to be decided at the level of the Cabinet/Cabinet Committee, Prime Minister or the President etc. are disposed of by the Minister-in-Charge or by other officers of the Ministry/ Department in accordance with general or special directions of the Minister-in-charge. Accordingly, a major portion of the business of a Department is disposed off within the Department.

4. The Ministry of Tribal Affairs has, inter alia been allocated the work of overall policy, planning and coordination of programmes of development for the Scheduled Tribes. Therefore, in matter relating to Scheduled Tribes, that Ministry has to be necessarily consulted by all Ministries/ Departments and no decision can be taken on such matters by any Ministry without consulting the Ministry of Tribal Affairs except with the authority of the Cabinet. In this context, the recommendations of the National Commission for the Scheduled Tribes, and its views on the Cabinet note which are important from the point of view of policy matters affecting the Scheduled Tribes, should also be known and available to the Ministry of Tribal Affairs.

5. The Cabinet Secretariat has, vide its O.M. No.1/3/2/2012-Cab. Dated 16.02.2012, asked all sponsoring Ministries/Departments 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 Commission. The O.M. further clearly stipulates that the unabridged/ unedited views of the concerned Commission (in this case, NCST), along with the views of the Ministry/ Department administratively concerned with the Commission, be included/ enclosed with the notes for the Cabinet/ Cabinet Committees. As a result, the views of the Commission would be duly placed before the Cabinet/ Cabinet Committees in all such cases.

6. In the above background, while appropriate instructions/ advisories have been issued from time to time to all Ministries/ Departments highlighting the constitutional imperative to consult the Commission, it does not appear necessary to alter the existing instructions on writing Cabinet Notes. It is expected that the Ministries/ Departments would continue to make sincere efforts to consult the NCST and appropriately factor in the Commission's advice/ recommendations in all relevant policy proposals affecting the Scheduled Tribes.

**Reference Para No. 1.42 [item no. 4 (vi) of Chapter – 1
and Para 2.99 of Chapter-2**

Annexure-I

Statement showing the Ministry/Department-wise stipulated earmarking of funds under TSP as mandated by Planning Commission on acceptance of the recommendations of the Task Force (Under the Chairmanship of Dr. Narendra Jadhav) in 2010

S. No.	Ministry/Department	Earmarking of funds under TSP recommended for the Ministry (in percentage)
1	2	3
Category I	Ministries/Departments with no obligation for Earmarking Funds under TSP	0.00
Category II	Ministries/Departments Required to do Parital Earmarking (less than 7.5% of their Plan Outlays)	
1.	Department of Telecommunication	0.25
2.	Ministry of Textiles	1.20
3.	Ministry of Water resources	1.30
4.	Department of Food and Public Distribution	1.40
5.	Ministry of Culture	2.00
6.	Department of Ayurveda, Yoga and Naturopathy, Unani, Siddha and Homeopathy (AYUSH)	2.00
7.	Ministry of Housing and Urban Poverty Alleviation (HUPA)	2.40
8.	Ministry of Tourism	2.50
9.	Department of Science and Technology	2.50
10.	Ministry of Road Transport and Highways	3.50
11.	Department of Agriculture Research and Education	3.60
12.	Ministry of Mines	4.00
13.	Department of Information Technology	6.70
Category III	Ministries/Departments which will be required to Earmark between 7.5 to 8.2% of their Plan Outlays	
14.	Department of Higher Education	7.50

15.	Department of Agriculture and Cooperation	8.00
16.	Ministry of Ministry of Micro, small and Medium Enterprises (MSME)	8.20
17.	Ministry of Coal	8.20
18.	Department of Youth Affairs	8.20
19.	Ministry of Labor and Employment	8.20
20.	Ministry of Panchayati Raj	8.20
21.	Department of Sports	8.20
22.	Ministry of Women and Child Development	8.20
23.	Department of Health and family Welfare	8.20
Category IV	Ministries/Departments which will be required to Earmark more than 8.2% of their Plan Outlays under TSP	
24.	Department of Land Resources	10.00
25.	Department of Drinking Water and Sanitation	10.00
26.	Department of School Education and Literacy	10.70
27.	Department of Rural Development	17.50
28.	Ministry of Tribal Affairs	100.00
	Applying these percentages to respective Ministries/Departments' BE 2010-11, the average BE in percentage terms expected to be earmarked under TSP	8.2#
# Exclusive of SCA to TSP and Grants under Proviso to Article 275 (1) of the Constitution, as the outlays under these Heads are shown in Statement 16 of Expenditure Budget (Volume I), which provides Central Assistance to State Plans. Including SCA to TSP (Rs. 960 crore), this figures increases to 8.6%.		

