



सत्यमेव जयते

राष्ट्रीय अनुसूचित जनजाति आयोग National Commission for Scheduled Tribes

(भारत के संविधान के अनुच्छेद 338क के अंतर्गत एक संवैधानिक निकाय)
(A constitutional body under Article 338A of the Constitution of India)

SITTING NOTICE

File No.- NCST/SER-2173/MHRD/10/2025-RU-IV

Date : 21.08.2025

To,

Prof. Akhilesh Mishra
Chairperson,
National Institute of open Schooling,
A-24/25, Institutional Area, Sector-62,
NOIDA, District-Gautam Budh Nagar,
Uttar Pradesh 201309
E.mail: cp@nios.ac.in

Sub: Appeal against memorandum dated 26.03.2024 of National Institute of Open Schooling (NIOS), denying promotion to the post of Section Officer from 01.01.2011 and consequently to the post of Assistant Director(A.D.) against vacancy earmarked for ST quota reg.-letter dated 11.10.2024 of Shri Mukesh Kumar, Section Officer, National Institute of Open Schooling (NIOS), Ministry of Education, Government of India, Sector-62, NOIDA (U.P.)

Ref: National Institute of Open Schooling letter No. 41-1/7-9/1991/NIOS/Pers.1767 dated 25.06.2025.

Sir,

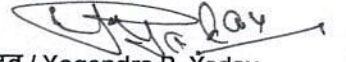
Whereas the National Commission for Scheduled Tribes, as per the Constitutional mandate conferred upon it under Article 338A of the Constitution of India has decided to investigate into the aforementioned matter. A rejoinder dated 04.08.2025 received from Shri Mukesh Kumar is enclosed for information and necessary action.

2. Dr. Asha Lakra, Hon'ble Member, National Commission for Scheduled Tribes has fixed a Sitting in the Commission on **28.08.2025 at 11.20 A.M** in the Court Room of NCST, 6th Floor, 'B' Wing, Lok Nayak Bhawan, Khan Market, New Delhi for investigation/inquiry/action to be taken in the matter.

3. Accordingly, you are requested to appear in person for examination before the Hon'ble Member on the above scheduled date and time along with full facts and all relevant original records/documents pertaining to the case.

4. Please take notice that in case you fail to attend the Sitting, the Commission is at liberty to exercise the powers of Civil Court under Clause (8) of Article 338A of the Constitution of India for enforcing your attendance before the Commission.

Yours faithfully


योगेंद्र प्र. यादव / Yogendra P. Yadav
उप सचिव / Deputy Secretary
E.mail ID: rahul.1424@ncst.nic.in

Copy for information regarding attending the sitting to:-

Shri Mukesh Kumar,
Section Officer,
National Institute Of Open Schooling,
Min. Of Education, Govt. Of India,
A 24/25, Institutional Area, Sector 62, Noida-201309 (U.P.).
Mobile No:9990030443

PS to Hon'ble Member (Dr. Asha Lakra)
✓ NIC for uploading

**BEFORE HON'BLE NATIONAL COMMISSION FOR SCHEDULED TRIBES
LOKNAYAK BHAWAN, KHAN MARKET, NEW DELHI
Petition No. NCST/SER-2173/MHRD/10/2025-RU-IV**

In the matter of:

Shri Mukesh Kumar
Section Officer, National Institute of Open Schooling
Ministry of Education, Government of India
A-24/25, Institutional Area, Sector-62, Noida-201309Applicant
Versus

1. Institute of Open Schooling
(Through Secretary)
A-24-25, Sector-62, Noida, UP - 201309
(Ref: Notice dated 28/04/2025)Respondent No.1
2. Department of School Education & Literacy
(Through Secretary),
Ministry of Human Resource Development
Shastri Bhawan, New Delhi - 110001
(Ref: Letter dated 03.12.2020)Respondent No.2
3. Department of Personnel & Training
(Through Secretary)
Ministry of Personnel, Public Grievances and Pensions
North Block, New Delhi - 110001Respondent No.3
4. The Chairman, Institute of Open Schooling
A-24-25, Sector-62, Noida, UP - 201309Respondent No.4

