

NATIONAL COMMISSION  
FOR  
SCHEDULED TRIBES



A HANDBOOK

2007

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GOVERNMENT OF INDIA  
NATIONAL COMMISSION FOR SCHEDULED TRIBES

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## Chairman

### PREFACE

The Constitution of India seeks to secure for all its citizens, among other things, social and economic justice, equality of status and opportunity and assures the dignity of the individual. Article 46 of the Constitution provides that the State shall promote with special care the educational and economic interests of the weaker sections of the society and in particular, of the Scheduled Castes and Scheduled Tribes and shall protect them from social injustice and all forms of exploitation. Several provisions have been incorporated in the Constitution for safeguarding and promoting the interests of the Scheduled Tribes in various spheres so as to enable them to join the national mainstream. For effective implementation of various safeguards provided in the Constitution for the SCs & STs and, various other protective legislations, the Constitution provided for the appointment of a Special Officer under Article 338A of the Constitution to investigate all matters relating to these safeguards and to report to the President on their working. A Special Officer known as Commissioner for SCs & STs was appointed for the first time on 18 November, 1950. In order to facilitate effective functioning of the Office of Commissioner for SCs & STs 17 regional offices of the Commissioner were set up in different parts of the country.

2. It was, with the passage of time, felt by the Government that the Office of Commissioner for SCs & STs alone was not enough to monitor the implementation of Constitutional safeguards and accordingly a multi-Member Commission called Commission for Scheduled Castes and Scheduled Tribes was set up through an administrative order issued on 21 July, 1978. It was re-named as National Commission for SCs & STs vide the Ministry of Welfare's Notification dated 1 September, 1987 which also modified the functions of the National Commission for SCs & STs to avoid any overlapping with the functions of the Special Officer. It was decided that the National Commission for SCs & STs will be a National Level Advisory body to advise on broad issues on policy and levels of development of the SCs & STs and that it would submit its report to the Central Government.

3. The National Commission for Scheduled Castes and Scheduled Tribes set up by the Notification dated 1 September, 1987 was given Constitutional status by the Constitution (65th Amendment) Act, 1990. The first such National Commission for SCs & STs was constituted on 12 March, 1992 from which date the Office of the Commissioner for SCs & STs was abolished.

4. It was brought to the notice of the Government that geographically and culturally, the Scheduled Tribes were different from the Scheduled Castes and their problems were also different from those of the Scheduled Castes. In recognition of this public perception, a new Ministry of Tribal Affairs was created in October, 1999 to provide a sharp focus to the welfare and development of Scheduled Tribes. It was felt necessary that the Ministry of Tribal Affairs

should coordinate all activities relating to the Scheduled Tribes, as it would not be administratively feasible for the Ministry of Social Justice & Empowerment to perform this role. It was also felt necessary that a separate National Commission for Scheduled Tribes also be set up to safeguard the interests of Scheduled Tribes more effectively by bifurcating the existing National Commission for the Scheduled Castes and Scheduled Tribes. The National Commission for Scheduled Tribes is the outcome of this realization. This Commission has been set up with effect from 19 February, 2004 by amending article 338 and by inserting a new article 338A in the Constitution through the Constitution (Eighty-ninth Amendment) Act, 2003 which, inter-alia, enjoins upon the Commission to monitor all matters relating to the safeguards provided for the Scheduled Tribes under the Constitution or under any other law or under any order of the Government, and to participate and advise on the planning process of socio-economic development of the Scheduled Tribes.

5. Promotion of all round development of tribals inhabiting the length and the breadth of our country has received priority attention of the Government. There are numerous government policies for ensuring the welfare and well being of tribals. As a result of implementation of the various safeguards provided in the Constitution and development and welfare programmes undertaken by the Central Government and the State Governments, there has been considerable improvement in the socio-economic condition of Scheduled Tribes. There is, however, a long way ahead for achieving complete socio-economic equality and social integration of these communities.

6. It is essential to ensure that the programmes for development and empowerment of Scheduled Tribes are more vigorously pursued and the Government organizations, peoples' representatives, voluntary organizations and other concerned public and private agencies are more closely involved in bringing about social integration and economic development of Scheduled Tribes in a time bound manner. There is also need on the part of the implementing agencies at the cutting edge level to address the sensitivities and concerns of the tribals and involve them at the implementation stage to make the programmes more effective. The Commission hopes that concerted efforts on the part of all concerned will go a long way for all round upliftment of our tribal brethren.

6. I am glad to present the revised edition of the Handbook to you with the hope that it will be an useful information aid for providing better services to the noble cause of social and economic development of the Scheduled Tribes.

(CHAIRMAN)

## 1. INTRODUCTION

1.1 The framers of the Constitution took note of the fact that certain communities in the country were suffering from extreme social, educational and economic backwardness arising out of age-old practice of untouchability and certain others on account of the primitive agricultural practices, lack of infrastructure facilities and geographical isolation, and who need special consideration for safeguarding their interests and for their accelerated socio-economic development. These communities were notified as Scheduled Castes and Scheduled Tribes as per provisions contained in Clause 1 of Articles 341 and 342 of the Constitution respectively.

1.2 With a view to provide safeguards against the exploitation of SCs & STs and to promote and protect their social, educational, economic and cultural interests, special provisions were made in the Constitution. Due to their social disability and economic backwardness, they were grossly handicapped in getting reasonable share in elected offices, government jobs and educational institutions and, therefore, it was considered necessary to follow a policy of reservations in their favour to ensure their equitable participation in governance. For effective implementation of various safeguards provided in the Constitution for the SCs & STs and various other protective legislations, the Constitution provided for appointment of a Special Officer under Article 338 of the Constitution. The Special Officer who was designated as Commissioner for SCs & STs was assigned the duty to investigate all matters relating to the safeguards for SCs and STs in various statutes and to report to the President upon the working of these safeguards. The first Commissioner for SCs & STs was appointed on 18 November, 1950. In order to facilitate effective functioning of the office of the Commissioner for SCs & STs in accordance with the needs of the time, 17 regional offices of the Commissioner were set up in different parts of the country, which were headed by Assistant Commissioners for SCs & STs who were, in July, 1965 re-designated as Deputy Commissioners. In June, 1967, the 17 Regional Offices were re-organized into five Zonal Offices and placed under the control of a new created Directorate General of Backward Classes Welfare in the Department of Social Welfare. Each Zonal Offices was headed by a Zonal Director, Backward Classes Welfare (a newly created post) and the post of Deputy Commissioner for SCs & STs was re-designated as Deputy Director, Backward Classes Welfare and placed under the control of a Zonal Director located at Chandigarh (Northern Zone), Bhopal (Central Zone), Patna (Eastern Zone), Baroda (Western Zone) and Madras (Southern Zone).

1.3 On persistent demand from the Members of Parliament and other quarters that the Office of the Commissioner for SCs & STs alone was not enough to monitor the implementation of Constitutional safeguards, a proposal was moved for amendment of Article 338 of the Constitution for replacing the arrangement of one Member system with a multi-member system. While the amendment to Article 338 was still under consideration, the Government decided to set up a multi-member Commission through an administrative decision vide Ministry of Home Affairs' Resolution No.13013/9/77-SCT(1) dated 21.7.1978. The first Commission for SCs & STs was set up in August, 1978 with Shri Bhola Paswan Shastri as Chairman and other four Members. The field offices of the erstwhile Commissioner for Scheduled Castes and Scheduled Tribes which were transferred under the control of DG Backward Classes Welfare in 1967 were brought back under the control of this Commission. The Office of the Commissioner of SCs & STs and the Commission for Scheduled Castes and Scheduled Tribes, charged with the same functions continued to co-exist till 1 September, 1987.

1.4 In supersession of the above-referred Resolution of 1978, the functions of the Commission for SCs & STs set up in August, 1978 were modified vide Ministry of Welfare's Resolution No. BC-13015/12/86-SCD VI dated 1.9.87, and the Commission for SCs & STs was renamed as the National Commission for Scheduled Castes and Scheduled Tribes, consisting of a Chairperson and not more than 11 Members. This Resolution also demarcated the functions

of the Commissioner for SCs & STs, and the National Commission for SCs & STs. It was decided that only the Commissioner for SCs & STs would be submitting the Report to the President and that the National Commission for Scheduled Castes and Scheduled Tribes would conduct studies and would function as a National Level Advisory Body to advise the Government on broad policy issues and levels of development of Scheduled Castes and Scheduled Tribes and would submit its Report to the Central Government.

1.5 The National Commission for Scheduled Castes and Scheduled Tribes with Constitutional status came into being consequent upon passing of the Constitution (Sixty- fifth Amendment) Bill, 1990 which was notified on 8-6-1990 (**Annex-I**) and the Rules thereunder were notified on 3-11-1990. The first statutory Commission under the Constitution (Sixty-fifth Amendment) Act was constituted on 12-3-1992 and from the same date the Office of Commissioner for Scheduled Castes and Scheduled Tribes was abolished. Article 338 as amended by the Constitution (Sixty- fifth Amendment) Act, 1990, inter-alia, provided that the Commission would consist of a Chairperson, Vice-Chairperson and five other Members and that their conditions of service and tenure of Office will be such as the President may, by rule, determine. The Act further provided that the Chairperson, Vice-Chairperson and other Members of the Commission shall be appointed by the President by warrant under his hand and seal and that the Commission will have the power to regulate its own procedure.

1.6 The first National Commission for SCs & STs (statutory) consisted of Shri Ram Dhan as the Chairman, Shri Bandi Oraon as the Vice-Chairman and Shri B. Sammaiah, Dr. Sarojini Mahishi, Choudhary Hari Singh, Shri N. Brahma and Shri Jina Bhai Darjee as Members.

1.7 The second National Commission for SCs & STs was constituted on 5-10-1995 with Shri H. Hanumanthappa as Chairman and Smt. Omem Moyong Deori as Vice-Chairperson. The Members of the Commission were Shri N.C. Chaturvedi, Shri Anand Mohan Biswas, Ven. Lama Lobzang, Shri Nar Singh Baitha and Shri B. Yadaiah.

1.8 The third National Commission for SCs & STs was constituted in December, 1998 vide Ministry of Social Justice and Empowerment's Notification No.5035(E) dated 27 January,1999 consisting of Shri Dileep Singh Bhuria as the Chairman, Shri Kameshwar Paswan as the Vice-Chairman and Shri Harinder Singh Khalsa, Ven. Lama Lobzang, Shri Chhotray Majhi and Shri M. Kannan as Members. Smt. Veena Nayyar, was also appointed as a Member vide Ministry of Social Justice & Empowerment's Notification No. S.O. 529 (E) dated 30 June, 1999. On the resignation of Shri M. Kannan, Shri C. Chellappan was appointed as Member vide Ministry of Social Justice & Empowerment's Notification No. S.O. 722 (E) dated 3-7-2000.

1.9 The fourth National Commission for SCs & STs was constituted in March, 2002 vide Ministry of Social Justice and Empowerment's Notification No. S.O. 351 (E) dated 21-3-2002 consisting of Dr. Bijay Sonkar Shastri as the Chairperson, Ven. Lama Chosphe Zotpa, Vice-Chairperson and Shri Vijay Kumar Choudhary, Shri Narayan Singh Kesari and Shri Tapir Gao as Members. Smt. Veena Premkumar Sharma also assumed office on 23-8-2002 as Member. Shri C. Chellappan completed his tenure as Member on 2 July, 2003. Shri Sampath Kumar assumed office on 30-9-2003 in place of Sh. C. Chellappan.

1.10 Consequent upon the Constitution (Eighty-Ninth Amendment) Act, 2003 (**Annex-II**) coming into force on 19-2-2004 vide Notification of that date (**Annex-III**), the erstwhile National Commission for Scheduled Castes & Scheduled Tribes has been replaced by (1) National Commission for Scheduled Castes, and (2) National Commission for Scheduled Tribes. The National Commission for Scheduled Tribes has been created by inserting a new Article 338A in the Constitution of India.

1.11 The first National Commission for Scheduled Tribes (NCST) was constituted in March, 2004 and comprised Shri Kunwar Singh, Chairperson (who assumed office on 15.3.2004), Shri Tapir Gao, Vice-Chairperson (who assumed office on 3.3.2004), Shri Lama Lobzang, (who assumed office on 2.3.2004) Smt. Prem Bai Mandavi, (who assumed office on 4.3.2004) and Shri Buduru Srinivasulu, (who assumed office on 11.3.2004) Members. The office of Vice-Chairperson had fallen vacant w.e.f. 31.3.2004 consequent upon resignation of Shri Tapir Gao and was vacant till 29.5.2006 on which date Shri Gajendra Singh Rajukhedi joined the office of Vice-Chairperson. While Shri Kunwar Singh, Chairperson resigned from his office on 14.2.2007 (A/N), the Members of the first Commission i.e. NCST demitted their office in the month of March, 2007 from the date of completion of their three years tenure. Shri Gajendra Singh Rajukhedi also resigned from the office of Vice-Chairperson on 15.05.2007.

1.12 The second Commission comprises Smt. Urmila Singh, Chairperson, (who assumed office on 18.06.2007) Shri ....., Vice-Chairperson (who assumed office on.....), Shri Tsering Samphel, Member (who assumed office on 14.06.2007), Shri ....., Member (who assumed office on .....) and Smt ....., Member (who assumed office on .....).

1.13 The conditions of service and tenure of office of the Chairperson, Vice-Chairperson and other Members of the National Commission for Scheduled Tribes are governed by the National Commission for Scheduled Tribes. Chairperson, Vice-Chairperson and Members (Conditions of Service and Tenure) Rules notified by the Ministry of Tribal Affairs on 20 February 2004. These Rules, inter alia, provide that :

- (i) The Chairperson shall be appointed from amongst eminent social-political workers belonging to the Scheduled Tribes, who inspire confidence amongst the Scheduled Tribes by their very personality and record of selfless service;
- (ii) The Vice-Chairperson and all other Members out of whom at least two shall be appointed from amongst persons belonging to the Scheduled Tribes;
- (iii) At least one other Member shall be appointed from amongst women.
- (iv) The Chairperson, the Vice-Chairperson and the other Members shall hold office for a term of three years from the date on which he/ she assumes such office.[Rule-4(1)]
- (v) The Chairperson, the Vice-Chairperson and the other Members shall not be eligible for appointment for more than two terms. [Rule-4(2)]
- (vi) The Chairperson shall have the rank of a Cabinet Minister and the Vice-Chairperson that of Minister of State and other Members shall have the rank of a Secretary to the Government of India unless otherwise specified.[Rule-5(1)]
- (vii) The Chairperson, the Vice-Chairperson and other Members shall be entitled to such salaries and allowances as admissible to a Secretary to the Government of India.[Rule-5(2)].

Provided that the Chairperson shall be entitled to a rent free accommodation.

A copy of the National Commission for Scheduled Tribes Chairperson, Vice-Chairperson and Members (Conditions of Service and Tenure) Rules notified by the Ministry of Tribal Affairs on 20 February 2004 are placed at **Annex.IV**

## 2 CONSTITUTIONAL SAFEGUARDS

2.1 Article 46 is a comprehensive provision comprising both the developmental and regulatory aspects. It provides that “The State shall promote with special care the educational and economic interests of the weaker sections of the people, and in particular, of the Scheduled Castes and the Scheduled Tribes, and shall protect them from social injustice and all forms of exploitation”. In terms of these enabling provisions, various safeguards have been provided for socio-economic and educational development of Scheduled Castes and Scheduled Tribes in the Constitution of India.

### 2.2 Social Safeguards

- (i) **Article 23** prohibits traffic in human beings and beggar and other similar forms of forced labour and provides that any contravention of this provision shall be an offence punishable in accordance with law. It does not specifically mention STs but since majority of bonded labour belong to STs, this Article has a special significance for members of Scheduled Tribes. In pursuance of this Article, Parliament has enacted the Bonded Labour System (Abolition) Act, 1976. For effective implementation of this Act, the Ministry of Labour is running a Centrally Sponsored Scheme for identification, liberation and rehabilitation of bonded labour.
- (ii) **Article 24** provides that no child below the age of 14 years shall be employed to work in any factory or mine or engaged in any other hazardous employment. There are Central and State laws to prevent child labour. This Article is also significant for STs (as also of SCs) as a substantial portion of child labour engaged in hazardous jobs belong to these groups.

#### 2.2.1 Special Economic Safeguards for Scheduled Tribes

The provisions of Articles 23, 24 and 46 mentioned above also form part of the economic safeguards for Scheduled Tribes as also of Scheduled Castes. The specific safeguards provided for the Scheduled Tribes are as mentioned below:

- (i) **Article 244:** According to Clause (1), the provisions of the Fifth Schedule shall apply to the administration and control of the Scheduled Areas and Scheduled Tribes in any State other than the States of Assam, Meghalaya, Mizoram and Tripura.

According to Clause (2), the provisions of the **Sixth Schedule** shall apply to the administration of the tribal areas in the States of Assam, Meghalaya, Mizoram and Tripura.

- (ii) The First Proviso to Article 275(1) of the Constitution of India guarantees grants from the Consolidated Fund of India each year for promoting the welfare of Scheduled Tribes and in pursuance of this Constitutional obligation, the Ministry of Tribal Affairs provides funds through the Central Sector Scheme “Grants under Article 275(1) of the Constitution”. The objective of the scheme is to meet the cost of such projects for tribal development as may be undertaken by the State Govts. for raising the level of administration of Scheduled Areas therein to that of the rest of the State. The scheme covers all the 21 Tribal Sub-Plan States and 4 other tribal majority States of the country. The grants are to be used essentially for creation and upgradation of critical infrastructure required to bring the tribal areas with the rest of the country. The basic purpose is to create opportunities conducive to income and employment generation. Due emphasis is given to infrastructure in sectors critical to enhancement of human development indices such as in health, education, income generation etc.

- (iii) **Fifth Schedule** contains provisions regarding the administration and control of the Scheduled Areas and Scheduled Tribes. There are nine States having Scheduled Areas, viz., Andhra Pradesh, Gujarat, Himachal Pradesh, Madhya Pradesh, Maharashtra, Orissa, Rajasthan, Chhattisgarh and Jharkhand. The Governors of these States have special responsibilities and powers. These States have Tribe Advisory Councils (TACs). (In addition, Tamil Nadu and West Bengal, which do not have any Scheduled Areas, also have statutory TACs). The Governors of these States have the power to make regulations for the peace and good governance of any Scheduled Area particularly for the following purposes:-
- to prohibit or restrict the transfer of land by or among members of the Scheduled Tribes in such areas,
  - to regulate the allotment of land to members of the Scheduled Tribes in such area,
  - to regulate the carrying on of business as money lender by persons who lend money to members of the Scheduled Tribes in such area.
- (iv) **Sixth Schedule** contains provisions relating to the administration of the Tribal Areas in the States of Assam (North Cachar Hills District and Karbi Anglong District), Meghalaya, Mizoram and Tripura (Autonomous Hill District). There are Autonomous District Councils and Autonomous Regional Councils in these areas which have a long tradition of self-management systems. These Autonomous Councils not only administer the various Departments and developmental programmes but they also have powers to make laws on a variety of subjects, e.g., land, forest, shifting cultivation, village or town administration including village or town police and public health and sanitation, inheritance of property, marriage and divorce and social customs.

2.2.2 The following Orders are in operation at present in their original or amended form in respect of the Scheduled Areas:-

S.No.	Name of Order	Date of Notification	Name of State(s) for which applicable
1.	The Scheduled Areas (Part A States) Order, 1950 (C.O.9)	26.1.1950	Andhra Pradesh
2.	The Scheduled Areas (Part B States) Order, 1950 (C.O.26)	7.12.1950	Andhra Pradesh
3.	The Scheduled Areas (Himachal Pradesh) Order, 1975 (C.O.102)	21.11.1975	Himachal Pradesh
4.	The Scheduled Areas (States of Bihar, Gujarat, Madhya Pradesh and Orissa) 1977 (C.O. 109)	31.12.1977	Gujarat and Orissa
5.	The Scheduled Areas (State of Rajasthan) Order, 1981 (C.O.114)	12.2.1981	Rajasthan
6.	The Scheduled Areas (Maharashtra) Order, 1985 (C.O.123)	2.12.1985	Maharashtra
7.	The Scheduled Areas (States of Chhattisgarh, Jharkhand and Madhya Pradesh) Order, 2003 (C.O.192)	20.2.2003	Chhattisgarh, Jharkhand and Madhya Pradesh

## 2.3 Educational and Cultural Safeguards

- (i) **Article 15(4)** empowers the State to make any special provision for the advancement of any socially and educationally backward classes of citizens or for SCs and STs. This provision was added to the Constitution through the Constitution (First Amendment) Act, 1951, which amended several Articles. This provision has enabled the State to reserve seats for SCs and STs in educational institutions including technical, engineering and medical colleges and in Scientific & Specialized Courses. In this Article as well as in Article 16(4), the term ‘backward classes’ is used as a generic term and comprises various categories of backward classes, viz., Scheduled Castes, Scheduled Tribes, Other Backward Classes, De-notified Communities (Vimukta Jatiyan) and Nomadic/Semi-nomadic communities.
- (ii) **Article 29(1)** provides that “any section of the citizens residing in the territory of India or any part thereof having a distinct language, script or culture of its own shall have the right to conserve the same”. This Article has special significance for all the Scheduled Tribes. Santhals have a script of their own, viz., Olchiki. But this provision needs not be understood to educate Tribals only in their language and thereby making them isolated. Tribals should be educated in the language of the State as well as National Language to expose them to the outside knowledge.
- (iii) **Article 350 A** provides that “It shall be the endeavour of every State and of every local authority within the State to provide adequate facilities for instructions in the mother-tongue at the primary stage of education to children belonging to linguistic minority groups, and the president may issue such directions to any State as he considers necessary or proper for securing the provision of such facilities”. Most of the tribal communities have their own languages or dialects, which usually belong to a different family of languages than the one to which the State’s official language belongs.

## 2.4 Political Safeguards

- (i) **Article 164(1)** provides that in the States of Bihar, Madhya Pradesh and Orissa there shall be a Minister in charge of tribal welfare who may in addition be in charge of the welfare of the Scheduled Castes and backward classes or any other work.
- (ii) **Article 330** provides for reservation of seats for Scheduled Castes and Scheduled Tribes in the House of the People.
- (iii) **Article 332** provides for reservation of seats for Scheduled Castes and Scheduled Tribes in the Legislative Assemblies of the States.
- (iv) **Article 334** originally laid down that the provisions relating to the reservation of seats for SCs/STs in the Lok Sabha and State Vidhan Sabhas (and the representation of the Anglo-Indian community in the Lok Sabha and the State Vidhan Sabhas by nomination) would cease to have effect on the expiration of a period of ten years from the commencement of the Constitution. This Article has been amended five times, extending the said period by ten years on each occasion. This provision will now expire in January, 2010.
- (v) **Article 243D** provides for reservation of seats in Panchayats
- (vi) **Article 371A** contains special provisions with respect to the State of Nagaland.
- (vii) **Article 371B** contains special provisions with respect to the State of Assam
- (viii) **Article 371C** contains special provisions with respect to the State of Manipur.
- (ix) **Article 371F** contains special provisions with respect to Sikkim.