Ministry -Wise Outlay (Total GBS) and Tribal Sub-Plan Outlay for Annual Plan 2012-13 as per Gross Budget Estimate Statement

(Rs. in core)

S.N.	Ministry/Department	Total GBS (Rs. in crore)	Outlay		Earmarking of % Funds under TSP #
			TSP (Rs. in crore)	% to GBS TSP	
1	2	3	4	5	6
	Ministry of Agriculture				
1	Department of Agricultural and Co-Operation	10991.00	882.59	8.03	8.00
2	Department of Agricultural Research and Education	3220.00	116.00	3.60	3.60
3	Ministry of Coal	450.00	31.00	6.89	8.20
	Ministry of Communications and Information Technology				
4	Department of Telecommunications	4800.00	12.00	0.25	0.25
5	Department of Information Technology	3000.00	201.00	6.70	6.70
	Ministry of Consumer Affairs, Food and public Distribution				
6	Department of Food and Public Distribution	126.00	4.06	3.22	1.40
7	Ministry of Culture	864.00	17.28	2.00	2.00
8	Ministry of Environment and Forests*	2430.00	16.00	0.66	--
	Ministry of Health and Family Welfare				
9	Department of Health and Family Welfare	27127.00	2224.41	8.20	8.20
10	Department of Ayurveda, Yoga and Naturopathy, Unani, Siddha and Homoeopathy (AYUSH)	990.00	19.8	2.00	2.00
11	Department of AIDS Control **	1700.00	139.40	8.20	8.20
12	Ministry of Housing and Urban Poverty Alleviation	1155.00	27.72	2.40	2.40
	Ministry of Human Resource Development				
13	Department of School Education and Literacy	45969.00	4918.68	10.70	10.70
14	Department of Higher Education	15458.00	1159.35	7.50	7.50
15	Ministry of Labour and Employment	2470.00	202.54	8.20	8.20
16	Ministry of Micro, Small and Medium Enterprises	2835.00	139.48	4.92	8.20
17	Ministry of Mines	243.00	8.72	3.59	4.00
18	Ministry of Road Transport and Highways	23000.00	500.00	2.17	3.50
19	Ministry of Panchayati Raj	300.00	17.44	5.81	8.20
	Ministry of Rural Development				
20	Department of Rural Development	73175.00	3460.37	4.73	17.50
21	Department of Land Resources	3201.00	320.05	10.00	10.00
22	Ministry of Drinking Water and Sanitation	14000.00	1400.00	10.00	10.00
	Ministry of Science and Technology				

23	Department of Science and Technology	2477.00	61.93	2.50	2.50
24	Ministry of Textiles	7000.00	84.00	1.20	1.20
25	Ministry of Tourism	1210.00	30.25	2.50	2.50
26	Ministry of Tribal Affairs ***	1573.00	1573.00	100.00	100.00
27	Ministry of Water Resources	1500.00	19.50	1.30	1.30
28	Ministry of women and Child Development	18500.00	1517.00	8.20	8.20
29	Ministry of Youth Affairs and Sports	1041.00	85.60	8.22	8.20
	GRAND TOTAL ##	270805.00	21706.17	8.02	--
	All Ministry/Department - Total ##	391027.00	21706.17	5.55	

* Not mandated to compulsorily earmark TSP funds

** The percentage earmarked for Ministry of Health and Family Welfare.

*** The figure shown under total GBS does not include the allocations under Special Area Programmes viz. SCA to TSP and Grants under Art. 275(1) of the Constitution of India amounting to Rs. 2517.00 crore and the entire amount is TSP outlay.

