



सत्यमेव जयते

**NATIONAL COMMISSION  
FOR  
SCHEDULED CASTES  
AND  
SCHEDULED TRIBES**



**SEVENTH REPORT  
2001-2002**



भारत सरकार

राष्ट्रीय अनुसूचित जाति एवं अनुसूचित जनजाति आयोग

GOVERNMENT OF INDIA

NATIONAL COMMISSION FOR SCHEDULED CASTES AND SCHEDULED TRIBES

डा. विजय सोनकर शास्त्री  
अध्यक्ष

Dr. Bizay Sonkar Shastri  
CHAIRMAN

पाँचवीं मंजिल, लोकनायक भवन,  
खान मार्किट, नई दिल्ली-110003  
5TH FLOOR, LOK NAYAK BHAWAN,  
KHAN MARKET, NEW DELHI - 110003  
Tel. (O) : 24632298, 24620435  
(R) : 24601213  
Fax : 24625378, 24617062 (R)

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February 19, 2004

Respected Rashtrapatiji

I have the honour to present to you the Seventh Report of the National Commission for Scheduled Castes and Scheduled Tribes upon the working of safeguards during the year 2001-02 for the Scheduled Castes and Scheduled Tribes under the Constitution and other laws.

In the Report for the year 2001-02 specific instances which came to the notice of the Commission regarding the deprivation of right and safeguards of the Scheduled Castes and Scheduled Tribes enquired into by the Commission have been also highlighted apart from the status of implementation of protection of Civil Right Act, 1955 and the Prevention of Atrocities on Scheduled Castes and Scheduled Tribes Act, 1989, during the year under Report.

Atrocities on SCs and STs have acquired new social dimension. In totality, due to vested interests of differential growth, the task of building an equitable deal to the under privileged is much more difficult now than ever before. The nascent strife is weakening not only the economic system but beyond the limits of tolerance straining the social fabric.

Traditional right and virtual forced displacement of the tribal from the ancestral lands which are acquired for development projects deprive the tribal people the command over natural resources. The government has have taken initiatives with dispensation for enabling the tribal people to become equal partners in development in tribal areas. A systematic review in the administration of Scheduled Areas has to be spelt out on the basic parameters of good governance. The command over resources and protection from

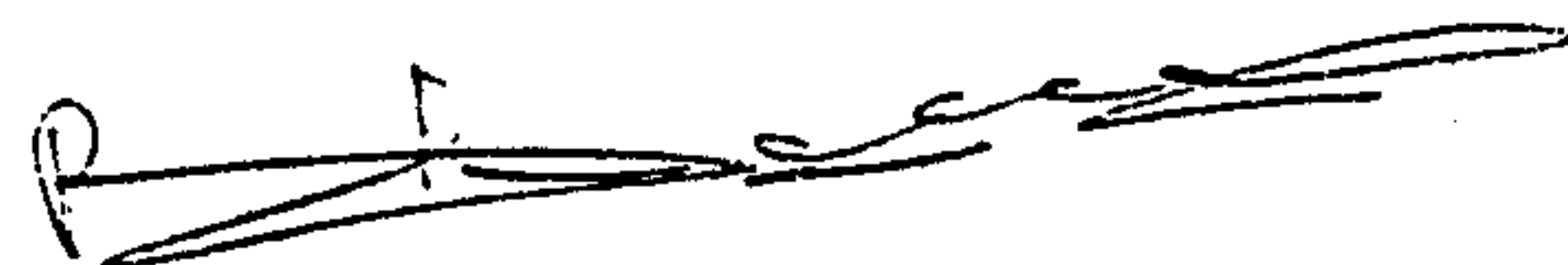
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displacement are vital for the survival of the tribal people. The rights of the tribal community cannot be ignored because it is small in number. Their voice has to be heard. It is my duty and privilege to convey their feelings, sufferings and agony and apprehensions and fears with appeal to the conscience of the nation.

Economic development holds the key to social empowerment of the deprived, specially the Scheduled Castes and Scheduled Tribes. The strategy of Special Component Plan (SCP) for Scheduled Castes and Tribal Sub-Plan (TSP) for Tribals adopted by the Government as part of the planned economic development is therefore an important step not only for raising the living and economic standard of the Scheduled Castes and Scheduled Tribes but also for their social empowerment. The importance of sincere implementation of the SCP and TSP by not only the Ministries and Departments of Govt. of India but the State Governments as well can therefore not be over stressed. It is a matter of concern that the Special Central Assistance as approved by the Planning Commission and sanctioned by the Govt. of India has not been fully utilized by some State Governments. The Commission therefore recommends that the Union Government should ensure that the policies and schemes formulated by the Planning Commission are implemented in a holistic manner and the Central Ministries/Departments and States adhere to the guidelines in the implementation of the SCP and TSP without any diversion of funds.

In the Report for the year 2001-2002, the Commission has also examined the problem of false caste certificates and has made its observations/recommendations for dealing with this serious problem which not only deprives but robs the Scheduled Castes and Scheduled Tribes of their rights and safeguards provided under the Constitution and various laws as well as the opportunities made available by the Government for their welfare.

Yours sincerely,



**(Dr. Bizay Sonkar Shastri)**

**DR. A.P.J. ABDUL KALAM**  
**PRESIDENT OF INDIA,**  
**NEW DELHI**

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# CHAPTER I

## INTRODUCTION

Safeguards are provided in the Indian Constitution for the social, educational and economic advancement of Scheduled Castes and Scheduled Tribes and also for ensuring their adequate representation in services and posts. With a view to ensuring that various provisions of these safeguards are implemented satisfactorily, a Special Officer called the Commissioner for Scheduled Castes and Scheduled Tribes was appointed in November, 1950 under Article 338(1) of the Constitution. The Commissioner for SCs and STs was empowered to investigate all matters relating to the above safeguards and to report to the President about the working of these safeguards and he has submitted thirty reports till 1991. In July 1978, a multi-member body called the Commission for Scheduled Castes and Scheduled Tribes was also set up to oversee the various safeguards provided for SCs and STs with Shri Bhola Paswan Shastri as Chairperson. The functions of this Commission were modified in September, 1987 and it was renamed as the National Commission for SCs and STs making it a national level advisory body to advise the Government on policy issues and levels of development of SCs and STs. Keeping in view the magnitude and vastness of the problems of Scheduled Castes and Scheduled Tribes, Article 338 of the Constitution was amended and the National Commission for Scheduled Castes and Scheduled Tribes (hereafter referred to as the Commission) was given Constitutional status under the Constitution (Sixty-Fifth Amendment) Act, 1990. The first Constitutional Commission came into existence on March 12, 1992 replacing the Commission set up in September, 1987. National Commission for SCs/STs completed 10 years of its existence as a Constitutional Commission during the year under report and had submitted six reports to the President of India.

- (i) The first Commission consisted of Shri Ram Dhan as the Chairperson. Shri Bandi Oraon as the Vice-Chairperson and Shri B. Sammaiah, Dr. Sarojini Mahishi, Choudhary Hari Singh, Shri N. Brahma and Shri Jina Bhai Darjee as Members. The first report was submitted on 15-8-1994.
- (ii) The second Commission was constituted on 5-10-1995 with Shri H. Hanumanthappa as Chairperson and Smt. Omen Moyong Deori as Vice-Chairperson. The other Members of the Commission were Shri N.C. Chaturvedi, Shri Anand Mohan Biswas, Ven. Lama Lobzang, Shri Nar Singh Baitha and Shri B. Yadaiah.. The second, third, fourth reports were submitted by this Commission.
- (iii) The third Commission was constituted on December 16, 1998 consisting of Shri Dileep Singh Bhuria as the Chairperson, Shri Kameshwar Paswan as the Vice-Chairperson and S/Shri Harinder Singh Khalsa, Ven. Lama Lobzang, Chhotray Majhi and M. Kannan as Members. Smt. Veena Nayyar, Member joined the Commission on 30<sup>th</sup> June, 1999. Subsequently, Shri M. Kannan had resigned from his post and Shri C. Chellappan was appointed and he joined the Commission on 3-7-2000. The Third Commission submitted the fifth & sixth reports and two special reports. On the expiry of their tenure S/Shri D.S. Bhuria, Kameshwar Paswan, Harinder Singh Khalsa, Ven. Lama Lobzang, Chhotray Majhi demitted office during the year under report.(2001-2002)
- (iv) The present Commission, fourth in the series 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. Bizay Sonkar Shastri as the Chairperson, Ven. Lama

Chosphel Zotpa, Vice-Chairperson and S/Shri Vijay Kumar Choudhary, Narayan Singh Kesari and Tapir Gao as Members. Smt. Veena Nayyar and Shri C. Chellappan are continuing as Members. The Chairperson and the Vice-Chairperson of the Commission have the status of Union Cabinet Minister and Minister of State respectively.

1.2 As provided in Article 338(5) of the Constitution, the functions of the Commission include investigation, monitoring and evaluation of various safeguards provided for SCs and STs, inquiry into specific complaints with respect to deprivation of rights and safeguards of SCs and STs and participation in the planning process. Union and State Governments are required to consult the Commission on all major policy matters affecting the SCs and STs. Under the provisions of Article 338 of the Constitution, the Commission, while investigating any matter or inquiring into any complaint, has all the powers of a Civil Court trying a suit and in particular in respect of the following matters:

- 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 of office.
- e. issuing commissions for the examination of witnesses and documents.
- f. any other matter which the President may by rule determine.

1.3 Article 338(6) specifies that the Commission is required to present to the President, annually and at such other times as the Commission may deem fit, reports upon the working of various safeguards for SC and ST and containing recommendations as to the measures for their welfare and upliftment. The Commission has so far submitted Six Reports beside three Special Report.

1.4 The Commission has 18 State Offices located in different States/UTs. The location and jurisdiction of these offices and the designation of the officers heading them are given in ANNEXURE-1.I. These offices function as 'eyes and ears' of the Commission as they keep the Commission informed of all important activities and decisions/orders of the State Governments/UT Administrations concerning the SCs and STs. The State offices keep themselves actively associated with the planing process of the States/UTs and also represent the Commission in various Committees/Boards. The representations/complaints received from the SC/ST persons and associations/unions are also dealt with by these offices as per the guidelines given by the Commission and relief is secured in deserving cases.

1.5 During the period under report, the Commission continued to discharge its functions vigorously in fulfilment of its constitutional obligations. The Commission held 7 meetings in this period and the important issues concerning SCs & STs were discussed threadbare. The decisions taken by the Commission in these meetings were followed up on priority basis. Apart from the meetings of the Commission, some other important meetings/issues were also organized/taken by the Commission as given below:

1. Meeting of Heads of State Offices of National Commission for SCs and STs on 9-10 May, 2001.
2. Two days workshop of Collectors/DMs/Project Director of DRDAS of the State Govts. on 9-10 August, 2001 on the implementation of SCP/TSP in the State.

3. Opening of two new State Offices in the newly created states, Jharkhand at Ranchi in May, 2001 and Chhatisgarh at Raipur in July, 2001 respectively.
4. Presentation of Sixth Annual Report for the years 1999-2000 & 2000-2001 to the President of India on 16<sup>th</sup> November, 2001.

The above meetings highlighted the role, functions and powers of the Commission and also helped it in assessing the actual pace of development of SCs and STs in various spheres

1.6 With a view to ensuring purposeful monitoring and evaluation, the Commission held State Level Review Meetings with the Chief Secretaries and other senior officers of the States/UTs of NCT of Delhi, Daman & Diu, Dadra & Nagar Haveli, Chhattisgarh and Jharkhand. These meetings helped the Commission to have a firsthand assessment of the implementation of various schemes and working of the safeguards provided to SCs and STs in various spheres and enabled it to suggest to the concerned States more effective and fool-proof measures for the upliftment of SCs and STs.

1.7 As regards the investigative functions of the Commission, it has the powers and competence to investigate all matters relating to the safeguards provided for SCs and STs. Keeping in view the spirit behind this Constitutional provision, the Commission accorded due importance to its function of inquiring into specific complaints with respect to the deprivation of rights and safeguards of the SCs and STs. With a view to streamlining the procedure in this regard, the Commission has adopted specific guidelines for dealing with these complaints from individuals/Associations so as to ensure speedy disposal of cases. Majority of the complaints received in the Commission relate to service safeguards as the SC/ST employees have become well aware of the various provisions of the Constitution and orders/instructions issued by Govt. for ensuring adequate representation in services/posts. Encouraged by the positive response from the Commission, a large number of SC/ST employees come to the Commission office at Delhi and in the State to personally represent their grievances.

1.8 The Commission is very much concerned about the cases of atrocities on SCs and STs and has been impressing upon the concerned authorities to curb this social menace by all possible means. The provision of monetary relief and rehabilitation measures to the victims of atrocities and the steps taken for immediate apprehension of culprits are closely monitored by the Commission. Depending upon the gravity and circumstances the Commission also visited the places where the reported atrocities had occurred.

1.9 The Commission is actively associating itself in the planning process at the National and State levels. The officers of the Commission attend various meetings in the Planning Commission and the Ministry of Welfare and the State/UT Governments. The Annual Plans of Ministries/Departments of the Govt. of India and the States/UTs are also being looked into by the Commission and useful suggestions are made to the concerned authorities wherever considered necessary.

1.10 The Commission has been reiterating that under Article 338(9) of the Constitution it is obligatory for the Union and State Governments to consult the Commission on all major policy matters affecting the SCs and STs. This position has now been duly appreciated by the authorities and the Commission has been examining bills and other policy matters referred to it by Ministries/Departments of the Government of India.

## ANNEXURE-1.1

## LOCATION, JURISDICTION OF STATE OFFICES OF THE NATIONAL COMMISSION FOR SCHEDULED CASTES AND SCHEDULED TRIBES

S. No.	Location	Designation of Head of office	Jurisdiction
1.	Agartala	Deputy Director	Tripura
2.	Ahmedabad	Assistant Director	Gujarat, Dadra & Nagar Haveli
3.	Bangalore	Director	Karnataka
4.	Bhopal	Director	Madhya Pradesh
5.	Bhubaneswar	Director	Orissa
6.	Kolkata	Deputy Director	West Bengal, Sikkim, A & N Islands
7.	Chandigarh	Director	Punjab, Haryana, Chandigarh, J & K and Himachal Pradesh
8.	Guwahati	Research Officer	Assam, Manipur, Arunachal Pradesh & Nagaland
9.	Hyderabad	Director	Andhra Pradesh
10.	Jaipur	Director	Rajasthan
11.	Lucknow	Director	Uttar Pradesh & Uttaranchal
12.	Chennai	Director	Tamil Nadu & Pondicherry
13.	Patna	Deputy Director	Bihar
14.	Pune	Director	Maharashtra, Goa, Daman & Diu
15.	Raipur	Director	Chhatisgarh
16.	Ranchi	Deputy Director	Jharkhand
17.	Shillong	Assistant Director	Meghalaya & Mizoram
18.	Thiruvananthapuram	Assistant Director	Kerala & Lakshadweep



## CHAPTER-II

# CONSTITUTIONAL PROVISIONS FOR PROTECTION AND DEVELOPMENT OF SCHEDULED CASTES AND SCHEDULED TRIBES

The provisions and safeguards for Backward Classes and specially for SCs & STs have been incorporated in the Constitution of India. The safeguards are in the field of social, economic, political, social, educational, cultural and services under the State for the people belonging to these communities for their development. Who constitute Scheduled Castes and Scheduled Tribes and how are the Castes and Tribes scheduled are contained under Articles 366(24), 366(25), 341 and 342 of the Constitution of India.

### SAFEGUARDS FOR SCHEDULED CASTES AND SCHEDULED TRIBES

2.2 The safeguards provided to Scheduled Castes and Scheduled Tribes are grouped in the following broad heads:

- Social Safeguards
- Economic Safeguards
- Educational & Cultural Safeguards
- Political Safeguards
- Service Safeguards
- Special Safeguards for Scheduled Tribes

### SOCIAL SAFEGUARDS

2.3 Articles 17, 23, 24 and 25(2)(b) of the Constitution enjoins the State to provide social safeguards to Scheduled Castes and Scheduled Tribes. Article 17 relates to abolition of untouchability being practiced in society. The Parliament enacted the Protection of Civil Rights Act, 1955 and the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 to tackle the problem of untouchability, which is being practiced against Scheduled Castes.

2.4 Article 23 prohibits traffic in human beings and 'begar' and other similar forms of forced labour and provides that any contravention of this provision shall be an offence punishable in accordance with law. Although there is no specific mentions about the SCs & STs in this Article but majority of the bonded labours come from SCs/STs. Thus, this Article has a special significance for them. The Parliament enacted Bonded Labour System (Abolition) Act, 1976 for identification, liberation and rehabilitation of bonded labourers.

2.5 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. Even in this Article, there is no specific mention about the SCs & STs but substantial portion of child labour engaged in hazardous employment belong to SCs & STs.

2.6 Article 25(2)(b) provides that Hindu religious institutions of a public character shall be opened to all classes and sections of Hindus. The term Hindu includes persons professing Sikh, Jain and Buddhist religion.

### **Economic Safeguards**

2.7 Articles 23, 24 and 46 form part of the economic safeguards for the Scheduled Castes and Scheduled Tribes. The provisions of Articles 23 and 24 have already been inscribed in earlier paragraphs.

2.8 Article 46 provides, "The States 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."

### **EDUCATIONAL AND CULTURAL SAFEGUARDS**

2.9 Articles 15(4), 29(1) and 350(A) contain special provisions for the SCs & STs in the matter of educational and cultural safeguards.

2.10 Article 15(4) empowers the State to make special provisions for the advancement of any socially and educationally backward classes of citizens and for SCs & STs. This provision has enabled the State to reserve seats for SCs & STs in educational institutions including technical, engineering and medical colleges.

2.11 Article 29(1) provides, "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."

2.12 Article 350 A provides, "It shall be the endeavor 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 of 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."

### **POLITICAL SAFEGUARDS**

2.13 Article 164(1), 243-D, 243-T, 330, 332, 334, 371, 371 A, 371B, 371C, 371F, 371G and 371H provide for special provisions regarding reservation of seats in Parliament and State Assemblies, provision for Minister Incharge of Tribal Welfare in the State of Bihar, Madhya Pradesh and Orissa, special provision for North Eastern States & Sikkim etc.

### **SERVICE SAFEGUARDS**

2.14 Service Safeguards are contained in Articles 16(4), 16(4A), and 335. In the year 2001, the Parliament through Constitution (Eighty-fifth Amendment) Act, 2001 amended the provisions contained in Article 16(4A). In Article 16(4A) for the words: "in matters of promotion to any class", the words "in matters of promotion, with consequential seniority, to any class" has been substituted. The effect of this amendment is that the SCs/STs promoted earlier than their counter-part in general category by virtue of reservation policy shall be senior to general category in the promoted scale/post.

## SPECIAL SAFEGUARDS FOR SCHEDULED TRIBES

2.15 The Fifth Schedule to the Constitution under **Article 244** provides for legislation for the special problems of the Scheduled Areas. The Fifth Schedule contains provisions regarding administration and control of Scheduled Areas and the Scheduled Tribes. There are eight States having Scheduled Areas, viz., Andhra Pradesh, Bihar, Gujarat, Himachal Pradesh, Madhya Pradesh, Maharashtra, Orissa and Rajasthan. With the creation of two new States, viz., Jharkhand and Chhatisgarh on the basis of majority population of Scheduled Tribes, this list needs revision. The Governors of these States have special responsibilities and powers. These States have Tribes Advisory Council. Although the State of West Bengal and Tamil Nadu have no Scheduled Area they have Tribes Advisory Council in their State.

2.16 **Article 275(1)** provides for grant-in-aid to be paid out of consolidated fund of India for meeting the costs of such schemes of development as may be undertaken by the State with the approval of the Government for the purpose of promoting the welfare of the Scheduled Tribes in that State or raising the level of administration of the Scheduled Area therein to that of the administration of the rest of the areas of that State. A similar provision exists in this Article for paying such special grants to the States covered under the Sixth Schedule, viz., Assam, Meghalaya, Mizoram and Tripura.

2.17 **Article 338** provides for constituting National Commission for Scheduled Castes and Scheduled Tribes for investigation, monitoring and evaluation of various safeguards provided for SCs & STs either under the Constitution or by an Act or order by the State, inquiry into specific complaints with respect to deprivation of rights and safeguards of SCs/STs, participation and advising on planning process for socio-economic development of SCs & STs, etc. The duties of the Commission are contained in **Article 338(5)** and the powers to the Commission are contained in **Article 338(8)** of the Constitution of India.

2.18 **Article 338(9)** provides for consultation with the National Commission for SCs & STs by the State on all major policy matters affecting the SCs & STs.

## CHAPTER-III

# ECONOMIC DEVELOPMENT OF SCHEDULED CASTES AND SCHEDULED TRIBES

### IMPLEMENTATION OF TRIBAL SUB-PLAN AND SPECIAL COMPONENT PLAN STRATEGIES BY CENTRAL GOVERNMENT, STATE GOVERNMENTS AND UNION TERRITORIES

3.1 The Preamble to the Constitution of India guarantees to all its citizens **JUSTICE**, social, economic and political; **LIBERTY** of thought, expression, belief, faith and worship; **EQUALITY** of status and of opportunity; and to promote among them all **FRATERNITY** assuring the dignity of the individual and the unity and integrity of the Nation. Towards the above goal the Constitution of India contains many preventive, protective and promotive provisions for development of marginalized section of society, mainly SCs and STs. The country started with the concept of planned economy by framing Five Year Plans for socio-economic development. It was recognized by planners right from the start that much more needed to be done for bringing the marginalised sections of society, viz. SCs and STs at par with the main stream of society and toward this end during Fifth and Sixth Plans special strategies viz Tribal Sub Plan for STs ((TSP) and Special Component Plan for SCs (SCP) were evolved to ensure a separate plan of action for this target group.

3.2 1st to VIth reports of the NCSCST have discussed in detail the economic development of SCs and STs by giving extensive statistical data about fund allocations by various States as per TSP/SCP guidelines and its utilization, the funds given under Special Central Assistance to TSP and SCP, the performance of financial Corporations and the implementation of some of the major schemes by Central Ministries. **Repeated recommendations were made in these reports that the States and Central Ministries must ensure implementation of SCP/TSP guidelines. The Commission increasingly felt that routine customary allocation of funds was being done by State Govts. under SCP/TSP and the real impact on the ground, of these strategies was not visible. It was felt that it is important to reiterate the importance of implementation of these important strategies to State Govts. Similarly it was also felt that Central Ministries should also be sensitized for implementation of their mandatory duties of implementation of SCP/TSP. The present chapter gives the details of measures initiated by the Commission towards reiteration of SCP/TSP guidelines both to State Govts and to Central Ministries.**

### GUIDELINES FOR FORMULATION OF SCP & TSP

3.3 Scheduled Castes and Scheduled Tribes constitute 16.7% and 8.0% respectively of population in the country. They are amongst the weakest sections of our society. The Constitution of India provides for a comprehensive framework for the socio-economic development of SCs and STs and for preventing their exploitation by other groups of society. A number of steps were taken since Ist Five Year Plan for socio-economic development of these communities by formulation and implementation of special concessions and welfare schemes for their upliftment. However, gradually, it was realized that more concentrated efforts were needed to be made for bringing them at par with the other sections of society, as the general plan did not result in the

envisaged benefits to SC and ST people. Sub-Plan strategies were evolved from VI Five Year Plan for Scheduled Tribes and from VIth Five Year Plan for Scheduled Castes.

### **EVOLUTION OF TSP STRATEGY**

3.4 The approach for development of Scheduled Tribes was first laid down by the first Prime Minister of India, late Pandit Jawaharlal Nehru in his 'Tribal Panchsheel', which was later ratified by the Dhebar Commission and Shilu Ao Committee. The 'Tribal Panchsheel' of Pandit Nehru which laid down specifically that the development of tribals should be along the lines of genesis of their community and that there should be no imposition on them, and their own traditional art and culture should be encouraged, provided for integration of tribals with the rest of the society in a manner that their traditions and culture remain undisturbed and there is no loss of their identity. In that, the rights of tribals on land and forests should be preserved and they should themselves be prepared and trained for their administration and development. 'Tribal Panchsheel' of Nehru cautioned against over-administration of the tribal areas. This was supported by Dhebar Commission and Shilu Ao Committee which recommended gradual socio-economic advancement of tribals with a view to integrating them with the rest of the community on a footing of equality within a reasonable period of time.

### **TRIBAL SUB-PLAN STRATEGY**

3.5 The above approach to tribal development did not get translated into a definite programme of action till the 4<sup>th</sup> Plan period. Until then, socio-economic development of Scheduled Tribes was accepted as a general goal to be achieved through the implementation of sectoral programmes. No special appreciation was made, in the formulation of the schemes, of the needs of these communities, who had their own social and cultural milieu distinct from the rest of the population. A detailed and comprehensive review of the tribal problem, was taken on the eve of the Fifth Five Year Plan period when the concept of Tribal Sub-Plan strategy was evolved. The strategy, which has been continuing since then, has been implemented with refinements during the successive Plan periods. The objectives of the strategy, in all these years have remained twofold –

- (i) Socio-economic development of the Scheduled Tribes; and
- (ii) Protection of tribals against exploitation.

3.6 For the implementation of the strategy, the Integrated Tribal Development Projects (ITDPs)/ITDAs were conceived during the Fifth Plan which are continuing to the present day. During the Sixth Plan, Modified Area Development Approach (MADA) was adopted to cover smaller areas of tribal concentration having 10,000 population and of which 50% or more were tribals. During the Seventh Plan, the Tribal Sub-Plan strategy covered all the tribals in the country, including the dispersed tribals for the beneficiary oriented programmes.

### **EVOLVEMENT OF SCP STRATEGY**

3.7 The only funds available for the development of the Scheduled Castes up to the end of 1978-79 were provided under the Welfare of Backward Classes Sector of the

Annual Plans of the States which were minuscule compared to the dimensions of the problem. This sector was supposed to supplement the benefits expected to accrue to the Scheduled Castes from general developmental programmes. But despite repeated instructions from the Government of India, it was not possible to assess the benefits accruing to the Scheduled Castes from general development programmes. By the end of the Fifth Five Year Plan, it had been realized that the strategy for the development of the Scheduled Castes would have to be based on comprehensive economic and human resource development efforts so that they could participate on terms of equality and receive a reasonable share in the fruits of general economic development. To achieve this objective, the strategy of Special Component Plan was evolved during the Sixth Five Year Plan with emphasis on family and beneficiary-oriented developmental schemes. The SCP envisaged identification of schemes in the general sectors of development, which would be of benefit to the Scheduled Castes, quantification of funds from all programmes under each sector and determination of specific targets in terms of number of families who were to be benefited from these programmes under each sector to enable them to cross the poverty line.

### **IMPACT OF TSP/SCP STRATEGIES ON SOCIO-ECONOMIC DEVELOPMENT OF SCHEDULED CASTES AND SCHEDULED TRIBES**

3.8 Financing of TSP/ SCP - The TSP/SCP are to be financed from four sources, viz:

- (i) Flow from State Plan - All the State Govts are required to earmark funds equal to the population percentage of SCs and STs in their states under SCP and TSP
- (ii) Flow from Central Sector and Centrally Sponsored Schemes,
- (iii) Special Central Assistance and
- (iv) Institutional finance.

3.9 In a nutshell, the strategy evolved aimed to ensure that funds constraints do not impede the socio-economic development of SCs and STs. It may also be clarified that SCA given by GOI is additive to State Plan efforts mainly for family oriented income generating schemes for SCs and STs. The idea was that through general development planning, the benefits would automatically accrue to SCs and STs. However since they need a little more attention in the developmental planning process, additional funds should be there to take care of this extra effort. **Since the inception of these strategies, substantial funds have been spent for the economic development of SCs and STs. However the results achieved are not commensurate/visible at the ground level.** Most of the data about SC/ST communities developmental status is as per 1991 census which has been analyzed in detail in the earlier Reports of the Commission.

3.10 National Family Health Survey (NFHS-2 1998-99) has arrived at following glaring disparities in the availability of basic facilities in urban-rural India after a sample survey-

**PERCENTAGE DISTRIBUTION OF HOUSEHOLDS BY HOUSING CHARACTERISTICS, ACCORDING TO RESIDENCE, INDIA- 1998-99**

<b>Housing Characteristic</b>	<b>Urban</b>	<b>Rural</b>	<b>Total</b>
<b>Electricity</b>			
Yes	91.3	48.1	60.1
No	8.7	51.9	39.9
Total percentage	100.0	100.0	100.0
<b>Source of drinking water</b>			
Piped	74.5	25.0	38.7
Hand pump	18.1	47.3	39.2
Well water	6.0	23.5	18.7
Surface water	0.4	3.5	2.6
Other	1.0	0.7	0.8
Total percent	100.0	100.0	100.0
<b>Time to get drinking water</b>			
Percentage <15 minutes	86.4	69.3	74.1
Median time (minutes)	0.0	4.9	4.3
<b>Method of drinking water purification*</b>			
Strains water by cloth	25.1	16.1	18.6
Uses alum	1.4	1.2	1.2
Uses water filter	14.8	2.4	5.8
Boils water	13.6	6.1	8.2
Uses electronic purifier	1.2	0.1	0.4
Uses other method	0.6	0.8	0.7
Does not purify water	50.4	75.3	68.4
<b>Sanitation facility</b>			
Flush toilet	63.9	8.8	24.0
Pit toilet/latrine	16.8	10.0	11.9
Other	0.0	0.1	0.1
No facility	19.3	81.1	64.0
Total percent	100.0	100.0	100.0
<b>Main type of fuel used for cooking</b>			
Wood	23.1	73.1	59.3
Crop residues	0.5	8.1	6.0
Dung cakes	1.4	8.4	6.5
Coal/coke/lignite/charcoal	4.9	1.7	2.6
Kerosene	21.5	2.7	7.9
Electricity	0.8	0.2	0.4
Liquid petroleum gas	46.9	5.1	16.7
Bio-gas	0.6	0.5	0.5
Other	0.2	0.2	0.2
Total percent	100.0	100.0	100.0
<b>Type of house</b>			
Kachha	9.4	41.4	32.5
Semi-pucca	24.4	39.5	35.3

Pucca	66.0	19.0	32.0
Missing	0.2	0.2	0.2
Total percent	100.0	100.0	100.0
<b>Persons per room</b>			
< 3	68.6	60.2	62.5
3-4	19.5	24.4	23.1
5-6	8.3	10.7	10.0
7+	3.5	4.5	4.2
Missing	0.1	0.1	0.1
Total percent	100.0	100.0	100.0
Mean number of persons per room	2.5	2.8	2.7
Number of households	25,243	65,953	91,196
*Totals add to more than 100.0 because households may use more than one method of purification			

3.11 The above data clearly brings out the wide disparities in availability of facilities in urban and rural areas. Against 91% of urban households having electricity, only 48% of households have electricity in rural areas. The duration of power and low voltage data is not available however looking into the grim power availability scenario in the country it may be presume that maximum power cuts/low voltage is in rural areas only. Similarly only 25% of rural households have piped drinking water while 74% households in urban area have access to pipe drinking water. The duration for getting the drinking water is also smaller in rural areas. Almost 81% of households in rural areas have no toilet facilities against 19% in urban areas. Even in 1998-99 73% rural households utilized wood as main type of fuel for cooking as against 23% in urban areas. 41 % of rural households live in kachha houses whereas 66% households in urban areas have the facility of pucca households. While no data really is required to witness the rural urban divide in India, taking into account the fact that still 62 to 70% SC/ST people reside in rural areas, the situation is very disturbing. This also points out to the glaring failure of government policies for accelerated development of weaker sections of society majority of whom are SC/ST. Though the census data for 2001 separately has not come for SC/ST, it has been estimated that the literacy level of SCs are almost comparable with general population in urban areas. However, the position in respect of female literacy and literacy of SC/ST community in rural areas lags behind vis-a-vis general population. These trend throw a clear signal that governmental efforts need to be concentrated for rural areas development and towards this end perhaps focus of the schemes needs to be revised. Majority of SC/ST people still reside in rural/remote areas. **Given this wide disparity in Urban - Rural India the earnest implementation of SCP/TSP guidelines for improving the human development index of the country as a whole and SC/ST in particular is essential.**

3.12 National Human Development Report 2001 published by Planning Commission have taken following three dimensions for assessing human well being or deprivation-

- Longevity – the ability to live long and healthy life;
- Education – the ability to read, write and acquire knowledge; and
- Command over resources- the ability to enjoy a decent standard of living and have a socially meaningful life



3.13 Indicators on three aspects of deprivation have been considered to construct the composite index. Deprivation in health and longevity was captured essentially through the proportion of population not expected to survive up to the age of 40 years. In addition, proportion of population without access to basic medical services; proportion of deliveries not receiving medical attention; and proportion of children not immunized; were also included to reflect deprivation in health attainments. These indicators also reflect the economic inability of people to have access to the said services. Educational deprivation has been captured through illiteracy rates and children in the school going age group not enrolled in schools. For arresting economic deprivation, proportion of population below a poverty line anchored in a food adequacy norm; proportion of the population living in kutcha houses; proportion of population without access to sanitation; proportion of population without access to safe drinking water; and proportion of population without electricity, have been used. Statistical data given in the above report {though separate data for SC/ST has not been given} reinforces the findings that taking into account the access of households to common minimum needs viz: health and sanitation facilities, water sources, drinking water availability, nutrition level of women and children, drop out rates of children studying in school etc. majority of SCs and STs generally lag behind/are deprived of most of these facilities.

3.14 Some of the major indicators on health are given below-

Major indicators on health		
Indicator	1990	2000
Infant mortality rate	80	70
Under-five mortality rate	109.3	94.9
Underweight Prevalence Proportion of under-fives who fall below minus 2 and below minus 3 standard deviations from median weight for age of NCHS/WHO reference population	53.4%/20.6%	47.0%/18.0%
Birth weight below 2.5 kg.	30.0%	22.7%
DPT immunization coverage	51.7%	46.4%
Measles immunization coverage	42.2%	50.2%
Tuberculosis immunization coverage	62.2%	67.5%
Children protected against neonatal tetanus	60.9%	60.2%

- Seventy out of every 1000 children born do not live to see their first birthday. This is a decrease of only one percent since 1990;
- Almost 95 out of every 1000 children die before the age of five. This is 15 children less than in 1990;
- 46.7 percent of children in India are underweight, more than 4.8 percent less than the figure for 1990;
- About 22.7 percent of children weigh below 2.5 kg at birth, down from 30 percent 10 years ago; and

*Source: India Report on the World Summit for Children, 2000, D/o Women and Child Development, M/o Human Resource Development, GOI*

3.15 The indicators above clearly show that health facilities in the country need to be revamped for a better, quality life. As per a report published by M/o Health and Family

Welfare the proportion of fully immunized children during 1996-97 was 65% for general category children, 51% for SCs and 53% for STs. The report also says that the coverage of urban population was higher due to better access to health services in urban areas and better awareness. **The percentage of children completely immunized in urban areas was 58% as against 48% in rural areas. If one analyses the data given in any of the above referred reports, the trends present the same picture viz: wide disparities in the basic amenities available in urban/rural areas as explained above. Obviously such glaring disparities have resulted in lower human development index for the country as a whole.**

### **IMPLEMENTATION OF SCP/TSP GUIDELINES BY STATES/UTS**

3.16 As has been mentioned above TSP/SCP guidelines were formulated during 5<sup>th</sup> and 6<sup>th</sup> Five Years Plans respectively so as to ensure a comprehensive development programme for socio-economic development of SCs and STs.

3.17 Similarly, for socio-economic development of SCs strategy of Special Component Plan was evolved with emphasis on family and beneficiary oriented development schemes. In nearly all the previous reports of the Commission, the implementation of SCP/TSP guidelines by States and UTs has been reviewed in detail. Statistical data regarding allocation of funds by States/UTs, expenditure etc. viz-a-viz population percentages in the respective States of SC and STs have been given. **The general conclusion has been that the funds allocation under TSP and SCP by States have been less than the population percentages in the respective States. The expenditure of these funds on formulation of need based schemes for SCs and STs invariably has been less than even the inadequate allocations made. It has also been found that the funds from SCP/TSP are the first ones to be diverted by various States. Time and again Commission has drawn the attention of unsatisfactory allocations in the first place and less utilisation of the these funds by State Govts. During extensive reviews held by the Commission in various State level review meetings, it has been found that even the mandatory prioritization for giving benefit to SC/ST beneficiaries under various schemes formulated by States/Center have been flouted. This situation is prevailing inspite of the fact that the Central Administrative Ministries viz: M/o SJ&E and M/o Tribal Affairs nearly in all meetings of State/UTs Welfare Secretaries have stressed on the need for ensuring full allocation of funds under SCP/TSP guidelines and utilization of its funds in full. The latest data of allocation of funds under SCP/TSP guideline as available in Annual Reports of the two Ministries placed at ANNEXURE-3.I & 3.II clearly brings out this fact. The Commission's recommendations to State/UTs to adopt Maharashtra model of placing all the funds under one single line Department in-charge of development of SCs and STs has also not been followed by many State Govts. As per this model, the entire Special Component Plan and Tribal Sub-Plan funds are placed at the disposal of State Welfare Department which is responsible for inter-sector allocation of prioritization and allocation of funds to various Departments. This system ensures that while implementing development plans, scheduled castes and tribes interests are not lost sight of and the entire allocation made under the SCP and TSP is utilised only for their welfare and development.**

3.18 In view of the above state of affairs and the fact that large sections of SCs and STs continue to face high illiteracy, poverty and lack of infrastructure, the Commission had organized a two day workshop to review implementation of TSP and SCP strategies in August, 2000. The Commission had identified 50 Districts each for participation from SC

and ST groups. 34 Collectors/CEOs from SC concentrated Districts and 23 Collectors/Project Officers from ST concentrated Districts participated in the workshop. In addition, 11 Secretaries in-charge of SC & ST welfare in various States attended the workshop. Representatives of Central Ministries like Health & Family Welfare, Rural Development etc. also participated in the workshop. The main objective of the workshop was to share the findings of the NCSCST as it emerged from the various State level review meetings undertaken by various members of the Commission and also ascertain the views of the District Collectors and the field functionaries with regard to the difficulties experienced by them in the effective implementation of these programmes and also to share the innovative approaches adopted by some of the States or the Districts in accelerating the upliftment of these communities,

3.19 The workshop was addressed by the Minister for Tribal Affairs, Minister for Social Justice & Empowerment, Member, Planning Commission and Dr. B.D. Sharma, former Commissioner for SCs and STs besides the Chairman and the Members of the Commission, Secretary, SJ&E, Secretaries, Tribal Affairs and the D/o Elementary Education who gave detailed presentations about the National Policies, Programmes and various schemes implemented for the development of these communities. In this workshop presentation was made by the participants representing SC and ST concentrated Districts. Beside giving the brief profile of the Districts under their charge, the participants gave an overview of the schemes being implemented in their Districts for development of SC and ST communities. They shared their experiences and the problems being encountered in the development of these schemes. **Most of the participants admitted that there was a mismatch between aspirations of people at the ground and the schemes which the Districts Collectors are expected to implement. Nearly all the participants shared the view that there was a need to place developmental funds at the start of the financial year with the implementers as the delay/non-release of funds was one of the main reasons for wide disparities witnessed in development in various parts of the country. It was also a shared view that lot of funds earmarked for development of SCs and STs were being diverted by the State Govts. for meeting expenditure elsewhere.** Participants were unanimous that such type of workshops should be held at regular intervals for updating them with Govt. priorities, schemes and sharing experiences of each other on successful experiments in different parts of the country. One special point made by Additional Commissioner, Kargil District of J & K was for releasing the funds keeping in view the special conditions of the areas like Kargil. Secretary, Tribal Affairs clarified that Ministry of Tribal Affairs had already taken action for releasing 75% of the funds in May in areas like Kargil in J & K, HP and Uttaranchal. **A very interesting presentation was made by the Collector, Kalahandi (Orissa), Shri Hemant Sharma, Kalahandi has the highest number of tribals living below the poverty line viz 87%. His views were that the tribal community in this District was caught in a vicious circle and no governmental scheme was targeted to develop the entrepreneurship among the tribals. Since all the governmental schemes only enable tribals to fulfill the basic needs of Roti, Kapda and Makan, at the end of the day he is left with no resources to raise himself from the vicious circle of poverty. He felt that government schemes have to concentrate on ensuring a level of income for the tribals, which besides fulfilling his basic needs allows him to save for future which in turn help the future generations to come out of the vicious circle of poverty. He suggested that an integrated long term project approach was required to tackle this problem wherein the annual plan target are fixed in tandem with the long term goals for development of tribal society as a whole. He felt that sectoral approaches for giving some wages here and some family oriented schemes elsewhere would not make**

a long term impact. It was important to ensure food security besides prioritizing the needs of the people and allocating funds direct to the District.