## 2.5 Service Safeguards

The main objective for providing reservations for Scheduled Tribes (as also for SCs & OBCs) in civil posts and services of the Government is not just to give jobs to some persons belonging to these communities and thereby increase their representation in the services but to uplift these people socially and educationally with a view to empower them to join the national mainstream. The relevant Articles of the Constitution which govern the entire reservation set-up are mentioned below:

- (i) **Article 16(4)** : This Article provides that "Nothing in this Article shall prevent the State from making any provision for the reservation in appointments or posts in favour of any backward class of citizens which, in the opinion of the State, is not adequately represented in the services under the State".
- (ii) **Article 16(4A)** : This Article was added in the year 1995 to provide for that "Nothing in this Article shall prevent the State from making any provision for reservation in matters of promotion to any class or classes of posts in this services under the State in favour of the Scheduled Castes & Scheduled Tribes which, in the opinion of the State, are not adequately represented in the services under the State". [**Constitution (Seventy-seventh Amendment) Act, 1995**]
- (iii) **Amended Article 16(4A)** : Article 16(4A), inserted by the Constitution (77th Amendment) Act, 1995, was further amended in the year 2001 to substitute the words "in matters of promotion to any class" by words "in matters of promotions, with consequential seniority, to any class" vide the **Constitution (Eighty-fifth Amendment) Act, 2001**. This amendment was made operative retrospectively from 17 June 1995, i.e. the date of addition of this Article vide the Constitution (Seventy- seventh Amendment) Act, 1995.
- (iv) **Article 16(4B)**: This Article provides that "Nothing in this article shall prevent the State from considering any unfilled vacancies of a year which are reserved for being filled up in that year in accordance with any provision for reservation made under clause (4) or clause (4A) as a separate class of vacancies to be filled up in any succeeding year or years and such class of vacancies shall not be considered together with the vacancies of the year in which they are being filled up for determining the ceiling of fifty percent reservation on total number of vacancies of that year". [**Constitution (Eighty-first Amendment) Act, 2000**].
- (v) **Article 335**: This Article provides that "The claims of the members of the Scheduled Castes and the Scheduled Tribes shall be taken into consideration, consistently with the maintenance of efficiency of administration, in the making of appointments to services and posts in connection with the affairs of the Union or of a State". The following proviso was added to this Article by the **Constitution (Eighty-second Amendment) Act, 2000**-  

"Provided that nothing in this article shall prevent in making of any provision in favour of the members of the Scheduled Castes and Scheduled Tribes for relaxation in qualifying marks in any examination or lowering the standards of evaluation, for reservation in matters of promotion to any class or classes of services or posts in connection with the affairs of the Union or of a State".
- (vi) **Article 320 (4)**: Clause (3) of Article 320 of the Constitution, inter alia, provides that the Union Public Service Commission or the State Service Public Commission, as the case may be, shall be consulted on all matters relating to methods of recruitment to civil services and for civil posts, and on the principles to be followed in making appointments

to civil services and posts and in making promotions and transfers from one service to another and on the suitability of candidates for such appointments, promotions or transfers. Clause (4) of this Article, however, provides that "Nothing in clause (3) shall require a Public Service Commission to be consulted as respects the manner in which any provision referred to in clause (4) of article 16 may be made or as respects the manner in which effect may be given to the provisions of article 335".

### **3. FUNCTIONS AND DUTIES OF THE COMMISSION**

3.1 The functions and duties of the National Commission for Scheduled Tribes have been laid down in Clause (5) of the Article 338A of the Constitution. Clause (5) states that it shall be the duty of the Commission:

- (a) to investigate and monitor all matters relating to the safeguards provided for the Scheduled Tribes under this Constitution or under any other law for the time being in force or under any order of the Government and to evaluate the working of such safeguards;
- (b) to inquire into specific complaints with respect to the deprivation of rights and safeguards of the Scheduled Tribes;
- (c) to participate and advise on the planning process of socio-economic development of the Scheduled Tribes and to evaluate the progress of their development under the Union and any State;
- (d) to present to the President, annually and at such other times as the Commission may deem fit, reports upon the working of those safeguards;
- (e) to make in such reports recommendations as to the measures that should be taken by the Union or any State for the effective implementation of those safeguards and other measures for the protection, welfare and socio-economic development of the Scheduled Tribes; and
- (f) to discharge such other functions in relation to the protection, welfare and development and advancement of the Scheduled Tribes as the President may, subject to the provisions of any law made by Parliament, by rule, specify.

3.2 The Commission has been assigned the following additional functions vide the Ministry of Tribal Affairs' Notification dated 23 August, 2005 (attached at **Annex.V**) in relation to the protection welfare and development and advancement of the Scheduled Tribes:-

- (i) Measures that need to be taken over conferring ownership rights in respect of minor forest produce to STs living in forest areas.
- (ii) Measures to be taken to safeguard rights of the tribal communities over mineral resources, water resources etc. as laid down by law.
- (iii) Measures to be taken for the development of tribal to plug loopholes and to work more viable livelihood strategies.
- (iv) Measures to be taken to improve the efficacy of relief and rehabilitation measures for tribal groups displaced by development projects.
- (v) Measures to be taken to prevent alienation of tribal people from land and to effectively rehabilitate such people in whose case alienation has already been taken place.
- (vi) Measures to be taken to elicit maximum cooperation and involvement of tribal communities for protecting forests and undertaking social afforestation.

- (vii) Measures to be taken to ensure full implementation of the provision of Panchayat (Extension to Scheduled Areas) Act, 1996
- (viii) Measures to be taken to reduce and ultimately eliminate the practice of shifting cultivation by tribal that lead to their continuous disempowerment and degradation of land and the environment.

#### **4. POWERS OF THE COMMISSION**

4.1 Clause (8) of Article 338A provides that the Commission shall, while investigating any matter referred to in sub-clause (a) or inquiring into any complaint referred to in sub-clause (b) of Clause (5) have all the powers of a civil court trying a suit and in particular in respect of the matters, namely:- (a) summoning and enforcing the attendance of any person from any part of India and examining him on oath; (b) requiring the discovery and production of any documents; (c) receiving evidence on affidavits; (d) requisitioning any public record or copy thereof from any court or office; (e) issuing commissions for the examination of witnesses and documents; (f) any other matter which the President may by rule, determine.

4.2 The Indian Overseas Bank Officers Association and Others in C.W.P. No.1362 of 1993 and C.M. No.2193/93 challenged an order in the form of a letter dated 4 March, 1993 issued by a Member of the erstwhile National Commission for Scheduled Castes and Scheduled Tribes by which the Hon'ble Member had directed the Indian Overseas Bank "to stop the promotion process pending further investigation and final verdict in the matter". The Hon'ble High Court of Delhi vide their judgment dated 17 May, 1993 in this case allowed the petition and set aside the order dated 4 March, 1993 issued by the Member of the erstwhile NCSCST. The judgment of Hon'ble High Court of Delhi was challenged by All India Indian Overseas Bank SC & ST Employees' Welfare Association and Others in the Hon'ble Supreme Court of India. The Hon'ble Supreme Court vide their judgment dated 31 October, 1996 in Civil Appeal No.13700 of 1996 dismissed the appeal and held that the Hon'ble High Court of Delhi was justified in taking the view it did. The Hon'ble Supreme Court further held that all the procedural powers of a civil court given to the National Commission for Scheduled Castes and Scheduled Tribes by Article 338 (8) of the Constitution of India are for the limited purpose of investigating any matter under Article 338 (5) (a) or enquiring into any complaint under Article 338 (5) (b). The apex Court further held that the powers of a civil court of granting injunctions, temporary or permanent, do not inhere in the Commission nor can such a power be inferred or derived from a reading of Clause (8) (c) of Article 338 of the Constitution. The Commission having not been specifically granted any power to issue interim injunctions lacks the authority to issue an order of the type found in the letter dated 4 March, 1993 directing the Indian Overseas Bank to stop the promotion process pending further investigation and final verdict in the matter. The Hon'ble Supreme Court had further held that the Commission has the power to summon and enforce the attendance of any person from any part of India and examine him on oath; it can require the discovery and production of documents, so on and so forth. It was stated that all these powers are essential to facilitate an investigation or an enquiry. Such powers do not convert the Commission into a civil court. These observations of the Hon'ble Supreme Court were brought to the notice of all the Ministries and Departments of Govt. of India by the Department of Personnel & Training vide their O.M.No.36036/2/97- Estt. (Res.) dated 1 January, 1998 (**Annex.VI**) for their information and guidance.

#### **5. CONSULTATION WITH THE COMMISSION**

5.1 Section (9) of Article 338A of the Constitution provides that " The Union and every State Government shall consult the Commission on all major policy matters affecting Scheduled Tribes". This is one of the very important functions assigned to the Commission, which enjoins

upon all the Central Ministries/Departments/Organizations and the State Govts. to seek the comments of the National Commission for Scheduled Tribes on all important policy matters which affect the interests of Scheduled Tribes. This function helps the Commission to keep track of all the major policy decisions, and legislative and executive actions taken by the Govt. of India or any State Govt. in relation to Scheduled Tribes. In view of the mandatory nature of this provision, the Commission solicits the support of all concerned to bring to its notice new policies and changes in existing policies, which have bearing on the interests of Scheduled Tribes.

5.2 The Commission, in terms of Clause 5 (c) of Article 338A is required to participate and advise on the planning process of socio-economic development of STs and evaluate the progress of the development under Union or any State. The role of the Commission in these areas involves interaction at various levels, i.e. with the Planning Commission with the Central Ministries and with the State Govts.

5.3 The Commission and its officers participate in formulation of policies and in the developmental programmes for Scheduled Tribes including Tribal Sub-Plan.

## **6. COMMISSION'S REPORT**

In terms of Clause (5) (d) of Article 338A of the Constitution, the Commission makes recommendations to the Government on a variety of issues relating to Scheduled Tribes ranging from reservation in Govt. posts and services to development matters through its reports which are submitted to the Hon'ble President of India annually or at such other times as the Commission may deem fit. The President of India, in terms of Clause (6) of Article 338A causes the reports to be laid before each House of Parliament with a Memorandum explaining the action taken or proposed to be taken on the recommendations relating to the Union and the reasons for non-acceptance, if any, of such recommendations contained in the report. On similar lines where any such report or any part thereof relates to the State Govt., the Governor of the State, in terms of Clause (7) of Article 338A, causes it to be laid before the Legislature of the State along with a Memorandum explaining the action taken or proposed to be taken on these recommendations relating to the State and the reasons for non-acceptance, if any, on any of such recommendations. The first report of the Commission covering two years period, 2004-05 and 2005-06 was submitted to the President of India by the Commission on 8 August, 2006.

## **7. PROCEDURE FOR INQUIRY**

7.1 The Commission is required to inquire into specific complaints with respect to the deprivation of rights and safeguards of Scheduled Tribes. In order to enable the Commission to perform this function within manageable limits, the Commission would like to appeal to members of ST that before submitting any specific complaint to the Commission for redress of their grievances they should clearly state if and how there has been a violation of their rights and safeguards. The Commission would not like to be burdened with flimsy or irrelevant complaints. A large number of representations are regularly received from ST employees working in Government Departments, public sector undertakings and autonomous bodies. The Commission would like them to know that it will be in a position to inquire into their service grievances only if there has been a violation of any provision of the Acts governing reservation in services and posts for Scheduled Tribes (wherever there are such Acts in position) or the orders contained in the brochures relating to reservation matters issued by the Department of Personnel & Training, Department of Public Enterprises in relation to the public sector undertakings, the Banking Division of the Department of Economic Affairs (Ministry of Finance) with reference to the financial institutions, Ministry of Railways etc.

7.2 The following aspects are required to be kept in mind while filing complaints before the Commission:-

- (a) The complaint should be directly addressed to the Chairman/Vice-Chairman/Secretary, National Commission for Scheduled Tribes, New Delhi. No action will be taken on petitions/representations, which are addressed to other authorities with only an endorsement to the National Commission for Scheduled Tribes.
- (b) The complainants should disclose their full identity and give full address and should sign the representation. No action will be taken on an unsigned complaint.
- (c) Complaints should be legibly written or typed and, where necessary, supported by authenticated documents.
- (d) No action will be taken in cases which are subjudice or in which a court has already given its final verdict and, therefore, such cases need not be referred to the Commission.
- (e) The Commission will also not intervene in vigilance and disciplinary cases as no safeguards have been provided to the employees belonging to Scheduled Tribes in such matters and also that the Commission is not an appellate authority in such cases and that there is an elaborate well-defined procedure prescribed for making an appeal for reconsideration by the competent authorities. If the Commission, however, finds that the prescribed procedure in disciplinary/vigilance matters has not been followed and the petitioner, on that count, has been put to disadvantage or that the quantum of punishment is disproportionate to the gravity of the offence or that the petitioner has been put to harassment on account of his belonging to Scheduled Tribe etc., the Commission may entertain the petitions from the aggrieved ST officers and take up the matter with the concerned organization.
- (f) The Commission will also not intervene in matters pertaining to merits of adverse remarks in the Annual Confidential Reports of the officers/officials as no safeguards have been provided to the employees belonging to Scheduled Tribes in the assessment of their performance and also that there is a prescribed procedure to represent against the adverse remarks to the competent authorities.
- (g) No concessions have been provided to the ST officers holding Group A and Group B posts and, therefore, the Commission will not entertain the petitions relating to grievances arising from transfer of such officers from one office to another office of the same organization in the same city or from one station to another station. However, if the Commission finds that the transfer of the said ST officer has been made in clear violation of the transfer policy (if there is any in that organization) or it has been made with a view to harass the officer only on the ground that he belongs to a weaker section like Scheduled Tribe, it may entertain the petitions from the aggrieved ST officers and take up the matter with the concerned organization.

7.3.1 The Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (**Annex.VII**) was passed by the Parliament on 16 August, 1989 and received the assent of the President on 11 September, 1989 and came into force on 30 January, 1990. The Act aims at preventing the commission of offences of atrocities against the members of the Scheduled Castes and the Scheduled Tribes. Section 3(1) and 3(2) describe the various types of offences of atrocities on the members of Scheduled Castes and Scheduled Tribes by non-SC/ST persons. Section 4 makes the Act applicable to a public servant who is not SC/ST for willfully

neglecting his duties required to be performed by him under this Act and provides for imprisonment for a term which shall not be less than six months and which may extend one year.

7.3.2 In exercise of the powers conferred by sub-section (1) of Section 23 of the SCs and STs (POA) Act, 1989, the Central Govt. have made the SCs and the STs (Prevention of Atrocities) Rules, 1995 (**Annex.VIII**). Section 3 of these Rules assigns certain duties to the State Govt. with a view to prevent atrocities on SCs and STs. Section 12 of these Rules, inter alia, assigns certain duties to the district administration which include making arrangements for providing immediate relief in cash or kind or both to the victims of atrocity, their family members and dependents according to the scale as given in the schedule annexed to these Rules. Such relief includes food, water, clothing, shelter, medical aid, transport facilities and other essential items necessary for human beings.

7.3.3 Whenever information is received in the Commission about any incident of atrocity against a person belonging to Scheduled Tribes, the Commission immediately gets in touch with the law enforcing and administrative machinery of the concerned State and the district to ascertain the details of incident and the action taken by the district administration. The Commission ensures the following while by monitoring and issuing instructions to the concerned authorities:

- (i) Whether the scene of occurrence of the crime has been visited immediately by Collector and Supdt. of Police of the district on receipt of information.
- (ii) Whether proper FIR is registered in local Police Station.
- (iii) Whether names of all the persons involved/cited by the complainant has been included in the FIR.
- (iv) Whether investigation has been taken up by a Senior Police Officer as per provisions of Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act, 1989.
- (v) Whether culprits has been apprehended and booked without loss of time.
- (vi) Whether proper chargesheet has been filed mentioning the relevant sections of IPC together with the SCs & STs (POA) Act, 1989 in the Court.
- (vii) Whether the cases are tried by the Special Courts.
- (viii) Whether Special Public Prosecutors have been appointed to handle these cases.
- (ix) Whether Police assists the courts in bringing forward witnesses and see that the culprits are suitably punished by the courts.

7.3.4 The Commission also monitors to ensure that:

- (i) the victims are provided with suitable medical assistance and on time;
- (ii) adequate protection is arranged for the victims of such incidents by providing police protection by stationing a police party, by patrolling, etc;
- (iii) proper compensation is paid to the victims as per provisions of law.

7.3.5 The Commission, wherever possible and depending upon the gravity and circumstances of the case, also visit the place of incident to oversee the arrangements, in particular the action taken by the State Govt. to provide the necessary relief and rehabilitation to the victims of the atrocities or their family members and also the arrangements made by the State Govt. for treatment of the injured and infuse confidence among the victims.

## **8. APPROACH AND METHODOLOGY ADOPTED BY THE COMMISSION.**

8.1 The Commission receives a large number of representations from individual members of Scheduled Tribes or their associations etc. These representations/petitions either pertain to the violation of the reservation instructions in services, (ii) problems relating to the socio-

economic development of Scheduled Tribes such as admission in educational institutions, land alienation matters etc. and (iii) atrocities on members of Scheduled Tribes by non-Scheduled Tribe persons. These representations are referred to the concerned organizations of the Central Govt. or the State Govts. by the Commission requesting them to furnish full facts within a given timeframe. The facts furnished by the concerned organization are examined by the Commission and in case the Commission feels that there has been violation of the safeguards provided to the members of Scheduled Tribes either in the Constitution or under any other law or order of the Government, it advises the concerned organization to take corrective measures. The concerned organizations are advised to take follow up action on the Commission's recommendations/observations within a given timeframe and apprise the Commission of the action taken position. In case there is no response to the Commission's letter within a reasonable period of time, the Commission calls the senior executive(s) of the concerned organization to appear before the Commission and explain their position with reference to the points raised in the petitions. The minutes of these hearings are recorded after the conclusion of the discussions either on the same day or within a week's time thereafter and a copy thereof sent to them for taking appropriate action and to inform the Commission of the action taken by them on its advice within a given timeframe.

8.2 In order to monitor and evaluate the implementation status of various development schemes, and investigation and disposal of the cases of atrocities on the members of Scheduled Tribes by the police authorities and the courts, the Commission interacts with the State/UT Governments by holding detailed State level review meetings with the Chief Secretaries and other senior officers through visits to the States and UTs. These meetings are generally preceded with visits to the tribal Bastis, hostels, Ashram Schools etc. and interactions with them on the impact of the developmental projects. The Commission has noticed that these visits and meetings have been greatly instrumental in enhancing the interests and involvement of the State/UT Governments in better understanding of the genuine problems of the Scheduled Tribes and accordingly, in advising them to take suitable initiatives in working out remedial measures and adopting appropriate and relevant strategies. The State level review meetings with the senior officers of the State Govts. including Chief Secretaries are generally taken by the full Commission or by its Chairman accompanied by Member/Members. **To facilitate effective review, the information (annual or periodical) is called for from the State Govts. A copy of the d.o. letter dated 4 August, 2006 sent to the Chief Secretary of the State Govts. in this regard along with Proformae I II & III given at Annex. IX.**

8.3 The Commission also undertake review meetings with the district level officers to assess the impact of the developmental schemes, and investigation of the cases of atrocities on members of Scheduled Tribes and advises them to take a series of remedial action for better and more effective implementation of the projects with a view to ensure the flow of benefits to all the tribals including those living in inaccessible areas and also to expedite the investigation and disposal of the atrocity cases and the cases relating to land alienation etc. pending either with the district administration or in the courts. The Commission also interacts with the leaders of tribals or the members of tribal associations to ascertain the ground realities and the implementation status of various projects and schemes before having review meetings with the district administration.

8.4 The Commission also undertakes review meetings with the organizations/offices functioning under the administrative control of the Central Government, and the various Central Public Sector Undertakings including the financial institutions to ascertain the implementation of the reservation instructions in appointment of different categories of posts as also the assessment of the implementation status of the development projects for socio-economic advancement of Scheduled Tribes. These review meetings by the Commission are generally preceded by meetings with the representatives of SC/ST Employees' Welfare

Associations operating in those organizations which are meant at understanding the actual grievances of the ST employees working in these organizations.

8.5 The Commission has developed three sets of Questionnaires for eliciting information from the (i) Central Ministries/Departments (Questionnaire No.I appended as **Annex.X**) (ii) Central Public Sector Undertakings (Questionnaire No.II appended as **Annex.XI**), and (iii) State Govts./UT Administrations (Questionnaire No.III appended as **Annex.XII**) for the purpose of undertaking review meetings. The Commission generally undertakes the review after receipt of the detailed information in the respective Questionnaire. There is a separate Questionnaire (**Annex.XIII**) for undertaking review meetings at district level which are carried by the Member (s) of the Commission whenever he or she/they propose to undertake review meetings with the district/taluka level officers.

## **9. PESA ACT, 1996**

9.1. The provisions of Part IX of the Constitution relating to Panchayats have been extended to the Scheduled Areas in various States through the Panchayats (Extension to Scheduled Areas) Act, 1996.(**Annex.XIV**) Section (4) of this Act provides that notwithstanding anything contained under Part IX of the Constitution, the Legislature of a State shall not make any law under that Part which is inconsistent with any of the features mentioned in this Section. Section (4) of the Act, inter alia, provides that:-

- (i)(a) Every Gram Sabha shall approve of the plans, programmes and projects for social and economic development before such plans, programmes and projects are taken up for implementation by the Panchayat at the village level.
  - (b) Every Gram Sabha shall be responsible for the identification or selection of persons as beneficiaries under the poverty alleviation and other programmes.
- (ii) Every Panchayat at the village level shall be required to obtain from the Gram Sabha a certification of utilization of funds by that Panchayat for the plans, programmes and projects.
- (iii) The Gram Sabha or the Panchayats at the appropriate level shall be consulted before making the acquisition of land in the Scheduled Areas for development projects and before re-settling or rehabilitating persons affected by such projects in the Scheduled Areas.
- (iv) The recommendations of the Gram Sabha or the Panchayats at the appropriate level shall be made mandatory prior to grant of prospecting licence or mining lease for minor minerals in the Scheduled Areas.
- (v) The State Legislature shall endeavour to follow the pattern of the Sixth Schedule to the Constitution while designing the administrative arrangements in the Panchayats at district levels in the Scheduled Areas.

9.2 Some other powers of Gram Sabhas in the Scheduled Areas as provided in Section (4) of the Act relate to (i) safeguarding and preserving the traditions and customs of the tribal people, (ii) planning and management of minor water bodies in the Scheduled Areas. The State Legislature is required to ensure that the Panchayats at appropriate level and the Gram Sabha are endowed specifically with the power-

- (i) to enforce prohibition or to regulate or restrict the sale and consumption of any intoxicant,
- (ii) to grant the ownership of minor forest produce,
- (iii) to prevent the alienation of land in the Scheduled Areas and to take appropriate action to restore any unlawfully alienated land to a Scheduled Tribe,
- (iv) to manage village markets,

- (v) to exercise control over money lending to Scheduled Tribes,
- (vi) to exercise control over institutions and functionaries in social sectors and,
- (vii) to exercise control over local plans and resources for such plans including tribal-sub plans.

## **10. STATUTES AND LEGISLATIONS**

10.1 There are a number of laws, both Central and State, which provide for safeguards to Scheduled Tribes. Some of these emanate from the various Constitutional provisions. An illustrative list of such laws is given below:

- (i) The Bonded Labour System (Abolition) Act, 1976
- (ii) The Child Labour (Prohibition and Regulation) Act, 1986
- (iii) The Minimum Wages Act, 1948

10.2 Acts and regulations are in force in different States to prevent alienation of land belonging to STs. In some States, such provisions exist in the Land Revenue Code.

## **11. RULES OF PROCEDURE**

Clause (4) of Article 338A of the Constitution provides that the Commission shall have the power to regulate its own procedure. The Commission accordingly notified the Rules of Procedure for the first time on 17 September, 2004 which were revised vide the Notification dated \_\_\_\_\_. These Rules define the responsibilities of the Chairperson, Vice-Chairperson and Members, and Secretary to the Commission and that the Chairperson shall allocate subjects and responsibilities among the Members of the Commission. These Rules also contain detailed information about (i) the procedure of investigation and enquiry by the Commission, (ii) frequency of meetings of the Commission, (iii) the duties of its Regional Offices, (iv) the advisory role of the Commission, and (v) its monitoring functions. A copy of the revised Rules of Procedure as notified on \_\_\_\_\_ is placed at **Annex.XV**.

## **12. ALLOCATION OF WORK AMONG THE MEMBERS OF THE COMMISSION**

12. Rule (6) of the Rules of Procedure of the Commission notified on 17 September, 2004 provide that the Chairperson shall allocate subjects and responsibilities among the Members of the Commission and that the Order in this regard shall be circulated to all concerned by the Secretariat of the Commission.

## **13. ORGANIZATIONAL SET-UP OF THE SECRETARIAT OF THE COMMISSION**

13.1 The National Commission for Scheduled Tribes functions from the Headquarters located at New Delhi. Till July, 2006 the representations/petitions received in the Commission at the Headquarters were being dealt with in three different functional Wings called (i) Economic and Social Development Wing, (ii) Service Safeguard Wing, and (iii) Atrocities Wing. It was observed that this was not a very rational and balanced system of distribution as it suffered from several shortcomings including the following:-

- (i) Under this system of distribution, the work relating to developmental matters in respect of Scheduled Tribes was being handled by only 1/3rd of the staff and officers (i.e. by the Economic and Social Development Wing) while the other 2/3rd staff and officers had been looking after the work relating to service, and atrocity related matters. The Commission, therefore, felt very strongly in favour of creating a system under which all the officers and staff of the Commission would be equally involved in dealing with the developmental issues related to Scheduled Tribes which was the basic mandate of the Commission.