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Date: ___/___/2025

(M) Ku

(Mukesh Kumar)
Section Officer
National Institute of Open Schooling
Applicant

Though

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REJOINDER/URGENT/TIME BOUND
BEFORE HON'BLE NATIONAL COMMISSION FOR SCHEDULED TRIBES
LOKNAYAK BHAWAN, KHAN MARKET, NEW DELHI
Petition No. NCST/SER-2173/MHRD/10/2025-RU-IV

In the matter of:

Through Proper Channel/Advance Copy

Shri Mukesh Kumar

Section Officer, National Institute of Open Schooling

Ministry of Education, Government of India

A-24/25, Institutional Area, Sector-62, Noida-201309

.....Applicant

Versus

1. Institute of Open Schooling
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3. Department of Personnel & Training
(Through Secretary)
Ministry of Personnel, Public Grievances and Pensions
North Block, New Delhi - 110001Respondent No.3
4. The Chairman, Institute of Open Schooling
A-24-25, Sector-62, Noida, UP - 201309Respondent No.4

Subject: Rejoinder to NIOS Written Statement dated 25.06.2025 in connection with Applicant's Representation for removal of anomalies in implementation of the Provisions for RESERVATION as enshrined in Constitution of India for ensuring due promotion of the Applicant to the post of Section Officer retrospectively w.e.f. either 1.8.2010 or 01.01.2011 or even 27.05.2011 with consequential promotion to the post of Assistant Director in National Institute of Open Schooling (Formerly National Open School) w.e.f. 2019 against reserved quota for Scheduled Tribe.

Respectfully submitted:

The humble applicant submits that the purported factual position narrated in NIOS WS dated 25.06.2025 is only partially correct and hence the same are denied at the outset and the contents of applicant's application are reiterated.

Para-wise Rejoinder to WS

- 1 to 4. That it has rightly been admitted by NIOS that two members committee consisting of Joint Commissioner, KVS and Deputy Director, IGNOU had graciously recommended granting the promotion to post of Superintendent with retrospective effect from 01.08.2005 with all consequential benefits respectively as per point 4 and 6 of said recommendations dated 12.08.2013.

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The committee had thereby recommended granting all consequential benefits including SENIORITY w.e.f. 01.08.2005.

Committee had thereon further recommended to place the case of applicant in next DPC for his promotion as Section Officer (against post earmarked as ST).

As per applicable Recruitment Rules for the post of Section Officer, the candidate requires FIVE years qualifying service in Feeder post of Superintendent.

For his promotion to the post of Section Officer, the humble applicant had therefore fulfilled the necessary criteria of **FIVE years qualifying service in the Feeder post of Superintendent on 02.08.2010** on account of his retrospective promotion to the post of Superintendent w.e.f. 01.08.2005 as per recommendations of the said two members committee.

Therefore, for implementing the above cited recommendations of the said two members committee, the NIOS Personnel Branch vide their Note Sheets dated 13.08.2013, 20.08.2013 and 30.08.2013 examined the matter thread bare and duly recorded therein as follows:

"AS PER THE RECOMMENDATION NO.6 OF THE COMMITTEE, SH. MUKESH KUMAR SHALL ALSO BE ELIGIBLE FOR ALL THE CONSEQUENTIAL BENEFITS. ACCORDINGLY HE WAS ALSO ELIGIBLE FOR PROMOTION TO THE POST OF SECTION OFFICER ON COMPLETING 5 YEARS OF REQUIRED SERVICE AS SUPERINTENDENT IN THE VACANCY YEAR 2011-12. THE DPC FOR PROMOTION FOR THE POST OF S.O. WAS HELD IN THE MONTH OF MAY, 2011 AND SUPERINTENDENTS WERE PROMOTED AS SECTION OFFICER W.E.F. 27.5.2011. AS SH. MUKESH KUMAR WOULD HAVE ALSO BEEN ELIGIBLE FOR PROMOTION TO THE POST OF SECTION OFFICER AGAINST ONE VACANT POST EARMARKED FOR ST, SH. MUKESH KUMAR MAY ALSO BE CONSIDERED FOR PROMOTION TO THE POST OF SECTION OFFICER WITH RETROSPECTIVE EFFECT W.E.F. 27.5.2011."