3.20 At the end of this workshop set of recommendations/suggestions were made for improving the implementation of SCP and TSP strategies at the ground level. A copy of the suggestions for improving implementation of the SCP/TSP guidelines as finalized by the participants is enclosed at ANNEXURE-3.III One very interesting outcome of this workshop was the fact that most of the field functionaries and the Collectors do have knowledge about SCP/TSP strategies as well as the reasons for its ineffectiveness at the ground. The sensitivity of the ground level functionaries is definitely there for taking steps for accelerated development of SCs and STs. Timely release and availability of funds emerged as the single largest cause for ineffectiveness of the strategies at the field level. The initiative of the Commission for organizing this workshop with the field functionaries was appreciated by all the participants. There was a general consensus that such workshops should be held regularly not only at National level but also at Regional and State levels so that the people responsible for the implementation of the programmes for the development of SCs and STs could have better understanding of national policies and programmes as also have an opportunity to share successful experiments in other States.

3.21 NCSCST is also in the process of conducting two research studies on the implementation of SCP/TSP guidelines by States. The research study on SCP is being done in 15 States/UTs having more than 15% SC population. Similarly the TSP study is proposed to be conducted in all the TSP States. At present the TSP study is going on in the States of MP and Orissa. **Preliminary finding have brought out a large scale diversion of funds earmarked for welfare of SCs and STs by various States.** The studies have been taken up through the various Regional offices of Commission with the objective of strengthening the implementation of these strategies.

### **IMPLEMENTATION OF SCP/TSP STRATEGIES BY CENTRAL MINISTRIES**

3.22 The Planning Commission and the then Ministry of Welfare have issued similar guidelines for formulation of SCP and TSP by Central Ministries/Departments of Government of India for the development of SCs & STs. The Central Ministries were requested to take the following steps: -

- (i) Formulate appropriate need-based programmes.
- (ii) Suitably adopt all the ongoing programmes to suit the specific requirements for Scheduled Tribes and Scheduled Castes;
- (iii) Quantify funds in accordance with the population percentage of SCs & STs under Central Ministries' programmes;
- (iv) Earmark a senior officer exclusively to monitor the progress of implementation of the programmes for their welfare. Create separate Cell in each Department/Ministry;
- (v) Adopt separate sub-heads under their respective major heads to reflect flow of funds; and
- (vi) Include a special chapter in the Annual Administration Report on SCP & TSP.

3.23 The guidelines stated that for effective implementation of Tribal Sub Plan strategy by Central Ministries, the Planning Commission may not approve the Annual Plans of

Central Ministries/Departments who do not formulate the TSP and in cases wherein adequate budgetary provisions are not reflected under Tribal Sub Plan. This would check the non-implementation or excuses resorted to by various Central Ministries/Departments in not formulating TSP by quantification of funds for the Welfare and development of Scheduled Tribes. Similarly the Planning Commission was expected to ensure funds allocation by Central Ministries under Special Component Plan strategy.

3.24 In order to ensure that the Central Ministries/Departments accept responsibility for development and welfare of the STs and SCS, the Government of India (Allocation of Business) Rules, 1961 was amended in 1982 and the amended allocation of business rules read as follows: -

“29. Development of Scheduled Castes and Scheduled Tribes.

Note: The Ministry of Welfare will be the nodal Ministry for overall policy, planning and coordination of programmes of development for Scheduled Castes and Scheduled Tribes. In regard to sectoral programme and schemes of development of these communities, policy planning, monitoring, evaluation etc., as also their coordination will be the responsibility of the concerned Central Ministries, State Governments and Union Territory Administrations. Each Central Ministry and Department will be the nodal Ministry or Department concerning its sectors.”

3.25 While scrutinizing the Annual reports of various Central Ministries it was noticed by the Commission that the above mandatory provisions were not being adhered by many Central Ministries. It was also found that welfare of SC and ST only meant providing mandatory reservation in services and many Central Ministries did not have a clue, atleast it was not reflected in their annual reports, regarding allocation of funds equal to the population percentages of SCs and STs under TSP and SCP guidelines. The Commission therefore decided to write to most of the Central Ministries drawing their attention to these mandatory guidelines and as to why these were not being followed by them. A questionnaire was sent to this Central Ministries requesting for details of allocation of funds in case this was being done and mechanism for ensuring that these funds are utilised and are not diverted. A copy of the questionnaire is placed at ANNEXURE-3.IV. Commission received information from many Central Ministries. Some have not responded inspite of follow up. Some of the important ministries which responded promptly are Ministry of Health and Family Welfare (both the Departments separately responded) M/o Rural Development, D/o Women and Child, D/o Secondary and Higher Education, D/o Telecommunication, M/o Railways, M/o Labour, M/o Agriculture, M/o Petroleum and Natural Gas, M/o Urban Development and Poverty Alleviation etc. Commission has subsequently reviewed the implementation of SCP/TSP guidelines with the Secretaries of these Ministries. **Though many of these Ministries were not formulating SCP/TSP guidelines as envisaged, special efforts were being made by these Ministries for socio-economic development of SCs and STs by giving priority under various schemes to SC/ST community.** The position as emerged after review of some key Ministries is briefly given below-

**DEPARTMENT OF SECONDARY AND HIGHER EDUCATION AND  
DEPARTMENT OF ELEMENTARY EDUCATION AND LITERACY**

3.26 The review of the departments was held on 15.3.2001. Secretaries of both the departments, Chairman UGC, Heads of Kendriya Vidhalaya Sangthan, Navodaya Vidhalaya Samiti, National Open School, and many other senior officers participated in this meeting. The meeting was held under Chairpersonship of the then Chairman, NCSCST Shri Dileep Singh Bhuria. Both the Departments have admitted that separate funds as required under SCP/TSP guidelines were not being earmarked. However in all the schemes of the Departments a provisions for preferential treatment to children from SC/ST families has been provided. It was noted that UGC has also made special provisions for Welfare of SC/ST students in all Central Universities. Special Cells have been formulated for providing counseling of SC/ST students in Central Universities. Department was also ensuring that all the government schools/ government organizations provide reservation in admissions for various courses to SC/ST students. It was noted that the percentage of SC/ST students studying in Navodaya Vidyalayas was very good. Some of the important recommendations made by the Commission and action report given by the departments is indicated below: -

S.No	Recommendation	Action Taken Report
1.	SCP/TSP funds as per guidelines of Planning Commission would be allocated and spent for specific needs of SC/ST communities.	As per guidelines of the Planning Commission, funds are being allocated and spent under SCP/TSP for meeting the specific needs of SC/ST communities. The University Grants Commission also allocates funds to various schemes from the funds of Ministry of Human Resource Development.
2.	A survey of educational needs of Low Literacy Tribal blocks would be undertaken on priority basis.	A survey of educational needs of low literacy blocks would be undertaken on priority basis by National Council of Educational Research & Training. NCERT has already initiated studies to identify the factors responsible for low retention of Scheduled Castes/Scheduled Tribes children in schools, in two selected areas – one at Dang in Gujarat and the other at Bastar in Chhattisgarh. The results of these studies will be used for planning intervention strategies to be incorporated in the training programmes to promote literacy rates in these areas. These interventions could also become guiding factors for other States with areas having low literacy rates.
3.	Efforts would be made to open schools on Navodaya pattern in Tribal Blocks.	While the Navodaya Vidyalaya Samiti will open one school in districts having no Navodaya Vidyalayas so far, some of these districts will be tribal by definition. The Tribal Development Department has

been advised to obtain Cabinet's approval for opening one additional Navodaya School in tribal districts. However, the pattern of intake of students will have to be according to the present structure of student intake.

Mid-day-Meal Scheme would be strengthened in backward areas

The National Programme of Nutritional support to Primary Education is designed to give a boost to universalisation of Primary Education by impacting upon enrolment, attendance, retention and the nutritional needs of children studying in Primary Classes. It covers all children in Government, Local Body and Government aided Primary Schools of the country including backward areas. The Programme envisages provision of cooked meals/processed foods of calorific value, equivalent to 100gms of wheat/rice for children studying in classes I-V. This programme, was started in August, 1995 and has been expanded for all India coverage, increasing from 3.34 crore children in 1995-96 to 10.50 crore children in 2000-2002.

The vacancies of teachers in schools in SC/ST inhabited areas would be filled up on priority basis.

The Education Guarantee Scheme (EGS) and Alternative & Innovative Education Scheme (AIES) introduced in lieu of the erstwhile Non-formal Education Scheme is more flexible and allows EGS type interventions for the educational development of SCs/STs. The new scheme guarantees opening of Educational Guarantee Scheme Schools on demand in unreserved habitations where there is no school within a radius of 1 Km. EGS & AIE will support diversified strategies for out of school children including bridge courses back to school camps, seasonal hostels, summer camps, mobile teachers and remedial coaching. This scheme is further expected to help in addressing the problems in education for Scheduled Castes and Scheduled Tribes.

## DEPARTMENT OF FAMILY WELFARE

3.27 The meeting to review implementation of SCP/TSP guidelines by D/o Family Welfare was held on 2<sup>nd</sup> August, 2000 under the Chairmanship of the then Chairman, NCSCST Shri Dileep Singh Bhuria. Apart from Secretary, D/o Family Welfare, Secretary, M/o Tribal Affairs, Adviser (Backward Classes) Planning Commission and Joint Secretary, M/o SJ&E attended this meeting. Secretary, D/o Family Welfare stated that department has relaxed norms for setting up sub-centres for tribals' habitats in isolated pockets. For SCs also the priority is given for setting up sub-centres wherever SC population exceeds 20%. He agreed with the observation of the Commission that there was acute shortage of doctors and para-medical personnel and PHCs and sub-centres functioning in tribal areas. The State Govts are repeatedly requested to ensure posting of proper medical personnel in tribal areas. Under Reproductive Community Health Services(RCHS) programmes special measures have been taken by some of the State Governments like Maharashtra and Karnataka by associating reputed NGOs in the implementation of maternal and child health programmes. NGOs have appointed doctors on contract basis and many areas are being served by mobile clinics. Department was also motivating NGOs for formulating and implementing a system of preventive and curative health care. The need for identifying specific schemes and quantification of funds under SCP/TSP guidelines was agreed to by the Department. Some of the important decisions and action taken subsequently by the Department are given below: -

<u>S.No</u>	<u>Recommendations</u>	<u>Action Taken</u>
1.	With a view to improve the availability of Medical and Para-Medical staff in the tribal areas, a package of incentives and other measures may be considered	<p>The following immediate/term strategies are being considered for improving the availability of Medical and Para-Medical staff in the tribal areas.</p> <ol style="list-style-type: none"><li>1. Identifying, training and equipping the local tribal Traditional Birth Attendants (TBA).</li><li>2. Setting up of village health/delivery huts/ethno-medicine centres to carry out routine health activities, group meetings, IEC, conducting deliveries etc. The TBA and the local traditional tribal medicine practitioner will man the huts and refer the cases to the village/sub-centre clinics/PHC/CHC. Existing structure e.g. AWW centre, if any, may be used for the purpose. Otherwise low cost village hut may be constructed in accordance with the prevailing tribal housing pattern.</li><li>3. Holding fixed day monthly clinics at the village level.</li><li>4. Mobile clinic to provide curative and</li></ol>



preventive care once a month at the sub-center level through a team of a doctor (allopathic and/or ISM&H), ANM and Health Worker (Male), Anganwadi workers, Sahayika, PRI, NGO and traditional tribal medicine practitioners will provide local assistance.

5. Using the services of RMPs/ ISM&H/ Traditional tribal medicine practitioners practicing locally.

6. Creating a band of local village level midwife/MCH (Sevika) to fill the gap between the ANM and TBA and to provide skilled attendance for MCH care in difficult areas.

7. Including this midwifery training under the vocational training scheme of TSP to generate a constant flow of such personnel.

8. Opening of new ANM School in tribal areas for conducting special batches of ANM training exclusively for tribal girls at the existing ANM Schools.

Data would be generated separately for SC/ST Development indicators in health and nutrition.

Action has been indicated for developing data separately for SC/ST development indicators in health and nutrition.

A separate Cell would be created to monitor implementation of SCP/TSP strategies under the charge of a senior officer.

A separate Cell is being created under the charge of Deputy Commissioner (Training & Special Projects) to monitor implemented of SCP/TSP strategies.

Special measures may be undertaken to improve the health status of identified primitive tribal group, particularly those having decreasing population.

For areas/tribals having declining growth, priority is being given to arrest this trend:

1. By integrated service approach of prevention of specific diseases, sanitation, hygiene and nutrition services to start with.

2. Infertility services to be made a part and parcel of RCH in tribal areas.

3. Village/Sub-Centres clinics to detect and refer infertility cases to the

CHCs/District Hospitals.

4. CHCs and District Hospitals to be equipped accordingly.

5. In addition to the strengthening the supply of iron/folic acid and vitamin a tablets, wherever it is not satisfactory, there is a proposal to introduce iron fortified salt and iron & iodine fortified salt in the tribal area anaemia: tackling with other diseases viz. Malaria, blindness, leprosy, TB, sickliness disease, G-6-PD disease and other diseases.

## **DEPARTMENT OF URBAN DEVELOPMENT AND DEPARTMENT OF URBAN EMPLOYMENT AND POVERTY ALLEVIATION**

3.28 The review meeting of the above Departments was held on 5.10.2002. Secretaries of both the Departments along with other senior officers were present in the meeting. It was explained by the Secretary, D/o Urban Development that schemes being implemented by the Department do not have specific SCP/TSP component as Ministry of UD and PA operates area specific schemes through State Governments. However in all the schemes of the Ministry special attention is paid to the needs of SC/ST as they are the major constituents of weakest sections of society. The schemes being implemented by the departments are-

1. Integrated Development of small & Medium Towns (IDSMT) & Mega Cities Schemes.
2. Swarna Jayanti Shahari Rojgar Yojna (SJSRY)
3. Accelerated Urban Water Supply Programme (AUWSP)
4. Centrally Sponsored Scheme of Urban Low Cost Sanitation (LCS) for liberation of the Scavengers.
5. Shelter and Sanitation facilities for the Footpath Dwellers in Urban Areas Scheme (Nigh Shelter Scheme).
6. Environmental Improvement of Urban Slums (EIUS)

3.29 Secretary, UE&PA also drew the attention of the Chairman to the fact that inspite of large number of persons from rural areas migrating to urban areas for employment etc., the fund allocation to the Ministry was less as compared to M/o Rural Development. Due to fund shortage the requisite infrastructure development of urban slums was not up to the mark. However lot of efforts are being made for housing and human settlements and to provide requisite civic amenities in urban slums. Under National Housing and Habitat policy formulated in 1998, 20 lakhs additional houses with emphasis on EWS and LIG houses for weaker sections including SCs/STs were proposed to be built every year. Commission appreciated the efforts being made by the Departments. However attention was drawn to the fact that inspite of priority attention to SC habitats under various schemes viz; Urban, Water Supply, Sanitation, Health facilities etc. it was Harijan

Basties in urban areas which were left out while implementing the schemes for urban development. Similarly, the tribals habitats which have come up near major industrial towns like Rourekela, Bhilai etc. lack basic facilities. It was agreed by the two departments that while schemes of the departments provided for priority benefit to vulnerable sections of society of SC/ST, the actual implementation at ground level was far from satisfactory. The Ministry agreed to:-

1. Allocate funds out of their annual budget as per SCP/TSP strategies and formulate need-based schemes for SC/ST, besides ensuring that the benefit of existing schemes reach the SC/ST communities as they constitute majority of urban poor.
2. Pay special attention for development of proper facilities in urban slums where majority belong to SC/ST.
3. Fill-up the backlog of reserved vacancies in the Ministry and its subordinate offices to ensure that required minimum percentages are reached.

## DEPARTMENT OF WOMEN AND CHILD

3.30 The NCSCST reviewed the implementation of SCP/TSP guidelines with the senior officers of department of Women and Child on 2.8.2000. Secretaries of M/o SJ&E and M/o Tribal Affairs as well as Adivser (Backward Classes), Planning Commission have also participated in this meeting. Department of WCD formulates plans/policies and programmes for development of women and children. It also guides and co-ordinates the efforts of both Governmental and non-Governmental organizations working in the field of women and child development. Besides implementing many programmes in areas of employment and income generation, the major programme being implemented by the Department is Integrated Child Development Services (ICDS). ICDS is a unique programme for providing various services related to early childhood, pre-school education, nutrition and health coverage through a community based child care worker i.e. the Anganwadi worker who also undertakes provision of health and nutritional services to women, adolescent girls, pregnant and nursing mothers. The programme has been designed to give all the services essential for development of children and women in a comprehensive and cost effective manner. It was mentioned that as per a study conducted by the Department, 1/3<sup>rd</sup> of the beneficiaries under ICDS are from SC/ST communities. **Though the Department does not formulate separate SCP/TSP, due to the nature and scope of the schemes SC/ST communities get full coverage under the scheme.** Department has relaxed norms for setting up Anganwadies called Mini Anganwaides in tribal areas. The Mini Anganwaides can be opened for 15-20 children also. Secretary, M/o SJ&E stated that ICDS was designed as a universal programme where the target was to cover every child below the poverty line. As such separate identification of funds should not be insisted upon. **However, while opening new Anganwadies, priority should be given for opening centres in identifiable Dalit Basties also.** It was also mentioned that the Department was implementing UDISHA and other training programmes for generation of employment to women through Social Welfare Board Under World Bank assisted SWASHAKTI PROJECT. Credit for Women Self Help Groups was being provided by Rashtriya Mahila Kosh and NABARD. It was agreed by the Department that nutrition as desired was not being given on a regular basis due to State Govts. not providing adequate funds. The important recommendations made and action taken by Department of Women and Child Development consequent to the review meeting are:

S.No	Recommendations	Action taken
1.	The Department would initiate immediate action for formulating separate SCP and TSP as a part of their Annual Plan.	Special Component Plan (SCP) of the Scheduled Castes and Tribal Sub Plan (TSP) for the Scheduled Tribes in respect of D/o Women & Child Development for the year 2002-03 has been prepared. (copy of the same is enclosed (Annexure-I))
2.	The Anganwadi workers in the tribal areas are being paid an honorarium of only Rs. 50 p.m. This should be suitably enhanced.	Honorarium of Rs. 500 per month is being paid to the Anganwadi workers throughout the country including the tribal area. A decision has been taken in principle to double this honorarium to Rs. 1000/- per month. Necessary follow up action for implementing the decision is being taken.
3.	For location of Anganwadi Centers, preference should be given to Dalit Bastis.	As per the guidelines of the ICDS, children in the age group of 0-6 years, pregnant and lactating mothers and adolescent girls living below poverty line are covered under the scheme. Since a substantial number of BPL families belong to SC/ST, they are the major beneficiaries of the scheme. Preference is always given to locate the Anganwadi Centre in the Dalit Bastis subject to the availability of space.
4.	As in the case of tribal areas, mini-Anganwadis exclusively for Dalit Bastis having sufficient SC population, may be considered.	This has already been laid down in the guidelines of the ICDS.
5.	Action may be initiated to generate data on the coverage of SC and ST beneficiaries.	The formats prescribed for reporting progress of implementation of ICDS projects already have columns regarding Scheduled Castes and Scheduled Tribe beneficiaries of the projects, which are good for generating data on SC beneficiaries. However, the State Governments are not always regular in reporting progress as per the formats, which makes it difficult for timely compilation of the reports.

Implementing organizations of various other schemes of the Department have

also been advised to report the actual number of beneficiaries of SC/ST under the schemes.

## **MINISTRY OF RURAL DEVELOPMENT**

3.31 The review meeting of M/o RD was held by NCSCST on 21<sup>st</sup> September, 2000. The Secretary and other Senior Officers of M/o Rural Development and DG, CAPART attended the meeting. Since majority of SC/ST people live in rural areas and that too below poverty line, the role and proper implementation of schemes by M/o Rural Development for upliftment of SC/ST is of prime importance. The then Chairman, NCSCST drew attention to the ineffective implementation of Jawahar Rojgar Yojna and have observed that the benefits of various schemes for rural upliftment were not reaching SC/ST population. This fact was admitted by Secretary, Ministry of Rural Development who stated that Ministry was aware of the fact that situation at the ground level needed improvement. In all the schemes of M/o RD, special guidelines for benefiting SC/sT community have been provided for. The data on paper give a reasonably good picture of utilisation of funds and employment generation etc. However, the situation at ground level was not fully satisfactory. He informed that in view of reports of widespread corruption, misutilisation and diversion of funds by the State Govts., M/o RD, in consultation with Finance Ministry, has got a study conducted by Institute of Financial Management, Faridabad, which has come up with startling revelations. Reportedly, there are widespread diversions, fudging of records, both of employment generated and of funds spent, intentional non-release of share by State Govts etc. Another study by Pay and Accounts Office of M/o R.D has also come to a similar conclusion. M/o RD has convened a Conference with DRDAs of the States and other organisations concerned to discuss this matter in detail with a view to finalising an Action Plan for proper utilisation of the funds at ground level. Secretary, however commended the performance of Swaran Jayanti Swa Rojgar Yojana. Large number of Women Self Help Groups have been financed under this scheme which have been very successful in utilisation of funds, recovery of the loan as well as creating benefits to the people at large. Attention was also drawn to the rural road scheme where road infrastructure was proposed to be provided on priority between towns and villages having more than 10,000 population. It was suggested that priority should be given for construction of road linkages in tribal areas having more than 1,000 population. DG, CAPART, apprised that while releasing funds to the voluntary agencies, it was ensured by CAPART that benefits upto 50% percolate to SCs/STs. He suggested that efforts should be made to develop leadership in SC/ST community. The important decision taken in the meeting were:

- (i) **Ministry of RD would quantify funds under SCP and TSP as per guidelines of the Planning Commission and also formulate specific need-based schemes for the development of SCs and STs and implementation by Self Help Groups.**
- (ii) **M/o Rural Development would consult NCSCST before the National Resettlement and Rehabilitation Policy is finalized.**
- (iii) **Ministry of Tribal Affairs would take up the matter of prioritization of road linkages in tribal areas under Rural Roads Scheme with the concerned authorities.**

## FORMULATION OF CENTRAL TRIPARTITE COMMITTEE

3.32 The review of performance of various Central Ministers by NCSCST resulted in realization in the Planning Commission that there is a need for reiterating these mandatory guidelines as most of the Central Ministries are not following SCP/TSP guidelines. Planning Commission has constituted a Central Tripartite Committee in Sept., 1999 under Member (Backward Class) to review the implementation of special strategies of SCP and TSP. A copy of the order constituting the committee is placed at ANNEXURE-3.V. The other members of the committee are representatives of NCSCST, the Nodal Ministry of Social Justice and Empowerment and the concerned Central Ministry/Department. The Committee has so far, reviewed formulations of both SCP and TSP of the 14 Central Ministries/Departments, viz. D/ of Agriculture and Co-operation, Environment and Forest, Urban Development and Poverty Alleviation, Rural Development, Indian System of Medicine and Homeopathy, Non-Conventional Energy Sources, Water Resources, Public Enterprises, Animal Husbandry & Dairying, Sugar and Edible Oils, Drinking Water Supply, Statistics and Programme Implementation, Food Processing and Power, and advised that all the Ministries/Departments should put in their special efforts to revive the otherwise routinised TSP/SCP. It also suggested that the formulation of TSP/SCP should be right at the plan formulation stage through identification of schemes and earmarking of funds, so that a systematic monitoring of the utilisation of earmarked funds can be planned for. The meetings of the Central Committee were held in 1999-2000. However this has not been followed up. It is important to revive meetings of Central Tripartite Committee. We have been informed by Planning Commission that similar committees are also coming up at the State level. So far, 6 States viz., Andhra Pradesh, Bihar, Madhya Pradesh, West Bengal, Punjab and Gujarat have set up such Committees. Other States/UTs are also expected to come up soon with such Committee to review the progress of the implementation of SCP, TSP and SCA to SCP and TSP on a continuing basis. This is a very welcome development which should result in better implementation of the strategies at the ground level.

3.33 Recently, the Commission has got a reference from M/o SJ&E intimating the Commission that many Central Ministries have expressed their inability to earmark separate funds as the benefit of their schemes are meant for marginalised sections of society. A copy of the letter is enclosed at ANNEXURE-3.VI. While the Commission does agree that regulatory Ministries like M/o Defence, D/o Personnel and Training, D/o Expenditure, D/o Official Languages etc. cannot implement SCP/TSP guidelines, there is no reason why other Central Ministries viz: D/o Culture, D/o Food and Civil Supplies, M/o Tourism, M/o Environment and Forest, D/o Urban Employment and Poverty Alleviation cannot implement SCP/TSP. The Annual reports of various Central Ministries for 2001-2002 also reveal that only some of the Ministries have included a special chapter on earmarking of funds and implementation of schemes under SCP/TSP guidelines. There is a need for repeated reiteration about importance of these strategies in right earnest to all Central Ministries, Organizations

3.34 Lastly, it is heartening to note, that the GOI has Constituted a Scheduled Areas and Scheduled Tribes Commission vide its orders dt. 18.7.2002 in accordance with Article 339 (I) of the Constitution. It would examine and review the policies, programmes and schemes relating to tribal development and submit its report in a time bound manner. It is felt that this Commission while ensuring better understanding of the problems faced

by the tribals in the changed global scenario will also guide the policy framers to enable the tribals to enjoy the rights conferred under the Constitution.

## CONCLUSIONS AND RECOMMENDATIONS

3.35 Flow of funds under SCP and TSP during 9<sup>th</sup> Plan (1997-2002) is given below:

### Flow of funds under SCP and TSP during Ninth Plan(1997-2002

(Rs in Crores)

Item	Outlay	Flow to SCP	Percentage
Special Component Plan (SCP)			
Flow from Central Plan	15,478.90	1,646.00	10.63
(in respect of 14 Ministries/Departments)			
Flow from State Plan (in respect of 22* States/UTs)	3,46,717.05 *	57,819.67*	16.68
Special Central Assistance (SCA) to SCP			
SCA to SCP (Allocation & Release	2,092.95	2,008.64	95.97

Source: Planning Commission

(Rs. In crores)

Item	Outlay	Flow to TSP	Percentage
Tribal Sub - Plan (TSP) for STs			
Flow from Central Plan	110454.10	6462.00	5.85
(in respect of 25 Ministries/Departments)			
Flow from State Plan (in respect of 20 States/UTs)	296911.20	22314.22	7.52
Special Central Assistance (SCA) to TSP			
SCA to SCP (Outlay & Release)	2010.00	2009.61	99.98

Source: Ministry of Tribal Affairs, Government of India, New Delhi

3.36 The statistics about basic amenities available in SC/ST habitations/ concentrated areas clearly bring out the fact that development has not been commensurate with investments made. Progress is there but development gaps are ever widening no matter which indicators are taken – benchmarks remain unachieved in critical areas of education, health, nutrition and employment. One need not again go into the multiple factors responsible for this state of affairs. What is missing is coordinated efforts by all concerned players. There is no need to emphasise the urgency of taking corrective actions as consequences for the nation are enormous: the consequences of continuing backwardness is that the social fabric of society is fraying, violence against and by Dalits is increasing in most States, more and more Dalits seem to be joining the Naxal movement.

3.37 The aim behind evolving strategies of Tribal Sub Plan and Special Component Plan was to ensure that funds constraint does not come into the way of socio economic development of SCs and STs. It is the implementation of these strategies, which is a serious cause of concern. It is therefore strongly recommended and reiterated that:

- i. All the Central Ministries, barring a few regulatory Ministries, must allocate funds under SCP and TSP as per the guidelines and also formulate need based schemes for accelerated socio-economic development of SCs and STs in consultation with M/o Social Justice and Empowerment, and M/o Tribal Affairs and NCSCST in terms of Article 338 (v) (c) of Constitution of India. All the funds so earmarked should be fully utilised.**
- ii. The State Govt. and UTs similarly must ensure earmarking of funds and full utilisation under these guidelines. No diversions from these funds should be allowed.**
- iii. The funds allocated under SCP/TSP which are not spent at the end of the financial year by Central Ministries or States/UTs should be allowed to be carried forward for utilisation in the next financial year. These funds will be the additional funds and should not be allowed to be diverted.**
- iv. Of late while compiling the statistics on the economic condition of SCs and STs it has been noticed that separate data for SCs and STs is not being reflected. It is strongly recommended that while compiling details about Human Development indices and other related parameters specific data for SCs and STs should be compiled and indicated distinctly.**
- v. The eligibility for selection of beneficiaries at village/district level for benefit under various schemes generally is 'people below poverty line'. However due to change in criteria for classification of BPL people, there is a confusion at the ground level. Earlier BPL used to be arrived on the basis of income. This has now been revised to consumption norms i.e. calorific value of food being consumed in a day. However the schemes still require proof of income as one of the eligibility criteria. This is leading to no transparent system of selection of beneficiaries at the ground level. It is felt that the definition of BPL should be crystal clear to ordinary functionaries at the ground level so that deserving candidates are not deprived of the intended benefit of the various developmental schemes. This must be done at the earliest in the rural areas as at village level the literacy levels still are far from satisfactory.**
- vi. The workshop organised by NCSCST in August, 2000 with field functionaries have brought out many problems in the implementation of the guidelines at the ground. Non-release/delayed release of funds by State Govts. has emerged as one of the major hurdle for non implementation of schemes at ground for the welfare of SCs and STs. State Govts. must ensure timely release of funds for the various welfare schemes. Central Ministries should also consider direct release of funds to the implementing authorities under various schemes as is being done in case of DRDA by Ministry of Rural Development.**
- vii. Lack of coordination amongst various authorities involved in success of schemes/projects is also one of the major reason for ineffectiveness of schemes at ground. Similarly there are over-lapping schemes being**



implemented by different authorities. A review of the schemes is urgently required with clearly defined objectives and roles.

- viii. **The Governmental schemes must aim to build competence, capacity to be self reliant, capacity to compete. There is a proverb that 'instead of giving a hungry person a fish to eat, teach him how to fish and he will never be hungry again'. Such a capacity building will only reduce the vulnerability of SCs and STs and SCP and TSP are precisely the strategies to achieve this objective of capacity building.**

3.38 National Human Development Report 2001 published by Planning Commission Govt. of India March, 2002 in the Chapter titled the Agenda Ahead states in the last para— Empowerment of women, the marginal and the excluded has been demonstrated, in many cases, to be among the important means to establish countervailing forces in the society for checking deterioration in governance standards and personal exploitation by others. The vested interests in any system always have stakes in maintaining the status quo of such institutions and their practices, which are beneficial to them. The only way to break these informal but deliberate and often stubborn arrangements is by equipping the marginalised of the society to fight for their legitimate rights. This requires not only legislative initiatives through acts of positive discrimination, for instance, by undertaking reservation for women in the legislative bodies at all levels, but it also requires explicitly directing the public developmental effort at addressing the economic insecurities of the targeted segments of population. It requires the dissemination of information and free access to all. Most of all it requires capacity building of the individuals through human development strategies involving the access to education, basic health care facilities and opportunities of livelihood. We in the Commission fully endorse that the above sentiments and recommend that the Centre as well as State Govts. must in all earnestness implement the TSP/SCP strategies in true spirit to ensure that the Constitution of India's guarantee for establishing a judicious and equitable society along with human dignity becomes a reality.

## ALLOCATION UNDER SCP

Sl. No.	Stats/UT's	% SC population (1991 Census)	1999-2000					2000-2001					2001-2002		
			State Plan Outlay	SCP Outlay	%age of SCP	SCP exp.	State Plan Outlay	SCP Outlay	%age of SCP	SCP exp.	State Plan outlay	SCP outlay	%age of SCP		
1	2	3	4	5	6	7	8	9	10	11	12	13	14		
1.	Andhra Pradesh	15.93	5479.50	545.21	9.95	189.43	8228.12	217.18	2.64						
2.	Assam	7.40	1202.62	83.05	6.91	50.80	1306.23	93.31	7.14		1663.95	113.93	6.85		
3.	Bihar	14.56	3630.00	549.36	15.13	389.00	2510.17	386.13	15.38		2392.69	384.13	16.47		
4.	Gujarat	7.41	3930.39	260.82	6.64	206.94	3922.07	309.76	7.90	216.92	7200.00	296.39	4.12		
5.	Goa	2.08	207.75	2.58	1.24	1.82	325.00	3.76	1.16						
6.	Haryana	19.75	2300.00	495.35	21.54	365.46	1920.00	412.94	21.51		2150.00	447.29	20.8		
7.	Himachal Pradesh	25.34	1600.00	190.19	11.88	190.13	1720.00	191.88	11.16	190.80	1720.00	189.00	10.99		
8.	Jammu & Kashmir		224.56	39.66	17.66	39.26	224.56	39.66	17.66		256.63	47.84	18.64		
9.	Karnataka	16.38	5888.99	443.17	7.53	442.77	7274.00	445.26	6.12		8588.27	606.58	7.06		
10.	Kerala	9.92	3768.48	314.56	8.35	274.13	4006.93	328.95	8.21						
11.	Madhya Pradesh	14.54	2875.04	314.42	10.94	201.52	3085.92	432.73	14.02		3141.09	466.33	14.85		
12.	Maharashtra	11.10	6641.82	640.00	9.64	457.00	5798.00	551.00	9.50						
13.	Manipur	2.02	475.00	7.04	1.48	7.56	0.00	0.00	0.00						
14.	Orissa	16.20	2448.73	314.54	12.85	314.54	3381.67	357.99	10.59	319.43	3000.00	243.11	8.10		
15.	Punjab	28.31	2680.00	304.00	11.34	173.11	2700.00	312.00	11.56	310.00	3557.00	472.00	13.27		
16.	Rajasthan	17.29	3855.14	606.12	15.72	558.60	4237.94	673.92	15.90	585.67	4515.61	718.43	15.91		
17.	Sikkim	6.93	137.00	0.52	0.38	0.00	133.35	7.08	5.31		107.63	8.41	7.81		
18.	Tamil Nadu	19.18	5251.12	997.41	18.99	897.67	5080.63	985.54	19.40						
19.	Tripura	16.36	452.51	49.48	10.93	51.24	656.50	66.10	10.07	53.49	560.00	61.01	10.89		
20.	Uttar Pradesh	21.04	5776.19	1261.34	21.84	1261.34	9025.00	1889.7	20.94	1094.47	8200.00	1722.00	21.00		
21.	West Bengal	23.62	5787.25	1414.14	24.44	143.37	6342.58	1504.04	23.71	317.50	7293.92	1717.39	23.55		
22.	Chandigarh	16.51	151.39	14.19	9.37	13.62	149.00	10.32	6.93	8.19	175.00	7.81	4.47		
23.	Delhi	19.05	2169.82	245.31	11.31	225.14	3300.00	256.64	7.78	251.36	2669.38	257.05	9.63		
24.	Pondicherry	16.25	312.00	43.53	13.95	45.33	530.00	42.28	7.98	41.53	596.00	55.07	9.24		
	Total	16.48	67245.30	9135.89	13.59	6497.98	75857.67	9518.20	12.55	3389.36	57787.17	7823.77	13.54		

## ALLOCATION UNDER TSP

(Rs. In Crores)

Sl. No.	States/Uts	%age of ST population Census 1991	1998-99				1999-2000				2000-2001	
			State Plan Outlay	TSP outlay	% Of TSP outlay	State Plan Outlay	TSP outlay	% Of TSP outlay	State Plan outlay	Flow to Tribal Sub Plan	% Of TSP outlay	
1.	2	3	4	5	6	7	8	9	4.	5.	6.	
1.	Andhra Pradesh	6.31	4678.94	158.09	3.38	5479.50	152.59	2.78				
2.	Assam	12.82	1128.70	108.66	9.62	1306.23	126.35	9.67	1210.34	136.54	11.28	
3.	Bihar	7.66	2348.42	726.76	30.94	3630.00	1044.53	28.77				
4.	Gujarat	14.92	5450.00	666.72	12.23	6550.00	853.08	13.02	7600.00	916.54	12.05	
5.	Him. Pradesh	4.22	1440.00	122.67	8.51	1600.00	135.00	8.43	1720.00	146.11	8.49	
6.	J& K	11.00				522.26	56.94	10.90				
7.	Karnataka	4.26	5353.00	76.18	1.42	5887.99	88.25	1.50	7274.00	89.94	1.23	
8.	Kerala	1.10	3100.00	61.17	1.97	3250.00	60.11	1.85				
9.	Madhya Pradesh	23.27	3700.00	634.32	17.14	4000.05	847.27	21.18	2490.60	613.24	25.34	
10.	Maharashtra	9.27	11600.73	561.00	4.83	6641.82	580.59	8.74	5798.00	525.00	9.05	
11.	Manipur	34.41							681.95	257.54	37.76	
12.	Orissa	22.44	2071.23	643.85	31.09	2488.88	627.88	25.33	2908.92	818.00	28.12	
13.	Rajasthan	12.44	3800.00	384.55	10.12	5022.27	427.31	8.50	4219.32	133.87	10.28	
14.	Sikkim	22.36	193.60	17.24	8.91	90.81	25.01	27.54	133.35	31.22	23.41	
15.	Tamil Nadu	1.03	4500.00	46.24	1.03	5251.12	58.49	1.11	5700.27	58.60	1.02	
16.	Tripura	30.95	440.00	120.51	27.38				355.50	172.88	31.12	
17.	Uttar Pradesh	0.21	10260.96	49.10	0.48	11400.00	42.45	0.37	9025.00	46.76	0.51	
18.	West Bengal	5.59	4594.85	79.92	1.74	5787.25	424.24	7.33	5977.58	138.14	2.31	
19.	A & N Island	9.54	320.00	41.22	12.88	400.00	62.50	15.60	410.00	54.72	13.34	
20.	D & Diu	11.51	33.39	1.40	4.19	34.06	2.71	8.04	34.06	1.24	3.64	
	All India	8.08	65013.82	4499.58	6.92	69342.19	5615.33	8.09	55738.89	4458.34	7.99	

Source- Annual Report

1. Ministry of Social Justice and Empowerment
2. Ministry of Tribal Affairs
3. Interim Report of the Working Group for Empowering Scheduled Tribes for 10<sup>th</sup> Five Year Plan, Ministry of Tribal Affairs.