- (ii) Under this system while the Service Safeguard Wing was overburdened on account of most of the petitions being received in the Commission related to service matters, the other two Wings i.e. Economic and Social Development Wing, and Atrocities Wing were comparatively less burdened. Almost 95% of the hearings organized in the Commission related to service matters, and it threw up a lot of work in relation to preparation of briefs for these hearings and minutes on their conclusion and this phenomenon used to further contribute to the burden and pressure on the Service Safeguard Wing.
- (iii) The matters relating to (a) socio-economic development, (b) reservation in services and posts, and (c) atrocities, in relation to Scheduled Tribes were being dealt with in three different files in respect of a particular State or Union Territory opened in the three functional Wings i.e. SSW, ESDW and Atrocity Wing and this position created a lot of coordination problems whenever the Commission needed information or it was asked to furnish information with respect to all these areas and, therefore, the Commission in its wisdom thought of the need of restructuring the functional Wings in such a way that each Wing/Unit was required to deal with all the matters respecting Scheduled Tribes.
- (iv) Another idea behind the proposed restructuring was to ensure that each staff member of the Commission was conversant with all the three areas of work related to Scheduled Tribes so that the work of the Commission in respect of all the areas was carried out without any obstruction on account of a number of officials proceeding on leave or training or otherwise.

13.2 In view of the above-mentioned drawbacks in the work distribution system in the Commission which was in position prior to 20 July, 2006, the Commission in its meeting held on 20 July, 2006 decided to do away with the existing system of distribution of work and to create, after merging the existing Wings, four Research Units namely-Research Unit I, II, III and IV and each Unit to deal with all matters relating to services, development and atrocities with a view to improve the functioning of the Commission. In pursuance of this decision of the Commission, four Research Units were created in place of the then existing three operational Wings by Office Order dated 26 July, 2006 (**Annex XVI**) to deal with all matters pertaining to socio-economic and educational development, services and atrocities in relation to Ministries/ Departments along with CPSEs and other Organizations under their administrative control and the States/UTs allotted to them, as given below para 2 of the said Office Order. Two Research Units each are presently being headed by one Director level officer. Apart from these four Research Units, there is an Administration & Establishment Unit and a separate Coordination Unit. While the Administration/Establishment Unit provides administrative support to the Commission, the Coordination Unit deals with the various activities relating to making arrangements for holding internal meetings of the Commission, issuing communications to the State Govts. for visit of the Chairman, Vice-Chairman or Members of the Commission, Parliamentary and court matters and any other matter not connected with the four functional Research Units, and the Administration and Establishment Unit.

#### **14. FUNCTIONS OF REGIONAL OFFICES OF THE COMMISSION**

The names of the officers of the Commission including the officers in the Regional Offices of the Commission, their location and jurisdiction is given at **Annex-XVII**

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**The Gazette of India  
EXTRAORDINARY**

**PART-II-Section 1**

**PUBLISHED BY AUTHORITY  
No.31, NEW DELHI, FRIDAY, JUNE 8, 1990/  
JYAISTHA 18, 1912**

**MINISTRY OF LAW AND JUSTICE  
(Legislative Department)**

New Delhi, the 8<sup>th</sup> June, 1990/Jyaistha 18, 1912(Saka)

The following Act of Parliament received the assent of the President on the 7<sup>th</sup> June, 1990, and is hereby published for general information:-

**THE CONSTITUTION (SIXTY-FIFTH AMENDMENT)  
ACT, 1990**

(7<sup>th</sup> June, 1990)

An Act further to amend the Constitution of India.

Short title and 1. (1) This Act may be called the Constitution (Sixty-fifth commencement  
commencement (1) This Act may be called the Constitution (Sixty-fifth Amendment) Act, 1990.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint

Amendment of 2. In Article 338 of the Constitution:-  
Article 338

(a) for the marginal heading, the following marginal heading shall be substituted, namely:-

“National Commission for Scheduled Castes and Scheduled Tribes”.

(b) for clauses (1) and (2), the following clauses shall be substituted, namely:-

“(1) There shall be a Commission for the Scheduled Castes and Scheduled Tribes to be known as the National Commission for the Scheduled Castes and Scheduled Tribes.

(2) Subject to the provisions of any law made in this behalf by Parliament, the Commission shall consist of a Chairperson, Vice-Chairperson and five other Members and the conditions of service and tenure of office of the Chairperson, Vice-Chairperson and other Members so appointed shall be such as the President may by rule determine.

(3) The Chairperson, Vice-Chairperson and other Members of the Commission shall be appointed by the President by warrant under

his hand and seal.

(4) The Commission shall have the power to regulate its own procedure.

(5) It shall be the duty of the Commission:

- (a) to investigate and monitor all matters relating to the safeguards provided for the Scheduled Castes and Scheduled Tribes under this Constitution or under any other law for the time being in force or under any order of the Government and to evaluate the working of such safeguards;
- (b) to inquire into specific complaints with respect to the deprivation of rights and safeguards of the Scheduled Castes and Scheduled Tribes;
- (c) to participate and advise on the planning process of socio-economic development of the Scheduled Castes and Scheduled Tribes and to evaluate the progress of their development under the Union and any State;
- (d) to present to the President, annually and at such other time as the Commission may deem fit, reports upon the working of those safeguards;
- (e) to make in such reports recommendation as to the measures that should be taken by Union or any State for the effective implementation of those safeguards and other measures for the protection, welfare and socio-economic development of the Scheduled Castes and Scheduled Tribes; and
- (f) to discharge such other function in relation to the protection, welfare and development and advancement of the Scheduled Castes and Scheduled Tribes as the President may, subject to the provisions of any law made by Parliament, by rule specify.

(6) The President shall cause all such reports to be laid before each House of Parliament along with a memorandum explaining the action taken or proposed to be taken on the recommendations relating to the Union and the reasons for the non-acceptance, if any, of any of such recommendations.

(7) Where any such report, or any part thereof, relates to any matter with which any State Government is concerned, a copy of such report shall be forwarded to the Governor of the State who shall cause it to be laid before the Legislature of the State along with a memorandum explaining the action taken or proposed to be taken on the recommendations relating to the State and the reasons for the non-acceptance, if any, of any of such recommendations;

(8) The Commission shall, while investigating any matter referred to in sub-clause (a) or inquiring into any complaint referred to in sub-clause (b) of clause (5), have all the powers of a civil court trying a suit and in particular in respect of the following matters,

namely:

- (a) summoning and enforcing the attendance of any person from any part of India and examining him on oath;
- (b) requiring the discovery and production of any documents;
- (c) receiving evidence on affidavits;
- (d) requisitioning any public record or copy thereof from any court or office;
- (e) issuing commissions for the examination of witnesses and documents;
- (f) any other matter which the President may by rule, determine.

(9) The Union and every State Government shall consult the Commission on all major policy matters affecting Scheduled Castes and Scheduled Tribes.”

(c) existing clause (3) shall be renumbered as clause (10).

Sd/-  
(V.S.RAMA DEVI)  
**Secy. To the Govt. of India**

REGD.NO.D.L(N)04/0007/2003-05

# **The Gazette of India**

Extraordinary

PARTII-Section 1

**PUBLISHED BY AUTHORITY**

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**No.55 NEW DELHI, TUESDAY, SEPTEMBER 30,2003/ASVINA 8, 1925**

Separate paging is given to this Part in order that it may be filed as a separate compilation.

**MINISTRY OF LAW AND JUSTICE  
(Legislative Department)**

New Delhi, the 30<sup>th</sup> September, 2003/Asvina 8, 1925 (Saka)

The following Act of Parliament received the assent of the President on the 28<sup>th</sup> September, 2003, and is hereby published for general information:-

**THE CONSTITUTION (EIGHTY-NINTH AMENDMENT) ACT, 2003**

[28<sup>th</sup> September, 2003]

**An Act further to amend the Constitution of India.**

Be it enacted by Parliament in the Fifty-fourth Year of the Republic of India as follows:-

- |  |                              |
|--|------------------------------|
| 1.(1) This Act may be called the Constitution (Eighty-ninth Amendment) Act, 2003.  | Short title and Commencement |
| (2) It shall come into force on such date as the Central Government may, by notification in the official Gazette, appoint.   |                              |
| 2. In article 338 of the Constitution--  | Amendment of article 338     |
| (a) for the marginal heading, the following marginal heading shall be substituted namely:-<br>“National Commission for Scheduled Castes”,  |                              |
| (b) for clause (1) and (2), the following clauses shall be substituted, namely:-<br>(1) There shall be a Commission for the Scheduled castes to be known as the National Commission for Scheduled Castes.<br>(2) Subject to the provisions of any law made in this behalf by Parliament the Commission shall consist of a Chairperson, Vice-Chairperson and three other Members and the conditions of service and tenure of office of the Chairperson, |                              |

Vice-Chairperson and other Members so appointed shall be such as the President may by rule determine.:

- (c) in-clauses (5) and (10), the words “and Scheduled Tribes” where they occur shall be omitted.

Insertion of New Article 338A.

(3). After Article 338 of the Constitution, the following article shall be inserted namely:-

National Commission for Scheduled Tribes

“338 A (1) There shall be a Commission for the Scheduled tribes to be known as the National Commission for the Scheduled Tribes.

(2) Subject to the provisions of any law made in this behalf by Parliament, the Commission shall consist of a Chairperson, Vice-Chairperson and three other Members and the conditions of service and tenure of office of the Chairperson, Vice-Chairperson and other members so appointed shall be such as the President may by rule determine.

(3) The Chairperson, Vice-Chairperson and other Members of the Commission shall be appointed by the President by warrant under his hand and seal.

(4) The Commission shall have the power to regulate its own procedure

(5) It shall be the duty of the Commission----

- (a) to investigate and monitor all matters relating to the safeguards provided for the Scheduled Tribes under this Constitution or under any order of the Government and to evaluate the working of such safeguards;
- (b) to inquire into specific complaints with respect to the deprivation of rights and safeguards of the Scheduled tribes;
- (c) to participate and advise on the planning process of socio-economic development of the Scheduled Tribes and to evaluate the progress of their development under the Union and any State;
- (d) to present to the President, annually and at such other times as the Commission may deem fit, reports upon the working of those safeguards;
- (e) to make in such reports recommendations as to the measures that should be taken by the Union or any State for the effective implementation of those safeguards and other measures for the protection, welfare and socio-economic development of the Scheduled tribes; and
- (f) to discharge such other functions in addition to the protection, welfare and development and advancement of the Scheduled tribes as the President may, subject to the provisions of any law made by Parliament by rule specify.

(6) The President shall cause all such reports to be laid before each House of Parliament alongwith a memorandum explaining the action taken or proposed to be taken on the recommendations relating to the Union and the reasons for the non-acceptance, if any, of any of such recommendations.

(7) Where any such report, or any part thereof, relates to any matter with which any State Government is concerned, a copy of such report shall be forwarded to the Governor of the State who shall cause it to be laid before the legislature of the State

along with a memorandum explaining the action taken or proposed to be taken on the recommendations relating to the State and the reasons for the non-acceptance, if any of any of such recommendations.

(8) The Commission shall, while investigating any matter referred to in sub-clause (a) or inquiring into any complaint referred to in sub-clause (b) of clause (5) have all the powers of a civil court trying a suit and in particular in respect of the following manners namely:-

- (a) summoning and enforcing the attendance of any person from any part of India and examining him on oath;
- (b) requiring the discovery and production of any document;
- (c) receiving evidence on affidavits;
- (d) requisitioning any public record or copy thereof from any court or office;
- (e) issuing commissions for the examination of witnesses and documents;
- (f) any other matter which the President may, by rule, determine.

(9) The Union and every State Government shall consult the Commission on all major policy matters affecting Scheduled Tribes.”

**SUBHASH C. JAIN**  
**Secy to the Govt. of India**

REGD.NO.D.L.33004/99

**The Gazette of India**

Extraordinary

PARTII-Section 3-Sub-section (I)

**PUBLISHED BY AUTHORITY**

**No.80]NEW DELHI, THURSDAY, FEBRUARY 19, 2004/MAGHA 30, 1925**

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**MINISTRY OF TRIBAL AFFAIRS**

**NOTIFICATION**

New Delhi, the 19<sup>th</sup> February, 2004

G.S.R.124(E).—In exercise of the powers conferred by Sub-section (2) of Section 1 of the Constitution (Eighty-Ninth Amendment) Act, 2003 the Central Government hereby appoints the 19<sup>th</sup> day of February, 2004 as the date on which the provisions of the said Act shall come into force.

**[F.No.17014/12/99-TDR]**  
**S. CHATTERJEE, Jt. Secy**

**MINISTRY OF TRIBAL AFFAIRS**

**NOTIFICATION**

**New Delhi, the 20<sup>th</sup> February, 2004**

**G.S.R.128(E).**-In exercise of the powers conferred by clause (2) of article 338A of the Constitution and in supersession of the National Commission for Scheduled Castes and Scheduled Tribes Chairperson and Members (Conditions of Service and Tenure) Rules, 1990, except as respects things done or omitted to be done before such supersession, the President hereby makes the following rules, namely:-

**1. Short title and commencement:-** (1) These rules may be called the National Commission for Scheduled Tribes Chairperson, Vice-Chairperson and Members (Conditions of Service and Tenure) Rules, 2004.

(2) They shall come into force on the date of commencement of the Constitution (Eighty-Ninth Amendment) Act, 2003.

**2. Definitions-** In these rules, unless the context otherwise requires,

(a) “article” means article of the Constitution;

(b) “Chairperson” means the Chairperson of the Commission;

(c) “Commission” means the National Commission for Scheduled Tribes established under article 338A;

(d) “Member” means a Member of the Commission;

(e) the expression “Scheduled Tribes” shall have the meaning assigned in clause (24) of article 366;

(f) “Vice-Chairperson” means the Vice-Chairperson of the Commission.

**3. Qualifications:-** (1) The Chairperson, The Vice-Chairperson and the Members shall be appointed from amongst persons of ability, integrity and standing who have had a record of selfless service to the cause of justice for the Scheduled Tribes.

(2) Subject to the provisions of sub rule (1)-

(a) The Chairperson shall be appointed from amongst eminent socio-political workers belonging to the Scheduled Tribes, who inspire confidence amongst the Scheduled Tribes by their very personality and record of selfless service.

(b) The Vice-Chairperson and all other Members out of whom at least two shall be appointed from amongst persons belonging to the Scheduled Tribes.

(c) At least one other Member shall be appointed from amongst women.

**4. Term of Office-** (1) Save as otherwise provided in these rules, the Chairperson, the Vice-Chairperson and other Member shall hold office for a term of three years from the date on which he/she assumes such office.

(2) The Chairperson, the Vice-Chairperson and other Members shall not be eligible for appointment for more than two terms.

5. **Salaries and allowance:-**

(1) The Chairperson shall have the rank of a Cabinet Minister and the Vice-Chairperson that of a Minister of State and other Members shall have the rank of a Secretary to the Government of India unless otherwise specified.

(2) The Chairperson, the Vice-Chairperson and other Members shall be entitled to such salaries and allowances as admissible to a Secretary to the Government of India:

Provided that the Chairperson shall also be entitled to a rent free accommodation,

(3) Notwithstanding anything contained in sub rules (1) and (2), if the Chairperson, Vice-Chairperson or any other Member is a Member of Parliament, or a State Legislature he/she shall not be entitled to any remuneration other than the allowances, defined in clause (a) of Section 2 of the Parliament (Prevention of Disqualification) Act, 1959 (10 of 1959) or as the case may be, other than the allowances, if any, which a Member of the Legislature of the State may, under any law for the time being a force in the State relating to the prevention of disqualification for membership of the State Legislature receive without incurring such disqualification.

6. **Arrangement in case of permanent or temporary vacancies-**

(1) If the office of the Chairperson becomes vacant or if the Chairperson is for any reason absent or unable to discharge the duties of his office, those duties shall, until the new Chairperson assumes office or the existing Chairperson resumes his office, as the case may be, be discharged by the Vice-Chairperson.

(2) If the office of the Vice-Chairperson becomes vacant or if the Vice-Chairperson is for any reason absent or unable to discharge the duties of his office, these duties shall, until the new Vice-Chairperson assumes office or the existing Vice-Chairperson resumes his office, be discharged by such other Member as the President may direct.

7. **Special provision for retired persons appointed as Chairperson, Vice-Chairperson and other Members of the Commission-**

Where any person, being a retired judge of Supreme Court or of a High Court or a retired government servant or retired servant of any other institution or autonomous body and in receipt of a pension in respect of any previous service, is appointed as Chairperson, Vice-Chairperson or a Member, the salary admissible to him under these rules shall be reduced by the amount of that pension and if he had received in lieu of a portion of the pension, the commuted value thereof, by the amount of that portion of the pension.

8. **Resignations and Removal-** (1) The Chairperson and Vice-Chairperson and any other Member, may, be notice in writing under his hand addressed to the President, resign his post. (2) (a) The Chairperson shall only be removed from his office by order of the President on the ground of misbehavior after the Supreme Court, on reference being made to it by the President, has on inquiry held in accordance with the procedure prescribed by it under sub-clause(i) of clause(1) of article 145 of the Constitution, reported that the Chairperson ought on any such ground to be removed.

(b) The President may suspend from office the Chairperson in respect of whom a reference has been made to the Supreme Court under this sub-rule until the President has passed orders on receipt of the report of the Supreme Court on such reference.

(c) Notwithstanding anything in clause (a) the President maybe order remove from office the Chairperson if the Chairperson.

(i) is adjudged an insolvent; or

- (ii) engaged during his term of office in any paid employment outside the duties of his office; or
- (iii) is, in the opinion of the President, on unfit to continue in office by reason of infirmity of mind or body:  
Provided that the Chairperson shall not be removed under this clause until he has been given a reasonable opportunity of being heard in the matter.
- (d) If the Chairperson is or becomes in any way concerned or interested in any contract or agreement made by or on behalf of the Government of India or the Government of a State of participates in any way in the profit thereof or in any benefit or emolument arising therefrom otherwise than as a member and in common with the other members of an incorporated company, he shall, for the purposes of clause (a) be deemed guilty of misbehavior.
- (3) The President shall remove a person from the office of Vice-Chairperson or Member, if that person.-
  - (a) becomes an un-discharged insolvent;
  - (b) gets convicted and sentenced to imprisonment for an offence which in the opinion of the President involves moral turpitude;
  - (c) is in the opinion of the President, unfit to continue in office by reason of infirmity of mind or body;
  - (d) refuses to act or becomes incapable of acting;
  - (e) is without obtaining leave of absence from the Commission, absent from three consecutive meetings of the Commission; or
  - (f) in the opinion of the President, has so abused the position of Vice-Chairperson or Member as to render that persons continuance in office detrimental to the interest of the Scheduled Tribes;

Provided that no person shall be removed under this clause until he has been given reasonable opportunity of being heard in the matter.

(F.No.17014/12/1999-TDR)

S. CHATTERJEE, Jt. Secy.

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Printed by the Manager, Govt. of India Press, Ring Road, Mayapuri, New Delhi-110064  
and Published by the Controller of Publications, Delhi-110054

**Ministry of Tribal Affairs**

**Notification**

New Delhi, the 23<sup>rd</sup> August, 2005

**S.O. 1175(E) – In exercise of the powers conferred by sub-clause (f) of clause 5 of Article 338A of the Commission, the President hereby makes the following rules to specify the other functions of the National Commission for the Scheduled Tribes, namely:-**

- 1. Short title and commencement:- (1) These rules may be called the National Commission for the Scheduled Tribe (Specification of other functions) Rules, 2005.**
- 2. The Commission shall discharge the following other functions in relation to the protection, welfare and development and advancement of the Scheduled Tribes, namely:-**
  - (i) Measures that need to be taken over conferring ownership rights in respect of minor forest produce to STs living in forest areas.
  - (ii) Measures to be taken to safeguard rights of the tribal communities over mineral resources, water resources etc. as laid down by law.
  - (iii) Measures to be taken for the development of tribal to plug loopholes and to work more viable livelihood strategies.
  - (iv) Measures to be taken to improve the efficacy of relief and rehabilitation measures for tribal groups displaced by development projects.
  - (v) Measures to be taken to prevent alienation of tribal people from land and to effectively rehabilitate such people in whose case alienation has already been taken place.
  - (vi) Measures to be taken to elicit maximum cooperation and involvement of tribal communities for protecting forests and undertaking social afforestation.
  - (vii) Measures to be taken to ensure full implementation of the provision of Panchayat (Extension to Scheduled Areas) Act, 1996
  - (viii) Measures to be taken to reduce and ultimately eliminate the practice of shifting cultivation by tribal that lead to their continuous disempowerment and degradation of land and the environment.

(F.No.17014/3/2004-C&LM-II)

Sd/-

**S.Chatterjee, Jt. Secy.**

GOVERNMENT OF INDIA  
MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES AND PENSIONS  
DEPARTMENT OF PERSONNEL & TRAINING, NEW DELHI

**OFFICE MEMORANDUM**

No. 36036/2/97-Estt.(Res)

Dated: 01,January 1998

Sub: Reservation policy for the Scheduled Castes and Scheduled Tribes-Implementation of

The undersigned is directed to say that, in terms of this Department's O.M. No. 36011/15/79-Estt(SCT) dated January 6, 1981, if other Ministries/ Departments intend to depart from the policies laid down by the Department of Personnel, it is mandatory for them to consult the Department of Personnel, in terms of sub rule 4 of Rule 4 of the Transaction of Business Rules, otherwise the policies laid down by the Department of Personnel are binding on them.

2. The instructions contained in this Department's Office Memorandum dated July 2, July 22, August 13, and August 29, 1997 continue to be in operation and there is no proposal to withhold or to keep in abeyance their implementation.

3. In the All India Indian Overseas Bank Scheduled Castes and Scheduled Tribes Employees Welfare Association and others Vs. Union of India and others (Civil Appeal No. 13700 of 1996) the Supreme Court has held that the National Commission for Scheduled Castes and Scheduled Tribes has no power of granting injunctions, whether temporary or permanent. The Court also held that the powers of the Commission in terms of Article 338(8) of the Constitution are all the procedural powers of a civil court for the purpose of investigating and inquiring into the matters and that too for that limited purpose only.

4. In view of the judgment of the Supreme Court referred to in para-3, the National Commission for Scheduled Castes and Scheduled Tribes has no power to direct withholding of the operation of any orders issued by the Government.

5. Ministry of Agriculture etc. may, therefore, keep in mind the directions contained in this Department's O.M. dated 06.01.1981 and the judgment of the Supreme Court referred to above while dealing with the directions given by the National Commission for Scheduled Castes and Scheduled Tribes. Ministry/ Departments etc. must, however, in all fairness consider the recommendations of the Commissions in the light of policies laid down by the Department of Personnel and Training.

Sd/-  
(J. Kumar)

Under Secretary to the Govt. of India

To,

1. All Ministries/ Departments of the Government of India.
2. Department of Economic Affairs (Banking Division), New Delhi
3. Department of Economic Affairs (Insurance Division), New Delhi
4. Department of Public Enterprises, New Delhi
5. Railway Board
6. Union Public Service Commission/ Supreme Court of India/ Election Commission/ Lok Sabha Secretariat/ Rajya Sabha Secretariat/ Cabinet Secretariat/ Central Vigilance Commission/ President's Office/ P.M.O./ Planning Commission.
7. Staff Selection Commission, CGO Complex, Lodhi Road, New Delhi.
8. All Officers/ Sections of the Department of Personnel and Training/ Deptt. of Administrative Reforms & Public Grievances/ Department of Pensioners Welfare.

**The Gazette of India  
EXTRAORDINARY  
PART-II-Section 1  
PUBLISHED BY AUTHORITY  
No.39, NEW DELHI, TUESDAY, SEPTEMBER 12, 1989/  
BHADRA 21, 1911**

**MINISTRY OF LAW AND JUSTICE  
(Legislative Department)**

**New Delhi, the 12<sup>th</sup> September, 1989  
Bhadra 21, 1911 (Saka)**

The following Act of Parliament received the assent of the President on the 11<sup>th</sup> September, 1989, and is hereby published for general information.