It is thus a proven fact that there was clear vacant post of Section Officer earmarked for ST and even NIOS had truly understood purport of said recommendations of 2 members committee and had thus initiated due process on 13.8.2013 for promoting applicant to the post of Section Officer retrospectively from 27.5.2011.

Hence it is highly unjustified/unethical to make any effort to deny said promotion of applicant to the post of Section Officer retrospectively from 27.5.2011.

However, due to some behind the curtain unlawful manipulations by vested interests, the crooked officials of NIOS had surreptitiously buried the said previously initiated process of promoting the applicant to the post of Section

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Officer retrospectively w.e.f. 27.5.2011 in gross violation of the recommendations of the said two members committee.

It is further evident from NIOS Personnel Branch File No.41-10/2013/NIOS/Pers. note sheet dated 11.12.2013 that consequent upon sanction of additional posts at various levels vide MHRD (Department of School Education & Literacy, GOI) letter dated 04.02.2013, there was alleged dearth of Superintendents having required qualifying service for promotion to the available posts of Section Officer. In subsequent note sheet dated 18.12.2013, it has categorically been recorded that there are 19 vacant posts of Section Officer and out of which 2 posts are earmarked for ST Category and no Superintendent is eligible for the post of Section Officer except Shri Mukesh Kumar (ST) category as on that said date.

Consequently, NIOS Secretary had on 27.12.2013 recommended approving and granting the promotions to vacant posts thereof upon holding of DPC and in culmination of this delayed manipulated process, the applicant had been denied of his due promotion to the post of Section Officer till 2016 due to no fault on his part though there was clear vacant post of Section Officer earmarked for ST and the applicant had completed required qualifying five year service in the feeder post w.e.f. 02.08.2010 as explained above.

5 to 9. That NIOS has rightly admitted that on being aggrieved by the above stated unlawful denial of his right of RESERVATION in gross violation of the provisions enshrined in the Constitution of India, the humble applicant had requested the parent governing Ministry of Human Resources Development to implement the Reservation Policy as mandated by Department of Personnel & Training.

This Hon'ble National Commission for Scheduled Tribes had also been very kind to request the Secretary, Department of School Education and Literacy vide Letter No. NCST-16012(MHRD)/6/2020-RU-III dated 03.12.2020 to take appropriate action and send a report to the Commission.

The facts and records in the matter were manipulated by vested interests in NIOS and ultimately the due rights of reservation were sought to be denied.

10 to 13. The vested interests in NIOS placed manipulated and abridged records before the members of newly appointed committee for obtaining a finding devoid of just and fair appraisal of the true facts.

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On being denied of his due rights of reservation despite repeated efforts, the humble applicant has therefore approached this Hon'ble Commission for justice.

Had NIOS authorities promoted the applicant to the post of Section Officer retrospectively w.e.f. 27.5.2011 as had been proposed by themselves in their Note-Sheets dated 13.08.2013, 20.08.2013 and 30.08.2013, the humble applicant would have by now been rightly promoted to the post of Assistant Director w.e.f. 2019 on completing qualifying eight years' service in feeder post of Section Officer.

However, only due to unlawful machinations of the vested officials of NIOS, the applicant has been deprived of his promotion to the post of Assistant Director since 2019.

Hence the applicant has been forced to seek shelter under this Hon'ble Commission for justice.

PRAYER

In view of the above, the applicant humbly prays for as follows: -

- I Urgent sorting out of the anomalies committed by NIOS in implementation of the PROVISIONS OF RESERVATION AS ENSHRINED IN THE CONSTITUTION OF INDIA;
- II Granting of all due benefits of RESERVATION to the applicant by revising all relevant Orders of NIOS;
- III Holding in abeyance all ongoing process in NIOS towards granting any promotion to the post of Assistant Director to any candidate on regular/ad-hoc basis till sorting out of the long pending representations under reference in order to prevent prejudice to legitimate rights of the applicant.

Date: 4/8/2025

(Mukesh Kumar)

(Mukesh Kumar)
Section Officer
National Institute of Open Schooling
Applicant

Though

(Biswajit Das)
Advocate
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