

State Review Meeting of NCSC regarding Prevention of Atrocities on Scheduled Castes held with the Principal Secretary, Social Justice, DGP, Addl. DGP, IG and other senior Police Officers of Government of Maharashtra on 30.08.2019.

1.7.1 The Principal Secretary, Social Justice, Maharashtra, DG Police, Maharashtra, Addl. DGP, IGs and other senior Police Officers of Maharashtra participated.

The DG Police, Maharashtra welcomed the Commission.

- The Chairman / NCSC in his opening remarks pointed out that the Commission was in Maharashtra as a part of its Constitutional mandate to monitor the implementation of safeguards and rights of the Scheduled Castes in the state. The review is an exercise undertaken to point out the areas of concern of NCSC and to sensitize the Government and State Police towards the same. The Commission had sent detailed Performa to the State Government and DGP for submitting detailed information on action taken regarding trends in atrocity cases, investigation, action taken for prevention of atrocities, payment of compensation to victims of atrocities, action taken by police on cases regarding death / injuries during manual cleaning of sewers / manual scavenging etc.
- The analysis of the replies to the various Performa and questionnaires of the Commission, data of NCRB, MSJE etc was done by the Commission. The IG, PCR made a presentation and detailed discussions was also held with the DGP & other senior officers present during the Review Meeting. The responses of the State Government and DGP was invited on the findings of Commission during detailed discussions.

The main issues highlighting the areas of concern of the Commission during the discussion were as follows:

1.7.2 Atrocities

- Reluctance of Police to register the cases and apply the Sections of PoA Act, 1989 (as amended).
- Police not registering case under SC/ST PoA Act (as amended 2015) in cases of deaths during manual cleaning of sewers when victim is SC
- As per Rules 46 of the SC/ST Act, the additional relief like pension to the widow, education up to graduation level of the children of the victim, 3 month rasan etc, has not been provided as recommendations not sent to DM by police.
- Setting up of exclusive Special Courts - necessary as per Section 14 of PoA Act

- Appointment of exclusive public prosecutors - necessary as per Section 15 of PoA Act.

1.7.3 Cases disposed of by Court

- During the month ending June, 2019, 7274 cases involving SCs were pending for disposal in the Special Courts. The performance of the Exclusive Special Prosecutor needs to be reviewed by the concerned District Collectors. Relief and protection provided to the victims and witness during the trial in the Court has not been provided.

1.7.4 Conviction Rate

- Rate of conviction in the cases involving Scheduled Castes was 10.91 against national average 25.78 in the year 2016. Rate of conviction is lower than the national average. **(Source: NCRB)**
- As per figures supplied by the State Govt., during the year 2016 the conviction rate was 6.81, in 2017 6.29, in 2018 8.13 and in 2019 (up to June) was 7.03 The performance of the Exclusive Special Public Prosecutor needs to be reviewed by the concerned District Collector of the District. Reason for low conviction rate may be analysed by the State Govt.

1.7.5 SC/ST Protection Cell

- The DGP, Maharashtra is the controller of the SC/ST Protection Cell. This Cell is headed by an officer of the rank of IG (Police) to assess law and order situation in the area and to monitor the implementation SC/ST (POA) Act in the cases registered. However, details asked for by NCSC could not be supplied hence the cell appears ineffective.

1.7.6 Training/Workshop

- The State Govt. has organized 838 regular training/workshop sessions in 2016, 847 in 2017, 973 in 2018 and 401 in 2019 (upto June, 2019) to enhance the capacity of the investigation and other police officers. What is the duration of Training?

1.7.7 Appointment of Nodal Officer for SCs and STs

- Principal Secretary, Minority Affairs, Govt. of Maharashtra has been designated as Nodal Officer to monitor the implementation of SC/ST (POA) Act, 1989 (as amended) and SC/ST (POA) Rules, 1995 (as amended). However, data regarding the compensation given to victims could not be supplied. Hence, it appears no monitoring is being conducted.

1.7.8 State level Vigilance Monitoring Committee

- No meeting held during the year 2016-17, 2017-18, 2018-19 and 2019 (upto June). Whereas, two meetings should be held under the chairmanship of Chief Minister in the month of January and July to review the implementation of the provisions of the Act, scheme for the right and entitlement of the victims and witness in assessing justice are mandatory as per the Scheduled Castes and Scheduled Tribes (POA) Act, 1989 (as amended).

1.7.9 Recommendations: Two Meetings in a year are mandatory as per Rules 16 (2) of the SC/ST (POA) Rules, 1995. The State Level Meetings should be held timely.