As per recommendation of the Task Force as accepted by Planning Commission and mandated for Ministry/Departments

The TSP figures are inclusive of Rs. 2517.00 crore under Special Area Programme as shown above and exclude provisions under Demands No. 96 and 99 for two UTs as shown in Statement 21A, Expenditure Budget Vol. I, 2012-13

Source: Expenditure Budget volume I, 2012-13

Reference Para NO. 1.42 [item no. 4(vi)of Chapter - I

Annexure- III

Ministry /Department - wise allocation of Union Budget 2013-14 (Rs. In Cr.)								
Dem a n d No.	Deptt/Min	Total Plan Allocation according to Vol-2	SCSP			TSP		
			2012- 2013 Revised	2013- 2014 Budget	% of Allocation	2012- 2013 Revised	2013- 2014 Budget	% of Allocation
1	Deptt. of Agriculture and Cooperation	21609	1534	1888	9	757	933	4
2	Deptt. of Agricultural Research and Education	3415	0	0	0	86	123	4
3	Deptt. of Animal Husbandry, Dairying and Fisheries	2025	292	328	16	0	0	0
4	Ministry of Coal	450	0	0	0	31	32	7
5	Deptt. of Commerce	2226	94	100	4	0	0	0
6	Deptt. of Industrial Policy and Promotion	1501	6	42	3	0	0	0
7	Deptt. of Telecommunication	5800	0	0	0	6	15	0
8	Deptt. of Electronics and IT	3000	52	60	2	138	201	7
9	Deptt. of Food and Public Distribution	259	0	0	0	3	6	2
10	Ministry of Culture	1435	0	0	0	17	29	2
11	Ministry of Drinking Water and Sanitation	15260	2860	3358	22	1300	1526	10
12	Ministry of Enviroment and Forests	2430	43	53	2	15	16	1
13	Deptt. of Health and Family Welfare	29165	3713	4433	15	1804	2392	8
14	Department of Ayurveda, Yoga and Naturopathy, Unani, Siddha and Homeopathy (AYUSH)	1069	34	53	5	13	21	2
15	Department of AIDS Control	1785	267	271	15	144	146	8
16	Ministry of Housing and Urban Poverty Alleviation (HUPA)	1460	163	329	23	17	35	2
17	Deptt.of School Education and Literacy	49659	8546	9932	20	4572	5314	11
18	Deptt. of Higher Education	16198	2077	2432	15	1022	1220	8
19	Ministry of Labour and Employment	2446	353	409	17	169	207	8
20	Ministry of Micro, Small and Medium Enterprises (MSME)	2977	310	357	12	211	244	8
21	Ministry of Mines	454	0	0	0	9	10	2
22	Ministry of New and Renewable Energy	1519	40	53	4	0	0	0
23	Ministry of Panchayati Raj	7000	24	75	1	12	38	1
24	Ministry of Power	9642	391	800	8	0	0	0
25	Ministry of Road Transport and Highways	25860	0	0	0	500	800	3

26	Department of R and D	74429	3820	6358	9	2779	4452	6
27	Department of Land Resources	5765	492	934	16	302	576	10
28	Deptt. of Science and Technology	2777	26	69	3	22	69	3
29	Ministry of Social Justice and Empowerment	6625	3889	4756	72	0	46	1
30	Ministry of Textiles	4631	225	232	5	55	56	1
31	Ministry of Tourism	1282	0	0	0	24	32	3
32	Ministry of Tribal Affairs	4279	0	0	0	3100	4279	100
33	Andaman and Nicobar Islands	1862	0	0	0	3	3	0
34	Daman and Diu	630	0	0	0	1	1	0
35	Ministry of Water Resources	1500	0	0	0	18	20	1
36	Ministry of Women and Child Development	20350	3700	4070	20	1517	1669	8
37	Ministry of Youth Affairs and Sports	1093	137	168	15	73	90	8
	Total	3,33,868	33,085	41,561	12	18,721	24,598	7

Source: Statement 21 and Statement 21A of union budget 2013-2014