<p style="text-align: center;"><u>RECOMMENDATIONS OF THE PARTICIPANTS ON SCP</u></p> <p style="text-align: center;"><u>SCP</u></p>	<p>I. <u>Special Component Plan</u></p> <p style="text-align: center;">SCA is released to the states/UT as an additive to augment the SCP plan of the states</p>
<p>Issues/Problems</p> <ol style="list-style-type: none"> <li>1. Insufficient allocation/not in the proportion of the population.</li> <li>2. Diversion</li> <li>3. Delay in release</li> <li>4. Lack of flexibility of the schemes</li> <li>5. Basket of Schemes <ol style="list-style-type: none"> <li>a. Original schemes</li> <li>b. New schemes (innovative schemes)</li> </ol> </li> </ol>	<ol style="list-style-type: none"> <li>6. The funds are not an addition but funds are only earmarked/appropriated on paper.</li> <li>7. Requirements of the schemes are different from the schemes for the general category.</li> <li>8. Augmentation of the schemes which have not performed well would not yield results, like JSY, EAS etc.</li> <li>9. Lack of monitoring and evaluation.</li> </ol>
<p><u>II. Organizational Structures</u></p> <ol style="list-style-type: none"> <li>1. Maharashtra/Karnataka Model: Various departments earmarking their funds.</li> <li>2. Nodal Department: Separate department at the state level</li> </ol>	<p><u>III. Planning Process</u></p> <p>Planning to be done at the district level by the Distt. Planning committee and at the state level by the state level planning committee. The component of the various plans are:-</p> <p>Land Reform Agriculture</p> <ol style="list-style-type: none"> <li>a. Diversification</li> <li>b. Technology improvement</li> <li>c. Other support for agriculture/inputs</li> </ol> <ol style="list-style-type: none"> <li>3. Employment <ol style="list-style-type: none"> <li>a. Self Employment</li> <li>b. Wage Employment</li> </ol> </li> <li>4. Skill Up gradation</li> </ol>
<ol style="list-style-type: none"> <li>1. Education <ol style="list-style-type: none"> <li>a. Regular</li> <li>b. Excellence</li> </ol> </li> <li>2. Health and Sanitation</li> <li>3. Infrastructure development</li> <li>4. Other individual Oriented schemes</li> <li>5. Other Community Oriented schemes</li> <li>6. Empowerment <ol style="list-style-type: none"> <li>a. Implementation of various acts Directives of the Commission and other agencies</li> </ol> </li> </ol>	<ol style="list-style-type: none"> <li>I. Scavengers <ol style="list-style-type: none"> <li>a. Rehabilitation (alternative employment)</li> <li>b. Residential schools for the children</li> <li>c. Adoption and implementation of the dry latrines act by states.</li> </ol> </li> </ol>

## ALLOCATION UNDER TSP

(Rs. In Crores)

Sl. No.	States/Uts	%age of ST population Census 1991	1998-99				1999-2000				2000-2001	
			State Plan Outlay	TSP outlay	% Of TSP outlay	State Plan Outlay	TSP outlay	% Of TSP outlay	State Plan outlay	Flow to Tribal Sub Plan	% Of TSP outlay	
1.	2	3	4	5	6	7	8	9	4.	5.	6.	
1.	Andhra Pradesh	6.31	4678.94	158.09	3.38	5479.50	152.59	2.78				
2.	Assam	12.82	1128.70	108.66	9.62	1306.23	126.35	9.67	1210.34	136.54	11.28	
3.	Bihar	7.66	2348.42	726.76	30.94	3630.00	1044.53	28.77				
4.	Gujarat	14.92	5450.00	666.72	12.23	6550.00	853.08	13.02	7600.00	916.54	12.05	
5.	Him. Pradesh	4.22	1440.00	122.67	8.51	1600.00	135.00	8.43	1720.00	146.11	8.49	
6.	J& K	11.00				522.26	56.94	10.90				
7.	Karnataka	4.26	5353.00	76.18	1.42	5887.99	88.25	1.50	7274.00	89.94	1.23	
8.	Kerala	1.10	3100.00	61.17	1.97	3250.00	60.11	1.85				
9.	Madhya Pradesh	23.27	3700.00	634.32	17.14	4000.05	847.27	21.18	2490.60	613.24	25.34	
10.	Maharashtra	9.27	11600.73	561.00	4.83	6641.82	580.59	8.74	5798.00	525.00	9.05	
11.	Manipur	34.41							681.95	257.54	37.76	
12.	Orissa	22.44	2071.23	643.85	31.09	2488.88	627.88	25.33	2908.92	818.00	28.12	
13.	Rajasthan	12.44	3800.00	384.55	10.12	5022.27	427.31	8.50	4219.32	133.87	10.28	
14.	Sikkim	22.36	193.60	17.24	8.91	90.81	25.01	27.54	133.35	31.22	23.41	
15.	Tamil Nadu	1.03	4500.00	46.24	1.03	5251.12	58.49	1.11	5700.27	58.60	1.02	
16.	Tripura	30.95	440.00	120.51	27.38				355.50	172.88	31.12	
17.	Uttar Pradesh	0.21	10260.96	49.10	0.48	11400.00	42.45	0.37	9025.00	46.76	0.51	
18.	West Bengal	5.59	4594.85	79.92	1.74	5787.25	424.24	7.33	5977.58	138.14	2.31	
19.	A & N Island	9.54	320.00	41.22	12.88	400.00	62.50	15.60	410.00	54.72	13.34	
20.	D & Diu	11.51	33.39	1.40	4.19	34.06	2.71	8.04	34.06	1.24	3.64	
	All India	8.08	65013.82	4499.58	6.92	69342.19	5615.33	8.09	55738.89	4458.34	7.99	

Source- Annual Report

1. Ministry of Social Justice and Empowerment
2. Ministry of Tribal Affairs
3. Interim Report of the Working Group for Empowering Scheduled Tribes for 10<sup>th</sup> Five Year Plan, Ministry of Tribal Affairs.

<p style="text-align: center;"><u>RECOMMENDATIONS OF THE PARTICIPANTS ON SCP</u></p> <p style="text-align: center;"><u>SCP</u></p>	<p>I. <u>Special Component Plan</u></p> <p style="text-align: center;">SCA is released to the states/UT as an additive to augment the SCP plan of the states</p>
<p>Issues/Problems</p> <ol style="list-style-type: none"> <li>1. Insufficient allocation/not in the proportion of the population.</li> <li>2. Diversion</li> <li>3. Delay in release</li> <li>4. Lack of flexibility of the schemes</li> <li>5. Basket of Schemes <ol style="list-style-type: none"> <li>a. Original schemes</li> <li>b. New schemes (innovative schemes)</li> </ol> </li> </ol>	<ol style="list-style-type: none"> <li>6. The funds are not an addition but funds are only earmarked/appropriated on paper.</li> <li>7. Requirements of the schemes are different from the schemes for the general category.</li> <li>8. Augmentation of the schemes which have not performed well would not yield results, like JSY, EAS etc.</li> <li>9. Lack of monitoring and evaluation.</li> </ol>
<p>II. <u>Organizational Structures</u></p> <ol style="list-style-type: none"> <li>1. Maharashtra/Karnataka Model: Various departments earmarking their funds.</li> <li>2. Nodal Department: Separate department at the state level</li> </ol>	<p>III. <u>Planning Process</u></p> <p>Planning to be done at the district level by the Distt. Planning committee and at the state level by the state level planning committee. The component of the various plans are:-</p> <p>Land Reform Agriculture</p> <ol style="list-style-type: none"> <li>a. Diversification</li> <li>b. Technology improvement</li> <li>c. Other support for agriculture/inputs</li> </ol> <ol style="list-style-type: none"> <li>3. Employment <ol style="list-style-type: none"> <li>a. Self Employment</li> <li>b. Wage Employment</li> </ol> </li> <li>4. Skill Up gradation</li> </ol>
<ol style="list-style-type: none"> <li>1. Education <ol style="list-style-type: none"> <li>a. Regular</li> <li>b. Excellence</li> </ol> </li> <li>2. Health and Sanitation</li> <li>3. Infrastructure development</li> <li>4. Other individual Oriented schemes</li> <li>5. Other Community Oriented schemes</li> <li>6. Empowerment <ol style="list-style-type: none"> <li>a. Implementation of various acts Directives of the Commission and other agencies</li> </ol> </li> </ol>	<ol style="list-style-type: none"> <li>I. Scavengers <ol style="list-style-type: none"> <li>a. Rehabilitation (alternative employment)</li> <li>b. Residential schools for the children</li> <li>c. Adoption and implementation of the dry latrines act by states.</li> </ol> </li> </ol>

<p><u>IV. Type of plans</u></p> <ol style="list-style-type: none"> <li>1. Fixed long term district plan</li> <li>2. Annual action district plan</li> <li>3. Family (unit oriented plan)</li> </ol>	<p><u>V. Funding</u></p> <ol style="list-style-type: none"> <li>1. The funds should specifically be earmarked for SCA by various department and ministries.</li> <li>2. In case the department and ministries are not in a position to implement such plans then the funds be transferred to the nodal ministry/department.</li> <li>3. It should not supplement existing schemes of the government for all categories of beneficiaries but specific schemes should be designed for SCs as requirements of the SCs are different.</li> </ol>
<p><u>VI. Implementing Agencies</u></p> <ol style="list-style-type: none"> <li>1. State level – nodal agencies</li> <li>2. District level:- <ol style="list-style-type: none"> <li>a. SC corporation</li> <li>b. Various line departments</li> <li>c. Single window system</li> </ol> (The district level body would be headed by the District Magistrate as the Chairperson)</li> </ol>	<p><u>VII. Monitoring and evaluation</u></p> <ol style="list-style-type: none"> <li>1. SCDP to be reviewed monthly and monthly report be sent to the nodal department</li> <li>2. Evaluation studies to be regularly carried out and mid term correction to be made.</li> <li>3. Sharing of success stories.</li> </ol>
<p><u>VIII. Other recommendations</u></p> <ol style="list-style-type: none"> <li>1. Banks: Specific RBI Guidelines should be issued for SCs: not to demand collateral security upto Rs. 1.0 lac.</li> <li>2. DRI income limit should be equal to double BPL income</li> <li>3. Training of members of Distt. Planning Board.</li> <li>4. Special Schemes of Other states to be replicated. <ol style="list-style-type: none"> <li>(i) MP – Centres of Excellency Hostels</li> </ol> </li> </ol>	<ol style="list-style-type: none"> <li>(ii) HP: Ambedkar Medhavi Chattra Yojana.</li> <li>(iii) UP: Ambedkar Gram Vikas Yojana-11 Point System</li> <li>(iv) AP: GO on POA Act to implement Sec.3 of POA Act strictly by registering cases and not rejecting FIRs on basis of lack of motive by the accused.</li> <li>(v) Tripura: Filling up of vacancies of SCs through an act like SC/ST reservation of vacancies in services and posts Act 1991.</li> </ol>

## GIST OF RECOMMENDATIONS REGARDING TRIBAL SUB PLAN

1.	Maharashtra Model for placing all the funds towards TSP with Tribal Welfare Department should be adopted in all States.
2.	All the implementing Departments should fix inter-sectoral priorities in consultation with Tribal Welfare Department.
3.	Planning Commission should ensure that all the State Governments set aside funds for TSP before the State Plan is approved.
4.	At the Central level, all the Central Ministries should consult Ministry of Tribal Affairs for formulating sector-wise programmes for tribal areas.
5.	A system of single line administration in ITDAs as in Andhra Pradesh should be adopted in all the TSP States.
6.	Intrinsic rights of tribals over forest produce should be duly recognized. Necessarily Forest Department should involve tribals in various forest regeneration activities.
7.	All-out efforts need to be made for improving the literacy in tribal areas which calls for higher allocation of resources for tribal areas.
8.	The schemes of village Grain Banks must be operationalised in tribal areas.
9.	To prevent alienation of tribal land, AP model of land transfer regulation wherein transfer of the land from tribal non-tribal is prohibited, should be adopted in other States.
10.	The problem of forest villages cannot be overlooked. As a one-time measure, the forest village and the land under occupation of the tribals in the forest territory should be regularized.



**SCP/TSP REVIEW-QUESTIONNAIRE (I)**

1. Whether Ministry is formulating SCP/TSP as per Planning Commission's guidelines?
2. (I) If yes, allocations and percentage allocation for TSP/SCP to the total Budget of the Ministry during last three years viz, 1997-98, 1998-99, 1999-2000 and proposed for 2000-2001 and details of expenditure.  
  
(ii) If no, reasons there of.
3. What is the mechanism for ensuring that allocations under SCP/TSP are utilized properly and there are no diversions?
4. What are the existing schemes being implemented by the Ministry/Department and whether there is earmarking of outlay for SC/ST ?
5. Whether any need-based schemes have been formulated exclusively by the Ministry/Department for the benefit of SC/ST and the mechanism evolved to ensure that benefit reaches the SCs/STs as planned.
6. Details of subordinate/attached/offices/Commissions, PSUs etc.
7. Whether a Cell headed by a senior officer to monitor implementation of programme for the welfare of SC/ST has been created, its composition and scope of its activities?
8. Whether Ministry has issued any guidelines to Organizations/Public Sector Undertakings under its administrative control for formulating similar SCP/TSP components in their Plans and monitoring, if any, done at Ministry level?

**F.No. M-13052/G/99-BC  
Government of India  
Planning Commission  
(Backward Classes Division)**

**Dated 24.9.1999**

**OFFICE ORDER**

**Sub: Constitution of a Standing Tripartite Committee to monitor the implementation of the strategies of the Special Component Plan (SCP) for SCs and the Tribal Sub Plan (TSP) for STs-Reg.**

It has been decided to constitute a Standing Tripartite Committee to review the implementation of the Special Strategies of Special Component Plan (SCP) for Scheduled Castes (SCs) and Tribal Sub-Plan (TSP) for Scheduled Tribes (STs) and to resolve various policy-related issues there to in respect of Central Ministries as well as State Governments.

2. The Composition of the Tripartite Committee will be as given below:

i)	Member VC of BCW Planning Commission New Delhi-110001	Chairperson
ii)	Secretary Ministry of Social Justice and Empowerment Shastri Bhawan New Delhi 110001	Member
iii)	Secretary National Commission for SCs and STs Lok Nayak Bhwan New Delhi	Member
iv)	Secretary (Concerned Min./Deptt) (or) Chief Secretary * (Concerned State/UT)	Member
v)	Adviser IC/ of BCW Planning Commission New Delhi	Member Secretary

\*When the arrangements in State Plan are under consideration

3. The terms of reference of the Committee will be as under:

i)	To look into the reasons for not implementing the Guidelines concerning SCP and TSP and to suggest specific measure for their compliance.
ii)	To identify specific schemes which would benefit SCs and STs under various developmental sectors their prioritization alongwith earmarking of funds for them

iii)	To review the process of implementation, impact assessment and monitoring of SCP and TSP and utilisation of Special Central Assistance (SCA) to SCP and TSP and the Grant-in-Aid (GIA) under Article 275(I) and advise the Planning Commission on measures which would serve the interests of these Communities more effectively.
iv)	The Committee will recommend allocations/earmarking of funds under SCP and TSP as also specific/additional schemes consistent with the guidelines, where necessary, for various Central Ministries and State Governments which would be taken into account while finalizing their Annual Plans each year.
v)	To suggest institutional and advocacy arrangements for participation of beneficiary groups in preparation and implementation of schemes under SCP and TSP and Central Allocations referred to in (iii) above, taking into account, among others, priorities of 73 <sup>rd</sup> and 74 <sup>th</sup> Amendments and other Legislative measures flowing there from.

Sd/-  
(Arvind Kumar)  
Director (Admn.)

No. M-13052/G/99-BC

New Delhi, the 24<sup>th</sup> Sept., 1999

To:

1. All Members of the Committee
2. The Cabinet Secretariat, Rhashtrapati Bhavan, New Delhi
3. Secretary, PMO, South block, New Delhi
4. All the Chief Secretaries of States/UTs
5. Secretary In-charge of SC/ST Department of the States/UTs
6. Adviser (BC Divn.) Planning Commission
7. Director, Tribal Research Institute (14 TRI)
8. Sr. PPS to Secretary, Planning Commission
9. PS to Deputy Chairman, Planning Commission
10. PS to Member (DNT), Planning Commission

Sd/-  
(Arvind Kumar)  
Director (Admn.)

No. 18012/01/2002-SCD-II  
Government of India  
Ministry of Social Justice & Empowerment  
(SCD Division)

Shastri Bhavan, New Delhi  
Dated the 19<sup>th</sup> June, 2002

To

The Chairman  
National Commission for Scheduled Castes &  
Scheduled Tribes  
Loknayak Bhavan  
New Delhi

Sub: List of Central Ministries expressing their inability to implement Special Component Plan.

Sir,

With reference to the para 10 of Chapter III of the 6<sup>th</sup> report of the National Commission for Scheduled Castes and Scheduled Tribes for the year 1999-2000 and 2000-2001, I am directed to forward herewith a statement showing response of various Central Ministries regarding formulation and implementation of Special Component Plan for Scheduled Castes.

You are requested to take necessary action, if any, as you may deem fit.

Yours faithfully,

Sd/-  
(Dilip Singh)  
Director

Copy to:  
Shri C.A. Tirkey, SRO (BC & TD)  
Planning Commission,  
Yojana Bhavan  
Sansad Marg, New Delhi for information and necessary action

**STATES OF CENTRAL MINISTRIES/DEPTTS NOT IMPLEMENTING SCP FOR SCs**

S.No.	Name of Ministry	Reply/Remarks of the Ministry/Deptt Concerned
1.	Deptt. of Mines, Ministry of Steel & Mines	No SCP can be implemented as Deptt. is concerned with survey and exploration of Minerals other than Petroleum and Atomic minerals and development of non-ferrous metals in the country.
2.	Ministry of Parliamentary Affairs	No SCP
3.	Deptt. of Revenue (Ministry of Finance)	Nil
4.	Deptt. of Telecommunication	Not feasible to have SCP
5.	Deptt. of Supply (Ministry of Commerce)	No scope
6.	Deptt. of Electronics	This is a Scientific Department and does not have any specific scheme which directly benefit these groups.
7.	Deptt. of Atomic Energy	This Deptt. has not evolved any SCP for Scheduled Castes in its programmes.
8.	Deptt. of Statistics, Ministry of Planning, Programme Implementation	Nil – the main function of deptt. is collection, Compilation and dissemination of official statistics as such no scope.
9.	Department of Defence, R & D, Ministry of Defence	As Deptt. is engaged in design & Development leading to production of State of the art weapon systems and defence equipment meeting requirement of the three services, SCP has not been formulated.
10.	Deptt. of Ocean Development	As this Deptt. is a Scientific Deptt. and primarily engaged in Research and Development, SCP has not been formulated.
11.	Deptt. of Posts,	No Scope
12.	Ministry of Commerce	Difficult to formulate SCP by the Ministry. Rubber Board the Tobacco Board under the Ministry have been implementing Special Component Plan in the Eighth Plan and also in the Ninth Plan.  Separate mention of SCP would be made in the Annual Report and the Performance Budget of the Ministry.

13.	Deptt. of food & Civil Supplies (Ministry of food & Consumer Affairs)	As this Deptt. is concerned with the following three schemes- i) Strengthening of Public Distribution system ii) Schemes for construction of storage godowns by Food Corporations of India iii) Central warehousing Corporation. These schemes are of such nature that they are meant to benefit all sections of the population. BPL
14.	Deptt. of Steel (Ministry of Steel & Mines)	The Department of Steel has not SCP.
15.	Deptt. of Fertilizers (M./o Chemicals & Fertilizers)	The Deptt. does not have plan schemes/programmes for SCs under the SCP. The plan funds allotted to the Deptt. are used for PSUs for improving production of fertilizers. However, PSUs/cooperatives under the administrative control of this Deptt. have been implementing schemes for socio-economic development and welfare of weaker sections including SCs/STs..
16.	Deptt. of Official Language, (Ministry of Home Affairs)	Nil-Official Language has no direct relation with the development of SCs.
17.	Deptt. of Economic Affairs (Banking Division) Ministry of Finance	Nil-As this Deptt. does not have any scheme which require provision of outlays under SCP for SCs. The Bank finance to the Weaker Sections including SCs and STs is provided by under schemes/programmes formulated by other Ministries/Deptts.
18.	Ministry of Civil Aviation	This Ministry as well as its undertaking have specialized nature of function of SCP for SCs.
19.	Deptt. of Expenditure Ministry of Finance	The Deptt. of Expenditure do not operate any scheme/programme for the development of SCs/STs
20	Deptt. of Chemicals & Petrochemicals (Ministry of Chemicals & Fertilizers)	The Deptt. has not SCP

21.	Deptt. of Public Enterprises (Ministry of Industry)	No scope for formulation and implementation any SCP as this Deptt. do not have any plan budget.
22.	Deptt. of Culture (Ministry of Human Resource & Development)	The funds are provided and utilized for promotion, preservation, dissemination and administration of various activities relating to art and culture. Since the funds allocated are not aimed exclusively for a particular group of population, it is not feasible to quantify the funds flowing to particular group of population.
23.	Ministry of Water Resources	Not feasible for this Ministry to formulate and implement SCP
24.	Deptt. of Industrial Policy & Promotion (Ministry of Industry)	Not feasible for this Deptt. to formulate SCP.
25.	Ministry of External Affairs	This Ministry does not directly deal with the task of formulating policies for the Welfare of SCs.
26.	Ministry of Tourism	Does not have any separate programme scheme for SC/ST
27.	Ministry of Environment & Forests  Forest Wealth/Tribal population	Nil. Since benefits arising out of improvement in the ecology in the country are applicable uniformly to the entire population in a region it is not possible to identify/quantify these benefits going exclusively to Scheduled Castes and the rest and hence demarcation of funds for SCP is difficult.
28.	Ministry of Defence	Not involved with the formulation of scheme as well as quantification of funds under SCP
29	DOPT	DOPT is not concerned with the formulation of schemes/programmes for SCs. As such no action is required to be taken by DOPT.
30.	Deptt. of Heavy Industry	There is no scope to quantify funds for SCP. As the Deptt. is concerned with public undertakings which are in the engineering, consumer goods and consultancy sectors and most of the PSUs are loss making/sick and are even defaulting payment of statutory dues.

31	Deptt. of Urban Employment & Poverty Alleviation Housing for weaker sections of population	Not possible to quantify funds for SC/ST under SCP/TSP as the Ministry is mainly dealing with policy formulation & monitoring of programmes in the areas of Housing Urban Development, Urban Policy.
32.	Department of Animal Husbandry & Dairying	The Department is not implementing any beneficiary oriented programmes in which a SCP could be incorporated.
33.	Ministry of Petroleum & Natural Gas LPG/Allotment of Petrol Pumps	This Ministry's Budget covers only the Administrative expenditure of the Ministry and no provision for the SCP. However, the PSUs under the administrative control of the Ministry are earmarking funds for SCP.



# CHAPTER IV

## SERVICE SAFEGUARDS

The necessity for reservation and the expression Scheduled Castes was first termed by the Simon Commission and embodied in the Government of India Act, 1935. The people belonging to the last varnas i.e. shudras and Avarnas were regarded untouchable classes. The worst part of the age-old phenomena, the concept of pollution was attached to these set of classes, as a result of which they were subjected to social and economic discrimination. The 1931 Census showed that these untouchable castes were termed depressed classes in the records of British India. These untouchables were named Shudras and Avarnas, which was not disliked by the people of the community. The outcome of it was that there was an agitation to the bill using the word Harijan in the Bombay legislative Assembly. The word harijan was then replaced by the word Scheduled Caste. The word Scheduled Caste has been since then used in Government records and notifications issued from time to time. The Govt. of British India published a list of Scheduled Castes for the first time in the year 1936. This Scheduled list was taken into account for providing certain protections and framing schemes in the matter of reservation.

4.2 After independence, while framing the Constitution it was felt that special provisions were required for SCs and STs to secure their adequate representation in public services. Accordingly, special provisions were made under Articles 16(4), 16(4A), 16(4B) and 335 of the Constitution. Article 16(4) enables the State to make provisions for 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. Article 16 (4A) and 16(4B) were subsequently inserted by amending the Constitution to provide for reservation in promotion in favour of the Scheduled Castes and Scheduled Tribes. Article 335 provides that the State shall consider the claims of the members of the SCs and STs, consistently with the maintenance of efficiency of the Administration, in making appointments to the services in connection with the affairs of the Union or of the States. Thus these provisions have been made in the Constitution with a view to give opportunities to the SCs and STs to have a equitable share in governance and administration of the country.

### 4.3 CONSTITUTIONAL PROVISIONS RELATING TO SERVICE SAFEGUARDS: -

- **Article 16 (4)** - "Nothing in this article shall prevent the State from making any provision for the reservation of 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".
- **Article 16 (4A)** - "Nothing in this article shall prevent the State from making any provisions for reservation in the matter of promotion to any class or classes of posts in the services under the State in favour of SCs and STs which in the opinion of the State are not adequately represented under the State"
- **Article 16 (4B)** - "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”

- **Article 46** - “The State shall promote with special care the educational and economic interests of the weaker sections of the people and, in particular, of the SC and ST, and shall protect them from social injustice and all forms of exploitation.”
- **Article 335** - of the Constitution makes it clear that the claims of the members of scheduled Castes and Tribes shall be taken into consideration consistently with the maintenance of efficiency of administration in making appointments to services and posts in connection with the affairs of under the Union or State.

4.4 Though the Constitution does not define the expression backward class, it is for the Government to list the backward classes. The directive principles of the Constitution supported reservation important amongst them was reservation for SC/ST in Civil Posts and Services in Government Departments, Autonomous Institution, Statutory and Semi-Government bodies and Public Sector Undertakings etc.

4.5 Against the background of these Articles, the purpose of providing reservation in employment was not simply to give jobs to some persons of the communities but to increase representations in the services and to uplift the people socially and educationally to enable them to attain their legitimate place/position in the society. In case legitimate protection was not provided, it would not have been possible for SCs and STs to compete successfully with other people in the matter of admissions in various courses/studies and employment.

4.6 Rules and procedures regarding reservation and other concessions for SCs/STs, reflected was a sympathetic and appreciative attitude towards the genuine problems faced by members of these communities. The policy of providing reservation for SCs and STs was a part of an overall policy for adequate representation in posts and services at par with others. The Government in order to develop the communities, adopted a more positive approach for implementation of reservation policy and viewed it a social responsibility and obligation.

## **RESERVATION IN DIRECT RECRUITMENT**

4.7 The existing percentage of reservation in direct recruitment on all India basis by open competition for SCs and STs is 15% and 7.5% respectively. Direct recruitment on all India basis otherwise, than by open competition reservation for SCs and STs is 16.66% and 7.5% respectively. In respect of direct recruitment to Group C and D posts which normally attract candidates from a locality or a region, percentage of reservation for SCs/STs is generally fixed in proportion to the population of SCs and STs in the respective State /UT.

**Direct recruitment to Group C and Group D ( Class III and IV) posts normally attracting candidates from a locality or a region.**

4.8 According to a roster consisting of 100 points as given in ANNEXURE-4.I the percentage of reservation has been fixed generally in proportion to the population of SCs and STs in the respective States/Union Territories. Where recruitment for Group ‘C’ &

'D' posts is made for circles or regions consisting of more than one State, the percentages will be fixed taking in to account the proportion of the population of Scheduled castes and Scheduled Tribes in the entire circle or region.

4.9 Some essential steps are to be taken for filling reserved vacancies in Group 'C' and 'D' posts. All vacancies should be notified to the local or the regional employment exchange. A notice of atleast 15 days should be given to the employment exchanges for sponsoring candidates. The number of vacancies reserved for SCs and STs out of the total vacancies notified should be clearly indicated in the requisition to the employment exchange. When a local employment exchange is unable to nominate any suitable candidate, it will refer the vacancies to the Central Employment Exchange and circulate to all Employment Exchanges. If sufficient number of SC/ST candidates are not available through the Employment Exchange, the vacancies in Group 'C' and 'D' posts recruitment to which normally attract candidates from a locality or region should be advertised in the local news papers. Simultaneously with the advertisement the vacancies should be brought to the notice of the SC/ST organizations who will advice these candidates about the recruitment proposed and the candidates should apply to the appointing authority either direct or through the employment exchanges as the case may be . The reserved vacancies should also be notified by the concerned appointing authority to the stations of All India Radio/Dordarshan to advice the prospective candidates to get their names registered with the employment exchange of the area and to approach the exchange for further assistance. The appointing authority should also intimate the reserved vacancies to the Director of Scheduled Castes/Scheduled Tribes Welfare or Director of Social Welfare in the State/Union Territory concerned.

#### **4.10 RELAXATIONS FOR SCs/STs IN DIRECT RECRUITMENT**

1. Relaxation in the upper age limit by 5 years.
2. Exemption from payment of examination/application fees.
3. Where interview is a part of the recruitment process, SC/ST candidates should be interviewed separately.
4. Qualification regarding experience can be relaxed in respect of SC/ST candidates at the discretion of UPSC/ competent authority.
5. Standard of suitability can be relaxed etc.

#### **RESERVATION IN PROMOTION**

4.11 Reservation was extended to different modes of promotion in stages. In 1957, reservation was provided for SC and ST in departmental competitive examinations. Reservation in promotion by selection in Group C and Group D was provided in 1963 and in the same year reservation in departmental competitive examination was limited to Class III and Class IV only. The position changed in 1968 when reservation in limited departmental examination to Class II, III, and IV and promotion by selection to Class III and Class IV were subjected to a condition that element of direct recruitment should not exceed 50 percent.

4.12 As per 1961 census data the SC and ST population in proportion to the Indian population came up to 14.64 % and 6.80 % respectively. The percentage of reservation

for SCs and STs was increased from 12.1/2 percent to 15 percent and 5% to 7.1/2 percent respectively on 25-3-1970 on the basis of 1961 Census.

4.13 Reservation in promotion by seniority subject to fitness came in 1972 subject to the condition that the element of direct recruitment does not exceed 50 percent. In 1974, reservations in promotion by selection from C to B within B and from B to the lowest rung of Group A were introduced provided the element of direct recruitment does not exceed 50%. The limitation of the direct recruitment not exceeding 50 percent was raised to 66.2/3 percent in 1976 and 75% in the year 1989.

4.14 Reservation in promotion by non-selection method is available to SCs and the STs in all groups of services viz. A,B,C, and D at the rate of 15 % and 7.5% respectively. In Promotion by selection method reservation is available upto lowest rung of Group A at similar percentage. In promotion by selection to posts within Group A which carry an ultimate salary of Rs. 5700 (pre revised) or less there is no reservation, but the Scheduled Caste/Scheduled Tribe officers who are senior enough in the zone of consideration for promotion so as to be within the number of vacancies for which the select list is to be drawn up, would be included in that list provided they are not considered unfit for promotion

4.15 The Supreme Court judgement in cases of Indira Sawhney and a few other judgements of the Apex Court made other modifications in reservation policy as existed. In view of the judgment, DoPT issued five office memorandums in 1997 after consultation with the Ministry of Law. The National Commission for SCs/STs presented a special report in February, 1998 to His Excellency President of India on the impact of these five OMs on SCs and STs affecting their service interests. Regarding these memorandums the Hon'ble Prime Minister had made an announcement in the Parliament on 18-3-1999, "That the Govt. is committed to maintain the system of reservation that has been followed so far and is prepared to bring forward a legislation even to amend the Constitution if required to do so".

4.16 The Supreme Court's judgment in Indira Sawhney's case had declared reservation in promotion ultra vires but had permitted reservation in promotion up to 5 years from the date of judgment i.e. reservation in promotion could continue upto 15.11.97. In order to continue reservation in promotion beyond 15-11-97, 77<sup>th</sup> Amendment was made to the Constitution and Article 16 (4A) was incorporated. Objects and Reasons of the Constitution (Eighty-Sixth Amendment) Bill which lead to incorporation of Article 16 (4A) by the Constitution 77<sup>th</sup> Amendment Act stated that the Government had decided to continue the then existing policy of reservation in promotion for the Scheduled Castes and Scheduled Tribes. The DOPT O.M. dated August 13, 1997 was issued in pursuance of Article 16(4A). This also did not provide for reservation in promotion by selection within Group A posts.

4.17 The OM No. 36012/5/97-Estt. (Res) dated 29-8-97 was based on the judgement dated 16-11-92 of the Supreme Court in the case of Indira Sawhney Vs. Union of India. This Office Memorandum, provides that not more than 50% vacancies, including the backlog vacancies, can be reserved in a year. The backlog vacancies are not to be treated as a separate distinct group.

4.18 To wipe out the adverse effect of this OM on SCs/STs the Constitution (Eighty-First- Amendment) Act, 2000 incorporating Article 16 (4B) was notified on 9-6-2000. In pursuance of Article 16(4B) of the Constitution, Office Memorandum No.36012/5 97-

reversion on the preponment of the date i.e. 10.2.1995 of implementation of Office Memorandum in respect of post based roster.

4.33 The OM No.36012/18/95-Estt.(Reservation) dated 22<sup>nd</sup> July, 1997 withdrew the relaxation in qualifying marks/ standards of evaluation which were available to SCs/STs in matters of promotion. This OM was based on the Supreme Court Judgement dated 1-10-1996 in the case of S. Vinod Kumar versus Union of India, which had reiterated the 9 Judge Constitution Bench Judgement dated 16-11-1992 of the Supreme Court in the case of Indira Sawhney versus Union of India. To enable the State to restore the previous position, 82<sup>nd</sup> Amendment to the Constitution has been made whereby a proviso to Article 335 of the Constitution has been incorporated to provide for relaxation in qualifying marks and standards of evaluation in matters of reservation in promotion for SCs/STs. Instructions have been issued through OM No36012/28/96-Estt.(Res.Vol-II) dated 3<sup>rd</sup> October, 2000 (ANNEXURE-4.III) restoring the relaxations and concessions in the matter of promotion to the SCs and STs.

4.34 The OM No.-26012/5/97-Estt.(Res.) dated 29<sup>th</sup> August 1997 stipulated that not more than 50% vacancies, including the backlog vacancies, could be reserved in a year. The backlog vacancies were not to be treated as a separate distinct group. This OM was based on the judgement dated 16-11-1992 of the Supreme Court in the case of Indira Sawhney versus Union of India. To remove adverse effects of OM dated 29-8-1997 81<sup>st</sup> Amendment was made to the Constitution which incorporated Article 16 (4B) in the Constitution according to which the ceiling of 50% for filling up of reserved vacancies for SCs/STs of earlier years would not be imposed and these vacancies would be treated as a separate and distinct group. OM No.-36012/5/97 Estt(Res.) Vol. II dated 20<sup>th</sup> July 2000 (ANNEXURE-4.IV) has been issued to remove adverse effects of OM dated 29-8-1997. The OM states that All Ministries/Departments are to carry out a review for early assessment of the backlog vacancies in respect of SCs/STs by way of direct recruitment and promotion and make concerted efforts to fill up the backlog vacancies.

4.35 The OM No.36012/18/95-Estt.(Res.)Part.II.dated 13<sup>th</sup> August, 1997 was issued in pursuance of Article 16 (4A) of the Constitution which stipulates continuance of reservation in promotion for SC/ST employees beyond 15-11-1997. Without this OM reservation in promotion would have ceased to exist after 15-11-97 in terms of the Supreme Court Judgment in Indira Sawhney's case. However, matter about challenging validity of Article 16 (4A) and another praying for reservation within Group A Posts are presently pending before the Constitution Bench of Supreme Court in respect of SCs/STs both by way of direct recruitment and promotion.

4.36 Indicators of Progress during the years in services.

- ❖ In 1947 the representation of SCs and STs in services was low. After introduction of reservation, representation of SCs/STs started increasing.
- ❖ In 1965 representation of SCs and STs was 13.17 % and 2.25% respectively.
- ❖ In 1975 representation of SCs and STs increased by 13.84 % and 2.94 % respectively.
- ❖ In 1985 representation of SCs and STs was 16.83 and 4.66% respectively.

- ❖ In 1995 representation of SCs and STs became 17.43 % and 5.78% respectively.
- ❖ As on 1-1-2000 representation of SCs and STs was 17.73% and 6.17 % respectively and in the year 2001 the representation of SCs and STs came to 17.87% and 6.31% respectively.

**REPRESENTATION OF SCs AND STs IN CENTRAL GOVERNMENT SERVICES FOR THE YEAR 1999 (AS ON 1.1.2000)**

GROUP	TOTAL	SC	%AGE	ST	%AGE
A	88567	9535	10.77	2940	3.32
B	127148	15424	12.13	3631	2.86
C	2290323	362799	15.84	145202	6.34
D (Excluding Sweepers)	1002694	183004	18.25	66608	6.64
Sweepers	130285	74285	57.02	6096	4.68
Total (Excluding Sweeper)	3508732	570762	16.27	218381	6.22
Total (including Sweeper)	3639017	645047	17.73	224477	6.17

**REPRESENTATION OF SCs AND STs IN CENTRAL GOVERNMENT SERVICES FOR THE YEAR 2000 (AS ON 1.1.2001)**

GROUP	TOTAL	SC	%	ST	%
A	98066	10998	11.21	3382	3.45
B	144145	17915	12.43	5020	3.48
C	2377895	386142	16.24	154314	6.49
D (Excluding Sweepers)	956947	167947	17.55	64865	6.78
Sweepers	132102	79850	60.45	6456	4.89
Total (Excluding Sweepers)	3577053	583002	16.30	227581	6.36

Source: DOPT

Note: - Information in respect the following has not been received and hence not included.

1. Department of Culture
2. Department of Economic Affairs
3. Ministry of Personnel, Pensions Public Grievance.
4. Department of Revenue

4.37 The reasons for inadequate representation of SCs /STs in Group A and B services of the Central Govt. was low at the time of initial introduction of reservation in services. Though it increased subsequently, yet it is insufficient. In 1965 representation of SCs and

STs in Group A services was 1.64% and 0.27% respectively and in Group B services it was 2.82% and 0.34% . As on 1-1-2000 representation of SCs and STs in Group A services became 10.77% and 3.32% and in Group B services it became 12.13% and 2.86% respectively and in the year 2001 representation was 11.21 and 2.43% for SCs in A&B groups respectively and for STs 3.45 and 3.48 percent in group A&B.

4.38 The instructions regarding ban on dereservation of reserved SC/ST posts in case of direct recruitment may be followed scrupulously by the appointing authority and attempts should be made to recruit more and more SCs and STs to give full representation to these Communities. Several relaxations/ concessions are given to the SC/ST candidates in case of direct recruitment as well as promotion while filling up the reserved posts.

4.39 In order to ensure that posts reserved for SCs/STs are not filled by Candidates of unreserved category by way of dereservation in promotion, the Commission recommends that such posts may be filled by direct recruitment. In case the recruitment rules do not provide for an element of direct recruitment, these should be modified accordingly.

4.40 It may be seen from the above table that representation of SCs has not reached the prescribed level in Group A and B services and that of STs is still lagging behind in Group C & D and is far below the prescribed limit in group A & B.

4.41 The Commission therefore recommends that Govt. should make special efforts to achieve the representation by launching SRD's as has already been suggested by DoPT in its OMs No. 36012/ 5/1997-Estt. (Res.) Vol.II dated 20-7-2000.

#### IMPLEMENTATION OF RULE OF RESERVATION IN PUBLIC SECTOR UNDERTAKINGS

4.42 The latest information regarding representation of SCs /STs in the central PSEs as on 1-1-2001, received from the Department of Public Enterprises is given in the following table:-

##### REPRESENTATION OF SCs/STs IN THE SERVICES OF THE CENTRAL PSEs

Group	Total No. of Employees	Representation of SCs/STs			
		SCs No.	%age	STs	%age
As on 1-1-2001 (Based on information furnished by about 238 Enterprises)					
Group A	203329	21888	10.77	6167	3.04
Group B	191715	22090	11.53	8831	4.61
Group C	942496	178523	18.95	83051	8.82
Group D (Exc. Safai Karamacharis)	388116	88836	22.89	43,772	11.28
Total	1725656	311337	18.05	141,821	8.22
Group D (Safai Karamcharis)	21234	16107	75.86	726	3.42
Grand Total	1746890	327444	18.75	142,547	8.16

Source: Department of Public Enterprises

4.43 From the above table it may be seen that in Central PSEs, the representation of SCs as well as STs is inadequate in relation to the required percentage in group A&B services. The Commission, therefore, suggests that special efforts may be made for adequate representation of SCs and STs in group A&B services. The Government of India instructions provide reservation referred from time to time are to be implemented by the PSES, financial institutions including Public Sector Banks. The instructions also applied to the autonomous bodies statutory and semi-Govt. bodies and voluntary agencies receiving grants from the Govt.

**REPRESENTATION OF SCs AND STs IN THE SERVICES OF PUBLIC SECTOR INSURANCE COMPANIES AS ON 1-1-2001 & 1-1-2002**

4.44 Ministry of Finance Department of Economic Affairs (Insurance Division) , New Delhi have furnished information regarding representation of SCs /STs in the services of Public Sector Insurance Companies like GIC LIC, National Insurance Co. Limited, Oriental Insurance Co. Ltd., United India Insurance Co. Limited and New India Assurance Co. Limited the desired information company wise has been given in the tables below.