**THE SCHEDULED CASTES AND THE SCHEDULED TRIBES (PREVENTION OF  
ATROCITIES) ACT, 1989**

**No.33 of 1989**

**(11<sup>th</sup> September, 1989)**

An Act to prevent the commission of offences of atrocities against the members of the Scheduled Castes and the Scheduled Tribes, to provide for Special Court for the trial of such offences and for the relief and rehabilitation of the victims of such offences and for matters connected therewith or incidental thereto.

Be it enacted by Parliament in the Fortieth Year of the Republic of India as follows:-

**CHAPTER-1**

**PRELIMINARY**

- 1.** (1) This Act may be called the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989.
  - (2) It extends to the whole of India except the State of Jammu and Kashmir.
  - (3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.
- 2.** (1) In this Act, unless the context otherwise requires-
  - (a) "Atrocity" means an offence punishable under section 3;
  - (b) "Code" means the Code of Criminal Procedure, 1973;
  - (c) "Scheduled Castes and Scheduled Tribes" shall have the meanings assigned to them respectively under clause (24) and clause (25) of article 366 of the Constitution;
  - (d) "Special Court" means a Court of Session specified as a Special Court in section 14;
  - (e) "Special Public Prosecutor" means a Public Prosecutor specified as a Special Public Prosecutor or an advocate referred to in section 15;

(f) words and expressions used but not defined in this Act and defined in the Code or the Indian Penal Code shall have the meanings assigned to them respectively in the Code, or as the case may be, in the Indian Penal Code.

(2) Any reference in this Act to any enactment or any provision thereof shall, in relation to an area in which such enactment or such provision is not in force, be construed as a reference to the corresponding law, if any, in force in that area.

## CHAPTER- II

### OFFENCES OF ATROCITIES

**3. (1)** Whoever, not being a member of a Scheduled Caste or a Scheduled Tribe-

- (i) forces a member of a Scheduled Caste or a Scheduled Tribe to drink or eat any inedible or obnoxious substance;
- (ii) acts with intent to cause injury, insult or annoyance to any member of a Scheduled Caste or a Scheduled Tribe by dumping excreta, waste matter, carcasses or any other obnoxious substance in his premises or neighborhood;
- (iii) Forcibly removes clothes from the person of a member of a Scheduled Caste or a Scheduled Tribe or parades him naked or with painted face or body or commits any similar act which is derogatory to human dignity;
- (iv) wrongfully occupies or cultivates any land owned by, or allotted to, or notified by any competent authority to be allotted to, a member of a Scheduled Caste or a Scheduled Tribe or gets the land allotted to him transferred;
- (v) wrongfully dispossesses a member of a Scheduled Caste or a Scheduled Tribe from his land or premises or interferes with the enjoyment of his rights over any land, premises or water;
- (vi) Compels or entices a member of a Scheduled Castes or a Scheduled Tribes to do 'begar' or other similar forms of forced or bonded labour other than any compulsory service for public purposes imposed by Government;
- (vii) forces or intimidates a member of a Scheduled Caste or a Scheduled Tribe not to vote or to vote to a particular candidate or to vote in a manner other than that provided by law;
- (viii) institutes false, malicious or vexatious suit or criminal or other legal proceedings against a member of a Scheduled Caste or a Scheduled Tribe;
- (ix) gives any false or frivolous information to any public servant and thereby causes such public servant to use his lawful power to the injury or annoyance of a member of a Scheduled Caste or Scheduled Tribe;
- (x) intentionally insults or intimidates with intent to humiliate a member of a Scheduled Caste or a Scheduled Tribe in any place within public view;
- (xi) assaults or uses force to any woman belonging to a Scheduled Caste or a Scheduled Tribe with intent to dis-honour or outrage her modesty;
- (xii) being in a position to dominate the will of a woman belonging to a Scheduled Caste or a Scheduled Tribe and uses that position to exploit her sexually to which she would not have otherwise agreed;
- (xiii) corrupts or fouls the water of any spring, reservoir or any other source ordinarily used

by members of the Scheduled Castes or the Scheduled Tribes so as to render it less fit for the purpose for which it is ordinarily used;

- (xiv) denies a member of a Scheduled Caste or a Scheduled Tribe any customary right of passage to a place of public resort or obstructs such member so as to prevent him from using or having access to a place of public resort to which other members of public or any section thereof have a right to use or access to;
- (xv) forces or causes a member of a Scheduled Caste or a Scheduled Tribe to leave his house, village or other place of residence;  
Shall be punishable with imprisonment for a term, which shall not be less than six months but which may extend to five years and with fine.

**(2)** Whoever, not being a member of a Scheduled Caste or a Scheduled Tribe-

- (i) gives or fabricates false evidence intending thereby to cause, or knowing it to be likely that he will thereby cause, any member of a Scheduled Caste or a Scheduled Tribe to be convicted of an offence which is capital by the law for the time being in force shall be punished with imprisonment for life and with fine; and if an innocent member of a Scheduled Caste or a Scheduled Tribes be convicted and executed in consequence of such false or fabricated evidence, the person who gives or fabricates such false evidence, shall be punished with death;
- (ii) gives or fabricates false evidence intending thereby to cause, or knowing it to be likely that he will thereby cause, any member of a Scheduled Caste or a Scheduled Tribe to be convicted of an offence which is not capital but punishable with imprisonment for a term of seven years or upwards, shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to seven years or upwards and with fine;
- (iii) commits mischief by fire or any explosive substance intending to cause or knowing it to be likely that he will thereby cause damage to any property belonging to a member of a Scheduled Caste or a Scheduled Tribe, shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to seven years and with fine;
- (iv) commits mischief by fire or any explosive substance intending to cause or knowing it to be likely that he will thereby cause destruction of any building which is ordinarily used as a place of worship or as a place for human dwelling or as a place for custody of the property by a member of Scheduled Caste or a Scheduled Tribe, shall be punishable with imprisonment for life and with fine;
- (v) commits any offence under the Indian Penal Code punishable with imprisonment for a term of ten years or more against a person or property on the ground that such person is a member of a Scheduled Caste or a Scheduled Tribe or such property belongs to such member, shall be punishable with imprisonment for life and with fine;
- (vi) knowingly or having reason to believe that an offence has been committed under this Chapter, causes any evidence of the commission of that offence to disappear with the intention of screening the offender from legal punishment, or with that intention gives any information respecting the offence which he knows or believes to be false shall be punishable with the punishment provided for that offence; or

(vii) being a public servant, commits any offence under this section, shall be punishable with imprisonment for a term which shall not be less than one year but which may extend to the punishment provided for that offence.

4. Whoever, being a public servant but not being a member of a Scheduled Caste or a Scheduled Tribe, willfully neglects his duties required to be performed by him under this Act, shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to one year.

5. Whoever, having already been convicted of an offence under this Chapter is convicted for the second offence or any offence subsequent to the second offence, shall be punishable with imprisonment for a term which shall not be less than one year but which may extend to the punishment provided for that offence.

6. Subject to the other provisions of this Act, the provisions of section 34, Chapter III, Chapter IV, Chapter V, Chapter VA, section 149 and Chapter XXIII of the Indian Penal Code, shall, so far as may be, apply for the purposes of this Act as they apply for the purposes of the Indian Penal Code.

7. (1) Where a person has been convicted of any offence punishable under this Chapter, the Special Court may, in addition to awarding any punishment, by order in writing, declare that any property, movable or immovable or both, belonging to the person, which has been used for the commission of that offence, shall stand forfeited to Government.

(2) Where any person is accused of any offence under this Chapter, it shall be open to the Special Court trying him to pass an order that all or any of the properties, movable or immovable or both, belonging to him, shall, during the period of such trial, be attached, and where such trial ends in conviction, the property so attached shall be liable to forfeiture to the extent it is required for the purpose of realisation of any fine imposed under this Chapter.

8. In a prosecution for an offence under this Chapter, if it is proved that-

9. (a) the accused rendered any financial assistance to a person accused of, or reasonably suspected of committing, an offence under this Chapter the, Special Court shall presume, unless the contrary is proved, that such person had abetted the offence;

(b) a group of persons committed an offence under this Chapter and if it is proved that the offence committed was sequel to any existing dispute regarding land or any other matter, it shall be presumed that offence was committed in furtherance of the common intention or in prosecution of the common object.

10. (1) Notwithstanding anything contained in the code or in any other provision of this Act, the State Government may, if it considers it necessary or expedient so to do-

(a) for the prevention of and for coping with any offence under this Act, or

(b) for any case or class or group of cases under this Act, in any district or part thereof, confer, by notification in the Official Gazette, on any officer of the State Government, the powers exercisable by a police officer under the Code in such district or part thereof or, as the case may be, for such case or class or group of cases, and in particular, the powers of arrest, investigation and prosecution of persons before any Special Court.

(2) All officers of police and all other officers of Government shall assist the officer referred to in sub-section (1) in the execution of the provisions of this Act or any rule, scheme or order made thereunder.

- (3) **The provisions of the Code shall, so far as may be, apply to the exercise of the powers by an officer under sub-section (1)**

### CHAPTER III

#### EXTERNMENT

11. (1) Where the Special Court is satisfied, upon a complaint or a police report that a person is likely to commit an offence under Chapter II of this Act in any area included in 'Scheduled Areas' or 'tribal areas', as referred to in article 244 of the Constitution, it may, by order in writing, direct such person to remove himself beyond the limits of such area, by such route and within such time as may be specified in the order, and not to return to that area from which he was directed to remove himself for such period, not exceeding two years, as may be specified in the order.

(2) The Special Court shall, along with the order under sub-section (1), communicate to the person directed under that sub-section the grounds on which such order has been made.

(3) The Special Court may revoke or modify the order made under sub-section (1), for the reasons to be recorded in writing, on the representation made by the person against whom such order has been made or by any other person on his behalf within thirty days from the date of the order.

12. (1) If a person to whom a direction has been issued under section 10 to remove himself from any area-

- (a) fails to remove himself as directed; or
- (b) having so removed himself enters such area within the period specified in the order, otherwise than with the permission in writing of the Special Court under sub-section (2), the Special Court may cause him to be arrested and removed in police custody to such place outside such area as the Special Court may specify.

(2) The Special Court may, by order in writing, permit any person in respect of whom an order under section 10 has been made, to return to the area from which he was directed to remove himself for such temporary period and subject to such conditions as may be specified in such order and may require him to execute a bond with or without surety for the due observation of the conditions imposed.

(3) The Special Court may at any time revoke any such permission.

(4) Any person who, with such permission, returns to the area from which he was directed to remove himself shall observe the conditions imposed, and at the expiry of the temporary period for which he was permitted to return, or on the revocation of such permission before the expiry of such temporary period, shall remove himself outside such area and shall not return thereto within the unexpired portion specified under section 10 without a fresh permission.

(5) If a person fails to observe any of the conditions imposed or to remove himself accordingly or having so removed himself enters or returns to such area without fresh permission the Special Court may cause him to be arrested and removed in police custody to such place outside such area as the Special Court may specify.

13. (1) Every person against whom an order has been made under section 10 shall, if so required by the Special Court, allow his measurements and photographs to be taken by police officer.

(2) If any person referred to in sub-section (1), when required to allow his measurements or photographs to be taken resists or refuses to allow his taking of such measurements or photographs, it shall be lawful to use all necessary means to secure the taking thereof.

(3) Resistance to or refusal to allow the taking of measurements or photographs under sub-section (2) shall be deemed to be an offence under section 186 of the Indian Penal Code.

(4) Where an order under section 10 is revoked, all measurements and photographs (including negative) taken under sub-section (2) shall be destroyed or made over to the person against whom such order is made.

14. Any person contravening an order of the Special Court made under section 10 shall be punishable with imprisonment for a term which may extend to one year and with fine.

#### **CHAPTER -IV**

##### **Special courts**

15. For the purpose of providing for speedy trial, the State Government shall, with the concurrence of the Chief Justice of the High Court, by notification in the Official Gazette, specify for each district a Court of Session to be a Special Court to try offences under this Act.

16. For every Special Court, the State Government shall, by notification in the Official Gazette, specify a Public Prosecutor or appoint an advocate who has been in practice as an advocate for not less than seven years, as a Special Public Prosecutor for the purpose of conducting cases in that Court.

#### **CHAPTER-V**

##### **Miscellaneous**

17. The provisions of section 10A of the Protection of Civil Rights Act, 1955, shall, so far as may be, apply for the purposes of imposition and realisation of collective fine and for all other matters connected therewith under this Act.

18. (1) A District Magistrate or a Sub-divisional Magistrate or any other Executive Magistrate or any police officer not below the rank of a Deputy Superintendent of Police may, on receiving information and after such inquiry as he may think necessary, has reason to believe that a person or a group of persons not belonging to the Scheduled Castes or the Scheduled Tribes, residing in or frequenting any place within the local limits of his jurisdiction is likely to commit an offence or has threatened to commit any offence under this Act and is of the opinion that there is sufficient ground for proceeding, declare such an area to be an area prone to atrocities and take necessary action for keeping the peace and good behavior and maintenance of public order and tranquility and may take preventive action.

(2) The provisions of Chapters VIII, X and XI of the Code shall, so far as maybe, apply for the purposes of sub-section (1)

(3) The State Government may, by notification in the Official Gazette, make one or more schemes specifying the manner in which the officers referred to in sub-section (1) shall take appropriate action specified in such scheme or schemes to prevent atrocities and to restore the feeling of security amongst the members of the Scheduled Castes and the Scheduled Tribes.

19. Nothing in section 438 of the code shall apply in relation to any case involving the arrest of any person on an accusation of having committed an offence under this Act.

20. The provisions of section 360 of the Code and the provisions of the Probation of Offenders Act, 1958 shall not apply to any person above the age of eighteen years who is found guilty of having committed an offence under this Act.

21. Save as otherwise provided in this Act, the provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or any custom or usage or any instrument having effect by virtue of any such law.

22. (1) Subject to such rules as the Central Government may make in this behalf, the State Government shall take such measures as may be necessary for the effective implementation of this Act.

(2) In particular, and without prejudice to the generality of the foregoing provisions, such measures may include-

- (i) the provision for adequate facilities, including legal aid, to the persons subjected to atrocities to enable them to avail themselves of justice;
- (ii) the provision for travelling and maintenance expenses to witnesses, including the victims of atrocities, during investigation and trial of offences under this Act;
- (iii) the provision for the economic and social rehabilitation of the victims of the atrocities;
- (iv) the appointment of officers for initiating or exercising supervision over prosecutions for the contravention of the provisions of this Act;
- (v) the setting up of committees at such appropriate levels as the State Government may think fit to assist that Government in formulation or implementation of such measures;
- (vi) provisions for a periodic survey of the working of the provisions of this Act with a view to suggesting measures for the better implementation of the provisions of this Act;
- (vii) the identification of the areas where the members of the Scheduled Castes and the Scheduled Tribes are likely to be subjected to atrocities and adoption of such measures so as to ensure safety for such members.

(3) The Central Government shall take such steps as maybe necessary to co-ordinate the measures taken by the State Governments under sub-section- (1).

(4) The Central Government shall, every year, place on the table of each House of Parliament a report on the measures taken by itself and by the State Governments in pursuance of the provisions of this section.

23. No suit, prosecution or other legal proceedings shall lie against the central Government or against the State Government or any officer or authority of Government or any other person for anything which is in good faith done or intended to be done under this Act.

24. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions, aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; show however, that any such modification annulment shall be without prejudice to the validity of anything previously done under that rule.

**V.S. RAMA DEVI,  
Secy. to the Govt. of India**

**MINISTRY OF WELFARE  
New Delhi, the 31<sup>st</sup> March, 1995**

**NOTIFICATION**

**G.S.R. 316 (E).** - In exercise of the powers conferred by sub-section (1) of Section 23 of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (33 of 1989), the Central Government hereby makes the following rules, namely: -

**1. SHORT TITLE AND COMMENCEMENT:** (1) These rules may be called the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Rules, 1995.

(2) They shall come into force on the date of their publication in the Official Gazette.

**2. DEFINITIONS:** In these rules, unless the context otherwise requires: -

- (a) "Act" means the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (33 of 1989);
- (b) "dependent", with its grammatical variations and cognate expressions, includes wife, children, whether married or unmarried, dependent parents, widowed sister, widow and children of pre-deceased son of a victims of atrocity;
- (c) "identified area" means such area where State Government has reason to believe that atrocity may take place or there is an apprehension of reoccurrence of an offence under the Act or an area prone to victim of atrocity;
- (d) "Non Government Organisation" means a voluntary organisation engaged in the welfare activities relating to the Scheduled Castes and the Scheduled Tribes and registered under the Societies Registration Act, 1866 (21 of 1866) or under any law for the registration of documents or such organisation for the time being in force;
- (e) "Schedule" means the Schedule annexed to these rules;
- (f) "Section" means section of the Act;
- (g) "State Government", in relation to a Union Territory, means the Administrator of that Union Territory appointed by the President under Article 239 of the Constitution;
- (h) words and expressions used herein and not defined but defined in the Act shall have the meanings respectively assigned to them in the Act.

**3. PRECAUTIONARY AND PREVENTIVE MEASURES:**

1. With a view to prevent atrocities on the Scheduled Castes and the Scheduled Tribes, the State Government shall: -

- (i) identify the area where it has reason to believe that atrocity may take place or there is an apprehension of reoccurrence of an offence under the Act ;
- (ii) order the District Magistrate and Superintendent of Police or any other officer to visit the identified area and review the law and order situation ;
- (iii) if deem necessary, in the identified area cancel the arms licenses of the persons, not being member of the Scheduled Castes or the Scheduled Tribes,

their near relations, servants or employees and family friends and get such arms deposited in the Government Armoury ;

- (iv) seize all illegal fire arms and prohibit any illegal manufacture of fire arms ;
- (v) with a view to ensure the safety of person an property, if deem necessary, provide arms licenses to the members of the Scheduled Castes and the Scheduled Tribes ;
- (vi) constitute a high power State-level committee, district and divisional level committees or such number of other committees as deem proper and necessary for assisting the Government in implementation of the provisions of the Act ;
- (vii) set-up a vigilance and monitoring committee to suggest effective measures to implement the provisions of the Act ;
- (viii) set-up Awareness Centres and organise Workshops in the identified area or at some other place to educate the persons belonging to the Scheduled Castes and the Scheduled Tribes about their rights and the protection available to them under the provisions of various Central and State enactments or rules, regulations and schemes framed thereunder ;
- (ix) encourage Non-Government Organisations for establishing and maintaining Awareness Centres and organizing Workshops and provide them necessary financial and other sort of assistance ;
- (x) deploy special police force in the identified area ;
- (xi) by the end of every quarter, review the law and order situation, functioning of different committees, performance of Special Public Prosecutors, Investigating Officers and other Officers responsible for implementing the provisions of the Act and the cases registered under the Act.

#### **4. SUPERVISION OF PROSECUTION AND SUBMISSION OF REPORT: -**

(1) The State Government on the recommendation of the District Magistrate shall prepare for each District panel of such number of eminent senior advocates who has been in practice for not less than seven years, as it may deem necessary for conducting cases in the Special Courts. Similarly, in consultation with the Director Prosecution incharge of the prosecution, a panel of such number of Public Prosecutors as it may deem necessary for conducting cases in the Special Courts, shall also be specified. Both these panels shall be notified in the Official Gazette of the State and shall remain in force for a period of three years.

(2) The District Magistrate and the Director of prosecution/incharge of the prosecution shall review at least twice in a calendar year, in the month of January and July, the performance of Special Public Prosecutors so specified or appointed and submit a report to the State Government.

(3) If the State Government is satisfied or has reason to believe that a Special Public Prosecutor so appointed or specified has not conducted the case to the best of the ability and with due care and caution, his name may be, for reasons to be recorded in writing, denotified.

(4) The District Magistrate and the officer-in-charge of the prosecution at the District level, shall review the position of cases registered under the Act and submit a monthly report on or before 20<sup>th</sup> day of each subsequent month to the Director of Prosecution and the State

Government. This report shall specify the action taken/proposed to be taken in respect of investigation and prosecution of each case.

(5) Notwithstanding anything contained in sub-rule (1) the District Magistrate or the Sub-Divisional Magistrate may, if deem necessary, or if so desired by the victims of atrocity engage an eminent Senior Advocate for conducting cases in the Special Courts on such payment of fee as he may consider appropriate.

(6) Payment of fee to the Special Public Prosecutor shall be fixed by the State Government on a scale higher than the other panel advocates in the State.

#### **5. INFORMATION TO POLICE OFFICER IN-CHARGE OF A POLICE STATION :**

(1) Every information relating to the commission of an offence under the Act, if given orally to an officer in-charge of a police station shall be reduced to writing by him or under his direction, and be read over to the informant, and every such information, whether given in writing or reduced to writing as aforesaid, shall be signed by the persons giving it, and the substance thereof shall be entered in a book to be maintained by that police station.

(2) A copy of the information as so recorded under sub-rule (1) above shall be given forthwith, free of cost, to the informant.

(3) Any person aggrieved by a refusal on the part of an officer incharge of a police station to record the information referred to in sub-rule (1) may send the substance of such information, in writing and by post, to the Superintendent of Police concerned who after investigation either by himself or by a police officer not below the rank of Deputy Superintendent of Police, shall make an order in writing to the officer in-charge of the concerned police station to enter the substance of that information to be entered in the book to be maintained by that the police station.

#### **6. SPOT INSPECTION BY OFFICERS:**

(1) Whenever the District Magistrate or the sub-Divisional Magistrate or any other Executive Magistrate or any police officer not below the rank of Deputy Superintendent of Police receives an information from any person or upon his own knowledge that an atrocity has been committed on the members of the Scheduled Castes or the Scheduled Tribes within his jurisdiction, he shall immediately himself visit the place of occurrence to assess the extent of atrocity, loss of life, loss and damage to the property and submit a report forthwith to the State Government.

(2) The District Magistrate or the sub-Divisional Magistrate or any other executive Magistrate and the Superintendent of Police, Deputy Superintendent of Police after inspecting the place or area shall on the spot:-

- (i) draw a list of victims, their family members and dependents entitled for relief;
- (ii) prepare a detailed report of the extent of atrocity loss and damage to the property of the victims;
- (iii) order for intensive police patrolling in the area;
- (iv) take effective and necessary steps to provide protection to the witnesses and other sympathisers of the victims;
- (v) provide immediate relief to the victims;

## **7. INVESTIGATING OFFICER**

(1) An offence committed under the Act shall be investigated by a police officer not below the rank of a Deputy Superintendent of Police. The investigating officer shall be appointed by the State Government/Director General of Police/Superintendent of Police after taking into account his past experience, sense of ability and justice to perceive the implications of the case and investigate it along with right lines within the shortest possible time.

(2) The investigating officer so appointed under sub-rule (1) shall complete the investigation on top priority within thirty days and submit the report to the Superintendent of Police who in turn will immediately forward the report to the Director General of Police of the State Government.

(3) The Home Secretary and the Social Welfare Secretary to the State Government, Director of Prosecution the officer in-charge of Prosecution and the Director General of Police shall review by the end of every quarter the position of all investigations done by the investigating officer.

## **8. SETTING UP OF THE SCHEDULED CASTES AND THE SCHEDULED TRIBES PROTECTION CELL**

(1) The State Government shall set up Scheduled Castes and the Scheduled Tribes Protection Cell at the State head quarter under the charge of Director of Police/Inspector General police. This Cell shall be responsible for:-

- (i) conducting survey of the identified area;
- (ii) maintaining public order and tranquility in the identified area;
- (iii) recommending to the State Government for deployment of special police force or establishment of special police post in the identified area;
- (iv) making investigations about the probable causes leading to an offence under the Act;
- (v) restoring the feeling of security amongst the members of the Scheduled Castes and the Scheduled Tribes;
- (vi) informing the nodal officer and special officer about the law and order situation in the identified area;
- (vii) making enquiries about the investigation and spot inspections conducted by various officers;
- (viii) making enquiries about the action taken by the Superintendent of Police in the cases where an officer in -charge of the police station has refused to enter and information in a book to be maintained by that police station under sub-rule (3) of rule 5;
- (ix) making enquiries about the willful negligence by a public servant;
- (x) reviewing the position of cases registered under the Act; and
- (xi) submitting a monthly report on or before 20<sup>th</sup> day of each subsequent month to the State Government nodal officer about the action taken/proposed to be taken in respect of the above.