1.7.10 District level Vigilance Monitoring Committee

- All the District Collectors are the Chairman of the District Vigilance Monitoring Committee. The State Govt. has provided dates of the Meeting not the details of the Meetings. There may be error.
- **Recommendations: Four Meetings in a year are mandatory as per Section 17 (3) of the SC/ST (POA) Rules, 1995 (as amended).**

1.7.11 Cases registered u/s Cr.PC 156(3)

- 52 cases (21 cases chargesheeted, 2 cases acquittal and 29 cases pending in Court) in 2016, 41 cases (11 cases chargesheeted and 11 cases pending in Court) in 2017, 40 cases (12 case chargesheeted, 1 case acquittal and 11 cases pending in Court) in 2018 and 12 cases (3 cases chargesheeted, 3 cases pending in Court) upto June, 2019 registered u/s 156(3) – which shows that Police is not sensitive in the cases against the Scheduled Castes.
- The Commission desired to know the number of cross FIRs filed in the cases where FIR was registered u/s 156(3) and action taken against the Police officials u/s 4 of PoA Act 1989 (as amended). The officers were also unable to give details of the number of cases where cross FIRs have been filed against SCs in cases registered by the SCs. The

Chairman, NCSC explained to the officers that the cross FIRs are often used by opposite parties to intimidate and harass the SCs in cases where SCs file cases of atrocities. The police should take into account this aspect during investigation of such cross FIRs. DGP assured that the data on cross FIRs and the outcome of all the heinous crime cases will be collected and sent to the Commission within 1 month.

1.7.12 The cases registered under POA Act and compensation provided to the victims/dependant of deceased during last 3½ years.

- It is observed that the less compensation under Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Rules, 1995 (as amended) provided to the victims/dependant of deceased during last 3½ years by the State Govt. Details are as under:-

- An amount of Rs. 329 lakhs was provided in 46 cases of murder and Rs. 469 lakhs in 220 cases of rape whereas Rs. 379.5 lakhs for 46 murder cases and Rs. 1815 lakhs for 220 rape cases were to be paid during the year 2016 as per the prescribed amount.

Recommendation: The remaining amount of Rs. 50.5 lakhs for murder and Rs. 1346 lakhs for rape cases be paid immediately to the victims/dependant of deceased.

- An amount of Rs. 382 lakhs was provided in 48 cases of murder and Rs. 686 lakhs in 230 cases of murder whereas Rs. 396 lakhs for 48 murder cases and Rs. 1897 lakhs for 230 rape cases were to be paid during the year 2017 as per the prescribed amount.

Recommendation: The remaining amount of Rs. 14 lakhs for murder and Rs. 1211 lakhs for rape cases be paid immediately to the victims/dependant of deceased.

- An amount of Rs. 708 lakhs provided in 315 rape cases whereas Rs. 2598.75 lakhs for 315 rape cases was to be paid during the year 2018 as per the prescribed amount.

Recommendation: The remaining amount of Rs. 1891 lakhs for rape cases be paid immediately to the victims.

- An amount of Rs. 78 lakhs was provided in 32 cases of murder and Rs. 175 lakhs in 177 cases of rape whereas Rs. 264 lakhs for 32 murder cases and Rs. 1460.25 lakhs for 37 rape cases were to be paid during the year 2019 (upto June, 2019) as per the prescribed amount.

Recommendation: The remaining amount of Rs. 186 lakhs for murder and Rs. 1285 lakhs for rape cases be paid immediately to the victims/dependant of deceased.

1.7.13 No additional relief being paid

- It appears that the State Govt. has not taken any cognizance of the D.O. letter No. 3/2/2007-APCR dated 21.6.2017 of the Chairman, NCSC to the Chief Minister, Maharashtra and a subsequent letter dated 05.10.2016 of Secretary, NCSC to Chief Secretary, Govt. of Maharashtra to publish Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (as amended) and Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Rules, 1995 (as amended) in their official Gazette and to sensitize the Police Personnel and District Officials about the provision of the Act & Rules, since, the compensation paid to victim is much less than as per the Rules.