**STATEMENT SHOWING THE REPRESENTATION OF SCs AND STs IN THE SERVICES OF PUBLIC SECTOR INSURANCE COMPANIES AS ON 1.1.2001 AND 1.1.2002**

Name of the Company: GIC of India					
As on 1.1.2001					
Group	Total No of emp.	No of SCs	No.of STs	% age of SCs	% age of STs
Group "A"	186	24	3	12.90	1.61
Above the lowest rung of Group 'A'					
Lowest rung of Group 'A'	80	12	5	15.00	3.75
Group 'B'*	Nil	Nil	Nil	Nil	Nil
Group 'C'	323	69	20	21.36	6.19
Group 'D' (Excluding Sweepers)	108	28	12	25.93	11.11
Part Time Sweepers	1	1	00	100.00	0.00
Total	698	134	40	19.20	5.44
As on 1.1.2002					
Group "A"	188	24		12.23	2.31
Above the lowest rung of Group 'A'					
Lowest rung of Group 'A'	134	14	7	10.45	5.97
Group 'B'*	Nil	Nil	Nil	Nil	Nil
Group 'C'	263	68	13	25.86	4.94
Group 'D' (Excluding Sweepers)	95	26	13	27.37	16.38
Part Time Sweepers	0	0	00	0.00	0.00
Total	680	132	38	19.26	5.59



<b>Name of the Company: National Insurance Co. Ltd.</b>					
<b>As on 1.1.2001</b>					
Group "A" Above the lowest rung of Group 'A'	2409	300	50	14.45	2.07
Lowest rung of Group 'A'	1367	266	47	19.45	3.43
Group 'B'	2719	253	51	9.20	1.85
Group 'C'	10076	1983	506	19.68	5.02
Group 'D' (Excluding Sweepers)	2067	676	148	32.70	7.16
Part Time Sweepers	934	583	63	62.41	6.74
<b>Total</b>	<b>19601</b>	<b>4061</b>	<b>865</b>	<b>20.71</b>	<b>4.41</b>
<b>As on 1.1.2002</b>					
Group "A" Above the lowest rung of Group 'A'	2509	357	57	14.22	2.27
Lowest rung of Group 'A'	1410	245	51	17.37	3.61
Group 'B'	2670	241	46	9.02	1.72
Group 'C'	10018	2007	529	20.03	5.28
Group 'D' (Excluding Sweepers)	1824	606	122	33.22	6.68
Part Time Sweepers	919	583	64	63.43	6.96
<b>Total</b>	<b>19350</b>	<b>4039</b>	<b>869</b>	<b>20.87</b>	<b>4.49</b>
<b>Name of the Company: Oriental Insurance Com. Ltd.</b>					
<b>As on 1.1.2001</b>					
Group "A" Above the lowest rung of Group 'A'	2500	373	73	14.92	2.92
Lowest rung of Group 'A'	1269	234	46	18.44	3.62
Group 'B'	2965	331	83	11.16	2.80
Group 'C'	9903	1716	567	17.32	5.73
Group 'D' (Excluding Sweepers)	2201	681	176	30.94	8.00
Part Time Sweepers	963	587	60	60.96	6.23
<b>Total</b>	<b>19801</b>	<b>3922</b>	<b>1005</b>	<b>19.81</b>	<b>5.08</b>
<b>As on 1.1.2002</b>					
Group "A" Above the lowest rung of Group 'A'	2625	419	46	15.96	3.09
Lowest rung of Group 'A'	1424	257	57	18.05	4.00
Group 'B'	2814	323	89	11.36	3.13
Group 'C'	9667	1824	588	18.87	6.08
Group 'D' (Excluding Sweepers)	1936	609	160	31.15	8.26
Part Time Sweepers	948	577	59	60.86	6.22
<b>Total</b>	<b>19444</b>	<b>4003</b>	<b>1034</b>	<b>20.59</b>	<b>5.32</b>

<b>Name of the Company: United India Insurance Co. Ltd.</b>					
<b>As on 1.1.2001</b>					
Group "A" Above the lowest rung of Group 'A'	2617	453	70	17.30	2.67
Lowest rung of Group 'A'	1509	332	60	17.54	2.74
Group 'B'	2956	280	59	9.50	2.00
Group 'C'	11266	2372	639	21.05	5.67
Group 'D' (Excluding Sweepers)	2340	884	220	37.77	9.40
Part Time Sweepers	1009	595	147	58.96	14.56
<b>Total</b>	<b>21896</b>	<b>4916</b>	<b>1195</b>	<b>22.45</b>	<b>5.45</b>
<b>As on 1.1.2002</b>					
Group "A" Above the lowest rung of Group 'A'	2913	511	80	1	-
Lowest rung of Group 'A'	1782	369	75	--	--
Group 'B'	2851	275	56	9.60	1.96
Group 'C'	10908	2356	617	21.59	5.66
Group 'D' (Excluding Sweepers)	2423	1009	188	41.64	7.75
Part Time Sweepers	675	469	48	69.48	7.11
<b>Total</b>	<b>24551</b>	<b>4988</b>	<b>1064</b>	<b>23.14</b>	<b>4.94</b>
<b>Name of the company: LIC of India</b>					
<b>As on 1.1.2001</b>					
Group "A" Above the lowest rung of Group 'A'	7892	1105	275	14.00	3.48
Lowest rung of Group 'A'	8465	1359	535	16.05	6.32
Group 'B'	19300	2692	857	13.95	4.44
Group 'C'	74400	12428	5538	16.70	7.44
Group 'D' (Excluding Sweepers)	9685	2431	812	25.10	8.38
Part Time Sweepers	763	434	42	57.4	5.50
<b>Total</b>	<b>120505</b>	<b>20453</b>	<b>8059</b>	<b>16.97</b>	<b>6.69</b>
<b>As on 1.1.2002</b>					
Group "A" Above the lowest rung of Group 'A'	8244	1250	330	15.16	3.99
Lowest rung of Group 'A'	8779	1442	566	16.43	6.44
Group 'B'	19079	2662	891	13.95	4.67
Group 'C'	74414	12518	5628	16.82	7.56
Group 'D' (Excluding Sweepers)	8277	2090	688	25.25	8.31
Part Time Sweepers	666	362	56	54.35	8.41
<b>Total</b>	<b>119459</b>	<b>20324</b>	<b>8159</b>	<b>17.01</b>	<b>6.82</b>
<b>Name of the company: New India Assurance Co. Ltd.</b>					
<b>As on 1.1.2001</b>					
Group "A" Above the lowest rung of Group 'A'	3307	518	71	15.66	2.14
Lowest rung of Group 'A'	1668	328	44	19.66	2.63
Group 'B'	3638	382	96	9.95	2.50
Group 'C'	11941	1892	816	15.84	6.83
Group 'D' (Excluding Sweepers)	2780	956	193	34.38	6.95
Part Time Sweepers	696	392	84	56.32	12.06
<b>Total</b>	<b>24230</b>	<b>4468</b>	<b>1304</b>	<b>18.44</b>	<b>5.38</b>

As on 1.1.2002					
Group "A"	3189	450	82	14.11	2.57
Above the lowest rung of Group 'A'					
Lowest rung of Group 'A'	1852	334	73	18.05	3.94
Group 'B'	3732	365	105	9.78	2.81
Group 'C'	12001	2039	492	16.89	4.07
Group 'D' (Excluding Sweepers)	2599	1007	231	38.74	8.88
Part Time Sweepers	577	363	52	62.91	9.01
Total	23950	4713	1104	19.67	4.60

\* *There is no provision of group 'B' or Class-II in GIC of India.*

*Source: Insurance Division, Ministry of Finance*

### **GIC OF INDIA**

4.45 It may be seen from the above table that the representation of Scheduled Castes is still lagging behind in Group A and that of Sch. Tribes is negligibly represented in this Group and not satisfactory in Group C posts. Since there is no provision of Group B or Class-II in GIC of India, extra efforts are required to be made to provide adequate representation of Sch. Caste in Group A services and to Sch. Tribes in Group A & C services.

### **NATIONAL INSURANCE CO. LIMITED**

4.46 It would be seen from the above table that the representation of scheduled Caste is not satisfactory in Group B and that of Sch. Tribes is negligible in Group A and B and unsatisfactory in Group C and D posts. Therefore, concerted efforts are required to be made to provide adequate representation to Sch. Castes in Group B services and to Sch. Tribes in all A, B, C & D Groups.

### **ORIENTAL INSURANCE COMPANY LIMITED**

4.47 The representation of Sch. Castes is still not upto the prescribed percentage in Group B and that of Sch. Tribes in all the Groups. Thus serious efforts to be made to provide adequate representation to Sch. Tribes in Group A, B, C, D and to Sch. Castes in Group B services.

### **REPRESENTATION OF SCHEDULED CASTES AND SCHEDULED TRIBES IN THE SERVICES OF THE PUBLIC SECTOR BANKS**

4.48 Banking Division in the Department of Economic Affairs, Ministry of Finance and Company Affairs have furnished the information regarding representation of Scheduled Castes and Scheduled Tribes in the services of the Public Sector Banks as on 31.12.2001. The table below gives the representation of SCs and STs in cadre of Officer, Clerk and sub-staff for the period ending 31.12.2001.

**STATEMENT SHOWING THE STAFF STRENGTH IN PUBLIC SECTOR  
BANKS AS ON 31.12.2001  
CADRE: OFFICER**

Name of the Bank	Total Emp.	SC	%age	ST	%age
Allhabad Bank	5771	937	16.24	358	6.20
Andhra Bank	5502	839	15.25	362	6.58
Bank of Baroda	11438	1722	15.06	608	5.32
Bank of India	10818	1649	15.24	705	6.52
Bank of Maharashtra	3782	579	15.31	224	5.92
Canara Bank	13940	2407	17.27	909	6.52
Central Bank	11104	1916	17.26	650	5.85
Corporation Bank	3532	340	9.63	126	3.57
Dena Bank	2743	477	17.39	210	7.66
Indian Bank	7026	1086	15.46	401	5.71
Indian Overseas Bank	6941	1087	15.66	407	5.86
Oriental Bank of Com	4683	576	12.30	169	3.61
Punjab National Bank	15171	2149	14.17	618	4.07
Punjab and Sind Bank	3916	323	8.25	87	2.22
Syndicate Bank	7727	1045	13.52	323	4.18
Union Bank of India	7621	1222	16.03	514	6.74
United Bank of India	4658	773	16.60	291	6.25
UCO Bank	5965	930	15.59	277	4.64
Vijaya Bank	3144	353	11.23	150	4.77
State Bank of India	52668	6838	12.98	2464	4.68
SB of Bikaner & Jaipur	3175	458	14.43	187	5.89
State Bank of H'bad	3599	572	15.89	172	4.78
State Bank of Indore	1764	250	14.17	102	5.78
State Bank of Mysore	2278	375	16.46	145	6.37
State Bank of Patiala	3010	551	18.31	77	2.56
State Bank of Saurashtra	1867	327	17.51	90	4.82
State Bank of T'core	2744	339	12.35	41	1.49
I.I.B.I.	137	11	8.03	4	2.92
I.D.B.I.	1451	222	15.30	58	4.00
NABARD	2915	371	12.73	178	6.11
Exim Bank	157	19	12.10	11	7.01
National Housing Bank	81	8	9.88	2	2.47
S.I.D.B.I.	721	85	11.79	30	4.16
Reserve Bank of India	7342	785	10.69	229	3.12
Total	219391	31621	14.41	11179	5.10

**STATEMENT SHOWING THE STAFF STRENGTH IN PUBLIC SECTOR  
BANKS AS ON 31.12.2001**

**CADRE: CLERK**

Name of the Bank	Total Emp.	SC	%age	ST	%age
Allhabad Bank	9979	1753	17.57	368	3.69
Andhra Bank	5105	684	13.40	130	2.55
Bank of Baroda	19043	2928	15.38	1020	5.36
Bank of India	22251	3332	14.97	1365	6.13
Bank of Maharashtra	7173	1042	14.53	413	5.76
Canara Bank	21918	3768	17.19	1017	4.64
Central Bank	19017	2666	14.02	1008	5.30
Corporation Bank	5308	751	14.15	201	3.79
Dena Bank	5122	943	18.41	539	10.52
Indian Bank	11660	2609	22.38	324	2.78
Indian Overseas Bank	12690	3334	26.27	318	2.51
Oriental Bank of Commerce	5802	1227	21.15	284	4.89
Punjab National Bank	31072	5408	17.40	1217	3.92
Punjab and Sind Bank	4127	265	6.42	73	1.77
Syndicate Bank	13746	2767	20.13	771	5.61
Union Bank of India	12508	2369	18.94	450	3.60
United Bank of India	9193	1661	18.07	271	2.95
UCO Bank	13450	1957	14.55	589	4.38
Vijaya Bank	6172	469	7.60	223	3.61
State Bank of India	102681	14249	13.88	6145	5.98
SB of Bikaner & Jaipur	6250	871	13.94	439	7.02
State Bank of Hyderabad	6752	899	13.31	272	4.03
State Bank of Indore	3334	543	16.29	370	11.10
State Bank of Mysore	5537	775	14.00	242	4.37
State Bank of Patiala	6131	1387	22.62	34	0.55
State Bank of Saurashtra	3651	442	12.11	392	10.74
State Bank of Travancore	6408	792	12.36	230	3.59
I.I.B.I.	75	11	14.67	1	1.33
I.D.B.I.	878	154	17.54	63	7.18
NABARD	1475	174	11.80	129	8.75
Exim Bank	The bank has no clerk				
National Housing Bank	The bank has no clerk				
S.I.D.B.I.	114	32	28.07	9	7.89
Reserve Bank of India	13324	2038	15.30	1091	8.19
Total	391946	62300	15.89	19998	5.10

**STATEMENT SHOWING THE STAFF STRENGTH IN PUBLIC SECTOR  
BANKS AS ON 31.12.2001**

**CADRE: SUB STAFF**

Name of the Bank	Total Emp.	SC	%age	ST	%age
Allhabad Bank	3734	818	21.91	274	7.34
Andhra Bank	2170	561	25.85	164	7.56
Bank of Baroda	7293	2009	27.55	670	9.19
Bank of India	7440	2073	27.86	613	8.24
Bank of Maharashtra	3198	1087	33.99	304	9.51
Canara Bank	9243	2371	25.65	457	4.94
Central Bank	9672	2538	26.24	659	6.81
Corporation Bank	1409	576	40.88	69	4.90
Dena Bank	2714	849	31.28	336	12.38
Indian Bank	3665	1204	32.85	153	4.17
Indian Overseas Bank	3811	1393	36.55	161	4.22
Oriental Bank of Commerce	2894	809	27.95	171	5.91
Punjab National Bank	11415	2759	24.17	665	5.83
Punjab and Sind Bank	1936	349	18.03	47	2.43
Syndicate Bank	3977	1131	28.44	297	7.47
Union Bank of India	5331	1438	26.97	317	5.95
United Bank of India	4252	786	18.49	174	4.09
UCO Bank	4663	1116	23.93	302	6.48
Vijaya Bank	1981	470	23.73	127	6.41
State Bank of India	43224	10242	23.70	2436	5.64
SB of Bikaner & Jaipur	3061	433	14.15	274	8.95
State Bank of Hyderabad	3079	563	18.29	145	4.71
State Bank of Indore	1399	325	23.23	188	13.44
State Bank of Mysore	1944	510	26.23	87	4.48
State Bank of Patiala	2656	873	32.87	42	1.58
State Bank of Saurashtra	1834	365	19.90	176	9.60
State Bank of Travancore	2243	708	31.56	101	4.50
I.I.B.I.	61	15	24.59	3	4.92
I.D.B.I.	540	172	31.85	44	8.15
NABARD	908	273	30.07	100	11.01
Exim Bank	9	1	11.11	0	0.00
National Housing Bank	The bank has no Sub staff				
S.I.D.B.I.	88	30	34.09	18	20.45
Reserve Bank of India	8503	2399	28.21	735	8.64
<b>Total</b>	<b>160347</b>	<b>41246</b>	<b>25.72</b>	<b>10309</b>	<b>6.43</b>

4.49 It would be seen from the above tables that in the officers cadre, the representation of Scheduled Castes was 14.41% and that of Scheduled Tribes was 5.09% as against the prescribed percentage of 15% and 7.5% for SCs and STs respectively. In the cases of clerk, the representation of SCs and STs was 15.89% and 5.10% respectively. Similarly in the cadre of sub-staff, the representation of Scheduled Castes is 25.72% and that of Scheduled Tribes 6.43%. It is clear that the representation of Scheduled Tribes is still lagging behind in the cadre of officer, clerk and sub-staff whereas the representation of Scheduled Castes was lagging behind in the cadre of Officers. It is, therefore necessary that special efforts are required to be made by the Banks to increase the representation of Scheduled Tribes in all the cadres of Officers, Clerks and Sub-staff to the desired level of 7.5%.

#### REPRESENTATION IN THE CENTRAL UNIVERSITIES (A SPECIAL GLANCE)

4.50 The position of representation of SCs and STs in various levels of teaching posts in the Central Universities is indicated in the following table :-

Sl. No.	Name of the University		Professor	Reader	Lecturer
1	Aligarh Muslim Uni.	Total	276	396	567
		SC %	-	01	-
		%	-	-	-
		ST%	-	-	-
		%	-	-	-
2	Banaras Hindu Uni.	Total	109	272	692
		SC %	-	2	41
		%	-	0.74	5.92
		ST	-	-	06
		%	-	-	0.87
3	IGNOU	Total	35	81	150
		SC	-	5	18
		%	-	4.95	9.72
		ST	-	01	9
		%	-	0.9	4.86
4	J.N.U.	Total	193	121	74
		SC	04	02	10
		%	1.7	1.1	7.8
		ST	01	0.2	03
		%	0.4	1.1	2.3
5	Jamia Millia Islamia	Total	117	111	221
		SC	01	-	12
		%	00.85	-	5
		ST	-	-	2
		%	-	-	0.9

6	Muaulana Azad National Urdu University	Total	-	02	06
		SC	-	-	-
		%	-	-	-
		ST	-	-	-
		%	-	-	-
7.	University of Hyderabad	Total	99	76	64
		SC	1	5	12
		%	1.1	5	18.75
		ST	-	-	3
		%	-	-	4.69
8	Tezpur University	Total	14	18	46
		%	-	-	04
		%	-	-	8.69
		ST	-	-	02
		%	-	-	4.35
9	NEHU	Total	61	73	39
		SC	-	-	37 x
		%	-	-	94.87
		ST	-	-	
		%	-	-	
10.	Pondicherry	Total	46	50	44
		%	01	07	07
		%	2.17	14.00	15.9
		ST	-	-	02
		%	-	-	4.5

*X University has been maintaining combined reservation for SC & ST.*

#### REPRESENTATION OF SCS AND STS IN NON-TEACHING POSTS IN CENTRAL UNIVERSITIES

S.No.	Name of University		Group 'A'	Group 'B'	Group 'C'	Group 'D'
1	Aligarh Muslim Uni.	Total	122	203	2552	3021
		SC %	1	2	11	440
		%	-	-	-	-
		ST%	-	-	4	7
		%	-	-	-	-
2	Banaras Hindu Uni.	Total	123	79	2158	3003
		SC %	8	20	94	872
		%	6.50	25.32	4.36	29.04
		ST	2	-	13	89
		%	1.63	-	0.60	2.96



3	IGNOU	Total	88	122	631	195
		SC	6	18	116	60
		%	4.95	13.43	14.87	28.84
		ST	4	5	44	10
		%	3.3	3.73	5.64	4.8
4	J.N.U.	Total	67	212	506	609
		SC	14	21	89	235
		%	15.6	7.9	15.6	34.9
		ST	1	4	11	10
		%	1.1	1.5	1.9	1.5
5	Jamia Millia Islamia	Total	54	52	517	475
		SC	1	2	2	54
		%	2.00	3.00	0.5	11.00
		ST	-	-	2	-
		%	-	-	0.5	-
6	Muaulana Azad National Urdu Uni.	Total	9	01	27	10
		SC	-	-	02	01
		%	-	-	-	-
		ST	-	-	01	-
		%	-	-	-	-
7.	University of H'bad	Total	45	84	431	524
		SC	11	9	72	127
		%	14.6	10.1	15.1	24.2
		ST	4	2	18	31
		%	5.3	2.2	3.8	6.0
8	Tezpur University	Total	20	10	63	70
		%	1	-	09	14
		%	5.00	-	14.28	20.00
		ST	-	01	05	03
		%	-	10.00	7.94	4.28
9	NEHU	Total	51	147	447	333
		SC	24 x	38 x	108 x	79 x
		%	-	-	-	-
		ST	-	-	-	-
		%	-	-	-	-
10.	Pondicherry	Total	31	20	230	248
		%	07	03	40	23
		%	15.6	12.5	15.00	7.6
		ST	01	-	-	-
		%	2.2	-	-	-

X University has been maintaining combined reservation for SC & ST.

## **POSITION ABOUT THE IMPLEMENTATION OF RULE OF RESERVATION IN THE CENTRAL AND DEEMED UNIVERSITIES IN TEACHING AS WELL AS NON-TEACHING POSTS**

### **ALIGARH MUSLIM UNIVERSITY**

4.51 The matter relating to implementation of reservation policy for SC/ST is under consideration in the university statutory bodies. In the meeting of the University Court ( the highest Governing Body ) held on 1.7.2001, the Vice Chancellor was authorized to constitute a committee of experts to examine the matter of implementation of reservation. The first meeting of the said Committee was held in New Delhi on 30.9.2001. The second Meeting was Scheduled for 4.3.2002, but it could not be held due to disturbed conditions in Aligarh and elsewhere at that time . It was informed that this meeting will be rescheduled to be held soon in view of the recent judgment of the Constitutional Bench of the Supreme Court of India on the question of the rights of the Minority Educational Institutions. The current status of the reservation issue was also explained by the University authorities.

4.52 It was observed that the representation of SC/ST is nil in teaching category and also negligible in non-teaching category. The University is not implementing the reservation policy. National Commission for SC/ST pointed out during the meeting that there is lack of transparency in filling up the posts. Under the non-teaching category, the University authorities do not even indicate whether the post was reserved or not. The University should make special efforts in implementation of reservation policy, fulfill the shortfall in prescribed percentage and bring in transparency while filling up the vacant posts in the University.

### **BANARAS HINDU UNIVERSITY**

4.53 The reservation policy for SC/ST is being implemented since 1983. The University is required to implement reservation for SC and ST @ 15% and 7.5% respectively as per norms of the Government of India .The Position of representation of SC/ST in teaching category indicates that in the Lecturers post, out of total 997 sanctioned posts 305 posts are lying vacant. As may be seen from the tables given above , 692 posts of Lecturer are filled up, of which 645 posts were held by general candidates, 41 posts by SC and 06 posts by ST candidates. The percentage of SC and ST works out to 5.92 and 0.87 respectively. This position is most unsatisfactory.

4.54 In non-teaching category, the percentage of representation of SC and ST in Group 'A' posts is 6.50 and 1.63 respectively which also is unsatisfactory. The representation of SC and ST in Group ' C' category is 4.36 and 0.60 respectively which is considered very low. Special efforts are required to be made by the University to fill up the backlog of SC/ST vacancies.

### **IGNOU**

4.55 As per the information furnished by the University for the year 2001, the representation of SC and ST in Lecturer's grade was 9.72% and 4.86 respectively which is not as per the percentage prescribed i.e. 15% for SCs and 7.5% for STs. 3 posts of Lecturer were lying vacant which were reported to have been advertised by the University authorities. As regards non-teaching category, the representation of

Scheduled Castes was 4.95% in Group 'A', 13.43% in Group 'B' and 14.87 % in group 'C' posts and that of Scheduled Tribes was 3.3% in Group 'A' 3.73% in Group 'B' , 5.64% in Group 'C' and 4.8 % in Group 'D' posts. It is seen that representation of Scheduled Castes in Group 'A' posts and Scheduled Tribes in Group 'A' , 'B', 'C' and 'D' posts was not satisfactory.

#### **J.N.U. DELHI**

4.56 In teaching category, there were a total of 128 posts of Lecturer of which 54 posts were lying vacant. Out of the remaining 74 posts of Lecture, 10 posts were held by SC and 03 posts by ST which works out to 7.8% for SC and 2.3% for ST . The representation of these categories was not satisfactory in Lecturer grade as per the prescribed percentage for SCs and STs. In teaching cadres, the reservation policy has been adopted from 1982 and the University has not dereserved any reserved post. The University has recently advertised 9 posts for SC and 3 posts for ST in the Lecturer's grade.

4.57 As regards non-teaching category, the representation of Scheduled Castes in Group 'B' posts was 7.9% which was not satisfactory. The representation of Scheduled Tribes was less than 2.00% in all the groups of 'A', 'B', 'C' and D.

4.58 It was informed by the University that the shortfall of representation of Scheduled Caste and Scheduled Tribes in group 'B' was due to the reasons that the majority of post in Grade 'B' were filled up prior to 1978, the date of implementation of reservation policy for Group 'A' and 'B' posts.

#### **JAMIA MILIA ISLAMIA**

4.59 University has started implementation of reservation policy from 1997 only. In teaching category, reservation is applicable up to the Lecturers post. Out of total 245 posts of Lecturer, 24 posts were lying vacant. Out of the 221 filled up posts of Lecturer, 12 posts were held by SC and 2 posts by ST persons which comes to 5% for SC and 1% for ST. The representation of SC and ST is far from satisfaction in Lecturers grade.

4.60 As regards non-teaching category, the representation of Scheduled Castes was 2% in Gr. 'A', 3% in Gr. 'B' and 0.5% in Gr. 'C' posts and that of Scheduled Tribes was nil in Gr. 'A', 'B' and 'D' groups except 0.5% in Grade 'C' posts.

#### **MAULANA AZAD NATIONAL URDU UNIVERSITY**

4.61 The University was established in the year 1998. The University imparts Education in courses like B.A, B.Com, B.Sc., Certificate in Food and Nutrition and Diploma in Proficiency in Urdu and the courses in English and Hindi have been introduced through Distance Education.

4.62 The University is following the reservation policy for recruitment of Teaching and Non-Teaching staff . In the Teaching category, the representation of Scheduled Cases and Scheduled Tribes was nil.

4.63 In non-teaching category, the position was dismal as there were only 2 SC and one ST in the grade of LDC against the total staff of 18. There was only one SC candidate in the Group 'D' as against a total of 10.

## **UNIVERSITY OF HYDRABAD**

4.64 In the teaching category, out of total 64 posts of Lecturers 12 posts were held by SCs and 3 posts by STs. The position can be treated as satisfactory.

4.65 In non-teaching category, the representation of Scheduled Castes was 14.6% in Gr.'A', 10.1% in Gr. 'B', 15.1% in Gr. 'C' and 24.2% in Gr.'D' posts. As regards Scheduled Tribes, their representation was 5.3% in Gr. 'A', 2.2% in Gr. 'B', 3.8% in Gr. 'C' and 6.0 in Gr. 'D' posts. Overall, the position in respect of SCs were found almost satisfactory but lagging behind in respect of STs. .

## **TEZPUR UNIVERSITY**

4.66 In the teaching category, out of total 46 filled up posts of Lecturer, 4 posts were held by SC and 2 posts by ST which works out to 8.69% for SC and 4.35% for ST.

4.67 As regards non-teaching category, the representation of Scheduled Castes was 5% in Gr. 'A', nil in Gr. 'B', 14.28% in Gr. 'C' and 20% in Gr. 'D' posts. The representation of Scheduled Tribes was nil in Gr. 'A' 10.00% in Gr. 'B', 7.94% in Gr. 'C' and 4.28% in Gr. 'D' posts. The position was found satisfactory except for Scheduled Castes in Gr. 'B' posts and for ST in Gr. A post.

## **NEHU**

4.68 The University has been maintaining combined reservation for SCs and STs. In the category of Lecturers, out of total 131 sanctioned posts' 55 posts were lying vacant. 37 posts of Lecturer were held by the SC/ST candidates..

4.69 In the non-teaching category, out of total 61 sanctioned posts in Gr. 'A' 10 posts were vacant and 24 posts were held by SC/ST. in Group 'B' out of total 167 sanctioned posts, 20 posts were vacant and 38 posts were held by SC/ST. in Group 'C' out of total 482 sanctioned posts, 35 posts were vacant and 108 post were held by SC/ST. In Group 'D' out of total 349 sanctioned posts, 16 posts were vacant and 79 posts were held by SC/ST.

## **PONDICHERY UNIVERSITY**

4.70 In teaching category, the representation of SCs and STs in the grade of Lecturer was 15.9% and 4.5% respectively. The position was satisfactory in the Lecturers grade in comparison with the prescribed quota for these Communities.

4.71 In non-teaching category, the representation of Scheduled Castes was 15.6% in Gr. 'A', 12.5% in Gr. 'B', 15.0% in Gr. 'C' and 7.6% in Gr. 'D' posts whereas the representation of Scheduled Tribes was 2.2% in Group 'A' and was 'Nil' in Gr. 'B', C&D posts.

4.72 Apart from the Central Universities there are certain Deemed Universities namely

1. Gandhigram Rural Institute
2. Avinashilingam Institute for Home Science and Higher Education for Women, Coimbatore

3. Central Institute of English and Foreign Languages, Hyderabad.
4. Dayalbagh Educational Institute, Agra
5. Gujarat Vidyapith, Ahmedabad
6. Gurukul Kangri Vishwa Vidyalaya, Haridwar
7. Shri Lal Bahadur Shastri Rashtriya Sanskrit Vidyapeetha, New Delhi.
8. Rashtriya Sanskrit Vidyapeetha, Tirupati
9. Tata Institute of Social Sciences, Mumbai

4.73 Position of reservation in these Deemed Universities was more or less the same as that in the Central Universities.

4.74 **The position of representation of SCs and STs in both Teaching and Non Teaching cadres, almost in all the Central Universities and Deemed Universities, was below the prescribed percentage. All the Universities may take concerted efforts to fill the back log/ shortfalls of SCs and STs in a time bound manner. UGC may also keep a strict vigil on all the Universities to see that they implement the guidelines of UGC regarding reservation policy in letter and spirit and fill the backlog/shortfall of SCs and STs in a time bound manner and if any University fails to adhere to these guidelines, UGC may take corrective and punitive action against such University(s).**

#### **RESERVATION IN ARMED FORCES**

4.75 The National Commission for SCs and STs in its 4<sup>th</sup> and 5<sup>th</sup> Annual Reports had recommended for reservation in Armed forces. This point has so far not been considered and there is no provision of reservation for SCs and STs made in the Indian Armed forces. In the past certain regiments like Sikh Light Infantry and Mahars were exclusively from amongst the Scheduled Castes.

4.76 The view expressed by the Ministry of Defence that the Nation's Armed Forces must be provided with the best available material from the youth of the country and any attempt to introduce reservations for any class or community cannot but impair the fighting efficiency of the Army. It is thus desirable that, as at present recruitment to the Defence Services is kept open to all, on common standards irrespective of caste, creed, or religion. **The National Commission for SCs/STs still however feels that Govt. should introduce some element of reservation in Armed forces without adversely effecting the efficiency as there was no substance to challenge the competency when there were regiments like Sikh and Mahars known for their excellent achievements. The Commission recommends that as far as possible in direct recruitments the reservation may be introduced.**

#### **RESERVATION IN JUDICIAL SERVICES**

4.77 The Commission has also been recommending for reservation in judiciary. The Members of Parliament in the National convention raised the issue and recommended that there should be reservation in judiciary for SC/ST. On this the view of the Department of Justice that as per Articles 233, 234 and 235 of the Constitution of India, the matters relating to appointment, promotion and posting of persons in District and subordinate judiciary are within the purview of the respective State Governments and High Courts

and no provision exists in the Constitution of India for reservation in respect of any class or category of persons for appointment of judges of High Courts and Supreme Court.

**4.78 The Commission re-iterates its recommendations made in its earlier reports that reservation provided for in judicial appointments below the High Courts needs to be implemented to fulfill the prescribed reservation percentage. The Commission also re-iterates its recommendation to consider provision of reservation in appointments of Judges to the High Courts and Supreme Court of India.**

#### **DISINVESTMENT AND RESERVATION POLICY**

4.79 At the time of disinvestments involving transfer of management control, appropriate provisions should be made in the share-purchase agreement and the shareholder agreement with the strategic partner that the strategic partner recognizes the Government in relation to its employment policies, which follows certain principles for the benefit of the members of the Scheduled Castes and Scheduled Tribes, and the strategic partner shall use its best efforts to cause the Company to provide adequate job opportunities for such persons.

4.80 The Commission was of the considered view that in consonance with the Constitutional scheme, the principle of positive discrimination enshrined in various articles of the Constitution governing reservation for SCs and STs should be extended to the private sector also to fulfill constitutional obligation of social equality.

4.81 The view of Ministry of Industries and the representative organization in the private sector like CII, FICCI, ASSOCHAM, WASME in this regard were not in favour of introduction of reservation for SC/ST in private sector but ready to support empowerment of disadvantaged groups by way of promoting human capital formation and entrepreneurship among the SCs & STs and the Backward Classes.

4.82 The DoPT on the Private Member Bill sought opinion of the Attorney General of India, who opined that Article 16(4) of the Constitution enables the State to provide reservation of appointments or posts in favour of any backward class of citizens in the services under the State and that reservation in Private Sector will not be permissible under Article 16(4) of the Constitution and will be violation of the equality provisions in the Constitution.

4.83 The Commission reiterates its recommendation contained in its Sixth Report (period 1999-2000 and 2000-2001) to consider provision of reservation in private sectors.

#### **RESERVATION ACT AND ITS INCLUSION IN THE NINTH SCHEDULE OF THE CONSTITUTION**

4.84 The Commission in its earlier reports emphasized the need for early enactment of Reservation Act which would systematize the implementation of reservation policy. The Act should be kept in the 9<sup>th</sup> Schedule of the Constitution so that it is not open to frequent judicial interpretations.

4.85 The DOP&T is of the view that the executive instructions on reservation issued by the Department of Personnel & Training derive authority from Article 16(4) of the Constitution and come within the meaning of law. The legal validity of these instructions has specifically been upheld by the Supreme Court in the Indira Sawhney case. No legal deficiency has been apprehended in implementation or enforcement of the policy. Non compliance with the policy tantamount to misconduct which makes delinquent officials liable to disciplinary action under the Conduct Rules. Executive instructions have the advantage of flexibility to meet the emerging needs and such flexibility cannot always be provided by legislative enactment

4.86 Opinion of the Attorney General about enacting a law on reservation. is that comprehensive legislation on the subject is not favoured for two reasons. Firstly, it would be complex and cumbersome; secondly, if any one or more provisions are struck down the question about severability of the remaining part of the legislation would arise.

4.87 The Attorney General is also of the opinion that a Constitutional Amendment inserting any legislation on reservation in the Ninth Schedule would be liable to challenge on the ground of violation of the basic structure of the Constitution. The Learned Attorney General quoted the following observation of the Supreme Court in the judgement in the case of M.G. Badappanavar vs. State Bank of Karnataka that:

4.88 Equality is a basic feature of the Constitution of India and any treatment of equals unequally or unequally as equals will be violative of basic structure of the Constitution of India.

4.89 Of the legislation giving 69% reservation to SCs and STs and OBCs made by the Government of Tamil Nadu and the 76<sup>th</sup> Amendment to the Constitution whereby the above Act was included in the Ninth Schedule of the Constitution is already under challenge before the Constitution Bench of nine judges of the Supreme Court. But certain other States like Andhra Pradesh Bihar, MP Tripura, West Bengal. have enacted their legislation on Reservation policy and it is understood that these Acts have not been challenged before the Courts. **The Commission therefore re-iterates that an Act should be enacted on reservation. The Commission has already sent its comments to the Ministry of Social Justice and Empowerment on the draft bill on the subject.**

#### SC/ST ASSOCIATIONS

4.90 The Commission has already recommended in its earlier reports that certain minimum facilities should be provided to the Associations formed by the SC/ST employees for redressal of their grievances as these Associations play an important role in the redressal of grievances and to protect the service interests of the SC/ST employees. In this connection, it is pointed out that the Banking Division in the Ministry of Finance, Department of Economic Affairs had already issued instructions to all the Public Sector Banks to provide certain minimum facilities to these Associations. As these Associations facilitate the management to fulfill their constitutional obligation, they should be provided such facilities to facilitate the discharge of their responsibility and the issue of recognition of SC/ST Associations may be favorably considered by the respective organizations. The DOPT has referred to Govt. Rules which prohibits formation of association of the Govt. employees on caste, creed or race basis. The Commission is, however, of the view that the stand taken by DOPT is not in consonance with the constitutional provisions giving positive discrimination to SC/ST people. **The DOPT should take a decision in this regard keeping in view the majority/Minority status of the associations formed by the**

SC/ST employees and issue instructions to all the Central Ministries/Departments and Public Sector Enterprises etc. to provide certain minimum facilities with due recognition, out of which 1/3 rd of the office bearers should be women belonging to these communities.

#### **BROCHURE ON RESERVATION FOR SCS/STS.**

4.91 The Secretary DOPT mentioned to the Commission that they were awaiting for the final decision on review of DOPT O.Ms of 1997 for their incorporation in the Brochure. Since the amendments in the Constitution have taken place and majority of the O.M.s having been revised/ withdrawn, it may not take much time in updating the Brochure. Since the existing 8<sup>th</sup> edition of 1993 is out dated, the DOPT may bring out a comprehensive brochure with full clarity of reservation in Govt. and an updated version of the brochure incorporating therein the modified/revised O.Ms, as early as possible.

#### **DISPOSAL OF COMPLAINTS/REPRESENTATIONS**

4.92 The National Commission for SCs /STs during the year 2001-2002 received 7273 specific complaints from individuals relating to their service grievances. The brought forward number of representations from the previous years were 1195. Action has been taken/ receipt dealt with in request of representation 9108. The Service safeguards Wing of the Commission receives representation from SC and ST candidates/ employees relating to alleged complaints in matters, violation of safeguards and rules and rights by way of various types of either harassment ignoring the SC/ST employees for promotion or super-session by their juniors, falsely indicating them in disciplinary cases, delays in completing enquiry proceedings to deprive them from promotional opportunities, in matters of foreign training, termination on flimsy grounds, dereservations and on appointment on compassionate grounds.

#### **MONTH WISE REPRESENTATION RECEIVED AND NUMBER OF REPRESENTATIONS DISPOSED OFF WERE AS UNDER (AT HEADQUARTERS NATIONAL COMMISSION FOR SCS & STS)**

B/F Receipts from the year 2000-2001	1195	Number of representations dealt with month wise
April, 2001	756	844
May	803	882
June	582	665
July	801	689
August	745	672
September	671	671
October	807	736
November	790	568
December	631	1038
January	687	875
February	745	988
March	457	480



**DISPOSAL OF CASES AND SUCCESSFUL CASES DURING THE PERIOD 2001-2002 AT HQS.**

B/F 2000-2001 Cases files	7777	Disposal months wise	No of successful cases during the month
April, 2001	99	121	25
May	118	240	57
June	96	180	25
July	86	71	9
August	108	62	8
September	112	1302	28
October	100	720	13
November	100	412	19
December	125	167	8
January	101	436	12
February	122	393	5
March	82	596	6
<b>Total</b>	<b>9026</b>	<b>4700</b>	<b>215</b>

**STATEMENT SHOWING THE DETAILS OF CASES OF SERVICE MATTERS  
DEALT IN BY COMMISSION'S STATE OFFICES DURING THE  
YEAR 2001-2002**

S.N o	State	Appointment	Promotion	Harassment	Transfer	False Caste	Misc	Succe ssful Cases
1	Agartala	4	1	-	-	15	-	-
2	Ahmedabad	35	26	30	17	-	3	18
3	Bangalore	11	33	31	7	-	71	2
4	Bhopal	43	27	78	06	-	13	04
5	Bhubanswar	30	99	36	12	-	121	27
6	Chandigarh	35	57	38	10	-	35	11
7	Chennai	89	129	34	51	-	160	15
8	Gawhati	22	18	7	11	-	5	23
9	Hydrabad	54	59	54	42	43	47	25
10	Jaipur	21	33	10	7	-	84	14
11	Kolkata	35	34	7	6	-	7	12
12	Lucknow	23	31	51	12	-	43	13
13	Patna	9	18	14	5	9	13	3
14	Pune	22	22	31	12	-	62	30
15	Shillong	-	7	8	-	1	-	3
16	Thiruvanan- thaPuram	14	25	46	9	-	11	-

4.93 The cases relating to purely administrative matters like fixation of pay, fixation of seniority, normal transfer etc are not normally entertained by the Commission. In such cases, the petitioner were advised to take up their grievances with the concerned authorities directly or exhaust the normal channels. In cases, where there were Prima-facie grounds to show discrimination/harassment the cases were referred to the authorities concerned for factual reports and their comments called for on the representation. To deal into the cases/ representations, Commission has streamlined the guidelines.

4.94 Where the complaint/ representation is unsigned or anonymous, or nearly endorsed to the Commission but not addressed, cases in the in Court of law or those that have been decided by a Court in a final verdict, in such cases the same are normally being filed with reasons recorded.

4.95 In cases of complaints/ representations regarding transfer, disciplinary proceeding and ACR's where prima-facie it appears that there is some harassment/ discrimination, action is initiated calling the comments of the Central Ministry /Departments /PSU etc. and with Liaison Officer of the concerned Central Ministry. On receipt of reply from the concerned authorities, or the concerned Liaison officer, the case is examined in the Commission.

4.96 Cases where complaints/representations appear to be violation of safeguards/Rules/ Regulations pertaining to Direct Recruitment, promotion and other forms of harassment, bias, discrimination etc. the comments are invited from the concerned Ministry/Department/ PSE giving them 15 days to one month's time.

4.97 Simultaneously, a copy of the letter is invariably endorsed to the petitioner and the Liaison Officer of the office /PSE. If the Commission does not receive any reply within a stipulated time, a D.O. letter/ reminder is sent Thereafter, the matter is placed before the Commission through Joint Secretary and Secretary for summoning the concerned officers.

4.98 To facilitate better examination of the cases, the Member concerned fixes up cases for hearing. The cases are heard on the fixed date by the Commission and decisions arrived at in consultation with the administrative authorities and the complainant. There is scope for improvement in the grievances redressal machinery in the Ministries to ensure that genuine grievances are redressed without delay.

4.99 After completing the procedures and if the Commission finds that there is a violation of service safeguards and specific rules and regulations, a letter is addressed to the Ministry/Department/PSE to redress the grievances by issuing recommendations/advice through the Secretary of the Commission.