## **9. NOMINATION OF NODAL OFFICER**

The State Government shall nominate a nodal officer of the level of a Secretary to the State Government preferably belonging to the Scheduled Castes or the Scheduled Tribes, for co-ordinating the functioning of the District Magistrates and Superintendent of Police or the offices authorised by them investigating officers and other officers responsible for implementing the provisions of the Act. By the end of the every quarter, the nodal officer shall review;-

- (i) the reports received by the State Government under sub-rule (2) and (4) of rule 4, rule 6, clause (xi) of rule 8.
- (ii) the position of cases registered under the Act;
- (iii) law and order situation in the identified area;
- (iv) various kinds of measures adopted for providing immediate relief in cash or kind or both to the victims of atrocity or his or her dependent;
- (v) adequacy of immediate facilities like rationing, clothing, shelter, legal aid, travelling allowance, daily allowance, and transport facilities provided to the victims of atrocity or his/her dependants;
- (vi) performance of non-Governmental organisations, the Scheduled Castes and the Scheduled Tribes Protection Cell, various committees and the public servants responsible for implementing the provisions of the Act.

## **10. APPOINTMENT OF A SPECIAL OFFICER**

In the identified area a Special Officer not below the rank of a Additional District Magistrate, Superintendent of Police or other officers responsible for implementing the provisions of the Act, various committees and the Scheduled Castes and the Scheduled Tribes Protection Cell. The Special Officer shall be responsible for:

- (i) providing immediate relief and other facilities to the victims of atrocity and initiate necessary measures to prevent or avoid re-occurrence of atrocity ;
- (ii) setting up an awareness centre and organising workshop in the identified area or at the district head quarters to educate the persons belonging to the Scheduled Castes and Scheduled Tribes about their rights and the protection available to them under the provisions of various Central and State enactments or rules and schemes etc. framed therein ;
- (iii) co-ordinating with the non Governmental organisations and providing necessary facilities and financial and other type of assistance to non-Governmental Organisation for maintaining centres or organising workshops ;

## **11. TRAVELLING ALLOWANCE DAILY ALLOWANCE MAINTENANCE EXPENSES AND TRANSPORT FACILITIES TO THE VICTIM OF ATROCITY, HIS OR HER DEPENDENT AND WITNESSES**

(1) Every victim of atrocity or his/her dependent and witnesses shall be paid to and fro rail fare by second class in express/mail/passenger train or actual bus or taxi fare from his /her place of residence or actual bus or taxi fare from his/her place of residence or place of stay to the place of investigation or hearing of trial of an offence under the Act.

(2) The District Magistrate or the sub-Divisional Magistrate or any other Executive Magistrate shall make necessary arrangements for providing transport facilities or reimbursement of full payment thereof to the victims of atrocity and witnesses for visiting the investigating officer, Superintendent of Police, Deputy Superintendent of Police, District Magistrate or any other Executive Magistrate.

(3) Every women witness, the victim of atrocity or her dependent being a woman or a minor, a person more than sixty years of age and a person having 40 percent or more disability shall be entitled to be accompanied by an attendant of her/his choice. The attendant shall also be paid travelling and maintenance expenses as applicable to the witness or the victim of atrocity when called upon during hearing, investigation and trial of an offence under the Act.

(4) The witness, the victims of atrocity or his/her dependent and the attendant shall be paid daily maintenance expenses, for the days he/she is away from the place of his /her residence or stay during investigation, hearing and trial of an offence, of such rates but not less than the minimum wages, as may be fixed by the State Government for the agricultural labourers.

(5) In addition to daily maintenance expenses the witness, the victim of atrocity (or his/her dependant) and the attendant shall also be paid diet expenses at such rates as may be fixed by the State Government from time to time.

(6) The payment of travelling allowances, daily allowance, maintenance expenses and reimbursement of transport facilities shall be made immediately or not later than three days by the District Magistrate or the Sub-divisional Magistrate or any other Executive Magistrate to the victims that dependants attendant and witnesses for the days they visit the investigating officer or in-charge police station or hospital authorities or Superintendent of Police/Deputy Superintendent of Police or District Magistrate or any other officer concerned or the Special Court.

(7) When an offence has been committed under Section 3 of the Act, the District Magistrate or the Sub-Divisional Magistrate or any other Executive Magistrate shall reimburse the payment of medicines, special medical consultation, blood transfusion, replacement of essential clothing, meals and fruits provided to the victim (s) of atrocity.

## **12. MEASURES TO BE TAKEN BY THE DISTRICT ADMINISTRATION: -**

(1) The District Magistrate and the Superintendent of Police shall visit the place or area where the atrocity has been committed to assess the loss of life and damage to the property and draw a list of victim their family members and dependents entitled for relief.

(2) Superintendent of Police shall ensure that the First information Report is registered in the book of the concerned police station and effective measures for apprehending the accused are taken.

(3) The Superintendent of Police, after spot inspection, shall immediately appoint an investigation officer and deploy such police force in the area and take such other preventive measures as he may deem proper and necessary.

(4) The District Magistrate or the Sub Divisional Magistrate or any other Executive Magistrate shall make arrangements for providing immediate relief in cash or in kind or both to the victims of atrocity, their family members and dependents according to the scale as in the schedule annexed to these Rules (**Appendix-I**). Such immediate relief shall also include food, water, clothing, shelter, medical aid, transport facilities and other essential items necessary for human beings.

(5) The relief provided to the victim of the atrocity or his/her dependent under sub-rule (4) in respect of death, or injury or damage to property shall be in addition to any other right to claim compensation in respect thereof under any other law for the time being in force.

(6) The relief and rehabilitation facilities mentioned in sub-rule (4) above shall be provided by the District Magistrate or the Sub-Divisional Magistrate or any other Executive Magistrate in accordance with the scales provided in the Schedule annexed to these rules.

(7) A report of the relief and rehabilitation facilities provided to the victims shall also be forwarded to the Special Court by the District Magistrate or the Sub-Divisional Magistrate or the Executive Magistrate or Superintendent of Police. In case the Special Court is satisfied that the payment of relief was not made to the victim or his/her dependent in time or the amount of relief or compensation was not sufficient or only a part of payment of relief or compensation was made, it may order for making in full or part the payment of relief or any other kind of assistance.

### **13. SELECTION OF OFFICERS AND OTHER STAFF MEMBERS FOR COMPLETING THE WORK RELATING TO ATROCITY:**

(1) The State Government shall ensure that the administrative officers and other staff members to be appointed in an area prone to atrocity shall have the right aptitude and understanding of the problems of the Scheduled Castes and the Scheduled Tribes.

(2) It shall also be ensured by the State Government that person from the Scheduled Castes and the Scheduled Tribes are adequately represented in the administration and in the police force at all levels, particularly at the level of police posts and police station.

### **14. SPECIFIC RESPONSIBILITY OF THE STATE GOVERNMENT**

The State Government shall make necessary provisions in its annual budget for providing relief and rehabilitation facilities to the victims of atrocity. It shall review at least twice in a calendar year, in the month of January and July the performance of the Special Public Prosecutor specific or appointed under Section 15 of the Act, various reports received, investigation made and preventing steps taken by the District magistrate, Sub-Divisional Magistrate and Superintendent of Police, relief and rehabilitation facilities provided to the victims and the reports in respect of lapses on behalf of the concerned officers.

### **15. CONTINGENCY PLAN BY THE STATE GOVERNMENT**

(1) The State Government shall prepare a model contingency plan for implementing the provisions of the Act and notify the same in the Official Gazette of the State Government. It should specify, the role and responsibility of various departments and their officers at different levels and the role and responsibility of Rural/Urban, Local Bodies and Non-Government Organisations, inter alia, this plan shall contain a package of relief measures including the following:

- (a) scheme to provide immediate relief in cash or in kind or both ;
- (b) allotment of agricultural land and house sites ;
- (c) the rehabilitation packages ;
- (d) scheme for employment in Government or Government undertaking to the dependant or one of the family members of the victim ;
- (e) pension scheme for widows, dependant children of the deceased, handicapped or old

age victims of atrocity.

- (f) mandatory compensation for the victims ;
  - (g) Scheme for strengthening the socio-economic condition of the victim ;
  - (h) provisions for providing brick/stone masonry house to the victims;
  - (i) such other elements as health care, supply of essential commodities, electrification, adequate drinking water facility burial/cremation ground and link roads to the Scheduled Castes and the Scheduled Tribes habitats.
- (2) The State Government shall forward a copy of the contingency plan or a summary thereof and a copy of the scheme, as soon as may be, to the Central Government in the Ministry of Welfare and to all the District Magistrates, Sub-Divisional Magistrates. Inspectors General of Police and Superintendents of Police.

#### **16. CONSTITUTION OF STATE-LEVEL VIGILANCE AND MONITORING COMMITTEE**

- (1) The State Government shall constitute a high power vigilance and monitoring committee of not more than 25 members consisting of the following:
- (i) Chief Minister/Administrator-Chairman (in case of a State under President's Rule Governor-Chairman).
  - (ii) Home Minister, Finance Minister and Welfare Minister- Members (in case of a State under the President's Rule Advisors-Members).
  - (iii) all elected Members of Parliament and State Legislative Assembly and Legislative Council from the State belonging to the Scheduled Castes and Scheduled Tribes-Members.
  - (iv) Chief Secretary, the Home Secretary, the Director General of Police, Director/Deputy Director National Commission for Scheduled Castes and the Scheduled Tribes-Members.
  - (v) The Secretary in-charge of the Welfare and Development of the Scheduled Castes and the Scheduled Tribes-Convenor
- (2) The high power vigilance and monitoring committee shall meet at least twice in a calendar year, in the month of January and July to review the implementation of the provisions of the Act, relief and rehabilitation facilities provided to the victims and other matters connected therewith, prosecution of cases under the Act, role of different officers/agencies responsible for implementing, the provisions of the Act and various reports received by the State Government.

#### **17. CONSTITUTION OF DISTRICT LEVEL VIGILANCE AND MONITORING COMMITTEE**

- (1) In each district within the State, the District Magistrate shall set up a vigilance and monitoring committee in his district to review the implementation of the provisions of the Act, relief and rehabilitation facilities provided to the victims and other matters connected therewith, prosecution of cases under the Act, role of different officers/agencies responsible for implementing the provisions of the Act and various reports received by the District Administration.

(2) The district level vigilance and monitoring committee shall consist of the elected Members of the Parliament and State Legislative Assembly and Legislative Assembly and Legislative Council, Superintendent of Police, three group 'A' officers/Gazetted officers of the State Government belonging to the Scheduled Castes and the Scheduled Tribes, not more than 5 non-official Members belonging to the Scheduled Castes and the Scheduled Tribes and not more than 3 members from the categories other than the Scheduled Castes and the Scheduled Tribes having association with Non-Government Organisations. The District Magistrate and District Social Welfare Officer shall be Chairman and Member Secretary respectively.

(3) The district level committee shall meet at least once in three months.

**18. MATERIAL FOR ANNUAL REPORT**

The State Government shall every, before the 31<sup>st</sup> March, forward the report to the Central Government about the measures taken for implementing provisions of the Act and various schemes plans framed by it during the previous calendar year.

[File No. 11012/1/89-PCR (Desk)]

## NOEMS FOR RELIEF AMOUNT

### U/s 12(4) of SCs and STs (POA) Rules,1995

- |     |   |  |
|-----|---|--|
| 1.  | Drink or eat inedible or obnoxious substance ( Section 3 (1) (I) )  | Rs. 25,000 or more depending upon the nature and gravity of the offence to each victim and also commensurate with the indignity, insult, injury and defamation suffered by the victim  |
|     | Causing injury insult or annoyance [Section 3(1)(ii)                | payment to be made as follows:   |
| 3.  | Derogatory act [Sec.3(1)(iii)]                                      | 25% when the chargesheet is sent to the court.<br><br>75% when accused are convicted by the lower court.   |
| 4.  | Wrongful occupation or cultivation of land, etc. [Section 3(1)(iv)] | At least Rs.25,000/- or more depending upon the nature and gravity of the offence. The land/premises/water supply shall be restored where necessary at Govt. cost. Full payment to be made when charge-sheet is sent to the Court. |
| 5.  | Relating to land, premises and water [section 3(1)(v)]              |  |
| 6.  | Begar or forced or bonded labour [Section 3(1)(vi)]                 | Atleast Rs.25,000/- to each victim. Payment of 25% at FIR stage and 75% on conviction in the lower court.  |
| 7.  | Relating to right to franchise [Section 391)(vii)                   | Upto Rs.20,000/- to each victim depending upon the nature and gravity of the offence.  |
| 8.  | False, malicious or vexatious legal proceedings [Section 3(1)(viii) | Rs.25,000/- or reimbursement of actual legal expenses and damages or whichever is less after conclusion of the trial of the accused.   |
| 9.  | False and frivolous information [Section 391)(ix)                   |  |
| 10. | Insult, intimidation and humiliation [Section 3(1)(x)               | Upto Rs.25,000/- to each victim depending upon the nature of the offence. Payment of 25% when chargesheet is sent to the court and rest on conviction.   |
| 11. | Outraging the modesty of a woman [Section391)(xi)]                  | Rs.50,000/- to each victim of the offence. 50% of the amount may be paid after medical examination and remaining at the conclusion of the trial.   |
| 12. | Sexual exploitation of a woman [Section 3(1)(xii)]                  |  |
| 13. | Fouling of water (section 3(1)(xiii)                                | Upto Rs.1,00,000/- or full cost of restoration of normal facility, including clearing when the water is fouled. Payment may be made at the stage as deemed fit by District Administration.   |

14. Denial of customary rights of passage [Section 3(1)(xiv)] Upto Rs.1,00,000/- or full cost of restoration of right of passage and full compensation of the loss suffered if any. Payment of 50% when chargesheet is sent to the court and 50% on conviction in lower court.
15. Making one desert place of residence [Section 3(1)(xv)] Restoration of the site/right to stay and compensation of Rs.25,000/- to each victim and reconstruction of the house of Govt. cost, if destroyed. To be paid in full when charge sheet is sent to the lower court.
16. Giving false evidence Section 3D(2)(I) and (ii)] At least Rs.1,00,000/- of full compensation of the loss or harm sustained. 50% to be paid when charge sheet is sent to Court and 50% on conviction by the lower court.
17. Committing offences under the Indian Penal Code punishable with imprisonment for a term of 10 years or more Section 3(2) Atleast Rs.50,000/- depending upon the nature and gravity of the offence to each victim and/or his dependents. The amount would vary if specifically otherwise provided in the Schedule.
18. Victimization at the hands of public servant [Section 3(2)(vii)] Full compensation on account of damages or loss or harm sustained. 50% to be paid when charge-sheet is sent to the Court and 50% on conviction by lower court.
19. Disability, the definitions of physical & mental disabilities are contained in the Ministry of Welfare, GOI notification No.4-2/83-HW.III dated 6-8-1986 as amended from time to time. A copy of the notification is at **Appendix. II.**

100% incapacitation

Non-earning Member of a family. At least Rs.1,00,000 to each victim of offence.50% on FIR and 25% at chargesheet and 25% on conviction by the lower court.

Earning member of family. Atleast Rs.2,00,000/- to each victim of offence. 50% to be paid on FIR/Medical examination stage. 25% when charge-sheet sent to court and 25% at conviction in lower court.

Where incapacitation is less than 100% The rates as laid down in a (I) and (ii) above shall be reduced in the same propotion, the stages of payments also being the same. However, not less than Rs.15, 000/- to non-earning member and not less than Rs.30, 000/- to an earning member of a family.

20. Murder/Death
- Non-earning member of a family. At least Rs.1,00,000/- to each case. Payment of 75% after postmortem and 25% on conviction by the lower court.
- Earning member of a family. At least Rs.2,00,000/- to each case. Payment of 75% after postmortem and 25% on conviction by the lower court.
21. Victim of murder, death massacre, rape, mass rape and gang rape, permanent incapacitation and dacoity. In addition to relief amounts paid under above items, relief may be arranged within three months of date of atrocity as follows:-
- Pension to each widow and/or other dependents of deceased SC and ST @ Rs.1,000/- per months, or employment to one member of the family of the deceased, or provision of agricultural land and house, if necessary by outright purchase.
- Full cost of the education and maintenance of the children of the victims. Children may be admitted to Ashram Schools/residential schools.
- Provision of utensils, rice, wheat, dals, pulses etc. for a period of three months.
22. Complete destruction/burnt houses. Brick/stone masonry house to be constructed or provided at Government cost where it has been burnt or destroyed.

## Appendix. II to Annex-VIII

**No.4-2/83-HW.III**  
**GOVERNMENT OF INDIA**  
**MINISTRY OF WELFARE**  
**New Delhi, the 6<sup>th</sup> August, 1986**

**Subject: Uniform Definitions of the Physically Handicapped**

At present, different definitions for various categories of handicapped are adopted in various schemes/programmes of the Central and State Governments. In order to have a standard set of definitions, authorized certification authorities and standard tests for purpose of objective certification, Government of India, Ministry of Welfare set up three committees under the Chairmanship of Director General of Health services-one each in the area of visual handicaps, speech and hearing disorders and locomotor disabilities and a separate Committee for mental handicaps.

2. After having considered the reports of these committees and with the concurrence of the State Governments/UTs and the concerned Ministries/Departments the undersigned is directed to convey the approval of the President to notify the definitions of the following categories of physically handicapped:-

1. Visually handicaps
2. Locomotor handicaps
3. Speech and hearing handicaps
4. Mental handicaps.

**Report of the Committee as indicated in the Annexure\***

3. Each category of handicapped persons has been divided into four groups viz. mild moderate, severe and profound/total. It has been decided that various concessions/benefits would in future be available only to the moderate, severe and profound/total groups: and not to the mild groups. The minimum degree of disability should be 40 percent in order to be eligible for any concession/benefits.

4. It has been decided that the authorized certifying authority will be a medical board at the district level. The board will consist of the Chief Medical Officer Sub-Divisional Medical Officer in the District and another expert in the specified field viz. ophthalmic surgeon in case of visual handicaps, either an ENT Surgeon or an audiologist in case of speech and hearing handicaps an orthopaedic surgeon or a specialist in physical medicine and rehabilitation in case of locomotor handicaps, a psychiatrist or a clinical psychologist or a teacher in special education in case of mental handicaps.

5. Specified tests as indicated in Annexure should be conducted by the medical board and recorded before a certificate is given.

6. The certificate would be valid for a period of three years.

7. The State Governments/UTs Admn. may constitute the medical boards indicated in para 4 above immediately.

**M.C. NARSIMHAN,**  
**Jt. Secretary to the Government of India**

## **ORDER**

Ordered that the above notification be published in the Gazette of India for general information. A copy of the Gazette notification may be sent to all Ministries/Department of the Central Government all State Governments/UT Admn. President Sectt., P.M.s Office, Lok Sabha, Rajya Sabha Sectt. For information and necessary action.

**M.C. NARSIMHAN,**  
**Jt. Secretary to the Government of India**

**NATIONAL COMMISSION FOR SCHEDULED TRIBES**  
**[A Constitutional body set up under Article 338A of the Constitution of India]**

6th Floor, 'B' Wing Lok Nayak Bhawan  
New Delhi – 110 003.

(Notice for collecting basic facts)

To

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Subject matter: \_\_\_\_\_  
\_\_\_\_\_

Whereas a petition/complain/information has been received by this Commission from \_\_\_\_\_ or a press news under caption \_\_\_\_\_ which has appeared in \_\_\_\_\_ dated \_\_\_\_\_ on the above matter (a copy of which is enclosed) and the Commission has decided to investigate/inquire into the matter in pursuance of the powers conferred upon it under Article 338A of the Constitution of India, you are hereby requested to submit the facts and information on the action taken on the allegations/matters to the undersigned within 30 days of receipt of this notice either by post or in person or by any other means of communication.

Please take notice that in case the Commission does not receive reply from you within the stipulated time, the Commission may exercise the powers of civil court conferred on it under Clause (8) of Article 338A of the Constitution of India and issue summons for your appearance in person before the Commission.

Signature

Dated \_\_\_\_\_

NATIONAL COMMISSION FOR SCHEDULED TRIBES  
[A Constitutional body exercising powers of a civil court  
under Clause (8) of Article 338A of the Constitution of India]

**SUMMONS**

File No. : 6th Floor, 'B' Wing Loknayak Bhawan  
New Delhi – 110 003

To

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Subject matter: \_\_\_\_\_  
\_\_\_\_\_

Whereas this Commission has decided to further investigate into the above-mentioned matter in pursuance of powers conferred upon it under Clause (5) of Article 338A of the Constitution of India, you are hereby required to appear in person before Shri/Smt./Ms. \_\_\_\_\_, Chairperson/Vice-Chairperson/Member, National Commission for Scheduled Tribes on the \_\_\_\_\_ day of \_\_\_\_\_ 200 at \_\_\_\_\_ hours at the address given above. You are also required to bring with you the connected documents for examination by this Commission.

If you fail to comply with this order without lawful excuse, you shall be subjected to the consequences of non-attendance as laid down in Rule 12 of Order XVI of Code of Civil Procedure, 1908.

Given under my hand, and seal of the National Commission for Scheduled Tribes exercising powers of a civil court, this \_\_\_\_\_ day of \_\_\_200\_\_.

Signature  
Court Officer

SEAL

[Warrant of arrest of witness]

**NATIONAL COMMISSION FOR SCHEDULED TRIBES**

[A Constitutional body exercising powers of a civil court under Clause (8) of Article 338A of the Constitution of India]

6th Floor, 'B' Wing Loknayak Bhawan  
New Delhi – 110 003.

To

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Subject matter: \_\_\_\_\_  
\_\_\_\_\_

Whereas Shri/Smt./Ms. \_\_\_\_\_ r/o \_\_\_\_\_ was duly served with a summons regarding the above subject matter but he/she has failed to appear (absconds and keeps out of the way for the purpose of avoiding service of the summons), the National Commission for Scheduled Tribes exercising the powers of a civil court under Clause (8) of Article 338A of the Constitution of India hereby orders you to arrest and bring the said person before this Commission at the above address.

You are further ordered to return this warrant on or before the \_\_\_\_\_ day of \_\_\_\_\_ 200\_\_\_\_ with an endorsement certifying the day and the manner in which it has been executed, or the reasons why it has not been executed.

Given under my hand, and the seal of the National Commission for Scheduled Tribes exercising powers of civil court, this \_\_\_\_\_ day of \_\_\_\_\_ 200\_\_\_\_.

Signature

Court Officer

SEAL

K.K. Gupta,  
Secretary

Dear Shri Singh,

The Commission is in the process of strengthening data base to have complete information on the matters concerning its mandate. Broadly speaking, this Statutory Commission has been assigned three functions namely, Protection against Atrocities, Compliance of Service Safeguards, and Socio-Economic Development matters concerning the Scheduled Tribes. So far, there has not been any system of getting periodical reports from the States and therefore an exercise has been done to devise appropriate proforma to seek information from the State Government on the three broad issues.

2. Copies of these three proforma (I,II and III) are enclosed with the request that the requisite information concerning your State may kindly be got compiled by the Nodal Department(Scheduled Tribe Affairs/ Social Welfare Department) for all the Departments in your State and consolidated report may be sent to the Commission within one month at the first instance and thereafter within a month of the closing of financial year. I may also add for your kind information that the Commission is in the process of launching its website in a period of one month and therefore, it is very important to have such an information back up from all the States.

3. In due course of time, the Commission would also undertake review and examination of various States relating to the three issues falling within its mandate. In view of this also the information being requested assumes greater significance.

4. I also enclose a brief note on the Commission, giving Background, Functions & Powers of the Commission, Summary of Safeguards under the Constitution and Various Laws for Scheduled Tribes, for information & ready reference.