1.7.14 The following action points were identified by the Commission:

- The State Govt. to provide correct data on total number of crime registered against Scheduled Castes as there is discrepancy in figures supplied by the State Govt. and NCRB. The senior police officers need to review the cases periodically.
- The reason for low conviction rate may be analysed by the State Govt. as the rate of conviction is lower than the national average. The performance of the Exclusive Special Public Prosecutor needs to be reviewed by the concerned District Collector of the District.
- It was revealed during the review meeting that none of the Exclusive Special Court has actually started functioning therefore, the Commission recommends that the State Govt. should expedite the process so that Exclusive Special Court can function properly at the earliest.
- The Exclusive Public Prosecutor has been appointed in 23 Districts out of 36 Districts of the States. The State Govt. to provide the reasons for not appointing Exclusive Public Prosecutor in remaining 13 districts.
- The State Govt. to provide the details of SC/ST Protection Cell.
- The State Govt. to provide the number of training/workshop organised and their duration for training/workshop to sensitise the police officials and to create awareness about SC/ST PoA Act, 1989 (as amended).
- The State Govt. to provide the information regarding compensation provided to victims of atrocities.

- The Commission recommends that two meetings of the State Level Vigilance Monitoring Committee, should also be held in a year which are mandatory as per Rules 16 (2) of the SC/ST (PoA) Rules, 1995. The State Level Meetings should be held timely.
- The Commission recommends that four meetings of the District Level Vigilance Monitoring Committee, should be held in a year which are mandatory as per Section 17 (3) of the SC/ST (POA) Rules, 1995 (as amended). The District Level Meetings should be held timely.
- The State Govt. should provide the data on bonded labours.
- The Commission desired to know the number of cross FIRs filed in the cases where FIR was registered u/s 156(3) and action taken against the Police officials u/s 4 of PoA Act 1989 (as amended).
- The State Govt. to provide the details of the number of cases where cross FIRs have been filed against SCs in cases registered by the SCs.
- The State Govt. to provide the details of cases registered under SC/ST PoA Act,1989 and compensation provided to the victims/dependant of deceased during last 3 years.
- The State Govt. to provide the details of action taken against the erring police officials u/s (4) of SC/ST PoA Act, 1989 (as amended).
- It appears that the State Govt. has not taken any cognizance of the D.O. letter No. 3/2/2007-APCR dated 21.6.2017 of the Chairman, NCSC to the Chief Minister, Maharashtra and a subsequent letter dated 05.10.2016 of Secretary, NCSC to Chief Secretary, Govt. of Maharashtra to publish Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (as amended) and Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Rules, 1995 (as amended) in their official Gazette and to sensitize the Police Personnel and District Officials about the provision of the Act & Rules, since, the compensation paid to victim is much less than as per the Rules. The State Govt. to provide action taken and present status in the matter.
- The Commission recommends that complete and timely payment be made to the victims of atrocities.
- All level Police Officers be sensitized and trained.
- The SC and ST (POA) Act, 1989 (as amended) and SC and ST (POA) Rules, 1995 (as amended) be published in a Hand Book and uploaded on website by the State Govt.

- The State Govt. to display the provisions of SC and ST (POA) Act, 1989 (as amended) and SC and ST (POA) Rules, 1995 (as amended) at prominent places like Police Stations and Collector's Office without losing further time.
- The State Govt. to provide additional assistance like pension, job, agriculture land, house, patta to the victim/family of the deceased victim as per the Sr. No. 46 of SC and ST (POA) Rules, 1995 (as amended).

1.7.15 Summing up by the Chairman NCSC:

- Chairman NCSC stated that the POA Act, 1989 (as amended) and Rules (as amended in 2016) need to be implemented in letter and spirit. There should not be delay in the completion of the investigations and in filing of charge sheets. The 60 day time limit as per the PoA Act should be adhered to.
- The senior officers of Police should work towards reducing the large number of cases lodged u/s 156(3). Action under Section (4) of PoA Act may be initiated against the Police Officials where the FIR was registered after the intervention of the Hon'ble Court. Cross FIRs against SCs should be reexamined to ensure that they are genuine and not lodged for the simple purpose of pressurizing the SC complainants. All FIRs should be lodged and no persons should have to resort to approaching courts for lodging of FIRs.
- The DMs and SSPs should visit the spot where atrocities against Scheduled Castes occur. This is mandated as per Rule 12 of the Prevention of Atrocities Rules.
- He urged that the Police should send details of the stage wise progress on the cases of atrocities to the DM in time, so that the monetary compensation as per the Prevention of Atrocities Rules, 2016 can be paid in time to the victims / families.
- He further urged Director General of Police, Maharashtra and Principal Secretary, Social Justice to review the action taken under the POA Act and Rules regularly, and asked them to ensure that the commitments made to the Commission during the Review Meeting may be compiled with and reported to the Commission within the committed time frame.