4.100 The Chairman and Members of the National Commission for SCs & STs monitor the implementation of rule of Reservation as provided under Articles 338 of the Constitution clause 5 (a) & (b) with respect to State Govts., Ministries/Departments/PSEs, Banks and Universities by way of conducting monitoring/review meetings.

#### **4.101 BRIEF OF SOME OF THE IMPORTANT CASES SUCCESSFULLY DEALT WITH BY THE COMMISSION**

- I A representation dated 26-4-2000 from an SC lady widow of a Ex. Sr. E.A. Khunrigachhi, P.O. Sonarpur, District 24 Paraganas (S) was received regarding delay in issue of appointment letter on compassionate grounds

to her son .The matter was taken up by the State Office at Kolkata with the Superintending Engineer, High Power Transmitter, All India Radio, Chinsurah, District Hooghly vide their office letter No. 6/5/ 2000 Gen. Dated 5-6-2000. The Administrative Officers of the office of the Superintending Engineer, High Power Transmitter, All India Radio, Chinsurah, District Hooghly intimated that son of the deceased employee was given appointment to the post of Helper.

- II In his representation dated 18-4-2001, a person belonging to SC category and also the General Secretary, Scheduled Castes Uplift Union, New Delhi sought the intervention of the National Commission for SCs/STs for his appointment in the Tea Board , Kolkata on compassionate grounds in place of his deceased father, late Shri Sudhir Chandra Pramanik. Though the offer of appointment was issued to the person but was denied permission to join the Tea Board as Typist Clerk. The matter was taken up with the Chairman, Tea Board, Kolkata. On the intervention of the Commission, the case was considered in the Tea Board and after a compassionate consideration, the candidate was allowed to join as Typist Clerk on compassionate grounds w.e.f. 25-9-2001 with his posting in Boards' office at Kolkata.
- III This Commission received representation from an SC lady of Ahmedabad on 30-5-99 requesting to give employment to her son in ONGC on compassionate grounds. The matter was taken up with the Group General Manager, Western Region ONGC, Vadodara. On verifying the fact that a financial assistance was not accepted by the family, the Deputy Manager, ONGC, Vadodara informed the Commission's State Office, Ahmedabad that the applicant was interviewed for the post of Jr. AT(P) along with other eligible dependents of Deceased Employees (Ex- Apprentices) of ONGC. As recruitment process had been held up due to stay order of the Industrial Tribunal/ Hon'ble High Court, the applicant was appointed as Junior Assistant Technician at Ahmedabad and resumed duties on 28-7-2000 on finalization of the Court Case.
- IV An attendant working in the Household Establishment of the President's Secretariat represented to this Commission in June, 1999 regarding his promotion to the post of LDC. The individual was appointed on Compassionate Grounds due to the sudden demise of his father in 1985 who was a Sr. Cook. The attendant who passed 12<sup>th</sup> Std. and qualified to apply for a LDC post, had appeared in the departmental tests held in 1986 and 1990 for the post of LDC in President's Secretariat and qualified. But he was not selected since he could not pass the typing test. However, as per the rules a person who has not passed typing test can be appointed as LDC and has to pass the typing test within one year of the appointment. He was not allowed to take advantage of this benefit. When the case was taken up with the President's Secretariat, it was informed the there was no post of LDC in the Household Establishment of the President's Secretariat and that a proposal for the creation of the posts of House Assistant in the Household Establishment was under consideration. After protracted correspondence, it was informed by the President's Secretariat that the case of the applicant

had been cleared for promotion to the post of Store Attndent in the pay scale of Rs. 3050-4590 i.e. the pay scale equivalent to that of a LDC. There was no vacant post of House Assistant and the petitioner could not be considered for the post of LDC as the recruitment rules did not permit the same.

V A Deputy Director belonging to SC community and working in All India Council for Technical Education (AICTE) represented to the Commission in October, 2000 for being denied promotion to the post of Director. The case was taken up with the concerned officials. The Commission noted that the petitioner was recruited as Under Secretary ( Technical) in the year 1991. Thereafter he was on deputation with the Delhi University for a short period in the year 1995 as Deputy Registrar. On repatriation to the AICTE he continued to work as Deputy Director from the year 1997. His contention was that he had not been promoted as Director though he had become eligible for the post. The qualification required was Master's Degree. Applications were called for from all qualified persons from those who were working in the organization and from those working outside. Nearly 136 candidates had applied for the 04 posts of Director. The Screening Committee had taken a decision to fix Ph.D. as a qualification and accordingly about 16 candidates were short-listed. Since the petitioner was not having the qualification of Ph.D. he was not called for the interview. Out of 16 candidates interviewed, 4 were selected as Director. The Petitioner also represented that he should be given the promotion of Deputy Secretary since the post he was holding as Deputy Director was said to be only on contract basis. For this the management informed that they had no objection in promoting him as Deputy Secretary but the post carried a lesser pay than that of the Deputy Director's post. The Senior Advisor informed that the petitioner could be promoted as Deputy Secretary provided he was otherwise eligible. Accordingly the AICTE informed that the petitioner had been promoted to the post of Deputy Secretary on regular basis in the scale of pay of Rs.12000-16500 and he assumed the charge to the post of Deputy Secretary in the council .

VI An Engineer Grade-II, Western Railway, Ajmer, represented his case to State Office, Ahmedabad regarding promotion to the higher post. In the petition the petitioner alleged that his junior employee was promoted earlier than him. The matter was taken up with the concerned Divisional Railway Manager, Ajmer , who intimated that the petitioner had since been promoted to the next higher grade i.e. Rs. 6500-10500 and he was posted to Ajmer Division, Western Railway vide letter No. E/L839/33 dated 27-4-2000.

VII An LDC working in the Indian Institute of Management , Ahmedabad represented his case to the Commission regarding non-promotion to the post of UDC. The reply received by the State Office, Ahmedabad from I.I.M, Ahmedabad that petitioner had been promoted to the post of U.D.C. In another case of LDC of I.I.M. Ahmedabad regarding non-promotion to the post of UDC. It was informed by the petitioner that he was senior most LDC in the IIM, Ahmedabad and became eligible for promotion in the year

1988. IIM, Ahmedabad reported that the Institute has decided to promote the petitioner in the substantive scale of pay of Rs. 4000-6000 w.e.f. 1-8-2000.

- VIII An AG III(D), Food Corporation of India Ahmedabad represented his case to the State Office, Ahmedabad regarding promotion of AG-II(D) . The petitioner informed that the concerned authorities had released 693 promotion to AG-II vide letter No. 222/2000, dated 23-10-2000 and the authority omitted the name of petitioner though he was senior to many others promoted employees. He was informed that 518 juniors to him were promoted and the promotion of petitioner was withheld for want of his confidential Report Dossier. The matter was taken up by the Office of the Commission, Ahmedabad with the Zonal Manager, Food Corporation of India, Mumbai. The Joint Manager (P) Food Corporation of India, Mumbai reported that the petitioner was coming in the zone of consideration for promotion to the post of AG-II (D) in DPC held on 29-9-2000 but his case for empanelment by the DPC could not be considered and finalized for want of his CR dossier as in the case of several other officials. The matter was enquired into by the Commission. On the advice tendered by the Commission, empanelment of the petitioner for promotion was considered by the DPC by circulation and he was found eligible for promotion and was promoted on 9-3-2001.
- IX An S.C. Stenographer Grade-I DRM offices, Western Railway, Bhavnagar represented his case for promotion. It was alleged by him that his juniors were promoted in the scale of Rs. 6500-10500 as PA on regular basis, whereas his case was not considered by the DRM, Western Railway, Bhavnagar. The petitioner submitted various representations to his DRM, Western Railway, and failing receipt of reply he approached the Commission's State Office at Ahmadabad . The matter was referred to DRM, Western Railway, Bhavnagar to consider the request of applicant and promote him to the next higher post i.e. P.A. on regular basis. The DRM Bhavnagar informed that matter has been taken up with General Manager, Western Railway, Mumbai, and the petitioner was promoted to the post of P.A. in the scale of Rs. 5500-9000 at Headquarters office on the basis of Headquarter seniority.
- X An Assistant Administrative Officer in National Insurance Company Limited, Ahmedabad represented his case to the State Office, Ahmedabad regarding injustice meted out in promotion to the cadre of Administrative officer due for the year 2000-2001. The AAO alleged that there were 3 officers including him who were eligible for promotion in the cadre of AO and that two unreserved officers junior to him were promoted instead, inspite of his good grading. The petitioner submitted various representations to the authorities but of no avail. The matter was taken up with the National Insurance Company Limited, Kolkata. On the intervention of the Commission a review D.P.C was held and the petitioner was selected and promoted to the cadre of Administrative officer in the review exercise.

- XI An S.T. Engineer of Public Works Department, Government of Tripura, submitted his representation to the State Office of the Commission at Agartala on 9-3-2000 regarding his promotion to the post of Executive Engineer. The petitioner exhausted the channel by approaching his department. Since the petitioner could not get satisfactory reply, the Commission called for comments and enquired into. The case was duly considered and on 16th June, 2000 the Deputy Director PWD issued an office order No. F6 (67) PWD/85 promoting the petitioner to the post of Executive Engineer alongwith others.
- XII A representation dated 15-5-2000 from a scheduled caste employee working as Basic Grade Typist, Excise Directorate, West Bengal Kolkatta was received regarding deprivation of his legitimate promotion. The matter was taken with the Excise Commissioner, West Bengal, Excise Directorate, Kolkata by the State Office at Kolkata vide their office letter No 7/8/2000 Gen. Dated 4-7-2000. The Excise commissioner West Bengal informed that the employee had already been appointed on promotion to the post of Grade-I Typist w.e.f. 1-4-84 with an order issued with Excise Directorate Memo. No. 845(16)E dated 30-6-2000 and was subsequently appointed on promotion to the post of supervisory grade from 1-11-96 with an order issued with Excise Directorate Memo. No. 993/(18) E dated 11-7-2000. The petitioner got the desired relief.
- XIII A Foreman represented to the Commission on 12.1.1999 for a promotion . He stated that he was working as A /Foreman in SQAE(L&S) Chandigarh w.e.f. May 1991. A DPC for promotion from A/F to Foreman was held on 1993 and a panel of 18 candidates was drawn on 5.3.1993 for promotion from A/F to Foreman. He was the first candidate among SCs in the panel but his name was kept in the sealed cover due to pending disciplinary action. He was exonerated on 14.9.1994 and he was given promotion w.e.f. 25.11.1994 14 candidates had been promoted as foreman from General Category in 1993 but not a single SC candidate while 2 posts were to be reserved for SC candidates. The petitioner's contention was that he was entitled to get promotion as foreman w.e.f. 5.3.1993 but the Deptt. did not exercise due care in the matter. The Commission vide its letter R-6/Def-11/99-SSW-II on dated 9.4.1999 asked Secretary, Ministry of Defence to furnish the comments/reply to this Commission and ultimately the Ministry of Defence reported on 20.10.1999 with a refusal to promote the employee from March 1993. The Commission examined the matter and asked Ministry of Defence to furnish the Reservation Rosters maintained and details of promotion exercise carried out in 1993. On examination of the case by the Commission the concerned authorities of the Ministry of Defence were asked to appear in the Commission on 21.6.2000 for a discussion. Prior to discussion, Ministry of Defence vide their letter dated 20.6.2000 intimated the Commission that the employee had been promoted as Foreman with all consequential benefits w.e.f. 1993 instead 1994 by holding a review DPC.
- XIV Case of a Deputy Manager, Sales, HMT Watches Limited alleged the initiating of false enquiries against him to delay his promotions. The

candidates grouse was that even though he was rated as one of the top 5 sales executives, he was discriminated in promotions due to false enquiries/Suspension etc. Eventhough no charge was proved against him, he was also transferred frequently . The case was taken up with HMT. Later it was informed that competent authority released his promotion as Manager ( sales) with retrospective effect from 1.1.2001.

- XV A representation dated 14.8.2001 was received from All Rajasthan SC, ST, OBC Officers/employees Sanyukt Mahasangh, Jaipur. regarding non-promotion of an SC Asstt, Executive Engineer ( Elec.) P.W.D. Rajasthan Government to the post of Executive Engineer. The State Office, Jaipur accepted the petitions and took up the matter for redressal of the grievances of the petitioner with the Secretary and Chief Engineer, P.W.D., Govt. of Rajasthan. The authorities finally communicated vide their letter No.1 (9) /99 dated 28.5.2002 that an engineer was promoted to the post of Executive Engineer (Elc.) on the intervention of the Commission.
- XVI A representation was received on 16.7.2001 from an SC Assistant Administrative Officers, United India Insurance Company Ltd., J.R.O., Jaipur regarding his promotion to the post of Administrative officer. The matter was taken up with the Chairman, United India Insurance Company ltd., Head Office, Chennai. On the intervention of the Commission the AAO was promoted to the cadre of Administrative Officer.
- XVII An S.C. girl, working as Jr. Clerk, ESI Corporation, Vadodara represented her case regarding her transfer from Baroda to Ahmedabad. The matter was taken up with Director of Medical Services ESI Scheme, Ahmedabad. The case was favourably considered and her request was acceded and she was transferred to Bapunagar General Hospital, Ahmedabad vide order No. ESIS/750-53/8154/57 dated 22-3-2000.
- XVIII An S.C. Administrative Officer, Gujarat State Road Transport Corporation Surat Division, Surat represented his case to State Office, Ahmedabad in regard to his transfer. The Regional.office, Ahmedabad took up the matter with the Managing Director, Gujarat State Road Transport Corporation, Ahmedabad and the concerned official intimated to the Commission that his request has been acceded to by transferring to his choice station.
- XIX A Vehicle Superintendent, Central Circle, Survey of India, Jabalpur (MP) made a representation to the Commission on 30-5-2001 on the plea that due to the wrong attitude and discrimination towards the members of SC/ST, the management of Survey of India kept him under suspension w.e.f. 3-4-2001. Since there was no promotion avenues for the vehicle Superintendent in the Survey of India, the consultant applied for the post of Regional Inspector (Technical) in UP Public Service Commission and was accordingly selected . The Survey of India made attempts to stall his appointment to the post of Regional Inspector (Tech.) in UP to which he was selected. The petitioner sought the intervention of the Commission for early finalization of his case of suspension so that he could be relieved from the Survey of India to enable him to join his new post as offered by UP Public Service Commission in Government of UP. The Survey of India

was asked to submit the factual status of the alleged case. After considering the denials of all the charges by the charged officer the Commission enquired into the matter and on intervention the Survey of India had taken remedial measures and finally:

- (i) The suspension order was revoked on 25-9-2001.
- (ii) The Memorandum of Charges issued were withdrawn on 25-9-2001.
- (iii) The resignation of aggrieved official was accepted on 26-9-2001 to enable him to join as Regional Inspector (Technical) in UP.

XX

A Store and Purchase Assistant Grade-III, ( a Scheduled Caste Official) in the Central Road Research Institute under the Council of Scientific and industrial Research, New Delhi approached the National Commission for SCs/STs stating that his case for deputation to the post of Store Officer in the Defence Research and Development Organization, Ministry of Defence to which he was selected on deputation basis, be settled as the CRRI were relieving him on the grounds that the DRDO wanted the period of deputation for not less than three years and also on some administrative reasons. The related facts were called for from the CRRI and examined from all angles in the Commission. In a meeting held on 18.10.2001, the CRRI informed the Commission that in all the cases, the period of deputation was only one year to start with but the same was likely to be extended depending upon the circumstances at the expiry of the term. In spite of their special request to take the petitioner for one year, the DRDO did not agree. On the advice of the Commission, the CRRI wrote to the DRDO requesting them that the deputation period may be curtailed to one year to start with that can be extended. With the intervention of the Commission, the DRDO as well as the CRRI agreed to take action accordingly, the petitioner was relieved on deputation w.e.f. 12.2.2002 initially for a period of one year extendable upto maximum of three years.

XXI

A representation dated 24-1-2000 from Asstt. Teacher, Narayangarh RCLUS Niketan, District Midnapore (WB) regarding undue delay in approval of the post of Asstt. Teacher reserved for SC candidate and withholding of pay rolls on account of non-approval for indefinite period by the authorities. State Office Kolkotta took up the matter with the Distt. Inspector of Schools (SE), Midnapore and with the Secretary, Deptt. of School Education, Govt. of West Bengal, Kolkatta. The Joint Secretary, School Education Deptt. vide his letter No. 2055-SE(S) 4A-II/ 2000 dated 15-11-2000 intimated that the Govt. has advised the Director of School Education, West Bengal to release the pay & allowances of the petitioner.

XXII

A scheduled caste person approached the Commission regarding non payment of retirement benefits of his father who retired as Superintendent in Nagarjuna Sagar Dam, Nalgonda complained that his father's retirement benefits were not released till April 2001 eventhough he retired on 31.8.2000. The charge against him was that he had not handed over charge of T & P Articles when he was transferred from one division to another in



1995 even-though keys and cash were handed over. The case was taken up and a major share of retirement benefits and pension were paid.

XXIII An SC Group 'D' employee, office of the Director, Mineral Mines Safety, Northern Region, Ajmer in his representation dated 17.4.2001 stated that his present Department is not paying his salary as per his LPC which was sent from the Department of Development Commissioner (Handicraft), Govt. of India. Ministry of Textile which declared him surplus. The matter was taken up by this office with the Director General, Mines Safety, Dhanbad and Ajmer offices. The Department vide their letter No. 2942 Ajmer dated 22.5.2001 communicated to the State Office that the orders have been issued to make the necessary payment of Salary as per his LPC.

XXIV An SC lady Health worker, PHC, Fuliyakala, District Bhilwara submitted a representation on 1.10.2001 regarding termination of her services wrongfully and requesting her reinstatement in service. As a result of the constant correspondence with the concerned authorities requesting them to take necessary action against the concerned authority by the State Office, finally a decision was taken by the Directorate of Medical and Health, Rajasthan, Jaipur revoking the termination orders. The petitioner was taken back into service and placed under Chief Medical and Health Office, Bhilwara for further posting.

**ANNEXURE-4.I**

**MODEL ROSTERS, SHOWING THE POINTS TO BE RESERVED FOR SCS AND STS IN A 100 'POINT' ROSTER WHERE RECRUITMENT IS MADE ON A LOCAL OR REGIONAL BASIS.**

S. No.	Name of State/Union Territory Percentage of reservation of SC/ST		Actual points to be reserved in a 100 point roster for SC/ST
1	2	3	4
1	Andhra Pradesh 15 SC/ 6 ST	SC	1, 7, 13, 19, 25, 31, 37, 43, 49, 55, 63, 69, 77, 83, 89, (15) Points.
		ST	3, 23, 39, 59, 79, 95, (6) Points.
2	Assam 6SC/11 ST	SC	3, 19, 33, 53, 73, 89 (6) Points.
		ST	1, 9, 21, 29, 39, 49, 57, 67, 75, 85, 93 (11) Points.
3	Bihar 15 SC/ 9 ST	SC	1, 7, 13, 19, 27, 33, 39, 43, 51, 57, 63, 69, 77, 83, 89, (15) Points.
		ST	3, 15, 25, 37, 47, 59, 67, 79, 93, (9) Points.
4	Gujarat. 7SC/14ST	SC	3, 17, 31, 45, 59, 73, 87 (7) Points.
		ST	1, 7, 15, 21, 29, 33, 43, 49, 57, 63, 71, 77, 85, 91 (14) Points.
5	Haryana 19SC/Nil ST	SC	1, 5, 11, 15, 21, 25, 31, 35, 41, 45, 51, 55, 61, 65, 71, 75, 81, 85, 91, (19) Points.
		ST	Nil
6	Himachal Pradesh 25SC/5ST	SC	1,5,9,13,17,25, 29, 33, 37, 41, 45, 49, 53, 57, 61, 65, 69, 73, 77, 81, 85, 89, 93, 97, (25) Points
		ST	3, 23, 43, 63, 83, (5) Points
7	Jammu & Kashmir 9SC/13ST	SC	3, 15, 27, 37, 47, 59, 69, 83, 93, (9) Points
		ST	1, 9, 17, 25, 33, 41, 49, 57, 65, 73, 81, 89, 97 (13) Points
8	Karnataka 15SC/5ST	SC	1, 7, 13, 19, 27, 33, 39, 45, 51, 57, 63, 69, 77, 83, 89, (15) Points.
		ST	3, 29, 53, 79, 93 (5) Points
9	Kerala 10SC/1ST	SC	1, 9, 19, 29, 39, 49, 59, 69, 79, 89 (10) Points
		ST	3 (1) Points

10	Madhya Pradesh 14SC/23ST	SC	3, 11, 19, 23, 31, 35, 43, 51, 59, 63, 71, 75, 83, 87 (14) Points
		ST	1, 5, 9, 13, 17, 21, 25, 29, 33, 37, 41, 45, 49, 53, 57, 61, 65, 69, 73, 77, 81, 85, 89, (23) Points.
11	Maharashtra 7SC/9ST	SC	3, 17, 31, 45, 59, 73, 87 (7) Points
		ST	1, 11, 23, 33, 43, 55, 67, 79, 91, (9) Points
12	Manipur 1 SC/ 27 ST	SC	3 (1) Points
		ST	1, 5, 9, 13, 17, 19, 23, 25, 29, 33, 37, 41, 45, 49, 53, 57, 61, 67, 71, 75, 79, 83, 85, 89, 91, 95, 97 (27) Points
13	Meghalaya 1 SC/44ST	SC	3 (1) Points
		ST	1, 5, 9, 11, 13, 15, 17, 19, 21, 23, 27, 29, 31, 33, 35, 37, 39, 41, 45, 47, 49, 51, 53, 55, 59, 61, 63, 65, 67, 69, 71, 73, 75, 77, 79, 81, 83, 85, 87, 89, 91, 93, 95, 97, (44) Points
14	Mizoram Nil SC/45ST	SC	NIL
		ST	1, 3, 7, 9, 11, 13, 15, 17, 19, 21, 23, 27, 29, 31, 33, 35, 37, 39, 41, 43, 45, 47, 49, 51, 55, 59, 61, 63, 65, 67, 69, 71, 73, 75, 77, 79, 81, 83, 85, 87, 89, 93, 95, 99, (45) Points.
15	Orissa 15SC/23ST	SC	3, 11, 19, 23, 31, 35, 43, 51, 59, 63, 71, 75, 83, 87, 95, (15) Points.
		ST	1, 5, 9, 13, 17, 21, 25, 29, 33, 37, 41, 45, 49, 53, 57, 61, 67, 71, 75, 79, 83, 85, 89, 91, 95, 97, (27) Points.
16	Punjab 27SC/NIL ST	SC	1, 5, 9, 13, 17, 19, 23, 25, 29, 33, 37, 41, 45, 49, 53, 57, 61, 67, 71, 75, 79, 83, 85, 89, 91, 95, 97, (27) Points.
		ST	Nil
17	Rajasthan 17SC/13ST	SC	1, 7, 13, 19, 25, 31, 37, 43, 49, 55, 61, 67, 73, 79, 85, 91, 97, (17) Points.
		ST	3, 11, 21, 27, 35, 45, 51, 59, 69, 75, 83, 93, (12) Points.
18	Sikkim 6SC/23ST	SC	3, 23, 41, 59, 77, 93, (6) Points.
		ST	1, 5, 9, 13, 17, 21, 27, 31, 35, 39, 45, 49, 53, 57, 61, 65, 69, 75, 79, 83, 87, 91, 95, (23) Points.

19	Tamil Nadu 19SC/1ST	SC	1,5,11,15,21,25,31,35,41,45,51,55, 61,65,71,75,81,85,91.(19)Points.
		ST	3 (1)Points.
20	Tripura 15SC/29ST	SC	3,11,17,23,31,37,45,53,59,65,71, 77,83,89,95.(15)Points.
		ST	1,5,9,13,15,19,21,27,29,33,35,39, 41,47,49,51,55,61,63,67,69,73,75,79,81, 85,87,91,93.(29)Points.
21	Uttar Pradesh 21SC/1ST	SC	1,5,11,15,21,25,31,35,41,45,51,55, 61,65,71,75,81,89,95,99.(21) Points.
		ST	3 (1)Points.
22	West Bengal 22SC/6ST	SC	1,5,9,13,17,21,27,31,35,39,45,49,53,57, 61,65,69,75,79,83,87,91.(22) Points.
		ST	3,23,43,63,85,97.(6)Points.
UNION TERRITORIES			
1	Andaman Nicobar Islands. Nil SC/12ST	SC	Nil
		ST	1,9,17,25,33,43,51,59,67,75,83,93.(12) Points.
2	Chandigarh 14SC/ NIL ST	SC	1,7,15,21,29,35,43,49,57,63,71,77,85, 91,(14)Points.
		ST	NIL
3	Dadra and Nagar Haveli 2SC/43 ST	SC	3,53,(2) Points.
		ST	1,7,9,11,13,15,17,19,21,23,25,27,29,31, 33,35,37,39,41,43,45,47,51,57,59,61,63, 65,67,69,71,73,75,77,79,81,83,85,87,89, 91,93,97, (43) Points.
4	Daman & Diu 2 SC/ 1ST	SC	1,49, (2) Points.
		ST	3 (1) Points.
5	Pondicherry 16 SC/ Nil ST	SC	1,7,11,19,25,31,37,45,51,57,63,69,75,81, ,87,93. (16)Points.
		ST	Nil

*N.B.:*

- In respect of Arunachal Pradesh, Nagaland and Lakshadweep there is no change in the existing reservation Rosters.*
- For Goa, the reservation Rosters will be the same as is given in respect of the Union Territory of Daman and Diu.*
- For Delhi the Rosters as prescribed for recruitment on all India basis is to be followed.*

No.20011/1/2001-Estt.(D)  
Government of India  
Ministry of Personnel, Public Grievances and Pensions  
Department of Personnel and Training

New Delhi, dated the 21<sup>st</sup> January, 2002

OFFICE MEMORANDUM

**Sub: - Seniority of SC/ST Government Servants on promotion by virtue of rule of reservation/roster.**

The Seniority of a person appointed to a post is determined according to the general principle 5(i) contained in MHA OM No.9/11/55-RPS dated 22.12.1959 and para 2.2 in DOPT OM No.22011/7/86-Estt.(D) dated 3.7.1986 read with DOPT OM No.20011/5/90-Estt.(D) dated 4.11.1992 ( copy enclosed). Seniority of such persons is determined by the order of merit indicated at the time of initial appointment and seniority of persons promoted to various grades is determined in the order of selection for such promotion. Thus, as per the aforementioned instructions, persons appointed through an earlier selection would enbloc be senior to those promoted through subsequent selection.

2. This position was reviewed subsequent to the judgment of the Supreme Court dated 10.10.1995 in the case of Union of India Vs. Virpal Singh Chauhan etc. (JT 1995(7) SC.231) and it was decided vide DOPT OM No.20011/1/96-Estt.(D), dated 30.1.1997, to modify the then existing policy by addition of the proviso to general principle 5(i) contained in MHA (now DOPT) OM No.9/11/55-RPS dated 22.12.1959 and para 2.2 in DOPT OM No. 22011/7/86-Estt.(D) dated 3.7.1986, which stipulated that if a candidate belonging to the Scheduled Caste or the Scheduled Tribe is promoted to an immediate higher post/grade against a reserved vacancy earlier than his senior general/OBC candidate who is promoted later to the said immediate higher post/grade, the general/OBC candidate will regain his seniority over such earlier promoted candidate of the Scheduled Caste and the Scheduled Tribe in the immediate higher post/grade.

3. The Government have now decided to negate the effects of the DOP&T OM dated 30<sup>th</sup> January, 1997 by amending Article 16(4A) of the Constitution right from the date of its inclusion in the Constitution i.e. 17<sup>th</sup> June, 1995, with a view to allow the Government servants belonging to SCs/STs to retain the seniority in the case of promotion by virtue of rule of reservation. In other words, the candidates belonging to general/OBC category promoted later will be placed junior to the SC/ST Government Servants promoted earlier even though by virtue of the rule of reservation.

4. Therefore, in pursuance of the aforementioned Constitution ( Eighty-fifth) Amendment Act, 2001 it has been decided as follows.

- (i) (a) SC/ST Government servants shall, on their promotion by virtue of rule of reservation/roster, be entitled to consequential seniority also; and
- (b) the above decision shall be effective from 17<sup>th</sup> June, 1995.

- (ii) The instructions contained in DOPT O.M. No.20011/1/96-Estt.(D) dated 30.1.1997 as well as the clarifications contained in DOPT O.M. No.20011/2/97-Estt.(D) dated 21.3.1997 shall stand withdrawn w.e.f. 30.1.1997 itself.
- (iii) Seniority of Government servants determined in the light of O.M. dated 30.1.1997 shall be revised as if that O.M. was never issued.
- (iv) (a) On the basis of the revised seniority, consequential benefits like promotion, pay, pension, etc. should be allowed to the concerned SC/ST Government servants (but without arrears by applying principle of 'no work no pay').
- (b) For this purpose, senior SC/ST Government servants may be granted promotion with effect from the date of promotion of their immediate junior general/OBC Government servants.
- (c) Such promotion of SC/ST Government servant may be ordered with the approval of Appointing Authority of the post to which the Government servant is to be promoted at each level after following normal procedure of DPC ( including consultation with UPSC)
- (v) Except seniority other consequential benefits like promotion, pay etc. ( including retrial benefits in respect of those who have already retired) allowed to general /OBC Government servant by virtue of implementation of O.M. dated 30.1.1997 and/or in pursuance of the directions of CAT/Court should be protected as personal to them.

5. All Ministries/Departments are requested to bring the above decisions to the notice of all concerned for guidance and compliance. Necessary action to implement the decisions contained in para 4 (iii) above may be completed within three months from the date of issue of these instructions and necessary action to implement the decision at para (iv) above may be completed within 6 months from the date of issue of these instructions.

6. Hindi version will follow.

Sd/-  
(Alok Saxena)  
Dy.Secy.to the Govt. of India

To

All Ministries/Departments of the Govt. of India

Copy to: -

1. The Comptroller and Auditor General of India.
2. The Secretary, Union Public Service Commission.
3. Rajya Sabha Secretariat
4. Lok Sabha Secretariat
5. All State Governments/Union Territory Administrations
6. All Attached/Subordinate offices under the Department of Personnel and Training/ Ministry of Home Affairs.

7. Ministry of Railways (Railway Board).
8. National Commission for SCs/STs, New Delhi.
9. National Commission for OBCs, New Delhi.
10. The secretary, Staff Side, National Council
11. The Registrar General, The Supreme Court of India
12. All Officers/Sections of DOPT.
13. Principal Information Officer, Ministry of I&B.
14. Facilitation Center, DOP&T- 20 spare copies.
15. NIC ( DOPT Branch) for placing this O.M. on the web site of DOPT.
16. Establishment (D) Section ( 500 copies).

**No.36012/23/1996-Estt.(Res.)-Vol.II  
Government of India  
Ministry of Personnel, Public Grievances and Pensions  
Department of Personnel and Training**

**New Delhi, dated the 3<sup>rd</sup> October, 2000**

**OFFICE MEMORANDUM**

**Sub: - Reservation in promotion – Prescription of lower qualifying marks/ lesser standard of evaluation.**

The undersigned is directed to refer to Department of Personnel and Training's OM No.36012/23/96-Estt.(Res) dated 22<sup>nd</sup> July, 1997 vide which various instructions of the Government providing for lower qualifying marks/ lesser standards of evaluation in matters of promotion for candidates belonging to the Scheduled Castes and Scheduled Tribes had been withdrawn, on the basis of the Supreme Court's judgement in the case of S. Vinod Kumar Vs. Union of India.

2. The undersigned is further directed to say that the matter has been reviewed, consequent to which the following proviso to Article 335 has been incorporated in the Constitution by the Constitution ( Eighty Second Amendment) Act, 2000:-

“ Provided the 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.”

3. In pursuance of the enabling proviso of Article 335 of the Constitution, it has now been decided to restore, with immediate effect, the relaxations/ concessions in matters of promotion for candidates belonging to SCs/STs by way of lower qualifying marks, lesser standards of evaluation that existed prior to 22.7.1997 and as contained in the instructions issued by the Department of Personnel and Training from time to time including OM No.8/12/69-Estt. (Scheduled Castes and Scheduled Tribes) dated 23.12.1970, No.36021/10/76-Estt.(Scheduled Castes and Scheduled Tribes) dated 21.1.1997 and para 6.3.2 of the DPC guidelines contained in Department of Personnel and Training's OM No.22011/5/86-Estt.(D) dated 10.4.1989. In other words, the effect of these instructions would be that the Department of Personnel and Training's OM No. 36012/23/96-Estt.(Res). Dated 22<sup>nd</sup> July 1997 becomes I operative from the date of issue of this OM.

4. These orders shall take effect in respect of selections to be made on or after the date of issue of this OM and selections finalized earlier shall not be disturbed.



5. All Ministries/Departments are requested to being these instructions also to the notice of their Attached/Subordinate Offices and Autonomous Bodies/Public Sector Undertakings under their control for compliance.

Sd/-  
(J. Kumar)  
Deputy Secretary to the Govt. of India  
Tel.No.3011797

To

1. All Ministries/Departments of the Govt. of India.
2. Department of Economic Affairs (Banking Division), N.D.
3. Department of Economic Affairs (Insurance Division), N.D.
4. Department of Public Enterprises, N.D.
5. Railway Board.
6. Union Public Service Commission/Supreme Court of India/Election Commission/Lo Sabha Sectt./Rajya Sabha Sectt. /Cabinet Sectt./ Central Vigilance Commission/President's Sectt. Prime Minister's Office/ Planning Commission.
7. Staff Selection Commission, CGO Complex, Lodi Road, New Delhi.
8. Ministry of Social Justice & Empowerment, Shastri Bhawan, New Delhi.
9. National Commission for SCs & STs, Lok Nayak Bhawan, New Delhi.
10. National Commission for Backward Classes, Trikoot-I, Bhikaji Cama place, R.K. Puram, New Delhi.

**No.36012/5/9-Estt.(Res.)-Vol. II  
Government of India  
Ministry of Personnel, Public Grievances and Pensions  
Department of Personnel and Training  
Estt. (Reservation) Section**

**North Block, New Delhi-110001**

**New Delhi, dated the 20<sup>th</sup> July, 2000**

**OFFICE MEMORANDUM**

**Sub: - Treatment of backlog vacancies reserved for SCs and STs as a distinct group and non-applicability of 50 per cent ceiling thereon.**

The undersigned is directed to invite a reference to Department of Personnel and Training's O.M. No. 36012/5/97-Estt.(Res.) dated 29<sup>th</sup> August, 1997 wherein it was laid down that 5- per cent limit on reservation shall apply to current as well as backlog vacancies and that backlog of reserved vacancies shall not be treated as distinct group for the purpose of 50 percent limit on reservation and to say that the matter has been reviewed. Consequently, article 16 (4B) has been incorporated in the Constitution by the Constitution (Eighty-First Amendment) Act, 2000, which provides as under: -

“ 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 per cent reservation on total number of vacancies of that year.”

2. In pursuance of the provision of Article 16 (4B) of the Constitution, it has been decided that in partial modification of the instructions issued vide this Department's O.M. No.36012/5/97-Estt.(Res.), dated the 29<sup>th</sup> August, 1997, the reserved vacancies for Scheduled Castes and Scheduled Tribes in all cases of direct recruitment and promotion, wherever applicable, which have remained unfilled in the earlier year (s) i.e. backlog and/or carried forward vacancies would be treated as a separate and distinct group and will not be considered together with the reserved vacancies of the year in which they are being filled up for determining the ceiling of 50 percent reservation on total number of vacancies of that year. In other words, the ceiling of 50 per cent on filling up of reserved vacancies would apply only on the reserved vacancies which arise in the current year and the backlog/carried forward reserved vacancies for SCs /Sts of earlier years would be treated as a separate and distinct group and would not be subject to any ceiling. However, backlog and/ or carried forward reservation will automatically lapse in a cadre as soon as combined representation of a reserved category in direct recruitment as well as promotion

is either equal to or more than the prescribed number of reserved posts in the relevant post-based rosters.

3. As the Ministries are aware, reservation with effect from 2.7.1997 is linked to post based rosters. The backlog of vacancies would, be determined with reference to the post based rosters keeping in view the instructions issued vide this Department's O.M. No. 36012/2/96-Estt.(Res.) dated the 2<sup>nd</sup> July, 1997.

4. The Ministries/Departments etc. are requested to carry out a review for carry assessment of the backlog vacancies in respect of SCs & STs both by way of direct recruitment and promotion and make concerted efforts to fill up backlog vacancies.

5. This order takes effect from the date of issue.

6. All Ministries/Department are requested to bring these instructions also to the notice of their Attached/Subordinate Offices and Autonomous bodies/Public Sector undertaking under their control for compliance.

Sd/-

(J.Kumar)

**Deputy Secretary to the Government of India**

Tel No. 3011797

To

1. All Ministries/Department 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 Secretariat /Prime Minister's Office/Planning Commission..
7. Staff Selection Commission, CGO Complex, Lodi Road New Delhi.
8. Ministry of Social Justice & Empowerment, Shastri Bhawan, New Delhi.
9. National Commission for SCs & STs, Lok nayak Bhawan, New Deihi.
10. National Commission for backward Classes, Trikoot -I, Bhikaji Cama Place, R. K. Puram, New Delhi.

## **CHAPTER V**

# **THE PROBLEM OF FALSE CASTE/TRIBE CERTIFICATES AND REMEDIAL MEASURES**

Caste and Tribe status certificate of a person belonging to a specific Caste/Tribe notified as Scheduled Caste/Scheduled Tribe in relation to a particular State is one of the essential requirements to avail the right of reservation of seats in the House of the People and in the legislative assemblies of the States (Article 330 and 332) and Panchayat Raj Institution and Municipal Bodies (Article 243D) and Article 243 T) and also in initial appointments to an office or post and for promotion to a post under the state (Article 16(I), 16(4) & 16(4-A)). The Caste/Tribe certificate also plays a vital role in the execution of non-statutory benefits under various developmental programmes meant for the members of Scheduled Castes and Scheduled Tribes.

### **CONSTITUTIONAL PROVISIONS**

5.2 Article 366(24): - "Scheduled Caste" means such caste, races or tribes or part of or groups within such castes races or tribes as are deemed under Article 341 to be Scheduled Castes for the purposes of this Constitution.

5.3 Article 341: - "(1) The President may with respect to any State or union Territory, and where it is a State, after Consultation with the Governor thereof, by public notification, Specify the Caste, Races or Tribes or parts of or groups within castes, Races or Tribe which shall for the purpose of this Constitution be deemed to be Scheduled Castes in relation to that State or Union Territory, as the case may be. (2) Parliament may by law include in or exclude from the list of Scheduled Castes specified by a notification issued under clause (1) any caste, race or tribe, but save as aforesaid a notification issued under the said clause shall not be varied by any subsequent notification.

5.4 Article 366(25): - "Scheduled Tribes" means such tribes or tribal communities or parts of or groups within such tribes or tribal communities as are deemed under Article 342 to be Scheduled Tribes for the purposes of this Constitution.

5.5 Article 342: - "Scheduled Tribes" (1) The President may with respect to any State or Union Territory, and where it is State, after consultation with the Governor thereof, by public notification, specify the tribes or tribal communities or parts or groups within tribes or tribal communities which shall for the purpose of this Constitution be deemed to be Scheduled Tribes in relation to the State or UT as the case may be. (2) Parliament may by law include in or exclude from the list of Scheduled Tribes specified in a notification issued under clause (1) any tribal community, or part of or group within any tribal community, but save as aforesaid a notification issued under the said clause shall not be varied by any subsequent notification".

5.6 So far 6 orders have been issued under Article 341 and 342 of the Constitution identifying castes, races or groups as Scheduled Castes or Scheduled Tribes, including modifications to the original lists.

## GOVERNMENT OF INDIA INSTRUCTIONS

5.7 Government of India has issued a number of circulars from time to time indicating the authorities who would issue the caste status certificates. Certain instances had come to the notice of the Government wherein caste certificates of Scheduled Caste/Tribes were not being issued strictly in accordance with the principle governing the issue of such certificates. As a result Govt. of India issued a letter on 22.3.1977 to all State Governments/U.T. Administrations clarifying the position. The relevant part of the letter is reproduced as under: -

"It is understood that some State Governments/U.T. Administrations have empowered all their Gazetted Officers to issue such certificates and Revenue Authority issue certificates on the basis of the certificates issued by Gazetted Officer, MPs and MLA etc. If such a practice is followed there is a clear danger of wrong certificates being issued, because in the absence of proper means of verification such authorities can hardly ensure the intrinsic correctness of the facts stated in such certificates. In order to check the issuance of false certificates, the question of verification assumes all the more importance.