With regards,

Yours sincerely,

Sd/-  
(K.K. Gupta)

Encl: As above

Shri J.P. Singh,  
Chief Secretary,  
Government of Goa,  
Panaji-403001



**PROFORMA FOR SUBMISSION OF INFORMATION TO THE NATIONAL COMMISSION FOR SCHEDULED TRIBES ON SERVICE SAFEGURDES TO EMPLOYEE BELONGING TO SCHEDULED TRIBES (ST)**

**Year.....**

Category		Details of Posts for which the Department is the Cadre Controlling Authority				Number of inspections by Liaison Officer of Post-based Roaster	Backlog of ST vacancies in each category	Number of Special drives attempted in each category	
		Sanctioned Posts	In position	STs in position	%age of STs			For direct Recruitments	For Promotions
Group 'A'	Direct Recruits								
	Promotees								
	Total								
Group 'B'	Direct Recruits								
	Promotees								
	Total								
Group 'C'	Direct Recruits								
	Promotees								
	Total								
Group 'D'									
Work Charged	Total								
	Scheduled Tribes								
Contractual	Total								
	Scheduled Tribes								
Daily Wagers	Total								
	Scheduled Tribes								



## QUESTIONNAIRE I

**Questionnaire for monitoring the implementation status of the service safeguards for Scheduled Tribes and schemes for their socio-economic development in central Ministries/ Departments/ Organisations**

- 1.1 Please indicate the Group-wise strength of your organization alongwith the representation of Scheduled Tribes in the following table

Group of posts	Total No. of Employees	No. of ST Employees	Percentage	Remarks
Group 'A'				
Group 'B'				
Group 'C'				
Group 'D'				
Safai Karamchari				
Total				

- 1.2 Please indicate the number of (i)-Attached Officer (ii) Subordinate Officers (iii) PSUs and autonomous organisations under the administrative control of your department/ organization.

- 1.3 Please indicate in a separate sheet/ sheets the Group-wise strength of the Attached/ subordinate Officers/ PSUs and autonomous organisations it any, in the Performa given above.

- 2.1 Posts/ services with respect to which your organisation is the Cadre Controlling Authority.

- (a) Name of the post/ posts alongwith scale of pay  
(b) Name of the Services

- 2.2 Position with reference to posts being controlled by the organisation

- (i) Please furnished the information with respect to sanctioned posts, vacancies reserved for STs and unfilled reserved vacancies for the last three years i.e. 2002, 2003 and 2004 in the performa given below:

Year	Sanctioned posts	Vacancies occurred	Vacancies actually filled	Vacancies reserved for STs			No. of ST candidates appointed	No. of vacancies carried forward
				B/F from prev.	Res'vd during the Yr.	Total		
1	2	3	4	5	6	7	8	9
2004								
2005								
2006								

- (ii) Please indicate the number of carried-forward vacancies in respect of direct recruitment posts. Please also indicate whether any special efforts were made to fill up these unfilled vacancies and the results thereof.
- (iii) Whether separate rosters are being maintained for each posts or group of posts separately for direct recruitment of (ii) for posts filled by promotions (where reservation is applicable).
- (iv) Whether rosters are being maintained separately for (i) permanent appointment or temporary appointments likely to become permanently or continue indefinitely (ii) purely temporary appoints of 45 days or more duration.
- (v) Whether the points have been earmarked in the roster for Scheduled Tribes correctly according to the prescribed model roster for particular types of recruitment.
- (vi) Whether summary of the carry forward/ shortfall/ excess of reserved vacancies is given in the roster register at the end of recruitment year (i.e. calendar year)

2.3 Name/ names of the Non-Group 'A' service/ services being controlled by your organization:

- (a) Post-wise strength of service or services
- (b) Posts which are required to be filled up 100% or partially by direct recruitment (alongwith %age of direct recruitment)
- (c) Posts which are required to be filled up 100% by promotion
- (d) Please indicate about the total recruitment made during the last three years I.e. 2002, 2003 and 2004 and the representation of STs in the performa given below:

Year	No. of sanctioned posts	No. of vacancies occurred	No. of vacancies actually filled	No. of vacancies reserved for STs	No. of ST candidates appointed	No. of carried forward vacancies
1	2	3	4	5	6	7
2004						
2005						
2006						

- (e) Please indicate whether any special drive was launched to fill up the carried forward vacancies and if so results thereof.

2.3.2 Name/ names of Group 'A' service/ services controlled by your organization

- (a) Please indicate the Grade-wise strength of the service/ services i.e.
  - (i) Junior Time Scale
  - (ii) Senior Time Scale
  - (iii) Junior Administrative Grade
  - (iv) Senior Administrative Grade
  - (v) Higher Administrative Grade
- (b) Please indicate the total recruitment made during the last three year i.e. 2002, 2003 and 2004 and the representation of STs in the Junior Time Scale in the following performa:

Year	No. of vacancies occurred	No. of vacancies actually filled	No. of vacancies reserved for STs			No. of ST candidates appointed	No. of vacancies carried forward
			B/F from prev.	Res'vd during the Yr.	Total		
1	2	3	4	5	6	7	8
2004							
2005							
2006							

(c) Please indicate the total number of employees promoted to Senior Time Scale during the last three i.e. 2002, 2003 and 2004 and the representation of Scheduled Tribes therein in the performa given below:

Year	No. of Officers promoted	Posts reserved for ST candidate	No. of STs promoted	Percentage of STs promoted	No. of carried forward vacancies
1	2	3	4	5	6
2004					
2005					
2006					

- (d) Please indicate the number of STs promoted to the Junior Administrative Grade inducting Non-Functional Grade (NFSG) by virtue of concession (not reservation) available to them in as much as the STs covered within the number of vacancies are required to be promoted provided they are not found unfit.
- (e) If it is a Group 'A' Service, please also indicate whether there is any feeder grade in Group 'B' for promotion to the lowest rung of Group 'A' of that service and if so, what is the name of the service/ posts and what is the number of carried-forward vacancies in respect of STs for the purpose of their promotion to the lowest rung of Group 'A' .
- (f) With reference to Para 2.2 and 2.3, please indicate the following:
- (i) Whether separate rosters are being maintained for each posts or group of posts separately for direct recruitment or (ii) for posts filled by promotions (where reservation is applicable)
  - (ii) Whether rosters are being maintained separately for (i) permanent appointments or temporary appointments likely to become permanently or continued indefinitely (ii) purely temporary appointments of 45 days or more duration.
  - (iii) Whether the points have been earmarked in the roster for Scheduled Tribes correctly according to the prescribed model roster for particular types of recruitment.
  - (iv) Whether summary of the carried- forward/ shortfall/ excess of reserved vacancies is given in the roster at the end of recruitment year (i.e. calendar year)

3. Please indicate the backlog of STs vacancy based roster in all categories of posts (mentioned above) prior to 1.7.1997 and the shortfall on switching over to post-based roster vide DoPT's O.M No. 36012/2/96-Estt (Res.)
4. What are the checks devised by your organization to ensure that the reservation policy for STs in implemented properly:
  - (i) What is the procedure prescribed for redressal of grievances of Scheduled Tribes employees?
  - (ii) Has the Ministry/ Deptt./ Organisation appointed a Liaison Officer? If so, please indicate his name and designation alongwith his phone number.
  - (iii) Has a Scheduled Tribes Cell been set up under the direct control of Liaison Officer? If so, please indicate the composition of this cell
  - (iv) Is a complaint register being maintained in order to register the grievances of ST employees?
  - (v) (a) How many complaints were received from ST employees during the last three years- 2002, 2003 & 2004?  
(b) What was the nature of these complaints, the number of complaints disposed of favourably and the time taken for disposal of each complaint? The number and nature of complaints pending disposal may also be furnished.
  - (vi) Does your organisation hold periodical meetings with Scheduled Tribes employees to sort out their problems and grievances?
- 5.1 Are being the rosters being periodically inspected by Liaison Officer? If so, action taken on the inspection reports of the Liaison Officer for the last three years.
- 5.2 Is the procedure of grouping the posts in the direct recruitment adopted for maintaining rosters? If so, please give details indicating the posts with their pay scale covered under the grouping procedure. Also, please indicate the authority who approved the grouping of posts.
- 6.1 Whether before appointing a general candidate against reserved vacancy, prior approval of (i) Deptt. of Personnel & Training & (ii) the National Commission for Scheduled Tribes was obtained.
- 6.2 Please indicate (i) the total number of vacancies dereserved during the last three years (i.e. 02, 03 & 04) with respect to all categories of posts (ii) the resultant number of such vacancies for Scheduled Tribes having been carried forward and (iii) how many of the carried forward ST vacancies have been filled subsequently.
- 7(a) Please indicate whether any representative of Scheduled Tribes included in various Recruitment Boards/ Selection Committees/ DPCs for the post wherein reservations/ concessions for Scheduled Tribes are applicable? If, so, the level of ST representative as compared to the other members of the Recruitment Board/ Selection Committees/ DPCs may please be indicate.
- (b) Please also indicate whether at any occasion the ST representative recorded not of dissent in the proceedings.
8. Please state whether the number of posts reserved for ST is clearly indicated in the advertisements for direct recruitment? Also, please state whether copies of advertisements are sent to Welfare Association and Organisations of Scheduled Tribes?
9. Please also indicate whether the Scheduled Tribes candidate were interviewed on separate dates i.e. other than the days on which the general candidates are

interviewed for various posts?

- 10 Please give the number of employees sent for specialized training abroad during the last three years and the number of Scheduled Tribes employees among them in each year.
11. Please also state whether instances have come to the notice where persons have obtained employment in your organization on the basis of false caste certificate? If so, please indicate the number of such cases, action taken and present position of each case. Also, please indicate the steps taken to avoid the occurrence of such cases.
12. Whether a paragraph relating to representation of Scheduled Tribes (as also of Scheduled Castes) in services/posts in your organization and also in the attached and subordinate offices and PSUs is being incorporated in the Annual Report of your organization with reference.
- 13 (i) Please give the details of the various schemes/activities undertaken up by your Organization for the welfare and socio-economic development of Scheduled Tribes under the Tribal Sub Plan of the Organization like development in tribal areas such as provision of drinking water, supply of books and stationery to poor ST children etc.
- (ii) Please indicate the allocation and expenditure of the funds allotted under the Tribal Sub Plan of the Ministry for the last 3 years in the following table:

Year	Total Outlay	Amount allotted to Tribal Sub Plan	Expenditure incurred	Percentage
2004				
2005				
2006				

14. Please indicate the number of Scheduled Tribes who have been allotted Government accommodation against the total number of employees provided such facilities.
15. Has any case of sexual harassment of ST women employee been brought to the notice of the Ministry/Department? If so, please furnish the details thereof and action taken.

## QUESTIONNAIRE II

**Questionnaire regarding implementation of reservation policy in public sector undertaking.**

1. Please furnish a chart showing the organization set-up.
2. Please give the composition of the Board of Management indicating whether any of the members belongs to SC/ST.
3. Please state the percentage of reservation applicable in favour of SC/ST and the dates from which enforced in respect of :-
  - (i) Posts filled by direct recruitment
  - (ii) Posts filled by promotion
4. Please state the procedure followed for direct recruitment to various categories of posts in various grades/indicating the concessions/relaxation given to SC/ST.
5. Please state the reservation policy in promotion followed in the Organisation indicating the relaxation/ concession given to SC/ST employees in promotions
6. What are the categories of posts in the Organisation both technical and non-technical for which reservation for SC/ST has not been prescribed and the reasons thereof. Information may be given separately for direct recruitment and promotion of posts indicating also the level, pay scales and number of such posts.
7. Are there any subsisting agreements between the Organisation and the Employees Unions which come in the way of Government Policy on reservation for SC & ST in the matter of direct recruitment, promotion and admission to various courses? If so, give details.
8. Please furnish a statement showing staff strength separately as on the date when reservation were enforced in the Organisation and as on 1-1-1991, 1-1-2000 & 1-1-2005 in the following proforma.

As on date of enforcement of reservation/ as on 1-1-2000 & 1-1-2005

Category of Posts	Total No. of Employees	Number of Employees		Percentage of		Remarks
		SCs	STs	SCs	STs	
1.	2.	3.	4.	5.	6.	7.
Total						

9. Please furnish statement, year-wise in the following proforma showing the recruitment made during the last 3 years i.e. 2003, 2004 and 2005.

Year	Category of Post	Total No. of vacancies occurred	Total No. of vacancies actually filled	No. of vacancies reserved for Scheduled Castes.		Total
				C/F from Previous Year	Reserved during the year	
1.	2.	3.	4.	5.	6.	7.

No. of vacancies reserved for STs			No. of candidates appointed		No. of vacancies carried forward	
C/F from previous year	Reserved during the year	Total	SCs	STs	SCs	STs
8.	9.	10.	11.	12.	13.	14.

- (b) Please state the reasons for shortfalls, if any in the employment of SCs/STs. against their reserved quota and the remedial measures taken or proposed to be taken to wipe out the shortfall.
10. Please indicate the number of backlog vacancies for SC & ST identified as on 1-6-1997, 1-6-2001, 1-6-2002 and 1-6-2005 and number of vacancies filled in all the special recruitment drives launched sofar. Figure may be given for all categories of posts separately in respect of backlog and each SRD giving the period covered by SRD.
11. Please furnish a statement in the following proforma showing the total number of employees promoted and the number and percentage of SCs & STs respectively among them during each of the last three year i.e. 2003, 2004, & 2005 in respect of various categories of posts separately.

Category of Posts	Total No. of Employees Promoted	Number of Employees		Percentages of		Remarks
		SC	ST	SC	ST	
1.	2.	3.	4.	5.	6.	7.

12. What are the checks devise by the Organisation to ensure that the reservation policy for SC/ST is implemented properly.
13. (a) What is the procedure prescribed for redressal of grievances of SC/ST employees?  
 (b) Has the Organisation appointed a Liaison Officer, if so please indicate the position of the level of Liaison Officer?  
 (c) Has an SC/ST Cell been set-up under the direct control of Liaison Officer? If so, please indicate the composition of this cell and the staff attached to it?  
 (d) Is a complaint register being maintained in order to registrar the grievances of SC & ST employees?  
 (e) How many complaints were received from SC/ST employees during each of the last three years?  
 (f) What was the nature of these complaints, the number of complaints disposed of favourably and the time taken for disposal of teach complaints? The number and nature of complaints pending for disposal may also be furnished.  
 (g) Have you come across any case(s) of harassment or discrimination against SC and ST employees on grounds of social origin? If yes, the number of such cases during the last three years and the action taken therein?  
 (h) Does the Department hold periodical meetings with SC/ST employees to sort out their problems and grievances?
14. (a) Are rosters being maintained for direct recruitment and promotion for all posts as per orders on the subject?  
 (b) Is the procedure of grouping of posts in direct recruitment adopted for maintaining

- rosters? If so, please give details indicating the posts with their pay scale covered under the grouping procedure. Also, please indicate the authority who approved the grouping of posts.
- (c) Are the rosters being periodically inspected by the Liaison Officer? If so, action taken on the inspection reports of the Liaison Officer for the last three years.
15. Is any representative of SC/ST included in various Recruitment Boards/Selection Committees/DPCs for the post wherein reservations/concessions for SC/ST are applicable? If so, the level of SC/ST representation as compared to the member of the Recruitment Boards/Selection Committees/DPCs may please be indicated.
  16. Are the number of posts reserved for SC/ST clearly indicated in the advertisement for direct recruitment? Also, please state whether copies of advertisements are sent to Welfare Association and Organisations of SCs and STs.
  17. Are the SC and ST candidates interviewed on separate dates i.e. other than the days on which the general candidates are interviewed for various posts?
  18. According to the instructions issued by the Government, whenever recruitment is made on the basis of competitive examination, centres for such examinations should be set-up at all places where a sizeable number of tribal candidates appear in the examination in addition to usual centers of examination where selection is made by interview, the Recruitment Boards should be sent to places where there is a concentration of ST candidates.
    - (a) Please state whether these instructions are followed invariably? If not, what are the reasons.
    - (b) Please state the number of examination centres set-up in tribal areas in pursuance of the above instructions during the last three years
    - (c) How many times Recruitment Boards have been sent to places (name of the places to be indicated) having concentration of tribals during the last three years?
  19. State the procedures followed for de-reservation of vacancies reserved for SC & ST. Please, give the number of vacancies reserved and also the number of such vacancies separately for SC/ST which lapsed after having been carried forward to three subsequent years in respect of various posts during the last three years.
  20. Please give the number of posts category-wise which were reserved for SC/ST but were filled up by promotion/direct recruitment from general candidates for want of adequate number of eligible SC/ST candidates where promotions/direct recruitment were made by selection during the last three year.
  21. Please give the number of employees sent for specialized training abroad during the last three year and the number of SC/ST employees among them in each year.
  22. Are there instances where persons have obtained employment in your organization on the basis of false caste certificates? If so, please indicate the number of such cases action taken and present position of each case. Also, please indicate the steps taken to avoid the occurrence of such cases.
  23. Please give the details of the various activities/ studies taken up by the undertaking for the welfare and socio-economic development of SCs/STs under the SCP/TSP of the Organisation like adoption of villages, development in tribal areas etc.
  24. Are there any guidelines/instructions for deciding the location of retail outlets for SCs and STs.

## QUESTIONNAIRE III

**Questionnaire for seeking information from state governments regarding implementation of various safeguards and development programmes for Scheduled Tribes****1. Name of the State****2. Total population (2001 Census)**

- (a) Total population of STs in the State  
 (b) %age of ST population to the State's total population

**3. Literacy**

- (i) State Literacy  
 (a) Male:  
 (b) Female:  
 (ii) Literacy of STs  
 (a) Male:  
 (b) Female:

**4.1 Development**

- 4.1.1 Percentage of families in the State below Poverty-line(latest position)  
 4.1.2 Percentage of ST families below the Poverty- line(out of the figure given against para 4.1.1)  
 4.1.3 What are the specific problems of ST communities in your State? Please state at least five problems and also indicate how the State Govt. propose to tackle them.  
 4.1.4 Year-wise allocation and expenditure of Tribal Sub Plan(TSP) out of State Plan Funds for the last five year as per the format given below

**(Rs. in lakhs)**

Year	State's Total Plan Quality	Flow to TSP	
		Outlay	Total amount spent/utilized with %age flow
(1)	(2)	(3)	(4)
2000-2001			
2001-2002			
2002-2003			
2003-2004			
2004-2005			

- 4.3.2 Details indicating the funds allocated to State out of SCA (Special Central Assistant) to TSP and their utilized expenditure during the last 5 years.

**(Rs. in lakhs)**

Year	Amount of Allocation	Total amount spent/utilized with %age flow
(1)	(2)	(3)
2000-2001		

2001-2002		
2002-2003		
2003-2004		
2004-2005		

4.3.3 Details indicating the funds allocated out the provisions under Article 275 (1) of the Constitution (State having Tribal population) and their utilization for the last 3 year.

Year	Amount of Allocation	Total amount spent/utilized with % age flow
(1)	(2)	(3)
2002-2003		
2003-2004		
2004-2005		

4.3.4 Please mention about the five most important schemes being implemented by the State Govt. for tribal development with a brief write-up on each of them (1-2 paras)

4.3.5 What is the role played by voluntary organizations/agencies in disseminating information and implementation of programmes for development of STs. What steps were taken to make their association fruitful

4.3.6 What are the Special schemes, undertaken for development of agriculture, minor irrigation and soil conservation, horticulture, animal husbandry, pottery and fisheries for rural artisans which if taken up intensively would have greater impact on socio-economic development of STs?

4.3.7 What has been the impact of anti-poverty and employment generation schemes/programmes such as SGRY, SGSY, IAY and PMGSY etc. for the benefits of the STs in the State? Position of the beneficiaries for the last three Financial Years from 2002-03 to 2004-05 may be given.

#### 4.4.1 Educational Development

(i) What is the teacher-pupil ratio in schools located in ITDPs and MADA cluster areas vis-à-vis in other parts of the State?

(ii) Please indicate details of the number of seats reserved for STs in professional institutes and number actually filled in the following table:-

Year	Number of seats reserved for STs	Number of seats filled by ST candidates
(1)	(2)	(3)
2002-2003		
2003-2004		
2004-2005		

(iii) Are any concessions given to STs to fill the reserved seats? if yes, what type of concessions?

(iv) What are the scholarship schemes for tribal students at school, graduation and post graduation levels? Please indicate separately for each category.

(v) Details of Educational Institutions for STs as per the format below may be furnished:-

Type of Institution	Total No. of Institutions run by the Govt.	Total No. of Institutions run by Non-government Agencies including NGOs	Grand Total
(1)	(2)	(3)	(4)
Primary			
Secondary (10th)			
Higher Secondary(10+2)			

- (vi) Details of Educational Schemes for ST girls and boys funded by the State Government.
- (vii) Whether pockets of ST concentration where the literacy of the ST women is less than 2 per cent have been identified? If so, details thereof.
- (viii) What is the number of ST teachers in Primary/Middle/High/Higher Secondary Schools in the State out of total number of teachers?
- (ix) What is the annual turn out of graduates in State in rural/urban areas in the State and how many of them belong to STs?
- (x) Details of Special Coachings/Trainings organized and the results of special steps taken in this regards?
- (xi) The rate of Scholarship/stipends (including details of income ceiling of parents) provided to the students at pre-matric and post matric levels may be indicated and financial and physical targets and achievements for the last three financial years from 2002-2003 to 2004-2005.

#### 4.5 Health & Nutrition

4.5.1 Please state if the medical facilities available in the tribal areas and trained personnel in the medical dispensaries are adequate.

- (i) How many village in the State in Scheduled Areas (if any) have no drinking water sources? What are the schemes to provide safe drinking water in those villages
- (ii) Any special programmes/ Schemes adopted to deal with specific problems tribals malnutrition, goiter and other ailments.
- (iii) (a) What is the infant mortality rate of the State?  
(b) What is the infant mortality rate of Tribals?

#### 4.6 Hostels

- (i) How many hostels for ST students in schools and colleges have been set up in the State?
- (ii) Are there any hostels set up exclusively for ST girls?
- (iii) Has any assistance been obtained from the Ministry of Tribal Affairs under the Centrally Sponsored Schemes for the construction of Girls Hostel(s) for STs? If yes, furnish details.
- (iv) What are the stipends payable to the boarders in the hostels?

#### 4.7 Housing

- (i) Please furnish the information in the following table regarding allotment of houses/house sites to STs

Year	Total No. of houses/house sites allotted by the State Govt.	Number of houses/house sites allotted to STs(out of the figure given in column (2))	Whether the figure given in column (3) compares with ST population %age of the State
(1)	(2)	(3)	(4)
2002-03			
2003-04			
2004-05			

- (ii) Please furnish the information in the following tables with respect to Indira Awas Yojana

Year	Total No. of beneficiaries under the Schemes	Number of beneficiaries belonging to STs (out of the figure given in column(2))
(1)	(2)	(3)
2002-03		
2003-04		
2004-05		

#### 4.8 Land

- (a) What legislative and executive measures have been taken to check land alienation of STs
- (b) How many land alienation cases have been detected each year during the last three years?
- (c) What is the policy of State Govt. to rehabilitate people particularly those belonging to STs in the event of acquisition of their land for development purposes?
- (d) What steps have been taken to dispose off such cases?
- (e) How many cases have been disposed off so far?

#### 4.9 Forest Villages

- (i) What is their number of forest villages?
- (ii) What is the tribal population in these villages?
- (iii) What are the schemes being implemented to provide basic amenities such roads/electricity/drinking water etc. in these villages?

#### 4.10 Marketing

- a) Please state what institutional arrangement have been made to regulate the marketing of

produce collected by STs from reserved forest of forest under occupation of STs, agricultural and other produce?

- b) What are your suggestions to improve functioning of State institutions engaged in collection and marketing of minor forest produce, agricultural and other produce?

### Training

What are the types of training facilities provided to Scheduled Tribes in the field of :-

- (i) Agriculture
- (ii) Minor forest produce collection & marketing
- (iii) Co-operative ventures
- (iv) Dairying & annual husbandry
- (v) Artisanship
- (vi) Weaving, etc

### 4.10 Atrocities

- (i) Please state the details of cases of atrocities perpetrated on STs during the last 3 years under various provision of IPC and the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 and their disposal by police and courts on the following format:-

- (a) Disposal by police:

S.No.	Year	No. of cases brought forward	No. of cases registered during the year	Total No. of cases	No. of cases challenged	No. of cases closed after investigation	No. of cases pending for investigation	Remarks
1	2	3	4	5	6	7	8	9
(i)	2002							
(ii)	2003							
(iii)	2004							

- (b) Disposal by Courts:

S.No.	Year	No. of cases			No. of cases decided and ended in			Total No. of cases pending for trial
		Brought forward	Received	Total	Conviction	Acquitted	Total	
(i)	2002							
(ii)	2003							
(iii)	2004							

- (ii) Please state the details of contingency plan prepared by the State/States per provision on contained under the SCs & the STs (POA) Rules, 1995
- (iii) Please state the various steps taken/proposed to be taken to prevent recurrence of such crimes and machinery set up at the State, District and local level to deal with crime against STs.

- (iv) Please state the details of special Cell set up at State/UTs Hqr. to deal and monitor atrocity cases more effectively
- (v) Please state the detail of Special Courts set up under the provision Section 14 of the SCs and STs (POA) Act, 1989
- (vi) Please state the detail of Special Public Prosecutor in the State/UT appointed/designated under the provision of Section 15 of the SCs & STs (POA) Act, 1989
- (vii) Please furnish details of monetary relief provided to STs victims of atrocities during 2001, 2002 and 2003

**4.11 Service Safeguards**

- (i) Prescribed quota of reservation in services for STs
  - (a) In direct recruitment
  - (b) In promotion
- (ii) What are the concessions/relaxations being given to ST candidates in direct recruitment
- (iii) What are the concessions/relaxations being given to ST officers in promotion?
- (iv) What is the machinery/checks devised to ensure that the reservations made in favour of STs are actually implemented?
  - (a) Are there instances where persons have obtained employment under the State Govt. on the basis of false caste certificates
  - (b) If so, indicate the number of such cases brought to the notice of State Govt. and action taken.
  - (c) Also indicate the steps taken to avoid recurrence of such cases.
- (v) Has the State/UT set up any Committee for scrutiny of false caste certificates? If so please indicate the composition of the Committee and whether the decision of the Committee is final.
- (vi) What is the procedure followed by the State Govt. for dereservation of vacancies reserved for STs
- (vii) What is the machinery devised for the prompt redressal of grievances of ST employees at various levels.
- (viii) Please furnish the following information regarding representation of STs in State Services:-

Group of Posts	Total No. of Employees	No. of ST Employees	Percentage	Remarks
A				
B				
C				
D				
Sweepers				

- (ix) Has the State/UT promulgated any Act governing the reservation for STs in services/Posts? If so, a copy of Act along with up-to-date set of other related instructions/orders may be supplied?

**QUESTIONNAIRE FOR REVIEW OF THE IMPLEMENTATION OF THE SCHEMES/PROGRAMMES AT DISTRICT LEVEL**

1. Name of the District :
2. Total population of the District:  
Population of Scheduled Castes:

Male			Female			Total
0-6 yrs	7-14 yrs	Adults	0-6 yrs	7-14 yrs	Adults	
1	2	3	4	5	6	7

Population of Scheduled Tribes:

Male			Female			Total
0-6 yrs	7-14 yrs	Adults	0-6 yrs	7-14 yrs	Adults	
1	2	3	4	5	6	7

3. Percentage of literacy according to the latest census
 

General Category	Male	Female
Scheduled Castes	Male	Female
Scheduled Tribes	Male	Female
4. Do all the children below 14 years attend the school?
5. What is the percentage of enrollment at elementary school level?
 

General Category	SC	ST
------------------	----	----
6. What is the percentage of dropouts at elementary school level?
 

General Category	SC	ST
------------------	----	----
7. What is the percentage of children attending middle school level?
 

General Category	SC	ST
------------------	----	----
8. What is the percentage of dropouts at middle school level?
 

General Category	SC	ST
------------------	----	----
9. What is the percentage of dropouts at High School level?
 

General Category	SC	ST
------------------	----	----
10. What is the number of hostels run and maintained by the Department of Social Welfare for SCs/STs?
 

High School Hostels		
No. of boarders :	Boys	Girls
College Hostels		
No. of boarders:	Boys	Girls



28. What is the number of SC/ST colonies in this district without proper drainage facilities, toilets, etc.

SCs

STs

29. What is the number of house site pattas distributed to the SCs/STs during the last 10 years (Mandal wise with extent of land given per head) ?

30. What is the number of house sites where houses have been constructed (Mandal wise information)?

31. Are there rural cooperative housing societies for the SCs/STs (if so please furnish details)?

32. Is there any special programme for the construction of houses on these sites?

33. How many SC/ST colonies do not have link roads?

34. Are there any special schemes for this purpose?

35. How many villages do not have street lights?

SC

ST

36. What is the programme of the Government to provide this facility?

37. How many villages do not have potable drinking water?

SC

ST

38. What is the programme of the Government to provide this facility?

39. Are they getting the essential provisions like rice, wheat, kerosene, etc., from the public distribution system?

40. Are the fair price shops under the PDS being provided in all the SC/ST colonies where the required no. of family cards are available?

41. Have all the SC/ST villages in the district, particularly in tribal habitations been covered by health facilities?

42. Are there any diseases, which specifically affect the SCs/STs? (Please furnish the number of deaths reported among the SCs/STs due to malnutrition and due to contagious diseases).

43. Do all the SC/ST villages have their own burial ground?

44. If not how do they dispose of the dead bodies?

45. Are there any problems in this regard?

46. Are there “double tumbler” system prevalent in the villages? If so the no. of such villages and the action taken by the Government to abolish the same?

47. Are there any other form of untouchability practiced? If so, what are the steps taken by the district administration? Whether untouchability prone areas have been identified?

48. How many community certificates have been referred to the Collector’s office for verification (please indicate the present status of such cases)?

49. Mention the no. of cases booked during the last 3 calendar years under the PCR Act and the POA Act separately and their present stage?

50. Is there the practice of cleaning dry latrine in this district by the safai karamcharis?

51. Do people take to conversion of the dry latrines to flush out/pour flush latrines?

52. Do you think that the programme is popular?
53. If not what is the suggestion of the Collector in this regard?
54. Was there any social unrest in this district during the last 10 years? If so, give the details thereof.
55. Give details of allocation and expenditure under each scheme in the district- furnish separate details from State Plan (TSP) and Special Central Assistance (SCA).
56. What are the suggestions of the District Collector to improve the socio economic conditions of the SCs/STs?
57. Is there child labour in this district? If so, please furnish the details viz., the industries/occupation in which they are employed and the action taken by the State Government to prevent it?
58. a) No. of Anganwadi Center/midday meal schemes in SC/ST habitats.  
 b) No. of SC/ST children benefiting from such schemes.  
 c) No. of SC/ST habitats which do not have Anganwadi Center/midday meal scheme?  
 d) No. of children in 0-6 yrs. Age group among SC/ST children who do not have access to Anganwadi Center/ midday meal scheme?
59. a) Allotment of Forest Land Pattas to Scheduled Tribes i.e. regularization of Forest encroachment (No. and area)  
 b) Minor Forest Produces – access of Scheduled Tribes
60. a) Is Rule of Reservation implemented in the Panchayati Raj Institutions for Scheduled Tribes and are there any training programmes organized for them?  
 b) Whether Rule of Reservation in Government offices in the district including Police, RTC, Educational Institutions including Govt. aided Institutions, Municipality etc., is maintained and whether Reservation Rosters are maintained by these Institutions and whether any backlog vacancies are identified and filled up during the past 5 years?
61. Information may also be furnished on the following issues  
 a) SHGs of ST Women and their activities  
 b) Extent and role of Cooperatives among tribal groups in various occupations  
 c) Self Employment Schemes to STs under various employment generation schemes and the approach of lead banks towards ST applicants  
 d) Activity profile of DRDA in tribal habitations  
 e) Media coverage & monitoring on the ST developmental activities in the district

**The Gazette of India  
EXTRAORDINARY  
PART II-Section I**

**PUBLISHED BY AUTHORITY**

**No.70) NEW DELHI, TUESDAY DECEMBER 24, 1996/PAUSA 3,1918**

**MINISTRY OF LAW AND JUSTICE  
(Legislative Department)**

New Delhi, the 24<sup>th</sup> December, 1996/Pausa 3, 1918 (Saka)

The following Act of Parliament received the assent of the President on the 24<sup>th</sup> December, 1996 and hereby published for general information:-

**THE PANCHAYATS (EXTENSION TO THE SCHEDULED AREAS) ACT, 1996**

No.40 OF 1996

(24<sup>th</sup> December 1996)

An Act to provide for the extension of the provisions of Part IX of the Constitution relating to the Panchayats to the Scheduled Areas.

Be it enacted by Parliament in the Forty-seventh Year of the Republic of India as follows:-

Short title 1. This Act may be called the Provisions of the Panchayats (Extension to the Scheduled Areas) Act, 1996.

Definition 2. In this Act, unless the context otherwise requires, "Scheduled Areas" means the Scheduled Areas as referred to in Clause (1) of Article 244 of the Constitution.

Extension of  
Part IX of the  
Constitution

3. The provisions of Part IX of the Constitution relating to Panchayats are hereby extended to the Scheduled Areas subject to such exceptions and modifications as are provided in section 4.

Exceptions and  
Modifications  
To Part IX of  
The  
Constitution

3. Notwithstanding anything contained under Part IX of the Constitution, the Legislature of a State shall not make any law under that Part which is inconsistent with any of the following features, namely:-

- (a) a State legislation on the Panchayats that may be made shall be in consonance with the customary law, social and religious practices and traditional management practices of community resources;
- (b) a village shall ordinarily consist of a habitation or a group of habitations or a hamlet or a group of hamlets comprising a community and managing its affairs in accordance with traditions and customs;
- (c) every village shall have a Gram Sabha consisting of persons whose names are included in the electoral rolls for the Panchayat at the village level;

- (d) every Gram Sabha shall be competent to safeguard and preserve the traditions and customs of the people, their cultural identity, community resources and the customary mode of dispute resolution;
- (e) every Gram Sabha shall-
  - i. approve of the plans, programmes and projects for social and economic development before such plans, programmes and projects are taken up for implementation by the Panchayat at the village level.
  - ii. Be responsible for the identification or selection of persons as beneficiaries under the poverty alleviation and other programmes;
- (f) every Panchayat at the village level shall be required to obtain from the Gram Sabha a certification of utilization of funds by that Panchayat for the plans, programmes and projects referred to in clause (e);
- (g) the reservation of seats in the Scheduled Areas at every Panchayat shall be in proportion to the population of the communities in that Panchayat for whom reservation is sought to be given under Part IX of the Constitution.

Provided that the reservation for the Scheduled Tribes shall not be less than Aone-half of the total number of seats;

Provided further that all seats of Chairpersons of Panchayats at all levels shall be reserved for the Scheduled Tribes;

- (h) the State Government may nominate persons belonging to such Scheduled Tribes as have no representation in the Panchayat at the intermediate level or the Panchayat at the district level:

Provided that such nomination shall not exceed one-tenth of the total members to be elected in that Panchayat;

- (i) the Gram Sabha or the Panchayats at the appropriate level shall be consulted before making the acquisition of land in the Scheduled Areas for development projects and before re-settling or rehabilitating persons affected by such projects in the Scheduled Areas; the actual planning and implementation of the projects in the Scheduled Areas shall be coordinated at the State level;
- (j) planning and management of minor water bodies in the Scheduled Areas shall be entrusted to Panchayats at the appropriate level;
- (k) the recommendations of the Gram Sabha or the Panchayats at the appropriate level shall be made mandatory prior to grant of prospecting licence or mining lease for minor minerals in the Scheduled Areas;
- (l) the prior recommendation of the Gram Sabha or the Panchayats at the appropriate level shall be made mandatory for grant of concession for the exploitation of minor minerals by auction;
- (m) 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 Panchayats at the appropriate level and the Gram Sabha are endowed specifically with-

- (i) the power to enforce prohibition or to regulate or restrict the sale and consumption of any intoxicant;
  - (ii) the ownership of minor forest produce;
  - (iii) the power to prevent alienation of land in the Scheduled Areas and to take appropriate action to restore any unlawfully alienated land of a Scheduled Tribe;
  - (iv) the power to manage village markets by whatever name called;
  - (v) the power to exercise control over money lending to the Scheduled Tribes;
  - (vi) the power to exercise control over institutions and functionaries in all social sectors;
  - (vii) the power to control over local plans and resources for such plans including tribal sub-plans;
- (n) the State Legislations that may endow Panchayats with powers and authority as may be necessary to enable them to function as institutions of self-government shall contain safeguards to ensure that Panchayats at the higher level do not assume the powers and authority of any Panchayat at the lower level or of the Gram Sabha;
- (o) the State Legislature shall endeavour to follow the pattern of the Sixth Schedule to the Constitution while designing the administrative arrangements in the Panchayats at district levels in the Scheduled Areas.

Continuance  
Of existing  
Laws and Panchayats

5. Notwithstanding anything in Part IX of the Constitution with exceptions and modifications made by this Act, any provision of any law relating to Panchayats in force in the Scheduled Areas, immediately before the date on which this Act receives the assent of the President, which is in consistent with the provisions of Part IX with such exceptions and modifications shall continue to be in force until amended or repealed by a competent Legislature or other competent authority or until the expiration of one year from the date on which this Act receives the assent of the President;

Provided that all the Panchayats existing immediately before such date shall continue till the expiration of their duration unless sooner dissolved by a resolution passed to that effect by the Legislative Assembly of that State or, in the case of a State having Legislative Council, by each House of the Legislature of that State.

K.L. MOHANPURIA,  
Secy. to the Govt. of India

**NATIONAL COMMISSION FOR SCHEDULED TRIBES****EXTRAORDINARY GAZETTE  
NOTIFICATION**

Dated \_\_\_\_\_

**RULES OF PROCEDURE OF THE NATIONAL COMMISSION FOR SCHEDULED  
TRIBES****F.No.12/01/2007-C.Unit****CHAPTER I****GENERAL****Constitution of the Commission**

1. The National Commission for Scheduled Tribes (hereinafter called the Commission) has been constituted under new Article 338A of the Constitution of India as amended by the Constitution (Eighty-Ninth Amendment) Act, 2003. The Commission consists of a Chairperson, a Vice-Chairperson and three other Members. The constitution of the Commission was notified by the Ministry of Tribal Affairs, Govt. of India vide the Notification No.GSR 124E dated 19 February, 2004.

**Headquarters of the Commission**

2. The Headquarters of the Commission shall be located at New Delhi.

3. The functions and responsibilities of the Commission as laid down in Article 338A of the Constitution are:

- (a) to investigate and monitor all matters relating to the safeguards provided for the Scheduled Tribes under the Constitution or under any other law for the time being in force or under any order of the Government and to evaluate the working of such safeguards;
- (b) to inquire into specific complaints with respect to the deprivation of rights and safeguards of the Scheduled Tribes;
- (c) to participate and advise on the planning process of socio-economic development of the Scheduled Tribes and to evaluate the progress of their development under the Union and any State;
- (d) to present to the President, annually and at such other times as the Commission may deem fit, reports upon the working of those safeguards;
- (e) to make in such report recommendations as to the measures that should be taken by the Union or any State for the effective implementation of those safeguards and other measures for the protection, welfare and socio-economic development of the Scheduled Tribes; and
- (f) to discharge such other functions in relation to the protection, welfare and development and advancement of the Scheduled Tribes as the President may, subject to the provisions of any law made by Parliament, by rule specify.

4. The Commission shall function by holding 'sittings' and 'meetings' at any place within the country and also through its officers at the Headquarters and in the Regional Offices. The Members of the Commission including the Chairperson and the Vice-Chairperson shall function in accordance with the procedure prescribed under these rules.

## CHAPTER II

### DIVISION OF RESPONSIBILITIES AND ALLOCATION OF WORK

#### Chairperson

5. The Chairperson shall be the head of the Commission and shall have the residuary powers to decide on all questions and matters arising in the Commission excepting such matters where specific provision has been made in these rules.
6. The Chairperson shall allocate subjects and responsibilities among the Members of the Commission. The Order allocating the subjects and responsibilities shall be circulated to all concerned by the Secretariat of the Commission.
7. The Chairperson shall be the authority to sanction leave and approve tours of the Members.
8. The Chairperson shall preside over the meetings of the Commission.
9. All important decisions in the Commission pertaining to the subjects allotted to the Members shall be taken with the approval of the Chairperson.
10. The Chairperson may call for any records on any matter, which he/she considers important and may take a decision on it himself/ herself or, if necessary, place it at the meeting of the Commission.

#### Vice-Chairperson

11. The Vice-Chairperson shall preside over the meetings of the Commission in the absence of the Chairperson.
12. The Vice-Chairperson shall perform such functions as are entrusted to him/ her by the Chairperson.

#### Members

13. The Members of the Commission shall have collective responsibility and shall function by participating in the 'meetings' and 'sittings' of the Commission and looking after the subjects allocated to them. Important actions and decisions of a Member may be brought at a meeting of the Commission which may review the same.
14. Any Member may suggest items for inclusion in the agenda of a meeting of the Commission and the same shall be so included after obtaining the consent of the Chairperson.
15. Each Member shall have overall responsibility of subjects and/or regions or State(s) as may be allocated to him.
16. The Members shall play the role of advising the State Governments under their jurisdiction on matters of planning and development relating to the welfare of Scheduled Tribes. The Commission's Secretariat at Headquarters and the Regional Offices shall assist the Members in keeping them fully informed of the problems and activities of the States and subjects under their respective charge.
17. One or more Members may, in accordance with the procedure specified in the rules elsewhere, hold sittings of the Commission to give hearing to the cases or to collect evidence or information on any matter, issue or case under investigation or inquiry of the Commission.
18. The Members shall communicate their tour programme well in advance to the Regional Offices indicating in detail the purpose of the visit and to the State Govt. Department and other concerned for discussions/inquiry, etc., during the tour/visit. The Members will observe the

norms laid down by the State Govts. regarding security/travel/ accommodation etc., during such tours.

### **Secretary**

19. The Secretary shall be the administrative head of the Commission and shall assist the Commission in the discharge of its functions with the assistance of the officers of the Commission.

20. All important administrative matters shall be placed before the Secretary who may pass general or specific orders on such matters.

21. The Secretary shall be responsible for having the agenda prepared for the meetings of the Commission and for circulating the minutes.

22. The Secretary shall assist the Commission in finalizing the Reports.

23. The Secretary may, in his discretion, delegate any of his functions or authority to a subordinate officer of the Secretariat.

## **CHAPTER III**

### **INVESTIGATION AND INQUIRY BY THE COMMISSION**

#### **Methods of investigation and inquiry**

24. The Commission may adopt any one or more of the following methods for investigating or inquiring into the matters falling within its authority:

- (a) by the Commission directly;
- (b) by an Investigating Team constituted at the Headquarters of the Commission; and
- (c) through its Regional Offices

#### **Investigation and Inquiry by the Commission directly**

25. The Commission may hold sittings for investigation into matters relating to safeguards, protection, welfare and development of the Scheduled Tribes for inquiry into specific complaints for which the Commission decided to take up investigation or inquiry directly. Such sittings may be held either at the Headquarters of the Commission or at any other place within the country.

26. The sitting(s) of the Commission would be held after giving due notice to the parties intended to be heard and also due publicity notice to the general public. Care will be taken to see that the members of the Scheduled Tribes who are affected in the matter under investigation or inquiry are given due information through notice or publicity.

**27. When a decision for direct investigation is taken, an officer not below the rank of Assistant Director/ Research Officer/ Section Officer concerned with the subject matter of investigation, alongwith necessary staff may be attached to the Member(s) entrusted with such investigation or enquiry and they shall take all steps to arrange such sittings.**

28.(i) In accordance with clause 8 of Article 338A of the Constitution, while investigating in a matter referred to in sub-clause (a) or in inquiring into any complaint referred to in sub-clause (b) of clause (5) of Article 338A, the Commission shall have all the powers of civil court trying a suit and in particular in respect of the following matters, namely:-

- (a) summoning and enforcing the attendance of any person from any part of India and examining him on oath;

- (b) requiring the discovery and production of any document;
- (c) receiving evidence on affidavits;
- (d) requisitioning any public record or copy thereof from any court or office;
- (e) issuing commissions for the examination of witnesses and documents;
- (f) any other matter which the President may, by rule, determine.

(ii) The Commission for the purpose of taking evidence in the investigation or inquiry may require the presence of any person and when considered necessary may issue summons to him/her. The summons for enforcing attendance of any person from any part of India and examining him/her during the course of investigation and inquiry by the Commission shall provide at least 15 days' notice to the person directed to be present before the Commission from the date of receipt of the summons.

29. Where the property, service/employment of Scheduled Tribes and other related matters are under immediate threat and prompt attention of the Commission is required, the matter shall be taken cognizance by issue of telex/fax to the concerned authority for making it known to them that the Commission is seized of the issue. Urgent reply by telegram or fax shall be called from the concerned authority. In case no reply is received within ten working days, the authority concerned may be required to appear before the Commission at a shorter notice for enquiry.

30. The Commission may issue commission/under clause 8 (e) of Article 338A of the Constitution to take evidence in any matter under investigation or inquiry and for this purpose appoint any person by an order in writing. The Commission may make further rules for payment of fee and travelling and other allowances to persons appointed to take evidence on commission.

31. After holding the required sittings, the Member(s) who conducted the investigation shall make a report which shall be sent to the Secretary or any other officer authorized to receive the report. After examination, action may be initiated on the report with the approval of the Chairperson.

#### **Investigation or inquiry by an Investigation Team constituted at the Headquarters of the Commission**

32. The Commission may decide about the matter that is to be investigated or enquired into by an Investigating Team of officials of the Commission, provided that in case the matter is urgent, the decision for such investigation or inquiry may be taken by the Chairperson.

33. The Investigating Team shall hold the investigation or inquiry, as the case may be, promptly and for this purpose, may initiate necessary correspondence including issuance of notices for production of documents in Form I, appended to these rules.

34. The Investigating Team may visit the area concerned after observing due formalities for obtaining approval of tours and other administrative requirements and after giving information to the concerned local authorities regarding the matter, purpose, scope and procedure of the investigation or inquiry. The Investigating Team may enlist the help of the officers and staff of the concerned Regional Office but the responsibility of preparing and presenting the report shall rest with the head of the Investigating Team.

35. The Investigating Team shall submit the report of the investigation or inquiry, as the case may be, to the Secretary or a subordinate officer of the Commission as may be directed by general or specific orders within the stipulated time, if any. If the time limit stipulated is likely to be exceeded, the head of the Investigating Team shall obtain the orders of the Secretary

through the Officer-in-charge of the matter. The report shall be examined and put up to the competent authority for a decision regarding the action to be taken on the report.

36. The report shall be placed before the Chairperson of the Commission who will take appropriate action in the matter.

### **Investigation and inquiry through the Regional Offices**

37. The Chairperson, the Vice-chairperson, the Members having jurisdiction over the subject or the Secretary of the Commission may decide about an investigation or inquiry that may be carried out through the Regional Offices of the Commission. The decision will be conveyed to the Officer-in-Charge of the concerned Regional Office who will be asked to get the matter investigated or inquired into within a stipulated time and send the report. The Regional Office shall conduct the investigation or inquiry through interrogation, on the spot visit, discussions and correspondence and examination of documents as may be necessary in the case and shall follow any special or general instructions issued in the matter by the Secretariat of the Commission from time to time.

38. If the investigation or inquiry cannot be completed within the stipulated time, the officer-in-charge of the Regional Office may send a communication to the Secretariat of the Commission before the expiry of the stipulated time and explain the circumstances and reasons for non-completion of the investigation or inquiry, as the case may be, within the stipulated time. The Secretary to the Commission or an officer acting under delegated functions may consider the request and communicate a revised date for the completion of the investigation or inquiry.

39. If during the course of investigation or inquiry, the Head of the Regional Office feels that it is necessary to invoke the powers of the Commission to require the production of any document or compelling the attendance of a person, he may make a special report with full facts to the Secretariat of the Commission. On receipt of such special report, the matter shall be placed before the Secretary/Member in-charge of the subject/State/UT who may make an order that necessary legal processes to compel attendance or to require production of any document may be issued. The summons and warrants issued for the purpose may be served on the person concerned either directly or through the officer-in-charge of the Regional Office as may be directed by the Secretary/Member authorizing issue of such legal process.