5.8 It was emphasized that not only the Revenue Authorities of the locality where the claimant ordinarily resides would have access to revenue records and they alone will be in a position to make reliable enquiries before the issuance of the certificates. In spite of the above clarification and instructions there are several instances of SC/ST certificates being issued to ineligible persons without proper verification by the officials empowered to issue such certificates. This has resulted in a large number of ineligible persons availing of the benefits meant for the Scheduled Castes and Scheduled Tribes on the basis of the false certificates. Government of India, Ministry of Home Affairs in a letter No. 12025/1/82-SCBCD-IV dated 19<sup>th</sup> June, 1982 addressed to the Chief Secretaries of the all State Governments/UT Administrations while communicating the above observation had requested to take strict measures to detect such cases of non-Scheduled Caste and non-Scheduled Tribe persons holding false SC/ST certificates, to withdraw the benefits that they are enjoying and to impose appropriate penalties and to take legal action against them as well as against those who were responsible for the issue of such certificates. The State Governments/UT Administrations were also advised to set up special courts for trying cases relating to the issue of bogus certificates and provide for deterrent punishment against those responsible for issue of false caste certificates and to give wide publicity indicating the name of persons who are convicted of this offence by the courts.

5.9 The instruction issued by the Government vide MHA OM No. 42/34/52-NGS dated 17.4.1953 provide that the appointing authorities should verify the SC/ST certificates through the competent authority of the place of permanent abode of the certificate holder(s) and in case, the verification reveal that the candidates claim is false, his/her services should be terminated. As these instructions were not being scrupulously observed by the administrative authorities, the Government of India in DOPT issued instructions vide OM No. 36012/6/88-Estt.(SCT) dt. 24.4.1990, directing the appointing authorities to include the following clause in the offer of appointment to the candidates claiming to be SCs/STs.

"The appointment is provisional and is subject to the caste/tribe verification being verified through the proper channel and if the

verification reveals that the claim to belong to SC/ST, as the case may be, is false, the services will be terminated forthwith without assigning any further reasons and without prejudice to such further action as may be taken under the provisions of the Indian Penal Code for production of false certificate.”

5.10 It has, however, been observed that the appointing authorities are not generally incorporating the above clause in the offers of appointment. The Commission, therefore, recommends that non-inclusion of the above clause in the offer of appointment should be treated as a serious lapse and necessary disciplinary action should be taken against the officer issuing such letters of offer.

#### **GRAVITY OF FALSE CASTE/TRIBE CERTIFICATES.**

5.11 Despite the instructions issued by the Government from time to time, the Commission has observed that the menace of false caste certificate is on the increase. The National Commission has been drawing the attention of the concerned authorities to this problem both through recommendations made in the Annual Reports as well as by addressing concerned authorities at various levels. The Commission feels that the issue has not been given the attention it deserves and many false caste certificate holders are taking undue advantage of the system, depriving there by the genuine SCs/STs, of their due benefits. The action taken by the concerned Departments/Organisations and Prosecution agencies is often slow and tardy resulting in fraudulent persons enjoying unfair benefits. In this regard a bill should be introduced in the Parliament to regulate the issue of community certificate relating to persons belonging to SC, ST and OBC. This would prove to be a milestone in curbing the menace of issue of false community certificate if it is enacted by Parliament.

5.12 The concept of verification and cancellation is quite different. Verification needs an enquiry by the competent authority either directly or through the subordinate officers, where as the process of cancellation is a quasi-judicial one. Under the process of cancellation the competent authority holds an enquiry; records the oral and documentary evidences and gives reasons on findings arrived at. The competent authority directs the issuing authority to prove that the said certificate has not been issued wrongly, as the burden lies on the issuing authority and not on the certificate holder. The certificate holder cannot be called upon to justify the validity of the certificate. In case the competent authority is satisfied that the certificate is invalid, it may order that the certificate is cancelled and the incumbent may also be prosecuted for procuring the certificate on the basis of false and fabricated documents.

5.13 The Ministry of Home Affairs, which was earlier looking after the work relating to SCs and STs had issued a checklist for issue and verification of SC/ST certificate vide their letter No. 35/1/72-RU(SCT.V) dt. 2.5.1975. In view of this check list and subsequent amendments, the following points are to be kept in view while issuing SC/ST certificates.

- i. It should be verified that the person and his/her parents actually belong to the SC/ST community claimed by him. It has been observed that due to phonetic similarities, persons who actually do not belong to SC/ST, manage to get SC/ST certificates in the name of community/cast as scheduled castes and /or scheduled tribes.

- ii. It should be verified that the caste/community is included in the official SC/ST list of the concerned State/UT. Before issuing of the SC/ST certificate, the competent authority should check the list of SC and ST Communities included in the Presidential orders instead of depending on his/her memory.
- iii. It should be verified that the person actually belongs to the State in respect of which the community has been scheduled. In view of word "in relation to that State" contained in Article 341(1) and 342(1) of the Constitution, a person belonging to SC or ST in one State cannot be automatically be regarded as belonging to SC or ST in another State.
- iv. The person claiming to be SC should profess Hindu, Sikh or Buddhist religion, where as a person claiming to be member of ST may profess any religion.
- v. The person or his/her parents should have been permanent residents of the place mentioned in the certificate on the date of notification of Presidential order applicable in his/her State.

#### **JUDICIAL PRONOUNCEMENTS AND NEED FOR STREAMLINING PROCEDURE-**

5.14 While considering a case relating to a false certificate, the Supreme Court laid down the procedure and guidelines, which should be followed in issuing the caste/tribe certificates, in Civil Appeal No. 5854 Kumari Madhuri. Patil Vs. Government of Maharashtra, 1994.

- i. The application for grant of social status certificate shall be made to the Revenue Sub-Divisional Officer and Deputy Collector or Deputy Commissioner and the certificate shall be issued by such officer rather than by the officer at Taluk or Mandal level.
- ii. The parents, guardian or the candidate, as the case may be, shall file an affidavit duly sworn and attested by a competent gazetted officer or non-gazetted officer with particulars of castes and sub-castes, tribes, tribal community, parts or groups of tribes or tribal communities, the place from which he originally hails from and other particulars as may be prescribed by the concerned Directorate.
- iii. Application for verification of the caste certificate by the Scrutiny Committee shall be filed at least six months in advance before seeking admission into an educational institution or appointment to a post.
- iv. All the State Governments shall constitute a Caste Scrutiny Committee of three officers, namely, (i) an Additional or Joint Secretary or any officer higher in rank to the Director of the concerned department, (ii) the Director, Social Welfare/Tribal Welfare/Backward Class Welfare, as the case may be, and (iii) in the case of Scheduled Caste another officer who has intimate knowledge in the verification and issuance of the social status certificate. In the case of Scheduled Tribes, the Research Officer who has intimate knowledge in identifying the tribes, tribal communities, part of or groups of tribes or tribal communities.

- v. Each Directorate should constitute a vigilance cell consisting of senior Deputy Superintendent of Police in over all charge and such number of Police Inspectors to investigate into the social status claims. The inspector would go to the local place of residence and original place from which the candidate hails and usually resides or in case of migration to the town or city, the place from which he originally hailed from. The vigilance officer should personally verify and collect all the facts of the social status claimed by the candidate or the parent or guardian as the case may be. He should examine the school record, birth registration, if any. He should also examine the parent, guardian or the candidate in relation to their caste etc. or such other persons who have knowledge of the social status of the candidate and then submit a report to the Directorate together with all particulars as envisaged in the proforma, in particular, of the Scheduled Tribes relating to their peculiar anthropological and ethnological traits, deity, social customs, mode of marriage, death ceremonies, method of burial of dead bodies etc. by the concerned castes or tribes or tribal communities etc.
- vi. The Director concerned, on receipt of the report from the vigilance officer, if he finds the claim for social status to be "not genuine" or "doubtful" or "spurious" or "falsely or wrongly claimed" should issue show cause notice supplying a copy of the report of the vigilance officer to the candidate by registered post with acknowledgement due or through the head of the concerned educational institution in which the candidate is studying or employed. The notice should indicate that the representation or reply, if any, would be made within two weeks from the date of the receipt of the notice and in no case on request not more than 30 days from the date of the receipt of the notice. In case, the candidate seeks for an opportunity of hearing and claims an inquiry to be made in that behalf, the Director on receipt of such representation/reply shall convene a meeting of the constituted committee and the Joint/Additional Secretary as chairperson who shall give reasonable opportunity to the candidate/parent/guardian to adduce all evidence in support of their claims. A public notice by beat of drum or any other convenient mode may be published in the village or locality and if any person or association opposes such a claim, an opportunity to adduce evidence may be given to him/it. After giving such opportunity either in person or through counsel, the committee may make such inquiry as it deems expedient and consider the claims vis-à-vis the objection raised by the candidate or opponent and pass an appropriate order with brief reasons in support thereof.
- vii. In case the report is in favour of the candidate and found to be genuine and true, no further action need be taken except where the report or the particulars given are procured or found to be false or fraudulently obtained and in the latter event the same procedure as is envisaged in para 6 be followed.
- viii. Notice contemplated in para 6 should be issued to the parents/guardian also in case candidate is a minor, to appear before the Committee with all evidence in his or their support of the claim for the social status certificates.
- ix. The inquiry should be completed as expeditiously as possible preferably by day to day proceedings within such period not exceeding two months. If



after inquiry, the Caste Scrutiny Committee finds the claim to be false or spurious, they should pass an order cancelling the certificate issued and confiscate the same. It should communicate within one month from the date of conclusion of the proceeding the result of the inquiry to the parent/guardian and the applicant.

- x. In case of any delay in finalizing the proceedings and if in the interim period the last date for admission into an educational institution or appointment to an office or post, is getting expired, the candidate be admitted by the principal or such other authority competent in that behalf or appointed on the basis of the social status certificate already issued or an affidavit duly sworn by the parent/guardian/candidate before the competent officer or non-official and such admission or appointment should be only provisional, subject to the result of the inquiry by the Scrutiny Committee.
- xi. The order passed by the committee shall be final and conclusive only subject to the proceedings under Article 226 of the Constitution.
- xii. No suit or other proceedings before any other authority should lie.
- xiii. The High Court would dispose of these cases as expeditiously as possible within a period of three months. In case, as per procedure, the Writ Petition/Miscellaneous Petition/Matter is disposed off by a single judge, then no further appeal would lie against that order to the Division Bench but subject to special leave under Article 136.
- xiv. In case, the certificate obtained or social status claimed is found to be false, the parent/guardian/candidate should be prosecuted for making false claim. If the prosecution ends in a conviction and sentence of the accused, it could be regarded as an offence involving moral turpitude, disqualification for elective posts or offices under the State or the Union or election to any local body, legislature or the Parliament.
- xv. As soon as the findings are recorded by the Scrutiny Committee holding that the certificate obtained was false, on its cancellation and confiscation simultaneously, it should be communicated to the concerned educational institution or the appointing authority by Registered Post with acknowledgement due with a request to cancel the admission or the appointment. The principal etc. of the educational institution responsible for making the admission or the appointing authority as the case may be, should cancel the admission/appointment without any further notice to the candidate and debar the candidate for further study or continuance in office in a post.

#### **SCRUTINY AND REVIEW COMMITTEE**

5.15 In view of the increasing incidence of the cases of false caste certificates and in pursuance of Government directions and Supreme Court orders, many States have initiated steps to set up Scrutiny Committees at District and State levels. Such Committees have been set up in Andhra Pradesh, Karnataka, Kerala, Madhya Pradesh, Maharashtra, Rajasthan, Tamil Nadu, Uttar Pradesh and UT of Chandigarh.

5.16 There is an urgent need that such Scrutiny and Review Committees are set up in other States/UTs without any further delay and in the States where such Committees have been set up, they should be more active and vigilant. The Committee must not only look into

individual cases, but also attempt to check any organized efforts on part of certain groups who try to get false community certificates for the entire community on fraudulent basis.

5.17 In another case of Director of Tribal Welfare, Govt. of Andhra Pradesh Vs. Lavatti Giri and others, the Supreme Court in its Judgment dt. 18.4.1995 desired, "The Govt. of India would have the matter examined in greater detail and bring about a uniform legislation with necessary guidelines and rules prescribing penal consequences on persons who flout the Constitution and corner the benefits reserved for the real tribals etc. so that the menace of fabricating the false records and to gain unconstitutional advantages by plain/spurious persons could be prevented."

5.18 In view of the above judgment the Government of India had decided to enact an Act to regulate the issue of community certificates relating to persons belonging to the Scheduled Castes, Scheduled Tribes and Other Backward Classes.

5.19 A bill seeking to give effect to the above decision had been proposed and forwarded to all the State Governments for their views and copy was also sent to the Commission.

5.20 The bill seeks to lay down a well-defined procedure for issuing of community certificates for SCs/STs and OBCs, which would be applicable throughout the country. It seeks to provide for a competent authority that would issue the certificate suo moto or on a complaint filed by any person or a case referred to it by an employing authority or head of an educational institution. It also provides for stringent punishment for those who obtain false community certificates and for those responsible for issuing the same. Action for withdrawal of benefits and recovery of arrears has also been provided for.

5.21 The Commission welcomed these steps in enacting central legislation for issue of certificates. However, on a detailed examination of the Bill in its present form, it had suggested some amendments. The main observation and comments of the Commission are that the punishment should be higher so as to act as an effective deterrent. Not only should the false community certificate holders be debarred from the offices/educational institutions, but even in the case of elective offices, they should be debarred from contesting for a period of six years apart from facing the punishment prescribed under the law.

5.22 The Commission also finds that in a fairly large number of cases including False Caste Certificates, the holders of such certificates have gone to the court on some pretext or other and got stay orders and thereby continue to be in service and enjoy all the benefits. The number of such cases is fairly large in the States like Tamil Nadu. There is an urgent need to monitor the disposal of such cases at the State Govt. level.

#### **OBSERVATIONS/ RECOMMENDATIONS**

5.23 The Commission makes the following observations/ recommendations on the basis of issues and cases that have come to notice.

- i. **The instructions issued by the Govt. of India from time to time about the issuance and verification of community certificate should be followed strictly by the competent issuing authorities. The issuing authority should be made accountable for the issuance of false/fake caste certificates.**

- ii. The appointing authorities should verify the Scheduled Caste and Scheduled Tribe certificates through the competent authority of the place of permanent residence of the certificate holder(s) and in case, the verification reveals that the candidates claim is found to be false, his/her services should be terminated.
- iii. In the case of elective offices such as Parliament/Legislative Assembly/Municipal Corporation/Panchayat the false caste certificate holder should be immediately sacked from the post/chair and must be debarred from contesting election for atleast 6 years besides the punishment provided under law.
- iv. Even after the cases are decided that community certificates are false after following the prescribed procedures (Deflected, follow up of inquiry, verification and cancellation of certificate) termination of services, sacking from elective officers and criminal action are not being taken. On the other hand, due to slow follow up action the false caste/Tribe certificate holders are able to take undue advantage and continue in service/chair by getting stay orders from the courts. Efforts should be made to get such stay orders vacated. This is not being pursued vigorously and expeditiously.
- v. In no case should the false SC/ST certificate holder be allowed to work as a general candidate. The services of such a fake certificate holder should be terminated and in case of elective officers should be sacked from the office, and post/seat so vacated be filled from SC/ST for whom it was originally reserved.
- vi. In case the false SC/ST certificate holder takes the shelter of court, the Hon'ble Court may be approached to vacate the stay order, if granted, and to finalise the case on top priority to ensure that the person does not continue to enjoy the benefits meant for SC/ST. This will ensure that not only such guilty persons are suitably punished but also face departmental action.
- vii. A comprehensive bill to regulate the issue of community certificates relating to persons belonging to SC/ST/OBC should be introduced in the Parliament as early as possible so that action can be taken against those who misuse the provisions and obtain false caste certificate and these officers who abet such offences can also be suitably brought to book. A legislation, applicable to States/UTs and offices of Central Governments etc. will also facilitate the use of a common procedure and action throughout the country.

## CHAPTER VI

### PROTECTION OF CIVIL RIGHTS

One of the historic injustices, which the Indian Society has suffered, was discrimination of certain classes of persons by reason of their birth in certain castes. These people have adversely suffered over centuries by deep rooted tradition because they have been devalued, and because they have not been treated with the respect that accrues to human beings by virtue of being human. They remained backward, as they were not allowed access to economic resources due to caste prejudices, exploited and discarded as to be excluded from the social-economic-political mainstream. Unfortunately, the unhealthy practices of untouchabilities have still been continuing both at physical level and through wrong mental make up which has already distanced, if not alienated a substantial section of workforce from contributing meaningfully to nation building. The problems have been compounded by a multiplicity of factors like hereditary continuation of certain nuclear operation by reframe caste members of SCs, illiteracy, poverty, lack of awareness and lack of access and entitlement to productive resources, deep rooted traditional bias supported by orthodox social hierarchy etc.

6.2 The provisions of PCR Act, 1955 seeks to demolish this biased social and traditional support system and preaching and practicing untouchability.

6.3 The framers of our Constitution were aware about the abysmal injustice inflicted up on these downtrodden people for centuries and the need to imbibe a new passion for social justice. They realised that it was imperative to redress deep rooted discriminations manifested in many forms, by Constitutional means, through a number of Constitutional measures. Accordingly, they had decided to abolish untouchability and made appropriate provision in the Constitution itself.

- **Article 17** of the Constitution declares that "Untouchability" is abolished and its practice in any form is forbidden. The enforcement of any disability arising out of "Untouchability" shall be an offence punishable in accordance with law. Notwithstanding, the Constitution makers also cast upon the States to secure a social order for the promotion of welfare of the people and also a special responsibility of promoting the socio - economic and educational interests of this socially discriminated section of society.
- **Article 38** provides that the State shall strive to promote the welfare of the people by securing and protecting as effectively as it may a social order in which justice, social, economic and political, shall prevail in all the institutions of national life.
- Similarly, **Article 46** contains a very significant directive to the State. It says 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. It is clear from these constitutional mandates that our Constitution makers have given an emphasis on eradication of all forms of social evils and historical injustice with declared intent of bringing these neglected and discriminated Sections

at par with the mainstream of society through a process of social assimilation.

## **THE PROTECTION OF CIVIL RIGHTS ACT, 1955**

6.4 The Parliament passed the Untouchability (Offences) Act, 1955 to give effect to the declaration made in Article 17 of the Constitution and it came into force on 01.6.1955. The statement of Objects and Reasons appended to the Bill published in the Gazette of India 1953, Extraordinary Part II Section 11 at page 1208 States:

6.5 "Under Article 17 of the Constitution, untouchability is abolished and its practice in any form is forbidden. The enforcement of any disability arising out of untouchability shall be an offence punishable in accordance with the Law. As no Central Law exists on the subject, a Law had to be enacted by the Parliament as required by sub-clause (ii) of clause (a) of Article 35 of the Constitution and the Bill had been prepared in pursuance of this requirement.

6.6 As it was difficult to define untouchability, the scheme of the draft Bill made express provisions with respect to the more common forms of untouchability, which are practiced in India. The special features of the Bill as compared with the existing State Laws on the subject are that:

- a) the Bill is not confined to Hindus
- b) an untouchable shall not cease to be an untouchable, if he resides in any locality other than the locality mentioned in relation to him under the Constitution (Scheduled Castes) Order, 1950;
- c) whoever takes any part in the ex-communication of, or imposition of any social disability on any person who refuses to practise untouchability or does any act in furtherance of the objects of this new Law will also be guilty of an offence;
- d) In addition to the normal penalty for an offence, the Court may also cancel or suspend any license in respect of profession, trade, calling or employment when an offence is committed under this Law during the course of any such profession, trade calling or employment. Offences under this new Law are to be cognizable."

6.7 Although the Untouchability (Offences) Act, 1955 has brought tremendous effect on the process of eradication of the evil of untouchability, it was felt that there is still scope and need to amend it further so that it may become more comprehensive and effective in ensuring social justice to the Scheduled Castes. In 1965, the Govt. of India appointed a Committee under the Chairmanship of Shri L. Elayaperumal on untouchability, economic and educational development of the Scheduled Castes. The Committee submitted its report in 1969, and after examining the recommendations made by the Committee, Govt. of India introduced a Bill known as the Untouchability (Offences) and Amendment and Miscellaneous Provisions Bill, 1972 in Lok Sabha in April, 1972. The Parliament amended the Act of 1955 in November, 1976, renaming it as the Protection of Civil Rights Act, 1955. This Act came into force from 19.11.1976. The object of this Act was to prescribe punishment for the preaching and practice of

"Untouchability" for the enforcement of any disability arising therefrom and for matters connected therewith. In this Act the term Civil Rights has been defined as any right accruing to a person by reason of abolition of "Untouchability" by Article 17 of the Constitution. Offences under the Act have been made non-compoundable. Summary trial has been prescribed in every such offence, except where it is punishable with imprisonment for a minimum term exceeding three months. Punishment in number of offences has also been considerably enhanced.

6.8 Section 15-A of the PCR Act, 1955 imposes a statutory duty on the State Governments to ensure that the rights accruing from the abolition of "untouchability" are made available to, and are availed of by, the persons subjected to any disability arising out of "untouchability". These measures include the provisions of adequate facilities including legal aid to the persons subjected to any disability arising out of "untouchability", the appointments of officers for initiating or exercising supervision over prosecutions for contravention of the provisions of this Act, setting up of Special Courts, Committees, periodic survey of the working of the provisions of this Act, and identification of areas where persons are under any disability arising out of "untouchability". It was made mandatory for the Central Government to place every year a Report on the measures taken by itself and by the State Governments on the Table of each House of Parliament. This section is intended to keep a constant watch by the Central Government on the enforcement of the provisions of this Act. The Central Government has so far tabled 19 reports under the provision of this Act.

6.9 The Commission has endeavored to review the status of the Protection of Civil Rights of Scheduled Castes in various parts of the Country and the extent of the implementation of the provisions of the Protection of Civil Rights Act, 1955 by the various States/UTs. The present review is based on the information furnished by the Ministry of Social Justice and Empowerment, Govt. of India in its 19<sup>th</sup> Annual Report on the working of Section 15 (A) of the PCR Act for the year ending 1999 Tabled in Lok Sabha on 18.12.2001 and Rajya Sabha on 11.3.2001. Some of the information made available by the Ministry in the agenda note for the meeting of nodal officers of Home and Social Welfare Departments of States/UTs to review the working of the PCR Act, 1955 and the SCs and STs (POA) Act, 1989 have also been taken into account.

#### **DISTRIBUTION OF CRIMES UNDER THE PCR ACT DURING 1999**

6.10 The information of registration of crime cases under the PCR Act furnished by the State/UTs for the year 1999 revealed that Andhra Pradesh had registered the maximum number of crime cases 279 (53.04%) out of total 526 cases registered in the Country. The State of Karnataka and Maharashtra had the next highest number of crime cases i.e. 106 (20.15%) and 53 (10.08%) respectively followed by Tamil Nadu 32 (06.09%), Madhya Pradesh 13(02.47%), Pondicherry 10 (01.90%) and Delhi 10(01.90%) respectively. Less than five cases had been reported from the States/UTs of Punjab, Orissa, Gujarat, Kerala, Bihar, Himachal Pradesh, Rajasthan, Haryana and Jammu & Kashmir. No case of crime under the PCR Act, however, had been reported from the States/UTs of Arunachal Pradesh, Assam, Meghalaya, Nagaland, Mizoram, Sikkim, Tripura, West Bengal, Andaman & Nicobar Island, Uttar Pradesh, Chandigarh, Dadra & Nagar Haveli, Daman & Diu, Lakshadweep and Goa.

6.11 The magnitude of crime cases registered under the PCR Act in the States of Andhra Pradesh and Karnataka reportedly is quite high and thus appears to be a matter

of anxiety. It needs effective steps by the States to curb the upward trend of prevalence of denial of Civil Rights to the members of Scheduled Castes. Although in the States of Maharashtra, Tamil Nadu and Madhya Pradesh, the crime cases of denial of Civil Rights on the ground of untouchability had been less as compared to Andhra Pradesh and Karnataka, there is still need to take sincere and effective steps for curbing the crime of denial of Civil Rights. In other States and UTs where the denial of Civil Rights are still marginal, there is also scope to create an awareness among the people about the necessity for ensuring the Civil Rights to the members of Scheduled Castes. Unless the Scheduled Castes population is completely integrated into the society by the ruthless execution of the provisions of Civil Rights, the progress of the nation is bound to be thwarted. The efforts of the States/UTs have to be fortified with unreserved support of the entire nation in the task of ensuring Civil Rights to the members of Scheduled Castes.

#### **DISPOSAL OF CASES UNDER PCR ACT, 1955 BY THE POLICE (1999)**

6.12 The disposal of the PCR Act cases at the police level by various States/UTs shown that out of total 1711 crimes cases registered under the various sections of the PCR Act, 1955, 216 (12.62%) cases has been closed by the police whereas, in 280 cases (16.37%), charge-sheet has been submitted in the competent court. The cases remained pending for investigation were 1215 (71.01%) with the police. It is very surprising that in only 496(29.09%) cases, the police could complete the process of investigation during the year. It is a matter of great concern that out of 496 cases in which investigation was completed by the police, 260 (43.54%) cases ended in final report whereas, only in 280 (56.46%) cases, the charge sheet has been submitted in the Court. In the State of Andhra Pradesh 148 cases (68.51%), Tamil Nadu 30 cases (13.88%) and Karnataka 18 (8.33%) cases had been closed after investigation. In Goa, only one case had been registered and the same had been closed. This trend of closing of the cases is alarming and the States/UTs ought to realise this alarming trend of closure of the cases by the Police and ensure that the grounds for not submitting charge sheets are genuine and not flimsy. The cases which do not end in charge sheet, should be scrutinized by the senior police officers to see whether these cases had been investigated properly and if an improper investigation has been done, whether there is a scope for collection of further evidence and in such cases, fresh investigation should be ordered. An all-out effort should be made to collect sufficient evidence to prosecute the accused. The State/UTs may consider to professionalize the police in dealing with the cases related to social crimes like denial of civil rights to SCs and also to prosecute the investigating officer(s) who has willfully neglected the investigation under Section 10 of the PCR Act, 1955. The explanation given in Section 10 of the PCR Act, 1955 says, "A public servant who willfully neglects the investigation of any offence punishable under this Act, shall be deemed to have abetted an offence punishable under this Act". It is a well-known legal interpretation that an Explanation widens the scope of the Main Section.

#### **DISPOSAL OF CASES UNDER THE PCR ACT, 1955 BY THE COURTS DURING 1999**

6.13 In all 9,781 criminal cases under the PCR Act were for the trial in various Courts of the Country in the year of 1999. Out of these, 1242 (12.69%) criminal cases were decided by the Courts during the year and 8539 (87.31%) criminal cases remained pending for trial. This shows that percentage of decided cases to that of charge sheeted was only 12.69% and if this trend continues, the remaining 8539 (87.31%) criminal

cases will continue to pile up every year. The Commission, therefore, recommend for speedy disposal of criminal cases by the Courts. The State Governments, particularly those whose number of pending cases is high, are recommended for setting up of Special Courts. These States are - Andhra Pradesh (754), Gujarat (298), Karnataka (1830), Madhya Pradesh (1591), Maharashtra (1766), Tamil Nadu (1344) and Uttar Pradesh (735). It is also recommended that the State Governments should approach their respective High Courts for issuing necessary directions to the trial Courts for speedy disposal of the PCR Act cases on priority basis.

6.14 The overall percentage of convicted cases to that of decided cases for the entire country had been only 9.90 percent, whereas, in 90.10 percent cases the accused had been acquitted. This trend is also alarming and needs a critical review of the quality of investigation, the sensitivity and interest taken by Public Prosecutor and the seriousness attached to these cases by the Courts. Delay in justice has been termed as denial of justice. In the case of Anil Rai Vs. State of Bihar, Hon'ble Supreme Court has ruled that "Justice should not only be done but should also appear to have been done". JT 2001 (6) SC 515. The victims of denial of Civil Rights must get justice should be the basic and main thrust of the criminal justice administration mentionally

#### **STATUS OF IMPLEMENTATION OF SECTION 15A OF THE PCR ACT 1955**

6.15 Section 15A(1) of the PCR Act provides that subject to such rules as the Central Government may make in this behalf, the State Governments shall take such measures as may be necessary for ensuring that the rights arising out of the abolition of untouchability are made available to, and are availed of by, the persons subjected to any disability arising out of untouchability. The measures specified in that Section and their implementation are discussed below:

#### **PROVISION OF ADEQUATE FACILITIES INCLUDING LEGAL AID**

##### **ANDHRA PRADESH**

6.16 Under the scheme of legal aid to the members of SCs/STs who are victims of harassment on caste/community considerations, assistance is provided for meeting the expenditure on attendance in the Courts, filing of various documents, moving applications, payment of lawyers' fees, etc. to persons whose income does not exceed Rs.6, 000/- per annum. Applications are considered by the District Collectors who can also initiate suo-moto action.

##### **ASSAM**

6.17 Free Legal Aid is provided to the deserving Scheduled Castes and Scheduled Tribes people along with general people through the Sub-Divisional Legal Aid Committees, as per norms of the Assam Legal Aid Rules, 1997.

##### **GOA**

6.18 The Law Department has formulated a scheme viz. Free Legal Aid & Advice to economically and socially Backward people. Under this Scheme, a free Legal Aid and Advice Board has been constituted. Persons belonging to SC/ST are provided free legal aid and advice. No income limit is laid down for SC/ST.



## **GUJARAT**

6.19 The State Government in the year 1989 introduced a scheme for extending legal aid to the victims covered under the provision of the said Act. Necessary Budget provisions for Legal Aid is being made under the Head BCK - 57 'Nagrik Cell'.

## **HARYANA**

6.20 Assistance for legal aid is provided for cases pertaining to practice of untouchability, non entry into temples/drinking water, wells and other public places, mutation of land records, abduction and kidnapping of girls and women and cases pertaining to reservations meant for Scheduled Castes. Expenses towards witnesses and Court fees are also met under the scheme. During the year 1999, an amount of Rs.9, 500/- was utilised benefiting 9 persons irrespective of the income limit.

## **HIMACHAL PRADESH**

6.21 Assistance for legal matters is provided free of cost by the State Legal Aid Board to a person whose annual income does not exceed Rs.15, 000/-. Free legal aid scheme includes expenses towards litigation as well as TA/DA to witnesses. During 1999-2000, a provision of Rs.8 lakhs was made in the budget. During the year, 51 Scheduled Castes and 2 Scheduled Tribes persons were benefitted.

## **JAMMU & KASHMIR**

6.22 Legal aid is provided to Scheduled Castes and Scheduled Tribes persons who are involved in various kinds of litigation which have a bearing on untouchability practice. During the year 1999-2000, Rs.4, 79,046/- was sanctioned under the scheme

## **KARNATAKA**

6.23 The Karnataka Legal Aid Services authority has given legal assistance to 227 Scheduled Castes and 78 Scheduled Tribes persons during the year 1999 (from 1.1.1999 to 31.12.1999). The expenses of the legal aid are met out of the general funds provided to the Legal Services Authority. No income limit is prescribed for the Scheduled Castes and Scheduled Tribes persons.

## **MADHYA PRADESH**

6.24 During the year 1999 - 2000, a provision of Rs.9.60 lakhs was made for providing legal aid through Legal Aid and Legal Advice Board. Assistance of Public Prosecutors, Special Prosecutors and Senior Advocates is also made available to the Scheduled Castes and the Scheduled Tribes victims under the Act.

## **MAHARASHTRA**

6.25 There are Legal Aid Committees existing at every district and Taluka places established to help the persons from the categories of economically weaker sections of the society by providing free legal aid. Those having annual income below Rs.6000/- are entitled to get the benefit of the said scheme. There are no separate legal aid centres constituted for the persons belonging to the Scheduled Castes and Scheduled Tribes persons. They can get the benefit of the free legal aid from these centres.

## **ORISSA**

6.26 Legal aid is provided to the SC persons under the Legal Aid and Advice Scheme, 1981 administered by the Law Department. Besides, the Welfare Department also gives the SC/ST litigants legal aid under a separate scheme in operation. The Legal Aid is paid to fight out cases for establishing rights, titles and possession over the land and also for the cases under the Protection of Civil Rights Act, 1955, under the scheme.

## **PUNJAB**

6.27 A sum of Rs.3, 25,042/- was sanctioned under this scheme, during the year 1999, for giving free legal assistance to SC persons. Under Punjab Legal Services Authority Act, 1987 Scheduled Castes are exempted from income limit to avail the benefits of Legal Aid.

## **RAJASTHAN**

6.28 As per Legal Aid Scheme launched by the State Government in the year 1984, any SC/ST person, irrespective of income limit can avail of the benefit of the assistance. The scheme is implemented by the Legal Advisory Board and Legal Aid Committees set up at district level. These committees have been set up at sub-divisional and district levels under the charge of Judicial Magistrate, Session Judge and at State level in the High Court and Board of Revenue. A Legal Aid Board under Chairpersonship of the Chief Minister has also been functioning in the State.

## **TAMIL NADU**

6.29 The Tamil Nadu State Legal Services Authority has taken over on 1.11.1997 from the erstwhile Tamil Nadu State Legal Aid and Advice Board. The New Authority constituted under the Legal Services Authorities Act of 1987 as amended, is implementing all the programmes and policies of the erstwhile Legal Aid Board.

6.30 The Authority has 151 constituent units throughout Tamil Nadu. The funds are allotted through grants provided for in the Budget every year. This Authority's Legal Aid programmes include apart from legal assistance to prosecute and defend cases before civil and criminal Courts and tribunals, a variety of other programmes like relief through authorities, conciliation, mediation centers for women, assistance to prisoners, legal aid-cum-legal literacy promotion camps, Lok Adalats etc.

6.31 The total number of application for aid received during the year 1999 was 47117. The number of applications received from persons belonging to Scheduled Castes out of those applications was 3764 and those from Scheduled Tribes was 85, making a total of 3849. This works out to 8.2% of the total applications received.

## **TRIPURA**

6.32 Scheme for providing legal aid to Scheduled Castes is in force in the State. This is in the shape of grants to the members of Scheduled Castes involved in Civil/Revenue cases for meeting the expenses of litigation.

## **CHANDIGARH**

6.33 Rules for providing legal aid to Scheduled Castes have been formulated and necessary provision has been made under the plan. However, no amount has been spent during the calendar year 1998 as no requisition was received for legal aid.

## **DADRA & NAGAR HAVELI**

6.34 A scheme of legal aid namely Dadra and Nagar Haveli, Legal Aid and Advice Scheme 1993 has been incorporated in the Annual Plan 1997-98 under which financial and legal aid could be provided to the SCs and STs and women to fight their cases.

## **DAMAN & DIU**

6.35 "Free Legal Aid and Advice Board" has been constituted in UT of Daman & Diu. As no application for Legal Aid has been received till now, no budget provision was made under the scheme of Legal Aid during the financial year 1999-2000.

## **PONDICHERRY**

6.36 Regarding Legal Aid to Scheduled Caste and Scheduled Tribe members, the State Government has provided a free Legal Aid Cell that is giving assistance to Scheduled Caste and Scheduled Tribe members also.

6.37 **The National Commission for SCs and STs is of the view that, in respect of PCR Act cases free legal aid should be provided to the Scheduled Castes without any financial limit on their income and a panel of competent lawyers preferably belonging to Scheduled Castes should be prepared in each district.**

## **APPOINTMENT OF OFFICERS FOR INITIATING OR EXERCISING SUPERVISION OVER PROSECUTION**

### **ANDHRA PRADESH**

6.38 The Government of Andhra Pradesh has set up a Special Cell under the Additional Director General of Police (CID) for speedy investigation and prosecution of cases of denial of civil rights. The PCR Cell monitors cases registered by the Police and obtains information relating to PCR Act cases. The PCR Cell is also conducting enquiries and taking up investigations referred by the Government/Court.

### **ASSAM**

6.39 Working of the implementation of the Protection of Civil Rights Act, 1955 is monitored by the welfare of Plains Tribes and Backward Classes Welfare Department.

### **BIHAR**

6.40 A Scheduled Castes and Scheduled Tribes Cell has been established in the Home (Police) Department under an Inspector General of Police. Similar Cells have been established by the Welfare Department at the State, Divisional, District, Sub-Divisional and Block levels. In addition, 11 Scheduled Castes and Scheduled Tribes Thanas have

been established at Patna, Nalanda, Rohtas, Bhojpur, Gaya, Vaishali, Samastipur, Begusarai, Bhagalpur, Munger and Ranchi.

## **GUJARAT**

6.41 At the Secretariat level, Principal Secretary assisted by Deputy Secretary and Under Secretary is looking after the work, while at the Directorate level, a Special Cell (called the 'Nagrik Cell') has been created and a Deputy Director appointed to look after the work. Three Regional Vigilance Officers are also working at Baroda, Ahmedabad and Rajkot for the purpose. Three tier Social control room has also been set up in the Social Welfare Department for giving immediate help to victimised Scheduled Caste persons, such as police protection, financial assistance and other needful help. The Regional Vigilance Squads for Ahmedabad, Baroda and Rajkot regions headed by Vigilance Officers and Vigilance Inspectors have been created. These squads constantly move from place to place to find out areas where the tension prevails between Scheduled Caste and other Caste persons, study the cases and report to concerned District Local Authorities.

## **HARYANA**

6.42 District Welfare Officers have been made responsible for effective implementation of the PCR Act.

## **KARNATAKA**

6.43 Directorate of Civil Rights Enforcement Cell is working for the enforcement of the Protection of Civil Rights Act, 1955. Officers of the Police Department from constables upward regularly visit the Scheduled Castes colonies and listen to the grievances and problems of the Scheduled Castes and the Scheduled Tribes and take suitable action to redress them. Whenever cases relating to the Protection of Civil Rights Act, 1955 are reported, Police Officers visit the spot immediately, make bundobust arrangements, register the cases, arrest the accused persons and produce them before the Court. The investigation of cases is conducted vigorously and charge sheet is submitted to the Court.

## **KERALA**

6.44 A Special Cell is functioning in the Police Headquarters of the State, under the supervision of an Inspector General of Police (PCR). The Special Cell was initially formed at the State Police Hqrs as per GO. Rt.No.71/79/Home dated 5.1.1979. Three Special Mobile Squads (SMS) are functioning in the Districts of Palakkad, Kasaragode and Wayanad.

## **MADHYA PRADESH**

6.45 A Protection Civil Rights Cell has been set up by the State Government oversee the implementation of the Protection of Civil Rights Act, 1955. During the year 1999-2000, a budget provision of Rs.51.09 lakhs was made for this Cell. A Scheduled Castes Development Cell under the charge of an Addl. Director General of Police has been established in the State Police Headquarter, which monitors the registration, investigation and prosecution of cases in Court.

## ORISSA

6.46 The ST & SC Development Department is having a PCR Section to monitor the Protection of Civil Rights Act, 1955 and relevant matters. There is a Special Cell at the State Police Headquarters for proper monitoring of the implementation of the provisions of the Protection of Civil Rights Act, 1955 and the I.G. of Police H.R.P.C. is supervising the work of the field staff. There is also one Special Cell in each District Headquarter with requisite staff of one Inspector, one S.I. & Constable for monitoring the implementation of the Protection of Civil Rights Act, 1955. The Superintendent of Police/Additional Superintendent of Police/Deputy Superintendent of Police of the districts is supervising the work of the field staff.

## RAJASTHAN

6.47 Although Social Welfare Department has been made the nodal agency for the Act, it is the Home (Police) Deptt. And law Deptt. Which have been entrusted with the responsibility of effectively supervising the implementation of the Act.

## TAMIL NADU

6.48 The Addl. Director General of Police, CID, Chennai monitor the enforcement of the Protection of Civil Rights Act, 1955 cases and also supervise the functioning of the Protection of Civil Rights Mobile Squads. The Inspector-General of Police, Human Rights and Social Justice, CID, has been provided with necessary backup staff, including the post of one Economist and one Sociologist (for research and analysis), 2 Superintendents, 6 Assistants, 3 Typists, 6 Office Assistants, 2 Driver Head Constables with a car (for routine office work) and 3 Supervisory Squads each headed by a Deputy Superintendent of Police with the supporting staff of 1 Sub-Inspector of Police, 1 Head Constable, 1 Camp Junior Assistant and 1 Driver Police Constable with a jeep with Headquarters at Chennai, Trichy and Madurai.

## TRIPURA

6.49 The State Government have appointed (i) Sub-Divisional Officers of the Sub-Divisions (ii) Sub Deputy Collectors (Circle Officers of Revenue Circles) and (iii) Police Officers upto the rank of Sub-Inspectors for initiating and exercising supervisions and prosecution under the provisions of the Protection of Civil Rights Act, 1955.