40. After completion of the investigation or inquiry, as the case may be, the head of the Regional Office shall submit the report to the Secretary of the Commission suggesting the course of action that could be followed in the matter. The gist or findings of the report may be placed before the Secretary who may decide about further action in the matter.

### **Confidentiality of certain reports**

41. The Commission may, through a decision at a meeting or otherwise, direct that the contents of any report made on any matter shall be kept confidential and shall not be revealed to any person other than those who have been authorized access to such report.

### **Legal processes**

42. All summons and warrants that are required to be issued in pursuance of the exercise of the powers of a civil court by the Commission shall be written in the prescribed form and shall bear the seal of the Commission. The legal process shall be issued from the Legal Cell of the Commission and shall bear its seal. The provisions of the Code of Civil Procedure applicable for the service of the legal processes shall be followed by the Commission.

### **Issue of letters and notices**

43. Letters and notices as provided in **Form I** requiring production of documents which are issued without exercising the powers of the civil court by the Commission may be signed by an officer not below the rank of Research Officer/Section Officer.

### **Form of summons and warrants**

44. The summons and warrants shall be as provided in **Form II and Form III** respectively, appended to these rules.

## **CHAPTER IV**

### **MEETINGS OF THE COMMISSION**

#### **Frequency of meetings**

45. The Commission shall meet at least once in two months. The notice for a meeting shall normally be issued two weeks in advance. Emergent meetings may also be called by the Chairperson either on his own or on the request of a Member or the Secretary for disposing of important matters requiring urgent consideration by the Commission.

#### **Quorum**

46. Presence of atleast three members including the Chairperson and/or Vice-Chairperson shall constitute the quorum for holding meeting of the Commission.

#### **Matters requiring decisions by the Commission at its meetings**

47. The following matters shall be brought up before the Commission at a meeting for consideration and decision:

- (i) any amendment to these Rules of Procedure;
- (ii) matters to be investigated by the Commission directly;
- (iii) all the reports that are required to be considered by the Commission as provided in these rules;
- (iv) any matters that a Member may like to bring to the meeting, with the approval of the Chairperson;
- (v) important matters relating to planning and development for the welfare and advancement of the Scheduled Tribes and specially references received under Article 338A (9) of the Constitution; and
- (vi) any matter that the Chairperson may direct to be placed at a meeting of the Commission.

#### **Agenda for the meeting**

48. The agenda will normally be circulated to all the Members at least seven days before the date of the meeting, provided that for an Emergent Meeting, this time limit may not apply.

49. The minutes of a meeting shall be circulated as soon as possible to all the Members.

#### **Place of meeting of the Commission**

50. Normally the place of meeting of the Commission shall be the Headquarters of the Commission at New Delhi. The Commission may, however, decide to hold a meeting at any other place in India.

**Fee**

51. The Chairperson, the Vice-Chairperson and the Members shall not be entitled to any fee for sitting in the meeting of the Commission. However, the entitlement of part-time Members, if any, may be determined by the terms of appointment of such Members.

**CHAPTER V****SITTINGS OF THE COMMISSION****Need for sittings**

52. Whenever a matter is to be investigated into directly by the Commission it may do so by holding sittings of the Commission. In the case of such sittings, the presence of all the Member may not be necessary.

**Officers to be present**

53. Whenever a Member(s) is holding a sitting, an officer of the Commission, not below the rank of Research Officer/Section officer, duly deputed for the purpose, shall be present to assist the Member(s) holding the sitting to discharge the functions properly and promptly. It shall be the duty of the officer to assist the Member(s) in preparing the report if called upon to do so by the Member(s). The officer shall also be responsible for assisting the Member(s) in following the prescribed procedure.

**Frequency of sitting(s)**

54. Sittings of the Commission may be held as and when necessary. The Commission may hold more than one sitting simultaneously in different parts of the country with different Members functioning separately.

**Programme of the sittings**

55. The programme of the sittings, both at the Headquarters and at other places, would normally be worked out each month in advance and duly circulated.

**Defraying expenses to witnesses**

56. The Commission may defray travelling expenses to persons who have been called through summons to appear before the Commission in a sitting, provided that the place of residence of one person is more than 8 kms. from the place of the sitting of the Commission. The amount so defrayed shall be limited to the actual traveling expenses plus Daily Allowance for the number of days that the person has appeared before the Commission in its sitting, provided that the person is not entitled to travelling and daily allowance from any other source. Persons who are employees of the Government/Public Sector Undertaking shall be deemed to be on duty if they are summoned to depose before the Commission or produce documents. The limit of travelling expenses shall be determined on the basis of the rail fare and road mileage calculated on the basis of the rates that may be prescribed by the Commission. In the case of any doubt regarding the entitlement of the person, the decision of the Secretary of the Commission shall be final.

57. The officer attached to the Member for the purposes of the sitting shall take steps to ensure that sufficient cash amount is carried if the sitting is held at a place other than the Headquarters of the Commission. The Secretariat of the Commission may devise a suitable procedure to ensure that such claims as above are paid on the spot and in cash to the person(s) so appearing.

58. The claim for traveling expenses as above shall not be admissible in the case of a person who appears before the Commission during any investigation or enquiry on his own accord or in response to a communication or notice which is not a summon issued by the Commission.

## **CHAPTER VI**

### **ADVISORY ROLE OF THE COMMISSION**

#### **Interaction of the Commission with the State Governments.**

59. The Commission shall interact with the State Governments through its Members, Secretariat and the Regional Offices.

60. The Members in-charge of the State/UT would interact with the State Government/UT Administration through meetings, personal contacts, visits and correspondence. The information in this regard may be sent to the concerned Deptt./Organizations well in advance and the Regional Offices should also be informed about the same. For this purpose, detailed guidelines may be formulated by the Commission. The Secretariat of the Commission through its concerned Wing(s) would provide necessary assistance and information to the Member for enabling him to discharge his functions effectively. The State Governments should provide facilities for transport, security, accommodation etc. to the Member as per his entitlement.

#### **Interaction with the Planning Commission**

61. The Commission shall interact with the Planning Commission at appropriate levels through representation in the various Committees, Working Groups or other such bodies set up by the Planning Commission. The Commission shall indicate this requirement through general or specific communication to the Planning Commission.

62. The Commission may request the Planning Commission to forward copies of all the documents concerning the process of planning and development and evaluation of all programmes and schemes touching upon the Scheduled Tribes.

63. The Commission may decide about the manner of interaction between the Chairperson/Members of the Commission and the Deputy Chairman/Members of the Planning commission.

#### **Interaction of the Regional Offices with the State Governments**

64. The Regional Offices of the Commission shall work in a manner so as to provide a regular and effective link between the State Governments concerned and the Commission. For this purpose, the Commission may send communications to the State Governments suggesting that the officers-in-charge of the Regional Offices of the Commission may be taken on important Planning, Evaluation and Advisory bodies including Corporations concerned with the welfare, protection and development of the Scheduled Tribes.

65. The officers-in-charge of the Regional Offices may be directed or authorized by the Commission to convey to any State authority the formal views, opinion or approach of the Commission on any specific or general matter or issue arising at any meeting or deliberation.

#### **Research/Studies/Surveys/Evaluation**

66. The Commission may undertake studies to evaluate the impact of the development schemes on the socio-economic development of the Scheduled Tribes taken up by the Union or State Governments. For this purpose, the Commission may constitute Study Teams either at the Headquarters or at the Regional Offices. The Study Teams may undertake investigations,

surveys or studies either in collaboration with Central or State Govt. authorities or Universities or Research Bodies, as the case may be, or may do so independently.

67. The Commission may entrust surveys or evaluation studies to any professional body or person considered suitable and competent to undertake such work and, for this purpose, may make any reasonable payment to such body or person towards the cost of the study by way of fee or grant.

68. The studies so undertaken or their gists may form part of the Annual or Special Report of the Commission to be presented to the President or may be published separately by the Commission.

69. The Commission may forward a copy of such a study report to the Union or the State Government concerned, as the case may be, asking for their comments, if any. The comments or action taken reports by the Union/State Government may also form part of the Annual Report of the Commission.

## CHAPTER VII

### DUTIES OF THE REGIONAL OFFICES OF THE COMMISSION

70. It shall be the duty of the Regional Offices of the Commission:

- (i) To act as the “eyes and ears” of the Commission in the State(s) under their jurisdiction.
- (ii) To maintain effective interaction and liaison with State Government/UT Administration on behalf of the Commission.
- (iii) To serve on State Level Advisory Councils/Committees/Corporations, etc. on behalf of the Commission:
- (iv) To provide information and documentation about the policies and programmes of the Union Government for the welfare and advancement of Scheduled Tribes to the States, NGOs, Media in their respective jurisdiction, and obtain similar information and documentation from such organizations and provide to the Headquarters of the Commission information/documentation about important developments, social movements, policy changes etc. in the State(s) affecting the interest of Scheduled Tribes.
- (v) To monitor and inspect the working of voluntary and other non-governmental organizations receiving grant-in-aid from the Ministry of Tribal Affairs as also other Ministries/Departments of the Central Government, the concerned State Governments and Foreign Aid Agencies etc., engaged in Research Studies on Scheduled Tribes or welfare and development work relating to Scheduled Tribes and send reports to the Headquarters.
- (vi) To conduct Research Studies, Seminars, Conferences, Surveys etc. either on their own or as entrusted to them by Headquarters from time to time and to organize Awareness Camps on the role of the Commission in ensuring the proper implementation of the safeguards available to members of STs including the schemes and programmes for their development in different districts in collaboration with the States/UTs.
- (vii) To conduct on-the-spot inquiries into cases of atrocities on Scheduled Tribes either on their own or as entrusted to them by Headquarters and interact with the concerned Administrative/Police authorities having jurisdiction and submit report to the Headquarters.
- (viii) To deal with complaints/representations from individuals, Scheduled Tribes Welfare Associations, etc., on various matters **as also to deal with, suo moto grievances of Scheduled Tribes published in print media.**

- (ix) To participate and advise in the planning process for socio-economic development of Scheduled Tribes as envisaged under Clause (5) of Article 338A of the Constitution of India.
- (x) To collect, compile, analyse and monitor issues pertaining to development of Scheduled Tribes in the states especially with reference to Tribal Sub Plan (TSP) and Special Central Assistance (SCA) and prepare drafts of Reports pertaining to the State(s)/UT(s) under their jurisdiction.
- (xi) To prepare and maintain a comprehensive and up-to-date database of Scheduled Tribes population, education, development etc. in the State(s)/UT(s); and
- (xii) To perform any other duty specifically assigned/entrusted to the Regional Office(s) by the Commission or the Secretary or any other officer empowered in this regard.

## **CHAPTER VIII**

### **MONITORING FUNCTIONS OF THE COMMISSION**

#### **The Commission to determine subjects for monitoring**

71. The Commission may determine from time to time the subjects or matters and areas that it would monitor relating to safeguards and other socio-economic development measures provided for the Scheduled Tribes under the Constitution or under any other law for the time being in force or under any order of the Govt.

#### **Prescribing returns and reports**

72. The Commission may prescribe periodical returns or reports to be furnished by any authority responsible for or having control of the subject matter of which monitoring is being done by the Commission.

73. The Commission may from time to time issue instructions to its Regional Offices to collect information and data on any particular subject or matter from the State Governments, Local bodies, Corporate Bodies or any other authorities which is charged with the implementation of the safeguards provided for the Scheduled Tribes.

74. The Commission may direct its Regional Offices to process the information/ data in the Regional Offices with a view to arriving at conclusions with regard to the deficiencies/shortcomings discovered through such processing or analysis of the data and to bring these to the notice of the concerned authority for comments and rectification, where necessary.

75. The Commission may have data, relating to the subjects monitored, collected at the headquarters and may prescribe returns and reports for the purpose to be sent directly to its Headquarters by the Ministries/Departments of the Central government or a State Government or Public Sector Undertaking or any other body or authority which is charged with the responsibility of implementing safeguards relating to the Scheduled Tribes.

#### **Follow-up action**

76. In order to ensure that monitoring is done effectively, the Commission, after getting the information as prescribed in the above rules and after reaching conclusions, may as early as possible send out communications to the concerned authority describing the shortcomings that have been noticed in the implementation of the safeguards and suggesting corrective steps. Decisions on sending out such a communication may be taken at a level not lower than that of Joint Secretary/ Secretary at Headquarters. **Heads of Regional Offices** may take decisions on

routine matter whereas they will seek approval of the Secretary and the concerned Member on complex and important matters affecting the interest of Scheduled Tribes as a group.

77. The Commission may ask for the comments of the concerned authority on the action taken in pursuance of the communications sent under the Rule 76.

78. The Commission may include in its Annual Report or any Special Report, findings and conclusions arrived at through the process of monitoring of the subjects relating to the safeguards and socio-economic development measures provided for the Scheduled Tribes under the Constitution or under any other law for the time being in force or under any order of the Union/State Government.

## **CHAPTER IX**

### **Non-formal actions by the Commission**

79. The Commission may initiate correspondence in special cases in matters which are not strictly covered under the law if the matter is such that the welfare of an individual person belonging to Scheduled Tribes or that of a group of such persons is involved and it is necessary for the Commission in its inherent capacity as the protector of the interests of these classes of persons, to take action. The decision for correspondence on such matter shall be taken at the level of Director or above.

80. All routine formal communications from the Commission shall be issued under the signatures of an Officer not below the rank of Research Officer/Section Officer.

81. The Commission can sue or be sued through its Secretary.

82. The Scheduled Tribes in these rules will have the same connotation as is given in clause 10 of Article 338A of the Constitution.

### **Applicability of rules, etc., of the Central Government**

83. All rules, regulations and orders issued by the Central Government and applicable in the Ministries/Departments will also apply in the Commission.

84. The provisions relating to the delegation of financial powers in the Government of India shall apply to the corresponding officers in the Commission.

### **Use of Staff cars**

85. The Staff Car Rules of the Government of India shall apply for the purposes of utilization of staff cars in the Commission.

### **Decision on matters not specified in these rules**

86. If a question arises regarding any matter pertaining to the mandate of the Commission for which no provision exists in these rules, the decision of the Chairperson shall be sought. The Chairperson may, if he deems fit, direct that the matter may be considered at a meeting of the Commission.

**(WILFRED LAKRA)**  
**SECRETARY**

No.6/3/2006-C.Cell

Govt. of India

National Commission for Scheduled Tribes

6<sup>th</sup> Floor, Loknaya Bhavan,  
Khan Market,  
New Delhi-110003  
Dated: 26.7.2006

**OFFICE ORDER**

The National Commission for Scheduled Tribes in its meeting held on 20.7.2006 approved the restructuring of the three existing operational Wings of the Commission namely- SSW, ESDW and Atrocity Wing and creation of four Research Units and redistribution of the work among them on the basis of group of Central Ministries/Departments (including respective CPSEs) and the group of States/UTs to deal with all the three functions of the Commission namely-Services, Atrocities and Development.

2. In pursuance of this decision of the Commission, it has been decided to merge these three operational Wings of the Commission into four separate Units, which will be called Research Units- Research Unit-I, Research Unit-II, Research Unit-III and Research Unit-IV. Each Research Unit will be headed by a Director and supported by AD/RO and other support staff. All these four Units shall deal with all matters pertaining to socio-economic & educational development, services and atrocities in relation to the Ministries/Departments along with CPSEs and other organizations under their administrative control and the States/UTs which are allotted to them, as given in the following Table:-

Name of the Research Unit	Ministries/ Deptts. including CPSEs and other organizations/offices under their administrative control	States & UTs
<b>RESEARCH UNIT- I</b>	1. Ministry of Civil Aviation 2. Ministry of Non-Conventional Energy Source 3. Ministry of Ocean Development 4. Ministry of Panchayati Raj 5. Ministry of Parliamentary Affairs 6. Ministry of Personal – Public Grievances & Pensions 7. Ministry of Railways 8. Ministry of Urban Emp.& Poverty Alleviation 9. Ministry of Water Resources 10. Ministry of Youth Affairs & Sports <u>11. Comptroller and Auditor GGeneral</u> 12. Election Commission of India 13. Union Public Service Commission	1. Haryana 2. Himachal Pradesh 3. J & K 4. Punjab 5. Rajasthan 6. Uttaranchal 7. Uttar Pradesh 8. Chandigarh 9. Delhi 10. Gujarat 11. D. & N. Haveli 12. Daman & Diu
<b>RESEARCH UNIT- II</b>	1. Ministry of Petroleum & Natural Gas 2. President Secretariat 3. Ministry of Power 4. Ministry of Road Transport & Highways 5. Ministry of Rural Development 6. Ministry of Science & Technology 7. Department of Space 8. Ministry of Small Scale Industries 9. Ministry of Social Justice & Empowerment 10. Ministry of Statistics & Programme Implementation 11. Ministry of Steel 12. Ministry of Textile 13. Ministry of Tribal Affairs & Ministry of Development of North Eastern Region 14. Ministry of Urban Development	1. Assam 2. Arunachal Pradesh 3. Manipur 4. Meghalaya 5. Mizoram 6. Nagaland 7. Sikkim 8. Tripura

<b>RESEARCH UNIT- III</b>	1. Ministry of Agriculture 2. Ministry of Agro & Rural Industries 3. Deptt. of Atomic Energy 4. Ministry of Chemicals & Fertilizers 5. Ministry of Health & Family Welfare 6. Ministry of Heavy Industries & Public Enterprises 7. Ministry of Home Affairs 8. Ministry of Human Resource Development 9. Ministry of Information & Broadcasting 10. Ministry of Labour & Employment 11. Ministry of Law & Justice 12. Ministry of Mines	1. Bihar 2. Chhatisgarh 3. Jharkhand 4. Madhya Pradesh, 5. Orissa 6. West Bengal 7. A & N Islands
<b>RESEARCH UNIT- IV</b>	1. Ministry of Coal 2. Ministry of Commerce & Industry 3. Ministry of Communications & Information Technology 4. Ministry of Company Affairs 5. Ministry of Consumer Affairs – Food & Public Distribution 6. Ministry of Culture & Tourism 7. Ministry of Defence 8. Ministry of Shipping 9. Ministry of Environment & Forest 10. Ministry of External Affairs 11. Ministry of Finance 12. Ministry of Food Possessing Industries	1. Andhra Pradesh 2. Goa 3. Karnataka 4. Kerala 5. Maharashtra 6. Tamil Nadu 7. Lakshadweep 8. Pondicherry

2. In addition to four **Research Units** mentioned above, Administration Unit shall continue to operate, as is the case now. Coordination Cell shall continue to retain its separate existence. In due course of time as and when there is an improvement in the availability of staff, a Vigilance Cell, a Grievances Cell and an Information Cell will also be created which shall be the part of the Administration Unit and shall function under the direct control of Joint Secretary. The Coordination Cell will, however, continue to submit the files to the Joint Secretary through one of the Directors.

4. The four Directors in charge of the four Research Units shall function under the overall supervision of the Joint Secretary.

5. The work of important and urgent nature such as examination of proposals of dereservation received from various quarters, preparation of the agenda notes and minutes of the Commission's meeting at the Headquarters and of the review meetings with the Ministries/ Deptts. and organizations/ offices under their administrative control, preparing the gist of the discussions held with the officials of various organizations during the hearings in this Commission immediately after the hearing is over, drafting of comments on matters referred to this Commission under Clause (9) of Article 338A, preparing necessary material for Parliament Questions, handling Court cases, scrutiny of TSP proposals and attending the TSP meetings, collection and compilation of material from the Ministries/ Deptts., and the States & UTs on various aspects of tribal development for the purpose of preparation of the Report of the Commission as also for creation of data base etc. with respect to the subject matters allotted to the Units or any other work than may be assigned, will be handled directly at the level of Director in charge of the concerned Unit.

6. This order is in supersession of all orders issued in the past regarding distribution of work among the officers and officials of this Commission.

7. Orders regarding deployment of officers and staff among the four Research Units and the Coordination Cell will be issued separately.

**(K.N. Singh)**  
Joint Secretary

Copy to

1. PSs to Chairman, Vice-Chairman and Members of the Commission
2. All the officers and staff members of the Commission
3. All the six Regional Offices of the Commission

## (i) List of Telephone Nos. of present Chairperson, Members, Secretary and other officers of the Commission's Hqrs.

Name S/Shri	Designation	Telephone No. (Office)	Telephone No. (Residence)
	Chairman	2462 4628, 2463 5721 9868249385 (M)	23359435
	PS to Chairman	2462 4628, 2463 5721	
	APS to Chairman	2462 4628 2463 5721	24671429
Gajendra Singh Rajukhedi	Vice-Chairman	24657272, 24657474 9873023775 (M)	23387925
Gyan Singh Dorai Buru	PS to Vice-Chairman	24657272, 24657474	23315977
	Member	2464 6954 9818101052 (M)	2467 5466
	PS to Member	-	-
	Member	2462 3958 9818101053 (M)	24635736
	PS to Member	2462 3958	951242369763
	Member	2465 4826 9818101054 (M)	2467 5422
	PS to Member	2465 4826	
<b>K.K. Gupta</b>	Secretary	24635625 9868542068 (M)	24101518
Balbir Singh	PS to Secretary	24635625	
<b>K.N. Singh</b>	Joint Secretary	2460 3669 20039853 (M)	2704 2849
Sabita Mathur	PS to JS	2460 3669	
<b>R.S. Garg</b>	Director (RU-I & II)	2461 5012	25075959
Sunita Karnail	PS to Director	2461 5012	
R.C. Durga	Director (RU-III&IV) & Coordn.	24624714	22306798
<b>Sohan Lal</b>	Asstt. Director (RU-III & IV)	24601346	
<b>Balak Ram</b>	Research Officer (RU-I & II)	2464 5826	
<b>S.P. Meena</b>	Research Officer (Coordination Cell)	2462 3959	
<b>T.S. Negi</b>	Under Secretary		
<b>S.C. Sharma</b>	Section Officer (Admn.)	24657271	
<b>Information</b>			
Reception, Gate No.2		2469 7018	

## Faxes

- |    |                          |          |
|----|--------------------------|----------|
| 1. | Chairman                 | 24624648 |
| 2. | Member Sh.B. Srinivasulu | 24654826 |
| 3. | Joint Secretary (NCST)   | 24625378 |
| 4. | Director (ESDW)          | 24604689 |

(ii) **Location, Jurisdiction & Telephone No. of the Regional Offices of the National Commission for Scheduled Tribes**

<b>S.No</b>	<b>Location &amp; Address of Office</b>	<b>Name &amp; Designation of the Officer incharge</b>	<b>Jurisdiction</b>
1.	Room No.309, Nirman Sadan, CGO Complex, 52-A, Arera Hills, <b>Bhopal-462011</b>	Shri R.K.Dubey, Research Officer Ph: 0755 2576530 0755 2578272 (F)	M.P., Maharashtra, Karnataka, Kerala, Goa, and Union Territories of Dadra & Nagar Haveli and Lakshadweep.
2.	N-1/297, IRC Village, <b>Bhubaneshwar-751015</b>	Shri R.K. Mishra, Research Officer Ph:0674 2551616 0674 2551818 (F)	Andhra Pradesh, Orissa, Tamil Nadu, West Bengal and Union Territories of Andaman & Nicobar Islands, and Pondicherry
3.	Room No.101 & 102, Ist Floor, Block-A, Kendriya Sadan Sector-10, Vidyadhar Nagar, <b>Jaipur-302015</b>	Dr. G.S. Somawat, Director Ph:0141 2741173 (F) 0141 2235488	Chandigarh, Gujarat, Haryana, Himachal Pradesh, Jammu & Kashmir, Punjab, Rajasthan, Uttaranchal and Daman & Diu.
4.	R-26, Sector-2, Avanti Vihar, Post Office Ravigrame, <b>Raipur-492006</b>	Shri R.K.Dubey, Research Officer (Addl. charge) Ph:0771 2443335 (F)	Chhattisgarh
5.	14, New A.G. Co-operative Colony, Kadru, <b>Ranchi-834002</b>	Shri R.K. Mishra, Research Officer (Addl. charge) Ph:0651 2340368 (F) 0651 2341677	Bihar, Jharkhand, and Uttar Pradesh
6.	Rabekka Villa, Temple Road, Lower Lachumiere, <b>Shillong-793001</b>	Miss. P. Syiemlieh, Assistant Director Ph:0364 2221362 (F) 0364 2504202	Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim and Tripura,