## UTTAR PRADESH

6.50 Implementation of the Protection of Civil Rights Act, 1955 has been entrusted to the District Supdt. of Police at District level under the Supervision of DIG Police and I.G. Police. Special Investigation Cells have also been set up in 20 sensitive district and each such Cell has a Police Sub-Inspector, a head Constable and two Constables. The Cell functions under the overall supervision of Sr. Supdt. of Police. The Investigation Cell of the State level comprises of an Addl. D.G. Police, an I.G. Police, a D.I.G. Police, a Supdt. of Police, an Addl. Supdt. of Police and nine Deputy Supdt. of Police.

## **CHANDIGARH**

6.51 The Protection of Civil Rights Act Cell is working in Chandigarh under the supervision of Director, Social Welfare.

## **DADRA & NAGAR HAVELI**

6.52 Five Officers, namely the Collector, Dadra and Nagar Haveli, the Resident Dy. Collector, the Land Reforms Officer-I and Land Reforms Officer-II and the Mamlatdar, Dadra and Hagar Haveli have been conferred powers exercisable by the Police Officer under the code of criminal procedure and in the Special Court.

## **PONDICHERRY**

6.53 The PCR Cell Unit is functioning directly under the control of Supdt. of Police in the three enclaves of the Union Territory of Pondicherry namely Pondicherry, Karaikal and Yanam. This Unit is registering cases under the Protection of Civil Rights Act, 1955. In addition to the investigation and prosecution of criminal cases under this Act, the Officers of the Cell are also making enquiries on complaints and undertaking other activities such as collection of intelligence about the practice of untouchability both in Urban and Rural areas.

6.54 National Commission for SCs & STs recommends that the Officers appointed for initiating or exercising supervision over prosecution needs to be sensitized.

## **SETTING UP OF SPECIAL COURTS FOR TRIAL OF OFFENCES UNDER THE PCR ACT**

### **ANDHRA PRADESH**

6.55 Twenty-two Special Mobile Courts have been established in the State except in the district of Hyderabad, for dealing with offences under the PCR Act, 1955. An Asstt assists each Mobile Court headed by a Judicial First Class Magistrate. Public Prosecutor and other Staff.

### **MAHARASHTRA**

6.56 The review of the necessity of the Special Courts was taken, and the proposal to establish the Special Court's in the six districts namely (1) Parbhani (2) Dhule (3) Wardha (4) Yeotmal (5) Bhandara (6) Nagpur is under consideration of the State Government.

### **TAMIL NADU**

6.57 For speedy disposal of cases registered under Protection of Civil Rights Act, 4 Special Courts have been set up at the Madurai, Trichy, Thanjavur and Tirunaliveli.

6.58 Some of the States/UTs do not have any necessity for setting up such Courts in view of the paucity of PCR Act cases. Some of the States have designated/specified certain Courts as a Special Courts.

6.59 In order to ensure speedy justice and prompt redressal of grievances of the victims of denial of civil rights, the State Governments and the Union Territories have to take

steps for setting up of Special Courts. The National Commission for SCs and STs recommends that all the States/UTs where the cases relating to the offences under the PCR Act are still pending for trial must set up special courts without further delay.

## **SETTING UP OF COMMITTEES TO ASSIST THE STATE GOVERNMENTS IN FORMULATING OR IMPLEMENTING MEASURES INTRODUCED UNDER THE ACT**

### **ANDHRA PRADESH**

6.60 A State Level Review Committee has been constituted under the Chairmanship of the Chief Minister to ensure effective implementation of the Act. District Vigilance & Monitoring Committees have also been established for this purpose with District Collector as the Chairperson. The other members are the Superintendent of Police, Joint Collector (Member Secretary), Deputy Director (Social Welfare), Executive Director, District SC Service Co-operative Society, Project Officer ITDA, or District Tribal Welfare Officer.

### **ASSAM**

6.61 There is a State Level Advisory Council for SCs and STs which is headed by Minister-In-Charge, Scheduled Castes and Scheduled Tribes and the matters relating to the Protection of Civil Rights Act, 1955 and the SCs and STs (POA) Act, 1989 are also discussed in the meetings. All MLAs and MPs belonging to SC and ST are the members of these Councils. At the Sub-Divisional level there is a Sub-Divisional Welfare Board consisting of the public representatives which look after the developmental programmes for SCs and STs.

### **BIHAR**

6.62 A high level State Committee has been constituted under Chairpersonship of the Chief Minister to review the progress of various measures under the Act. Divisional and District level Committees have also been set up under the Chairpersonship of Divisional Commissioners and District Magistrates respectively.

### **GOA**

6.63 The Committee under Chairpersonship of Minister for Social Welfare was constituted to protect rights of Scheduled Castes/Scheduled Tribes under the Protection of Civil Rights Act, 1955. Monthly crime conference is also held to discuss all such cases by concerned District Supdt. of Police for ensuring their speedy disposal.

### **GUJARAT**

6.64 A high level Committee at the State level has been constituted under the Chairpersonship of the Chief Minister. The Committee consists of Minister Social Welfare, Finance Minister, Members of Parliament and State Legislature and the concerned Senior Government Officers, as members. The Committee takes annual review of the implementation of the Act. A State level Committee under the Chairpersonship of Secretary incharge of Social Justice and Empowerment Department regularly reviews the reports of Vigilance Officers of the three Vigilance Squads. This Committee also consists

of Home Secretary, Law Secretary, Revenue Secretary, Panchayat Secretary, and Special Inspector General of Police and Social Welfare Director. This Committee reviews the cases of the Protection of Civil Rights Act, 1955 quarterly and also reviews the measures taken by the various departments in this regard.

#### **HARYANA**

6.65 District Level Committees have been functioning under the Chairpersonship of Deputy Commissioners. Other Members of the Committee are District Supdt. of Police, MLAs belonging to Scheduled Castes and two other nominated persons.

#### **HIMACHAL PRADESH**

6.66 A State Level Committee was set up in the State during 1996 and Committee has been functioning in the State.

#### **KARNATAKA**

6.67 A High Level Committee under the Chairpersonship of the Minister of State for Home and with Principal Secretary, Home & Transport, Principal Secretary, Social Welfare Department, Secretary, Law & Parliamentary Affairs, Addl. Director General of Police, DCRE, Home Secretary-II and Director of Prosecutions as members and Dy. Inspector General of Police, DCRE as Member Secretary has been constituted by the Government to monitor the investigation and prosecution of major cases. This Committee meets once in a quarter to monitor the progress of the cases under the Protection of Civil Rights Act, 1955.

#### **KERALA**

6.68 The State Government has constituted Advisory Committees at the State and District Levels for dealing with matters relating to members of Scheduled Castes and Scheduled Tribes. All Scheduled Castes and Scheduled Tribes MPs, MLAs, District Officers and Non-officials nominated by the State Govt. are members of the Committee. The Committee is intended for monitoring the implementation of the provisions of the Protection of Civil Rights Act, 1955 and other measures intended for the welfare of the members of the Scheduled Castes and Scheduled Tribes.

#### **MADHYA PRADESH**

6.69 A State level Committee under the Chairpersonship of the Chief Minister of the State has been constituted with some members of Legislative Assembly, non officials, Social Workers, Secretaries of Home, Scheduled Tribes Development, Scheduled Castes Development, Director General of Police as members, to review the implementation of the Protection of Civil Rights Act, 1955. District Level Committees under the Chairpersonship of District Magistrates have also been set up. The members of District Level Committee are, elected Members of Parliament, Members of Legislative Assembly, Supdt. of Police, three gazetted officers of the State belonging to Scheduled Castes and Scheduled Tribes, five non officials belonging to Scheduled Castes and Scheduled Tribes and 3 persons representing NGOs.



## **MAHARASHTRA**

6.70 The State level, Divisional level and District level Committees have been formed to review the cases under the Protection of Civil Rights Act, 1955. The State level, Divisional level and District level Committees hold meetings and take reviews and make important suggestions to the Government.

## **ORISSA**

6.71 There is a State Level SC Welfare Advisory Board under the Chairpersonship of Chief Minister to review implementation of Welfare Schemes for Scheduled Castes which also includes scheme of implementation of the PCR Act and suggests improvement or changes wherever necessary.

6.72 There are also District Welfare Committees functioning under the Chairpersonship of Collectors and Scheduled Caste Welfare Boards functioning at the Sub-Divisional level under the chairmanship of Sub-Collectors with Police Officers, Tahasildars and District Welfare Officers to review the various developmental measures undertaken along with the cases of denial of civil rights to the members of SCs and STs.

## **PUNJAB**

6.73 This matter is still under consideration of the State Government.

## **RAJASTHAN**

6.74 State level Committee headed by the Chief Minister consists of the State Minister for Social Welfare Deptt. Chairperson, Scheduled Castes Welfare Committee, State Assembly, Secretaries of various Departments, such as Home, Law, Local Self Govt. Housing and Urban Development Department, Social Welfare Deptt., Director General of Police, Managing Director of State Scheduled Castes Finance and Development Cooperation, Director, Local Self Govt., as Members and Director, Social Welfare its Member Secretary. One of the functions of Committee is to review the implementation of the PCR Act, 1955.

## **TAMIL NADU**

6.75 The State Govt. have constituted a State Level Vigilance and Monitoring Committee to review the implementation of the provisions of the Act. A Committee has been constituted with the Hon'ble Chief Minister as the Chairperson and 24 others as the members of the Committee. The District Level Vigilance and Monitoring Committees have also been constituted in all the Districts and meetings of the District Level Committees were also held once in a quarter. The Secretary to Government, Adi Dravidar and Tribal Welfare Department reviewed the report of the District Level Committees received from the Collector.

## **UTTAR PRADESH**

6.76 The State Level Committee functions under the Chairpersonship of Social Welfare Minister which reviews the implementation of the Protection of Civil Rights Act, 1955. At District level, a Committee under the Chairpersonship of the District Collector has been set up in all the districts in the State.

## **DADRA & NAGAR HAVELI**

6.77 The District Level Vigilance and Monitoring Committee under Chairpersonship of the Hon'ble Collector has been set up in the UT of Dadra & Nagar Haveli to monitor the cases of violation of PCR Act if any.

## **PONDICHERY**

6.78 A State Level Committee for the welfare of Scheduled Castes has been constituted with Hon'ble Minister incharge of 'SC' Welfare as Chairperson and the MPs as well as sitting MLAs belonging to Scheduled Castes are the members of the Committee.

6.79 The National Commission for SCs and STs recommends that in order to ensure proper implementation of the PCR Act, it is necessary for the States/UTs having or not having the problem of denial of Civil Rights to the Member of Scheduled Castes and still not constituted any Committee for the purpose must constitute Committee at all appropriate level.

## **PERIODIC SURVEYS OF THE WORKING OF THE PROVISIONS OF THE ACT, WITH A VIEW TO SUGGESTING MEASURES FOR ITS BETTER IMPLEMENTATION**

### **ANDHRA PRADESH**

6.80 The Government of Andhra Pradesh from time to time undertook periodic surveys of the implementation of the Act through Voluntary Organisations and district administration. The State Intelligence Department is also took such surveys. The Scheduled Castes Legislature Committee has been making several suggestions for effective implementation of the Act. Non-Governmental Organizations funded by the State Government are taking up surveys of implementation of the Act and supplementing Government efforts; for its effective implementation.

### **MADHYA PRADESH**

6.81 Untouchability prone areas have been surveyed in the State.

### **ORISSA**

6.82 Periodic Surveys on the working of the provisions of the Protection of Civil Rights Act, 1955 with a view to suggesting measures for better and effective implementation of the provisions of the Act are being conducted by the staff of the PCR Cell of each district.

### **PONDICHERY**

6.83 Periodical Survey is under taken by the Committee on the working of the provisions of the Protection of Civil Rights Act, 1955.

6.84 The National Commission for SCs and STs recommends that the States/UTs should ensure periodic survey through NGOs even the case of denial of civil rights are not reported to the police. Suo-moto action is the need of hour.

**ANDHRA PRADESH**

6.85 The State Intelligence Department has so far identified as many as 340 places in the State as untouchability prone areas.

**ASSAM**

6.86 There is no instance of practice of untouchability and no areas have been identified as untouchability prone area.

**GOA**

6.87 There is no vulnerable and untouchability prone area in the State, where SC/ST are likely to be subjected to atrocities.

**GUJARAT**

6.88 In the Gujarat State, 21 intensive blocks have been created with one Project Officer each in 20 districts of the State. These blocks are intended to develop awareness about the urgent need to eradicate untouchability and prevention of atrocities by the intensive publicity as well as about the practice of untouchability prevailing in various forms in the villages and to take up the matter with district officials to eradicate it.

**HIMACHAL PRADESH**

6.89 No such areas have been identified in the State, as practice of untouchability does not prevail in the State

**KARNATAKA**

6.90 Periodical surveys are conducted to identify untouchability prone areas and action is taken to remove irritants, which lead to tension between Scheduled Castes/Scheduled Tribes and non-Scheduled Castes/Scheduled Tribes.

**MADHYA PRADESH**

6.91 The work in this area is under progress in the State.

**MAHARASHTRA**

6.92 The survey of the villages under the Protection of Civil Rights Act is done by the Extension Officer of the Social Welfare Office, Zilla Parishad and Social Welfare Inspector of District Social Welfare Office submit the report of the surveyed villages to District Vigilance and Control Committee under the Chairpersonship of District Collector. District Vigilance Committee also reviews the reports, and declares the villages as (a) sensitive (b)non-sensitive (c)partially sensitive. The declared list is kept with the implementing officers i.e. District Collector, District Police Officer for taking care of the said village and to keep keen-observation of the activities. In 19 districts, 18 villages have

been identified as highly sensitive, 223 villages as partially sensitive and 53 villages as less sensitive.

## **ORISSA**

6.93 There is no untouchability prone area in the State but some concentration of incidents is noticeable in certain localities.

## **PUNJAB**

6.94 No area in the State has been identified as untouchability prone, because of less number of cases of untouchability.

6.95 The National Commission for SCs and STs recommends that the States/UTs must identify the affected areas where the Members of Scheduled Caste are still denied their civil rights and initiate criminal action Suo-moto under the PCR Act.

## **OTHER MEASURES TAKEN BY STATES/UTS INTENDED TO CREATE THE PUBLIC OPINION AGAINST THE EVIL OF DENIAL OF CIVIL RIGHTS TO THE SCs**

### **➤ PUBLICITY**

## **GUJARAT**

6.96 Every year "Economic Uplift Week" is celebrated from 2 October (Mahatma Gandhi's Birthday) to 7<sup>th</sup> October. Various programmes relating to social and economic upliftment are given prominence during the celebration of the week. District and Taluka level Shibirs and Workshops are also organized periodically for the removal of untouchability. To bring about social change, through general awareness, 5 Prayog Kendras have been set up in five Talukas.

## **KARNATAKA**

6.97 Seminars are held under the auspices of the Directorate of Enforcement and the Inspector Generals. Of Police, Training to educate and sensitize the Police Officers on the need to effectively enforce the provisions of the Protection of Civil Rights Act, 1955. Eminent people are also invited to address the seminars.

## **KERALA**

6.98 The Public Relations Dept. and Directors of SCs/STs Welfare Departments are giving adequate and wide publicity to the various measures adopted for the welfare of SCs/STs. Community feasts, seminars etc. are also conducted by the District Welfare Officers. The Malayalam translation of the Protection of Civil Rights Act, 1955 has been supplied to all Police Stations and Circle Offices to enable them to acquaint them with the legal provisions and their responsibilities.

## **MADHYA PRADESH**

6.99 Communal Harmony Camps (61) were organised in the State against practice of untouchability and on publicising the provisions of the PCR Act, 1955 incurring an

expenditure of Rs.18,00 lakhs. Those who participated in the camps included MPs, MLAs, representatives of Panchayati Raj set up, and other persons. The Government, the details of which are given below, awards the Panchayats doing outstanding work in the field of eradication of untouchability:

- i Division level award Rs.10,000/-
- ii District level award Rs. 5,000/-
- iii During the year 1999-2000, an amount of Rs.4.88 lakhs was utilised for giving awards to 61 Panchayats.

6.100 Copies of the Protection of Civil Rights Act, 1955 and Rules were made available to all Panchayati Raj Institutions and Local Bodies/Municipalities. News Items were published in local newspapers from time to time. Publicity through pamphlets was also carried out.

6.101 Harijan Sevak Sangh, Madhya Pradesh, Branch was provided Rs.20.92 lakhs for running 37 centres in 16 districts for propagation of theme of removal of untouchability through Padyatras in villages and organising publicity campaigns on the subject.

#### **MAHARASHTRA**

6.102 The State level, Divisional level, District level, Samata Parishads are arranged at State level, Divisional level, District level with participation of youth. Discussions on the theme of equality in society are arranged through essay competitions and drawing competition on the subject matter of untouchability. The Film Shows, Video Shows on the subject of eradication of untouchability are shown in the untouchability prone areas. Such videocassettes were provided to 29 Districts and 6 Divisions.

#### **ORISSA**

6.103 Copies of the PCR Act, 1955 translated into Oriya have been circulated amongst various Departments and functionaries. The Information and Public Relations Department through various mass media about evil practice of untouchability and provisions of the Protection of Civil Rights Act, 1955 give wide publicity. The field Officers of Welfare Department also contact the villagers in course of their tours for creating awareness against the practice of untouchability through group discussions. Leading Non-Official Organisations working at the State/District level for welfare and upliftment of Scheduled Castes and Scheduled Tribes are given grants to supplement their efforts in doing useful work for creating awareness against the evil practice of untouchability in bringing social harmony through posters, handbills, group discussions, staging of dramas at important public places and helping the Scheduled Caste persons for entry into the public places like hotels, temples, and drinking water sources etc. An amount of Rs.2.00 lakhs was sanctioned for payment of grant-in-aid during the year.

#### **PUNJAB**

6.104 Wide publicity regarding clauses of PCR Act is made by way of organising seminars, debates and mass lunch at District Hqrs., by the Department Publicity of Welfare Schemes is also made through advertisements in various newspapers. Folders,

booklets are also got printed on various programmes so that majority of the people can avail the benefit of schemes.

### **TAMIL NADU**

6.105 One Publicity Unit with Staff, Van and Audio-Visual equipment was established during the year 1983 in Chennai and another Unit was established in the year 1989 at Trichy. These Units go on tour to Districts to propagate the evils of untouchability and made wide publicity about the schemes implemented by this Department for the Welfare of SCs and STs

### **CHANDIGARH**

6.106 Various publicity measures have been taken by the Chandigarh Administration to create awareness among the public about the desirability for eradication of evil practice of untouchability.

### **PONDICHERRY**

6.107 The PCR Cell circulated leaflets detailing the rights of the SC and ST members and the penal sections of the PCR Act, 1955 in case of any violation in various parts of this Union Territory.

### **➤ INTER-CASTE MARRIAGE**

### **ANDHRA PRADESH**

6.108 Incentive award of the value of Rs.10,000/- is provided to each couple for inter-caste marriages for the promotion of social integration. During 1998-99 Rs.22.37 lakhs were spent on incentives awards to 258 couples, one of whom belonged to non-Scheduled Caste.

### **ASSAM**

6.109 There was a scheme under which budget provision was of Rs.3.00 lakhs was kept for the year 1998-99.

### **GOA**

6.110 Under the scheme, award for Rs.10,000/- is granted to the couple, one spouse being a Scheduled Castes person. The budget provision for the year 1999 was Rs.1.00 lakh. Seven couples were benefited during the year 1999.

### **GUJARAT**

6.111 With a view to develop the sense of social integrity, the Government is encouraging inter-caste marriages with Scheduled Caste persons. The State Government is giving Rs.50,000/- to such Couples. As against the Budget provisions of 30 lakhs in 1999-2000 for incentives for inter caste marriage, expenditure Rs.31.85 lakhs was incurred and 133 couples were benefited.

## **HARYANA**

6.112 Financial assistance of Rs.25,000 is provided to a couple, one of whom belongs to Scheduled Caste Community, contracting inter-caste marriage. During the year 1999, an expenditure of Rs.2.75 lakhs was incurred for the benefit of 11 SC couples.

## **HIMACHAL PRADESH**

6.113 In the year 1999-2000,131 couples were given awards @Rs.25,000/- per couple and a provision of Rs.15.33 lakhs was made in the annual budget. During the period Rs.32.61 lakhs were incurred.

## **KARNATAKA**

6.114 An amount of Rs.171.52 lakhs was provided in the budget during 1999-2000 for the scheme of removal of untouchability. Financial assistance to inter-caste married couples was given under this scheme. The Department of Social Welfare has spent Rs.141.95 lakhs towards payment of incentive to 604 couples.

## **MADHYA PRADESH**

6.115 In accordance with the provision of the scheme, financial grant of Rs.6000/- and a certificate is given to a couple, one of whom belongs to Scheduled Caste and Scheduled Tribe. During the year 1999-2000, an expenditure of Rs.18.07 lakhs was incurred out of a provision of Rs.18.00 lakhs and 150 couples received benefit for this purpose.

## **MAHARASHTRA**

6.116 The provision under this scheme for the year 1999-2000 was Rs.239.40 lakhs and the 1596 couples were covered under this scheme.

## **ORISSA**

6.117 Cash incentive @ Rs.3, 000/- per couple is provided when Inter-caste marriages are solemnized between caste Hindus & Scheduled Castes belonging to Hindu communities for social integration and removal of untouchability. A sum of Rs.4,20,000/- was provided under C.S.P Scheme for Inter Caste marriage during 1999-2000 including sum of Rs.75,000/- which was sanctioned for payment of cash incentives to couples for performing such marriages during 1999-2000.

## **PUNJAB**

6.118 Under the scheme, a sum of Rs.25,000/- is given to each couple where one of the spouse belongs to Scheduled.

## **TRIPURA**

6.119 There is a scheme to promote inter-caste marriage between a caste Hindu and a person belonging to Scheduled Castes who is engaged in scavenging profession, viz., Mathor, Mushar, Dum and leather worker (Chamar/Mochi). An appreciation certificate and a cash grant of Rs.25, 000/- is given to every couple of such inter-caste marriage.

## CHANDIGARH

6.120 A sum of Rs.5,000/- is granted to a couple under the Inter-Caste Marriage scheme. Only, one such application was received during the year 1999-2000.

## OBSERVATION

6.121 The Protection of Civil Rights Act, 1955 provides for exemplary punishment for practices of untouchability, in various forms which was eradicated under Article 17 of the Constitution.

6.122 As a social legislation, PCR Act, 1955 partially succeed in creating social awareness and in eradication of socio economic and religious disabilities imposed through various form of practices of untouchability in a traditional society . However, atrocities on the member of Scheduled castes and Scheduled Tribes. in the form of serious crimes like murder, grievous hurt, rape, arson etc. could not be controlled despite subsequent legislation like Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 and Rules,1995 thereof.

6.123 The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989) being more comprehensive, most of the cases of atrocities on members of SCs and STs are being increasingly dealt with under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 as the purposes of PCR Act 1955 are better served under this comprehensive legislation.



# CHAPTER VII

## ATROCITIES ON SCHEDULED CASTES AND SCHEDULED TRIBES

An Act for the protection of the Scheduled Castes and the Scheduled Tribes was passed by the Parliament on 16.8.1989 known as the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 as a farsighted and eminently workable measure to protect the civil rights of the members of the Scheduled Caste and the Scheduled Tribe. The reason for passing of the said Act was stated that despite various measures taken to improve the socio-economic conditions of the Scheduled Castes and the Scheduled Tribes, they remain vulnerable section of the society. They were subjected to various offences, indignities, humiliations and harassment. They still are deprived of their life and property. Serious crimes are committed against them for various historical, social and economic reasons but the existing laws like PCR Act, 1955 and the normal provisions of the IPC have been found to be inadequate to check these crimes. A special legislation to check and deter crimes against them committed by non-SCs and non-STs have, therefore, become necessary.

7.2 Hon'ble Supreme Court of India in case of State of Madhya Pradesh and Anr. Vs. Ram Krishna Balothia & Anr. [J.T. 1995 (1) SC (310)] observed that the offences enumerated under the said Act fall into a separate and special class and cannot be compared with offences under the Indian Penal Code. Article 17 of the Constitution expressly deals with abolition of "Untouchability" and forbids its practice in any form. It also provides that enforcement of any disability arising out of "Untouchability" shall be an offence punishable in accordance with law. The offences, therefore, which are enumerated under Section 3(1) of the Act arise out of the practice of "Untouchability" which, to say the least, denigrate the members of the Scheduled Caste and the Scheduled Tribe in the eyes of society, and prevent them from leading a life of dignity and self - respect. Such offences are committed to humiliate and subjugate the members of the Scheduled Caste and the Scheduled Tribe with a view to keeping them in a state of servitude.

7.3 The SCs & STs (POA) Act, 1989 defines "Atrocity" as an offence punishable under Section 3 of the Act and lists 22 offences. These offences are mainly related to the patterns of behaviour, which shatter the self-respect and self-esteem of the Scheduled Castes and the Scheduled Tribes. These offences broadly are, destroying the self-respect and self-esteem, denial of economic rights, denial of democratic honour, deliberate abuse of the legal and/or administrative process, assault and/or exploitation of woman, damage and/or destruction of property and heinous offences against person and property already covered under Indian Penal Code carrying a sentence of ten years or more. Willful negligence by public servant in performing their duties required to be performed under the Act has also been made punishable offence. The offences under this Act are cognizable, non-bailable, non-compoundable and trial is to be conducted by Special Court set up under the Act.

7.4 The normal punishment in the said Act is imprisonment for a term, which shall not be less than six months and which may be extended upto five years and with fine. Minimum punishment of imprisonment for a term of one year for a person convicted of an offence for a second time and in case of public servant committing any offence of atrocity it may be extendable to the punishment providing for that offence. The offences under Indian Penal Code punishable upto ten years of imprisonment shall be life imprisonment or capital punishment under this Act in addition to fine for that offence.

7.5 The said Act is not only a penal policy measure. It has been made mandatory for the State Governments to ensure prevention of atrocities and to assist the victims. Legal aid, traveling and maintenance allowance during investigation and trial have now to be provided. Identification of atrocity prone areas and adoption of safety and preventive measures is to form a part of the scheme. Periodic surveys providing social audit of the working of the Act are also mandatory. An Annual Report on the administration of the Act is to be placed every year on the table of each House of Parliament by the Central Government.

7.6 The said Act came into force on 30.1.1990 and in exercise of the powers conferred by Sub Section (1) of Section 23 of the said Act, the Central Government made the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Rules, 1995 which was notified on 31.3.1995. The Rules assigned certain duties to be performed by the District Magistrate, District Superintendent of Police and State Government. The Rules, *inter-alia*, prescribe the amount of economic assistance and mode of rehabilitative measures to be taken by State Government for providing socio-economic rehabilitation of the victims and/or their family members.

7.7 As reported by States/UTs and compiled by National Crime Records Bureau, Government of India, Ministry of Home Affairs, the incidence of Crimes including Atrocities committed on the members of the Scheduled Caste and the Scheduled Tribe by non-SCs and non-STs during the year 1997 to 2001 is given at the Table 7.1.

**Table 7.1**

Year	Crime against SCs	Crime against STs
1997	27,944	4,644
1998	25,638	4,276
1999	25,093	4,450
2000	23,742	3,958
2001	25,516	4,098
<b>Total:</b>	<b>127,933</b>	<b>21,426</b>
<b>Average:</b>	<b>25,587</b>	<b>4285</b>

Source: 1) *Crime in India, 1999, NCRB, MHA, New Delhi*

2) *5<sup>th</sup> and 6<sup>th</sup> Annual Reports of the National Commission for SCs & STs, New Delhi*

3) *Provisional Report, NCRB, MHA, New Delhi.*

7.8 An analysis of the reported crimes including atrocities committed on the members of the Scheduled Caste and the Scheduled Tribe reflects minor fluctuations over the average of 25,587 (SC) and 4285 (ST). The upward trend is not alarming in case of crime committed on the members of the Scheduled Caste and the Scheduled Tribe. However, there is still scope for taking effective and preventive measures so that it may not increase further.

7.9 While assessing the magnitude of crime including atrocities against the members of the Scheduled Caste, it is essential to examine the nature of crimes committed on them by non-SCs and non-STs. The nature of crimes committed on the members of the Scheduled Caste by non-SCs and non-STs during the period from 1997 to 2001 are given below at the Table 7.2.

Table 7.2

Year	Nature of Crimes					
	Murder	Grievous Hurt	Rape	Arson	Other Offences	Total
1997	513	3860	1037	389	22,145	27,944
1998	516	3809	923	346	20,044	25,638
1999	506	3241	1000	337	20,009	25,093
2000	486	3298	1034	260	18,664	23,742
2001	553	3256	1127	326	20,254	25,516
<b>Total:</b>	<b>2574</b>	<b>17,464</b>	<b>5121</b>	<b>1658</b>	<b>101,116</b>	<b>127,933</b>
<b>Average:</b>	<b>515</b>	<b>3493</b>	<b>1024</b>	<b>332</b>	<b>20,223</b>	<b>25,587</b>

Source: 1) *Crime in India, 1999, NCRB, New Delhi*

2) *5<sup>th</sup> and 6<sup>th</sup> Annual Reports of the National Commission for SCs & STs, New Delhi*

3) *Provisional Report, NCRB, MHA, New Delhi.*

7.10 Number of cases of different nature of crimes committed from 1997 to 2001 shows that there has been an increase in the heinous crime of murder and rape committed on the members of the Scheduled Caste in the year 2001. The number of murder as well as rape has increased significantly comparing the quinquennial average. Considering the increasing trend of the heinous crimes, there is a strong needs to take suitable remedial measures to control it.

7.11 As regard to the nature of crimes committed on the members of the Scheduled Tribe by non-SCs and non-STs, the number of cases registered during the period from 1997 to 2001 is given at the Table 7.3.

Table 7.3

Year	Nature of Crimes					
	Murder	Grievous Hurt	Rape	Arson	Other Offences	Total
1997	95	706	315	29	3499	4644
1998	66	638	331	38	3203	4276
1999	80	646	384	43	3297	4450
2000	53	412	391	30	3072	3958
2001	86	482	398	35	3097	4098
<b>Total:</b>	<b>380</b>	<b>2884</b>	<b>1819</b>	<b>175</b>	<b>16,168</b>	<b>21,426</b>
<b>Average:</b>	<b>76</b>	<b>577</b>	<b>364</b>	<b>35</b>	<b>3234</b>	<b>4285</b>

Source: 1) *Crime in India, 1999, NCRB, New Delhi*

2) *5<sup>th</sup> and 6<sup>th</sup> Annual Reports of the National Commission for SCs & STs, New Delhi*

3) *Provisional Report, NCRB, MHA, New Delhi.*

7.12 The number of cases for the year 2001 shows an increase in the heinous crime of murder, grievous hurt, rape and arson. The quinquennial average of crime also shows that there is an increasing trend of murder and rape. Nevertheless, there is an urgent need to counter it by taking remedial measures. States/UTs wise incidence of the crime including atrocities on the members of the Scheduled Caste during the year 2001 may be seen at Table 7.4.

**Table 7.4**

Sl. No	State/UT	Nature of Crimes					Total
		Murder	Hurt	Rape	Arson	Others	
1.	Uttar Pradesh	321	907	370	181	6362	8141
2.	Rajasthan	51	419	151	47	4224	4892
3.	Madhya Pradesh	66	787	302	41	3457	4653
4.	Andhra Pradesh	22	371	54	9	1331	1787
5.	Karnataka	14	34	11	4	1247	1310
6.	Gujarat	20	191	11	8	801	1031
7.	Orissa	5	57	9	2	673	746
8.	Bihar	2	189	15	23	409	638
9.	Tamil Nadu	12	32	7	0	486	537
10.	Kerala	4	145	73	2	279	503
11.	Maharashtra	9	25	40	2	402	478
12.	Chattisgarh	8	42	48	1	295	394
13.	Haryana	7	42	17	4	80	150
14.	Uttaranchal	9	8	5	2	101	125
15.	Himachal Pradesh	1	0	6	0	55	62
16.	Punjab	2	5	4	0	22	33
17.	Delhi	0	0	0	0	14	14
18.	Pondicherry	0	0	0	0	13	13
19.	West Bengal	0	1	2	0	1	4
20.	D & N Haveli	0	1	1	0	0	2
21.	Jammu & Kashmir	0	0	1	0	0	1
22.	Goa	0	0	0	0	1	1
23.	Chandigarh	0	0	0	0	1	1
<b>Total:</b>		<b>553</b>	<b>3256</b>	<b>1127</b>	<b>326</b>	<b>20254</b>	<b>25516</b>

Source: 1) Provisional Report, NCRB, MHA, New Delhi.

N. B.: States of Arunachal Pradesh, Assam, Jharkhand, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, Tripura and UTs of A & N Islands, Daman & Diu and Lakshadweep have not reported crime on the members of the Scheduled Caste.

7.13 An Analysis of the reported cases of crime including atrocities through out the country reveals that, in absolute number, Uttar Pradesh Ranks I<sup>st</sup> (8141), Rajasthan II<sup>nd</sup> (4892), Madhya Pradesh III<sup>rd</sup> (4653), Andhra Pradesh IV<sup>th</sup> (1787), Karnataka V<sup>th</sup> (1310) and Gujarat VI<sup>th</sup> (1031). In all these States more than a thousand cases of crime including atrocities on the members of the Scheduled Caste has been reported during the year 2001.

7.14 States/UTs wise incidence of the crime including atrocities on the members of the Scheduled Tribe during the year 2001 is given in Table 7.5.

Table 7.5

Sl. No	State/UT	Murder	Hurt	Rape	Arson	Others	Total
1.	Madhya Pradesh	35	227	202	12	1172	1648
2.	Rajasthan	14	88	45	14	862	1023
3.	Chattisgarh	13	38	47	2	212	312
4.	Andhra Pradesh	4	25	18	0	222	269
5.	Orissa	1	31	4	0	199	235
6.	Gujarat	7	25	18	4	162	216
7.	Maharashtra	6	4	35	2	112	159
8.	Kerala	3	17	22	0	35	77
9.	Karnataka	0	0	3	0	63	66
10.	Uttar Pradesh	3	21	1	1	24	50
11.	Bihar	0	2	2	0	15	19
12.	Punjab	0	2	0	0	9	11
13.	Arunachal Pradesh	0	1	0	0	2	3
14.	West Bengal	0	0	1	0	1	2
15.	D & N Haveli	0	0	0	0	2	2
16.	Delhi	0	0	0	0	2	2
17.	Sikkim	0	1	0	0	0	1
18.	Meghalaya	0	0	0	0	1	1
19.	Himachal Pradesh	0	0	0	0	1	1
20.	A & N Islands	0	0	0	0	1	1
<b>Total :</b>		<b>86</b>	<b>482</b>	<b>398</b>	<b>35</b>	<b>3097</b>	<b>4098</b>

Source: 1) NCRB, MHA, New Delhi

N. B.: States of Assam, Goa, Haryana, Jharkhand, Manipur, Mizoram, Nagaland, Tamilnadu, Tripura, Uttaranchal and UTs of Chandigarh, Daman & Diu, Lakshadweep, and Pondicherry have not reported cases of crime committed on the members of the Scheduled Tribe.

7.15 The data on the incidence of crimes including atrocities perpetrated on the members of the Scheduled Tribe in India reveals that Madhya Pradesh is on the top of the list with a total of 1648 cases followed by Rajasthan (1023), Chattisgarh (312), Andhra Pradesh (269), Orissa (235) and Gujarat (216). Though, Gujarat ranked sixth in total crimes, the reported cases of murder and arson are quite high than the States which ranked fourth and fifth.

7.16 Prior to analyzing the magnitude and trend of atrocities committed on the members of the Scheduled Caste and the Scheduled Tribe, it is essential to mention that all the offences of Indian Penal Code are not covered under the term 'atrocities'. The Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 has specifically defined the term 'atrocities' as an offence punishable under Section 3 of the said Act. Section 3(1) says that whoever, not being a member of a Scheduled Caste or a Scheduled Tribe commits specified 15 offences on the members of the Scheduled Caste or the Scheduled Tribe shall be punishable with imprisonment for a term, which shall not be less than six months but which may be extended upto five years and with fine. Similarly Section 3(2) of the said Act specified seven offences with varying status of punishment and fine. The basic condition for taking cognizance is that the offender should not be a member of a Scheduled Caste or a Scheduled Tribe, whereas the victim should be a member of a Scheduled Caste or a Scheduled Tribe. An analysis of these specified provisions indicates that all the offences enumerated in Section 3(1) & 3(2) are already covered under Indian Penal Code. It further reveals that the offences covered under Section 3(1) of the Act are either non-cognizable and in case cognizable, they are bailable. Some of these offences under IPC are compoundable too. However, these offences have been made cognizable, non-bailable and non-compoundable in the said Act. The offences enumerated in Section 3(2) of the said Act, which are also covered under IPC as cognizable, non-bailable and non-compoundable, but the minimum punishment has been enhanced in the said Act. For example, an offence under the Indian Penal Code which is punishable with imprisonment for a term of ten years or more will attract punishment of life imprisonment and fine in case cognizance of the said Act has been taken along with appropriate section(s) of Indian Penal Code. The basic requirement is that, it has to be kept in mind that the accused must be a member of non-Scheduled Caste or non-Scheduled Tribe community and has got the prior knowledge that the victim is a member of Scheduled Caste or Scheduled Tribe i.e. mens rea is not but the knowledge about the caste of the victim is essential. In Section 3(2), the knowledge alongwith the intention to teach a lesson by committing an offence on the ground that the victim is a member of Scheduled Caste or a Scheduled Tribe is a pre-requisite factor. In view of these facts the status of atrocities committed on the members of the Scheduled Caste and the Scheduled Tribe are analyzed here.

7.17 An analysis of atrocities on the members of the Scheduled Caste from 1998 to 2001 reveals that, on an average, the number of atrocity cases in the State of Uttar Pradesh (2834), was the highest followed by Karnataka (1059), Rajasthan (779), Andhra Pradesh (557), Madhya Pradesh (453), Tamilnadu (347), Gujarat (343), Orissa (236), Bihar (233), Kerala (200) and Maharashtra (137). Year wise data on atrocities may be seen at Table 7.6.

Table 7.6

S. No.	State/UT	Number of Atrocity Cases					
		1998	1999	2000	2001	Total	Average
1.	Uttar Pradesh	2737	2597	2683	3318	11,335	2834
2.	Karnataka	902	1131	1073	1129	4235	1059
3.	Rajasthan	958	887	454	818	3117	779
4.	Andhra Pradesh	565	522	529	612	2228	557
5.	Madhya Pradesh	401	433	539	440	1813	453
6.	Tamilnadu	300	366	418	305	1389	347
7.	Gujarat	595	415	211	152	1373	343
8.	Orissa	227	263	147	306	943	236
9.	Bihar	269	276	220	169	934	233
10.	Kerala	297	194	146	163	800	200
11.	Maharashtra	141	160	128	120	549	137
12.	Himachal Pradesh	19	21	16	36	92	23
13.	Haryana	18	18	19	31	86	22
14.	Chattisgarh	-	-	-	48	48	12
15.	Punjab	6	6	13	15	40	10
16.	Uttaranchal	-	-	-	38	38	9
17.	Delhi	8	10	12	7	37	9
18.	Pondicherry	Nil	2	4	Nil	6	1.50
19.	Goa	2	Nil	1	1	4	1
20.	Assam	Nil	Nil	1	Nil	1	0.25
21.	West Bengal	Nil	Nil	Nil	1	1	0.25
22.	Chandigarh	Nil	Nil	Nil	1	1	0.25
23.	Daman & Diu	Nil	Nil	1	Nil	1	0.25
<b>Total:</b>		<b>7445</b>	<b>7301</b>	<b>6615</b>	<b>7710</b>	<b>29,071</b>	<b>7268</b>

Source: 1) *Crime in India, 1999, NCRB, New Delhi*

2) *5<sup>th</sup> and 6<sup>th</sup> Annual Reports of the National Commission for SCs & STs, New Delhi*

3) *Provisional Report, NCRB, MHA, New Delhi.*

*N. B.: States of Arunachal Pradesh, Jharkhand, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, Tripura, and UTs of A & N Islands, Dadra & Nagar Haveli and Lakshadweep have not reported the cases of atrocity on the members of the Scheduled Caste. The States of Chattisgarh and Uttaranchal have been newly created; hence the data are available for the year 2001 only.*

7.18 As regard to atrocities on the members of the Scheduled Tribe, the number, on an average is the highest in the State of Rajasthan (142) followed by Madhya Pradesh (127), Orissa (77), Andhra Pradesh (71), Karnataka (47), Gujarat (31), Bihar (26) and Maharashtra (20). The State of Chattisgarh is a newly created State and the atrocity cases have been reported only for the year 2001, which is 30. These States are required to initiate preventive action to control the incidence of atrocity on the members of the Scheduled Tribe. Year wise number of atrocity cases can be seen at Table 7.7.

Table 7.7

S. No.	State/UT	Number of Atrocity Cases					
		1998	1999	2000	2001	Total	Average
1.	Rajasthan	213	175	54	126	568	142
2.	Madhya Pradesh	85	105	146	172	508	127
3.	Orissa	91	94	34	88	307	77
4.	Andhra Pradesh	64	39	83	99	285	71
5.	Karnataka	35	49	44	59	187	47
6.	Gujarat	55	45	16	9	125	31
7.	Bihar	73	14	15	1	103	26
8.	Maharashtra	31	18	13	19	81	20
9.	Uttar Pradesh	40	6	11	7	64	16
10.	Kerala	25	14	7	12	58	15
11.	Chattisgarh	-	-	-	30	30	3
12.	Tamilnadu	7	11	4	Nil	22	5
13.	Punjab	Nil	4	1	4	9	2
14.	D & N Haveli	1	Nil	3	Nil	4	1
15.	Haryana	2	Nil	Nil	Nil	2	0.5
16.	Him. Pradesh	1	Nil	Nil	1	2	0.5
17.	West Bengal	Nil	Nil	Nil	1	1	0.25
18.	Lakshadweep	Nil	Nil	1	Nil	1	0.25
19.	Goa	1	Nil	Nil	Nil	1	0.25
19.	Sikkim	1	Nil	Nil	Nil	1	0.25
<b>Total:</b>		<b>725</b>	<b>574</b>	<b>432</b>	<b>628</b>	<b>2359</b>	<b>590</b>

Source: 1) Crime in India, 1999, NCRB, New Delhi

2) 5<sup>th</sup> and 6<sup>th</sup> Annual Reports of the National Commission for SCs & STs, New Delhi

3) Provisional Report, NCRB, MHA, New Delhi.

N. B.: States of Arunachal Pradesh, Assam, Goa, Jharkhand, Manipur, Meghalaya, Mizoram, Nagaland, Tripura, Uttaranchal and UTs of Andaman & Nicobar Islands, Chandigarh, Daman & Diu, Delhi and Pondicherry have not reported any case of atrocity on the members of the Scheduled Tribe.



7.19 The success of enactment of a social legislation like the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, depends upon the trend of disposal of cases by the police and the prosecution through the courts. The Commission has requested all the State Governments and Union Territory Administrations to furnish the information of disposal of atrocity cases by the police and the courts during the year 2001. Although, very few States/UTs have furnished the said informations, it tells the truth. The disposal of atrocity cases, by the police, in which the victims are the members of the Scheduled Caste, may be seen at Table 7.8

Table 7.8 (Scheduled Caste)

S. No.	State/UT	Total Number of Cases			Result of Investigation		
		With the Police	Investigated by the Police	Pending investigation	FR	Charge Sheet	Total
1.	Gujarat	1616 (100)	1525 (94)	91 (6)	64 (4)	1461 (96)	1525 (100)
2.	Haryana	137 (100)	132 (97)	5 (3)	30 (23)	102 (77)	132 (100)
3.	Karnataka	1010 (100)	921 (91)	89 (9)	188 (20)	733 (80)	921 (100)
4.	Madhya Pradesh	3811 (100)	3578 (94)	233 (6)	215 (6)	3363 (94)	3578 (100)
5.	Maharashtra	697 (100)	591 (85)	106 (15)	57 (10)	534 (90)	591 (100)
6.	Orissa	1801 (100)	903 (50)	898 (50)	199 (22)	704 (78)	903 (100)
7.	Punjab	105 (100)	50 (48)	55 (52)	28 (55)	22 (44)	50 (100)
8.	Rajasthan	5265 (100)	4937 (94)	328 (6)	2664 (54)	2273 (46)	4937 (100)
9.	Uttaranchal	130 (100)	124 (95)	6 (5)	47 (38)	77 (62)	124 (100)
10.	Chandigarh	4 (100)	3 (75)	1 (25)	1 (33)	2 (67)	3 (100)
11.	Delhi	25 (100)	23 (92)	2 (8)	1 (4)	22 (96)	23 (100)
<b>TOTAL:</b>		<b>10601</b> (100)	<b>12787</b> (88)	<b>1814</b> (12)	<b>3494</b> (27)	<b>9293</b> (73)	<b>12787</b> (100)

*N. B.: Figures in parentheses indicate percentage to the total.  
Information in respect of other States is not available.*

7.20 The above information received from State Governments/UT Administrations reveals that the Police has completed investigation in 88% of the cases, while 12% of the cases remained pending for investigation during the year 2001. The status of disposal by the Police in the States of Orissa and Punjab is miserable, as they have completed investigation upto 50% of the cases only. The Police have submitted final reports in 27% of cases whereas, chargesheet submitted in 73% of cases. In the States of Punjab and Rajasthan, more than 50% of the cases have been closed by the Police and final reports have been submitted in the Court. These States need to take special measures to reduce the trend of closure of the cases.

7.21 The disposal of atrocity cases, by the Police, in which the victims are the members of the Scheduled Tribe may be seen at Table 7.9

**Table 7.9 (Scheduled Tribe)**

S. No.	State/UT	Total Number of Cases			Result of Investigation		
		With the Police	Investigated by the Police	Pending investigation	FR	Charge Sheet	Total
1.	Gujarat	329 (100)	308 (94)	21 (6)	9 (3)	299 (97)	308 (100)
2.	Karnataka	60 (100)	54 (90)	6 (10)	5 (9)	49 (91)	54 (100)
3.	Madhya Pradesh	1521 (100)	1031 (68)	490 (32)	58 (6)	973 (94)	1031 (100)
4.	Maharashtra	275 (100)	236 (86)	39 (14)	15 (6)	221 (94)	236 (100)
5.	Orissa	528 (100)	493 (93)	35 (7)	72 (15)	421 (85)	493 (100)
6.	Uttranchal	2 (100)	2 (100)	Nil	1 (50)	1 (50)	2 (100)
<b>TOTAL:</b>		<b>2715</b> <b>(100)</b>	<b>2124</b> <b>(78)</b>	<b>591</b> <b>(22)</b>	<b>160</b> <b>(8)</b>	<b>1964</b> <b>(92)</b>	<b>2124</b> <b>(100)</b>

*N. B.: Figures in parentheses indicate percentage to the total.*

*Information in respect of States of Punjab, Haryana and UTs of Chandigarh and Delhi are nil.*

*Information in respect of other States/UTs is not available.*

7.22 The above information received from the State Governments reveals that the Police of these States have completed investigation in 78% of the cases. In 92% of the cases, chargesheets have been submitted to the Court.

7.23 The handling of atrocity cases by the police, in respect of Scheduled Castes and Scheduled Tribes during the year 2001, is tabulated at Table 7.10.

Table 7.10

S. No.	State/UT	Total Number of Cases			Result of Investigation		
		With the Police	Investigation completed	Pending investigation	FR	Charge Sheet	Total
1.	Assam	73 (100)	38 (52)	35 (48)	5 (13)	33 (87)	38 (100)
2.	Bihar	1815 (100)	241 (13)	1574 (87)	61 (25)	180 (75)	241 (100)
3.	Goa	1 (100)	1 (100)	Nil	1 (100)	Nil	1 (100)
4.	Gujarat	1945 (100)	1833 (94)	112 (6)	73 (4)	1760 (96)	1833 (100)
5.	Haryana	137 (100)	132 (96)	5 (4)	30 (23)	102 (77)	132 (100)
6.	Karnataka	1070 (100)	975 (91)	95 (9)	193 (20)	782 (80)	975 (100)
7.	Kerala	909 (100)	466 (51)	443 (49)	176 (38)	290 (62)	466 (100)
8.	Madhya Pradesh	5332 (100)	4609 (86)	723 (14)	273 (6)	4336 (94)	4609 (100)
9.	Maharashtra	972 (100)	827 (85)	145 (15)	72 (9)	755 (91)	827 (100)
10.	Orissa	2329 (100)	1396 (60)	933 (40)	271 (19)	1125 (81)	1396 (100)
11.	Punjab	105 (100)	50 (48)	55 (52)	28 (56)	22 (44)	50 (100)
12.	Rajasthan	6338 (100)	5937 (94)	401 (6)	3241 (55)	2696 (45)	5937 (100)
13.	Tamilnadu	1192 (100)	1035 (87)	157 (13)	373 (36)	662 (64)	1035 (100)
14.	Uttaranchal	132 (100)	126 (95)	6 (5)	48 (38)	78 (62)	126 (100)
15.	Uttar Pradesh	12037 (100)	10313 (86)	1724 (14)	2957 (29)	7356 (71)	10313 (100)
16.	Chandigarh	4 (100)	3 (75)	1 (25)	1 (33)	2 (67)	3 (100)
17.	Daman & Diu	2 (100)	2 (100)	Nil	Nil	2 (100)	2 (100)
18.	Delhi	25 (100)	23 (92)	2 (8)	1 (4)	22 (96)	23 (100)
19.	Pondicherry	3 (100)	3 (100)	Nil	Nil	3 (100)	3 (100)
<b>TOTAL:</b>		<b>34,421</b> (100)	<b>28,010</b> (81)	<b>6411</b> (19)	<b>7804</b> (28)	<b>20,206</b> (72)	<b>28,010</b> (100)

N. B.: Figures in parentheses indicate percentage to the total.

7.24 The number of atrocity cases, disposed of by the Police, in which the victims are the members of the Scheduled Caste and the Scheduled Tribe indicates that in 81% of the cases the investigation has been completed and in 19% of the cases the investigation remained pending. However, the status of completion of investigation by the Police in the States of Assam, Kerala, Orissa and Punjab needs improvement. As regard to the submission of chargesheets, it is noticed that, in 72% of the cases, chargesheets have been submitted in the Court, whereas, in 28% of the cases the final reports have been submitted, which can not be termed as justice done to the victims of the members of the Scheduled Caste and the Scheduled Tribe. The States of Kerala, Rajasthan, Uttaranchal and Punjab need to take effective measures for reducing the number of final reports submitted in the Courts.

7.25 The preamble of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, which is a key to the interpretation, says, *inter-alia*, to provide of a Special Court for speedy trial of the offences enumerated in the Act. The objective behind this preamble may be interpreted as speedy trial so that the victims may get justice and the accused may be suitably punished so as to prevent atrocities on the members of the Scheduled Caste and the Scheduled Tribe in future. The status of disposal of cases by the Court is given at Table 7.11.

Table 7.11

S. No.	State/UT	Total No. of Cases			Status of cases decided by the Courts		
		With the Court	Decided by the Court	Pending Trial	Acquittal	Conviction	Total
1.	Assam	61 (100)	36 (59)	25 (41)	31 (86)	5 (14)	36 (100)
2.	Goa	2 (100)	Nil	2 (100)	Nil	Nil	Nil
3.	Gujarat	15,053 (100)	575 (4)	14,478 (96)	541 (94)	34 (6)	575 (100)
4.	Haryana	439 (100)	11 (3)	428 (97)	10 (91)	1 (9)	11 (100)
5.	Karnataka	4543 (100)	177 (4)	4366 (96)	172 (97)	5 (3)	177 (100)
6.	Kerala	1945 (100)	132 (7)	1813 (93)	126 (95)	6 (5)	132 (100)
7.	Madhya Pradesh	8844 (100)	2987 (34)	5857 (66)	2306 (77)	681 (23)	2987 (100)
8.	Maharashtra	8973 (100)	1151 (13)	7822 (87)	1118 (97)	33 (3)	1151 (100)
9.	Orissa	7118 (100)	254 (4)	6864 (96)	237 (93)	17 (7)	254 (100)
10.	Punjab	49 (100)	1 (2)	48 (98)	1 (100)	Nil	1 (100)
11.	Rajasthan	2496 (100)	1968 (79)	528 (21)	1326 (67)	642 (33)	1968 (100)
12.	Tamilnadu	2338 (100)	434 (19)	1904 (81)	387 (89)	47 (11)	434 (100)
13.	Uttaranchal	548 (100)	213 (39)	335 (61)	163 (76)	50 (24)	213 (100)
14.	Uttar Pradesh	81,585 (100)	6407 (8)	75,178 (92)	599 (9)	5808 (91)	6407 (100)
15.	Chandigarh	3 (100)	Nil	3 (100)	Nil	Nil	Nil
16.	Daman & Diu	2 (100)	1 (50)	1 (50)	1 (100)	Nil	1 (100)
17.	Delhi	48 (100)	2 (4)	46 (96)	1 (50)	1 (50)	2 (100)
18.	Pondicherry	5 (100)	1 (20)	4 (80)	1 (100)	Nil	1 (100)
<b>TOTAL :</b>		<b>134,052 (100)</b>	<b>14,350 (11)</b>	<b>119,702 (89)</b>	<b>7020 (49)</b>	<b>7330 (51)</b>	<b>14,350 (100)</b>

N. B.: Information in respect of other States/UTs is not available.

7.26 The review of the status of disposal of the cases with the Courts reveals that the Courts have decided only in 11% of the cases in the year 2001, which is not fulfilling the objectives set in the preamble of the said Act. The Special Public Prosecutor should pursue the Court for speedy trial of the cases. State Governments/UT Administrations may impress upon their respective High Courts for issuance of necessary directions to the Courts for speedy trial. In 51% of the cases, the Courts have convicted the accused whereas; in 49% of the cases they have been acquitted. The percentage of acquittal is alarming in the States of Assam, Gujarat, Kerala, Maharashtra, Orissa, Rajasthan, Uttaranchal, Karnataka and Haryana. The main reasons for the low percentage of conviction by the Courts are due to the following:

- i Long delay between the time of occurrence of the incidents and the actual time of the trial in the Court.
- ii Faulty investigations.
- iii Delay in getting community certificates. Due to long delay in taking up these cases for trial by the Courts, the witnesses lose their interest in the cases. It is also being alleged that the witnesses who attend the Courts are not being treated properly and some times being harassed. The result is that most of them turn hostile at the time of the trial of the cases in the Court.
- iv Though according to the rules framed under the SCs & STs (POA) Act 89, these cases should be investigated within the period of one month. The time limit is not being adhered to in many cases.

7.27 These States should review all the cases ended in acquittal and take suitable remedial measures. The Commission is of the opinion that by implementing the provisions of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Rules, 1995 in its letter and spirit, the percentage of acquittal may be reduced.

7.28 Under the Act, it is mandatory for all the State Governments and UTs to set up Special Courts for speedy trial, to notify a Public Prosecutor, to provide adequate facilities including legal aid, ensure economic and social rehabilitation of the victims of atrocities, to appoint Officers for exercising supervision over prosecutions, to set up Committees at appropriate level, to conduct periodic survey of the working of the provisions of this Act and identification of atrocity prone areas etc. The details of the steps taken by State Govts/UT Administrations are as follows:

#### **I ANDHRA PRADESH**

Three exclusive Special Session Courts at Chittoor, Guntur and Hyderabad have been set up and in other districts Special Courts have been specified. The norms of relief and rehabilitation as prescribed under the Rules 1995 are being followed. A Special Cell in the Police Department as well as in Social Welfare Department has been created. There are 941 number of atrocity prone areas in the State. Under section 3 of the Commission of Enquiry Act, 1952, Govt. of Andhra Pradesh had appointed Justice Dr. K. Punnaya a retired judge of Andhra Pradesh, High Court, to enquire into the practice of untouchability against the SCs & STs and suggest measures for eradication of untouchability and prevention of atrocities, vide G.O. Ms. No. 35, Social Welfare (POA) Department, dated 21-4-1999. Some of the important recommendations of Justice Punnayya Commission, which was accepted by Govt. of Andhra Pradesh are as follows:

- i) Establishment of a Permanent State Level SC and ST Commission with judicial powers.
- ii) Weekly villages visit on a fixed day by MRO/ MDPO/SI of Police/MPP/ZPTC/ MPTC etc. for conducting the campaign for eradication on untouchability and prevention of atrocities.
- iii) Celebration of Civil Rights Day on 30<sup>th</sup> of every month in one village in each mandal by the team of officials and non-officials by involving the entire population of the village consisting of all the communities.
- iv) Formation of Mandal Level Committee for eradication of untouchability and prevention of atrocities with MPP as Chairman and MRO as Convenor to continuously pursue the programme for removal of disabilities.
- v) Establishment of grievance redressal cells at Mandal, Divisional and District level to redress the grievances of SCs & STs relating to land, minimum wages, child labour etc.
- vi) Formation of non-official advisory committee at District and State level.
- vii) Identification and declaration of atrocity prone villages by the District Vigilance and Monitoring Committee.
- viii) Section of special works in the villages where atrocities have taken place as quite often such incidents are followed up by social boycott.
- ix) Formation of peace committees in identified areas to assess the situation in the atrocity prone villages.
- x) Organisation of awareness centers by District Collectors identified areas to educate the SCs and STs about their rights and laws about protection and also upper caste people about the efficacy of social equality.
- xi) Special awards to Dalit and other organizations on 1<sup>st</sup> November, for turning out most sincere, effective and exemplary work in eradication of practices of untouchability and prevention of atrocities.
- xii) Appointment of Special Officers in the Twelve atrocity prone districts and appointment of Joint Collectors of the Districts as Special officers to coordinate the functioning of various officers and agencies with regard to welfare and protection of SCs & STs.
- xiii) Nomination of Commissioner, "Social Welfare as Nodal Officer at State Level to coordinate and functioning of Collectors and Superintendents of Police and various other agencies implementing the provisions of PCR & POA Act etc.
- xiv) Justice Punnayya Committee's recommendations also include proposals for amendment of various sub-section of section 3 (1) and (2) of the SCs & STs (POA) Act, 1989.

**II ASSAM**

Eighteen Special Courts have been specified and Legal Aid Committees have been functioning in all the districts. The State Level Advisory Council has also been set up. Atrocity prone areas have not yet been identified.

**III BIHAR**

Courts of First Class Additional Sessions Judge have been specified as Special Courts. The Secretary, Home Department, Government of Bihar has been designated as a Nodal Officer. Relief and rehabilitation has been provided to the victims of atrocities as per SCs & STs (POA) Rule, 1995. Home Department has set up a Cell at the Police Headquarters headed by the Inspector General of Police (Weaker Section) for monitoring of atrocity cases. A State Level Vigilance and Monitoring Committee under the Chairmanship of the Chief Minister has also been constituted to review implementation of the Act.

**IV CHHATTISGARH**

Seven Special Courts have been set up. Special Police Thanas have been created in eight districts. Special Public Prosecutors have been appointed in each of the Special Courts. Contingency Plan has been formulated and accordingly, the District Committees under the Chairpersonship of the District Collector has been entrusted to provide relief, legal aid, traveling and maintenance allowance to the witnesses and medical facilities etc. to the victims of atrocities and their families. At the State Level, a Committee headed by the Chief Minister and at the District Level Committees, Chaired by District Collectors have been constituted.

**V GOA**

Two designated Special Courts are functioning. Nodal Contingency Plan has been framed and accordingly, the relief and rehabilitative measures are being taken. A State level Committee under the Chairmanship of the Minister of Social Welfare has also been set up.

**VI GUJARAT**

Three Exclusive Special Courts have been set up in three districts whereas in other districts, Session Courts have been specified as Special Courts. A high power Committee headed by the Chief Minister has been constituted to review the cases. At district level, a Vigilance Committee has been constituted for the same purpose. Provisions have been made for socio-economic rehabilitation of the victims of atrocity in the State. The districts of Mehsana, Ahmedabad, Junagar, Sabarkantha, Kheda, Rajkot (Rural), Amreli, Kutch, Surendranagar, Baroda (Rural) and Bharouch have been identified as sensitive from the point of the occurrence of offences of atrocities.

**VII HARYANA**

The Court of Seniormost Additional Session Judge in each district has been specified as Special Court. Special Public Prosecutors have also been appointed in each Special Court. Victims are being provided socio-economic rehabilitation as per norms under Rules, 1995. Committees have been constituted at State and District levels to review and monitor the implementation of the Act. No area has been identified as atrocity prone area.

**VII HIMACHAL PRADESH**

District and Session Courts in nine districts have been specified as Special Courts. Relief to the victims are being provided as per norms laid down in Rules, 1995. State Level and District Level Vigilance and Grievance Redressal Committees have been set up under the Chairmanship of Chief Minister of the State and District Magistrate respectively. No specific area has been identified as atrocity prone area.

**IX JAMMU AND KASHMIR**

Since the SCs and the STs (POA) Act, 1989 is not applicable in the State, the question of taking up such measures does not arise.

**X JHARKHAND**

The Districts of Chatra and Palamau have been specified as Special Courts. A Scheduled Castes and Scheduled Tribes Thana has been set up at Ranchi. A Cell has been established in the Home (Police) Department. A State Level Committee has also been constituted under the Chairmanship of the Chief Minister of the State. Economic assistance is being provided as per norms provided in Rules, 1995.

**XI KARNATAKA**

Besides six exclusive Special Courts, the Session Courts in all other districts have been specified as Special Courts. Seven Special Public Prosecutors have been appointed. State Level Vigilance and Monitoring Committee has been constituted under the Chairmanship of Chief Minister. A High Level Committee under the Chairpersonship of Minister for Home and co-chaired by the Social-Welfare Minister has also been set up to review the progress of atrocity cases. A CRE cell headed by Additional D.G.P and supported by I.G.P and other Senior officers to look after the provisions under the Act also been functioning with the aim to ensure proper implementation of the Act and payment of relief to the victims. Atrocity prone areas in Sixteen districts have been identified.

**XII KERALA**

The District Courts have been specified as Special Courts and the public prosecutors of all districts have been nominated as Special Public Prosecutors for conducting the cases in the Special Courts. District Level Committee has been constituted in each district to sanction travelling and maintenance expenses and also socio-economic rehabilitation of the victim of atrocities. Advisory Committees at the State and District Levels has been constituted as per Rules, 1995. The victims of atrocities are being paid economic assistance as per Rules. Monitoring and Evaluation Committees at State Level under the Chairpersonship of the Chief Minister is functioning. A Special Cell under the Supervision of ADGP (PCR) is keeping watch over the handling of atrocity cases.

**XIII MADHYA PRADESH**

Thirty-five Special Courts have been set up. In remaining Districts, the District and Session Courts have been designated as specified Special Courts. Monitoring and Evaluation Committee at the State Level under



the Chairpersonship of the Chief Minister has been formed. A panel of Senior Advocates and Public Prosecutors for all the districts have been notified. Sufficient funds have been placed at the disposal of District Collector and District Session Judges for meeting the requirements towards travelling and maintenance expenses of victims, and their dependents as well as witnesses attending the Courts. Necessary arrangements have been made for socio-economic rehabilitation of the victims of atrocity. An AJK - PCR Cell has been set up at Police Headquarters for ensuring proper implementation of provisions made under the Act. The Commissioner, Scheduled Castes Development has been notified as Nodal Officer under the Act. A number of villages (313) of thirty-seven districts have been identified as atrocity prone areas.

#### **XIV**

#### **MAHARASHTRA**

Courts of District and Sessions Judge in each district have been specified as Special Courts. The measures relating to socio-economic rehabilitation of the victims have already been taken up by the State Government. Vigilance Committee at State level has been set up under the Chairpersonship of the Chief Minister. At Divisional and District Level Committees are functioning under the Chairpersonship of Revenue Commissioner and District Magistrate respectively. Two hundred ten villages of ten districts have been identified as partially sensitive and three hundred sixty two villages highly sensitive for the crime of atrocity. The Civil Rights Enforcement Machinery in the State headed by the I.G.P. PCR has been set up at State Police Headquarter, Mumbai.

#### **XV**

#### **MANIPUR**

District and Session Courts of East and West Manipur districts have been designated as Special Courts.

#### **XVI**

#### **MEGHALAYA**

Special Courts have been set up in all the Districts of the State and Special Public Prosecutors have also been designated in each Special Court for conducting cases. The State is stated to be free from the atrocities on the Scheduled Castes and the Scheduled Tribes.

#### **XVII**

#### **MIZORAM**

One Special Court has been established for the entire State. However, there is no incidence of atrocity on the members of the Scheduled Caste the and Scheduled Tribe.

#### **XVIII**

#### **ORISSA**

Fifty-two Courts of the District and Session Judges / Additional District and Session Judges have been designated as Special Courts. The Human Rights Protection Cells in all the thirty-two police districts have been constituted under the direct control of District Supdt. of Police. The State is not paying economic assistance to the victim of atrocity as per norms fixed in the Rules, 1995. The State Govt. is of the view that unless hundred percent financial assistance is received from the Govt. of India in this regard, it would not be possible on their part to pay monitory relief to the victim of atrocities as per norms of Rules, 1995. No area has been

identified as atrocity prone area. At the State level, Scheduled Castes Welfare Advisory Board has been constituted under Chairpersonship of Chief Minister and similar Committee has also been set up under the Chairmanship of Commissioner - Cum - Secretary, Home Department.

**XIX**

**PUNJAB**

Special Courts have been set up and the senior-most Additional and District Session Judges has been designated as a Special Judge of the Courts. Concerned Public Prosecutors have been designated as Special Public Prosecutors. A Special Cell headed by ADGP (Crime) is in operation in the Home Department to ensure speedy disposal of atrocity cases. At the district level, SC/ST Cells are also functioning under SSPs.

**XX**

**RAJASTHAN**

Exclusive Special Courts have been set up at divisional headquarters namely Jaipur, Ajmer, Kota, Jodhpur, Udaipur and Bikaner, besides those at district levels such as Pali, Medta, Alwar, Pratapgarh (Chittorgarh), Dausa, Sriganganagar, Jhalawad, Sawai Madhopur, Baran, Tonk and Bhilwara. In the remaining districts, Courts of Districts Session Judge have been specified as Special Courts. Special Public Prosecutors have also been appointed for the purpose of conducting cases in that Court. A Civil Rights Cell in the State Police Headquarters has been functioning and reviewing the working of various provisions under the Act. A State Level Committee under the Chairmanship of the Chief Minister has been constituted. Vigilance and Monitoring Committees at district level have also been formed. District Collectors are providing financial assistance to the victims.

**XXI**

**SIKKIM**

The District and Session Courts (E&N) has been designated as a Special Court. The State is stated to be free from the atrocities on Scheduled Castes and Scheduled Tribes. As such, no specific atrocity prone area has been identified. The State level and District Level Committees have also not been constituted.

**XXII**

**TAMILNADU**

Four Special Courts at Tiruchirapalli, Tanjore, Madurai, Tirunavalli for sixteen districts have been set up and in ten districts Principal Session Courts have been designated as Special Courts. The District Collectors are reviewing the cases of atrocities bi-monthly with Supdt. of Police, Public Prosecutor alongwith the Chief Judicial Magistrate of the districts. The Additional Director General of Police (Social Justice) and the Inspector General of Police, Human Rights, Social Justice (CID), Chennai, monitor the implementation of the Act. The State Government has constituted a State Level Vigilance and Monitoring Committee under the Chairpersonship of Chief Minister. The concerned District Collectors are providing necessary legal aid, travelling and maintenance expenses and economic and social rehabilitation to the victims of atrocity. Four hundred twenty-seven villages have been identified as atrocity prone.

**XXIII**

**TRIPURA**

All the Courts of Session Judges in the State have been specified as

Special Courts for the purpose of trial of offences under the Act. Necessary arrangements for social and economic rehabilitation have been made. A State Level high power Scheduled Caste Welfare Advisory Committee under the Chairpersonship of the Chief Minister has been constituted to review and evaluate the implementation of the Act along with other welfare measures for the Scheduled Castes and the Scheduled Tribes. No area has been identified as atrocity prone.

#### XXIV

#### UTTAR PRADESH

Special Courts have been notified in twenty districts, which are identified as sensitive districts. In the remaining districts, II<sup>nd</sup> Additional District & Session Courts have been designated as Special Courts. Public Prosecutors have been exclusively appointed for the purpose of conducting cases in the districts wherein Special Courts are notified. A Special Enquiry Cell is functioning at Police headquarters under the charge of Additional Director General of Police. In all districts under the charge of District Supdt. of Police, Special Enquiry Cells are also functioning. A Committee consisting of District Magistrate, District Supdt. of Police and District Social Welfare Officer is taking care of socio-economic rehabilitation of the victims of atrocities as per norms fixed under the Scheduled Castes and the Scheduled Tribes (POA) Rules, 1995. Smt. Veena Nayyar, the then Member of this Commission has made an intensive review of the implementation of the SCs and the STs (POA) Act, 1989 and Rules, 1995 at micro level in the districts of Aligarh, Etah, Agra, Varanasi, Jaunpur and Azamgarh. The common observation was that there is still need to sensitize the police administration alongwith district welfare administration for speedy disposal of atrocity cases and quick action in socio-economic rehabilitation of the victims of atrocities. She expressed her deep concern over the high rate of acquittal and directed the District Magistrates of these districts to sit with District Supdt. of Police and District Public Prosecutors and find out the causative factors for high rate of acquittal. Necessary feedback in this regard should also be given to the Investigating Officers to take remedial measures. While sensitizing the Chief Medical Officers of the districts, she requested them to ensure free and prompt supply of medicines and free medical tests to the victim of atrocities. It was observed that the district level Officers are, infact, needed not only sensitization but also the financial support from the State Government. The State should formulate and implement the Contingency Plan as per Rules, 1995 and ensure that necessary funds have been allotted to the districts. The State should also ensure proper training and feed back facilities to the district level officers. She stressed upon the Officers to remain more vigilant and take pro-active steps to prevent the occurrence of atrocities on the members the Scheduled Caste and the Scheduled Tribe.

#### XXV

#### UTTARANCHAL

Special Courts have been set up in three districts of the State. Special Police Cells in the O/o. the District Supdt. of Police has been set up in all thirteen districts. Necessary arrangements for socio-economic rehabilitation for victims of atrocities have been made. No specific area has been identified as atrocity prone area.

**XXVI**

**WEST BENGAL**

All Districts and Session Courts have been designated as Special Courts inspite of the fact that negligible cases of atrocity are reported by the State Government.

**XXVII**

**ANDAMAN & NICOBAR ISLANDS**

The A & N Administration has designated Session Court, Port Blair as Special Court to try the offences under the Act. Other measures required under the Act have not been taken, as numbers of atrocity cases are negligible.

**XXVII**

**CHANDIGARH**

The Court of Additional Session Judge, Chandigarh has been designated as Special Court. The District Attorney, Chandigarh has also been specified as Special public Prosecutor for the purpose of conducting cases in the Special Courts. Necessary relief and rehabilitation measures are being taken to assist the victims of atrocity. No Committee has been set up, taken into consideration the negligible number of atrocity cases. A PCR Cell has been set up in the State Police Headquarters in which Sr. Supdt. of Police is the nodal officer.

**XXIX**

**DADRA & NAGAR HAVELI**

The Session Court at Silvassa has been designated as Special Court. Five Officers, namely, the Collector, Dadra & Nagar Haveli, the Resident Deputy Collector, the Land Reforms Office I & II, DNH and the Mamlatdar, DNH have been conferred powers exercisable by the police officers under the Code of Criminal Procedure, and in particular, the power of arrest, investigation and prosecution before the Special Courts. The District Vigilance and Monitoring Committee under the Chairpersonship of the Collector has been set up in DNH.

**XXX**

**DAMAN & DIU**

The Session Court has been designated as Special Court. One Public Prosecutor has been specified as Special Public Prosecutor for the purpose of this Act. No Committee has been set up, no survey has been conducted and no area has been identified as atrocity prone as negligible incidence of atrocity reported by the Administration on Scheduled Castes and Scheduled Tribes.

**XXXI**

**NCT OF DELHI**

The Court of the Addl. Session Judge, Tis Hazari, Delhi has been designated as Special Court under the Act. One Public Prosecutor has been specified as Special Public Prosecutor. No Committee at any level has been constituted. No officer has been appointed to supervise over the prosecution for the contravention of provision of this Act. It is only after the hot persuasion for providing socio-economic rehabilitation to the victims of atrocities by the Commission; the NCT of Delhi has formulated the schemes "Comprehensive Rehabilitation of Scheduled Castes Victims of Atrocities" which was notified on 25.2.2002. Under this scheme, a permanent Standing Committee under the Chairmanship of the Secretary (SC / ST / OBC / Minorities), Deputy Commissioner of Police of respective areas (Member), Medical Officer of respective area (Member), Deputy Secretary, Law (Member) and Deputy Director, Department for Welfare of the SC/ST (Member Secretary) have been notified for

providing rehabilitation and relief to the victims of Scheduled Castes and Scheduled Tribes in the Union Territory of Delhi. Since the districts have been created and Deputy Commissioners (Revenue) have been posted to these newly created districts it would be perhaps, advisable that the NCT of Delhi reconsider its notification of 25.2.2002 and give the responsibility for relief and rehabilitation to the Deputy Commissioner (Revenue) of the area where the atrocity has been committed on the member of Scheduled Castes and Scheduled Tribes. A Committee may be formed consisting of Dy. Commissioner (Revenue), Deputy Commissioner of Police and Social Welfare officer of the district for the purpose of providing socio-economic rehabilitation to the victims expeditiously.

**XXXII LAKSHADWEEP & MINICOY ISLANDS**

The Court of Sessions, Kozhikode in Kerala State has been designated as Special Court. No case of atrocity has been reported in the U.T. Administration so far.

**XXXIII PONDICHERY**

The Court of Chief Judicial Magistrate, Pondicherry, SDJM, Karaikal and the First Class Judicial Magistrate, Yanam has been designated as the Special Courts. A State Level Committee for the welfare of Scheduled Castes has been constituted with the Minister-in-Charge of Scheduled Castes Welfare as Chairman. Travelling allowances/Daily allowance and bus fares to all the witnesses are being given by the Judicial Department, Pondicherry. The facilities of relief to the victims are made available by ADI-DRAVIDA Department. Medical help to the victims are provided free of cost. There is no atrocity prone area in the U.T. Administration of Pondicherry.

**XXXIV ARUNACHAL PRADESH AND NAGALAND**

Since there is no case of atrocity perpetrated on the members of the Scheduled Caste and the Scheduled Tribe in the States of Arunachal Pradesh and Nagaland, no specific steps have been taken by respective State Governments in this regard.

7.29 The Ministry of Social Justice and Empowerment, Govt. of India had conveyed a meeting of Nodal Officers of State Governments and U.T. Administrations on 5.2.2002 to review the implementation of the Protection of Civil Rights Act, 1955 and the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 at New Delhi. Summing up of the discussion, the Secretary, the Ministry of Social Justice and Empowerment made certain observations. Some of them are as follows:

- (i) Section 4 of the Act, which relates to 'Punishment for neglect of duties' needs to be amended to include public servants belonging to Scheduled Castes and Scheduled Tribes, in its scope.
- (ii) There is need to set up exclusive Special Courts. These Courts should not be given additional work.
- (iii) The provision of medical examination of a woman before payment of relief may have to be exempted.
- (iv) As a preventive mechanism to check atrocity cases, monthly visits to

sensitive spots may be taken up on a regular basis.

- (v) A committee to review the Acts may be constituted in each State/U.T. and quarterly meetings are to be held.
- (vi) A system of regular training of police personnel and their sensitization is required to be evoked.

**7.30 The Commission fully agrees with the observations of the Ministry of Social Justice and Empowerment and recommends that the State Governments and Union Territory Administration may implement these observations without further delay. The Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 and Rules, 1955 may also be amended accordingly by the Ministry.**

7.31 Under the provision of Sections (3) and (4) of the said Act, the Ministry of Social Justice and Empowerment is required to take necessary steps to co-ordinate measures by the State Governments and to place on the Table of both the Houses of the Parliament, each year, a report on the measures taken by itself and by the State Governments in pursuance of the provisions of this Section. The Ministry of Social Justice & Empowerment has placed its Seventh Report on the Table of Rajya Sabha on 29.4.2002 and Lok Sabha on 23.4.2002 for the year 2000.

7.32 Government of India provides Central Assistance under the Centrally Sponsored Scheme for implementation of the various provisions of the Act to State Governments on 50:50 basis and 100% to Union Territory Administrations. Under the scheme, assistance is provided for strengthening of the administrative, enforcement and judicial machinery, publicity and rehabilitation to the affected persons. During the year 2001-02 Rs. 2906.50 lakhs has been released as on 17-1-2002 to eleven State Governments namely, Andhra Pradesh (165.01), Gujarat (178.20), Haryana (13.781), Karnataka (174.585), Kerala (44.15), Madhya Pradesh (812.86), Orissa (0.97), Punjab (33.10), Rajasthan (317.38), Tamilnadu (409.96), Uttar Pradesh (700.00), Dadra & Nagar Haveli (25.00) & Pondicherry (31.50) lakhs. The amount of Central Assistance released to the State Governments & UT Administrations during each year of the IX Plan period is given below.

**Table 7.12**

Year	Central assistant released ( Rs. in Lakhs )
1997-1998	1647.00
1998-1999	1550.00
1999-2000	2494.16
2000-2001	2708.77
2001-2002	2906.50

*Source: Agenda Note of Ministry of Social Justice and Empowerment, New Delhi.*

7.33 The mandate provided to the Commission under Article 338(5)(a) & (b) is to investigate, monitor and enquire into specific complaints with respect to the deprivation of rights and safeguards provided to the members of Scheduled Castes and Scheduled Tribes under various laws including the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 and Rules, 1995. During the year 2001, 928 representations relating to denial of safeguards provided under the Act of 1989 and Rules, 1995 have

been received at Commission's Headquarters. Out of 928 cases, most of the cases were received from Uttar Pradesh (278), Punjab (182), Delhi (157), Haryana (79), Madhya Pradesh (53), Rajasthan (40), Bihar (52), Andhra Pradesh (20), Uttranchal (21), Tamilnadu (16) and Orissa (09). Very few petitions were received from other States/UTs. As regards nature of petitions received (SCs and STs both) are concerned, most of them relates to insult on caste ground (38.25%) followed with minor crimes (28.34%), land disputes (19.50%), murder (9.05%), Arson (2.48%), rape (2.48%). An analysis of the petitions received from the members of the Scheduled Caste and the Scheduled Tribe separately reveals that petitions relating to murder and rape were more from Scheduled Tribes as compared to Scheduled Castes. These cases have been got enquired through the District Magistrate/District Supdt. of Police. In certain cases the District Magistrate/District Supdt. of Police has also been summoned and necessary suggestions were given in accordance with the provisions of the Act of 1989 and Rules, 1995.

7.34 Some important cases dealt with in the Commission are as follows:

- I. A Scheduled Caste person died on 07.7.2001 in Police custody of P.S. Savar, District - Indore (Madhya Pradesh.). The Commission took up the matter with the District Supdt. of Police, Indore (MP) for detailed report. The District Supdt. of Police, Indore in his report intimated that the deceased person was in police custody in the Case FIR No.217/2001 U/s. 294, 506, 323 IPC registered by his sister against him. The local police of P.S. Savar had beaten up him brutally as a result he died while taking him to hospital at Savar. An FIR No. 221/2001 U/s. 302, 330, 34 IPC read with 3(1)(X), 3(2)(V) of the SCs and the STs (POA) Act, 1989 was registered on the complaint of deceased person's wife. A Magisterial enquiry had been ordered. In all five police officials including have been suspended and arrested. The Collector, Indore provided relief of Rs.25000/- to the family of victim. Commission wrote to the Collector, Indore to provide economic assistance as per norms fixed under the SCs and the STs (POA) Rules, 1995 i.e. an amount of Rs. 1,50,000/- is to be given to the family of the victim whereas only Rs. 25,000/- has been provided to the family of the victim. The Collector, has reported to the Commission that Challan in this case had been filed vide Challan No.283/2001 dated 14.10.2001 in the Court for trial and an amount of Rs. 150,000/- had been given to the family of the deceased person.
- II. It has been brought to the notice of the Commission by a member of Scheduled Caste in the District - Hardwar (Uttaranchal) that his sister was abducted, gang raped and murdered by the non-SC person of same village. The Commission took up this matter with Supdt. of Police, Hardwar for detailed report and for providing economic assistance to the family of victim as per Rules. The Supdt. of Police, Hardwar, intimated to the Commission that a Case FIR No. 103/2001 U/s 302/201 IPC and 3(2)(V) SCs/STs (POA) Act, 1989 was registered at P.S. Mangalore. The accused persons were arrested. During the course of investigation it was not proved that victim was raped. The police had filed the Chargesheet on 18.5.2001 in the Court. An amount of Rs. 75,000/- has been provided to the family of deceased.
- III. On the basis of Press clipping published in the Dainik Jagran dated 18.6.2001 regarding murder of five Dalits at Village - Hasnapur, District - Fatehpur (UP) by non - Scheduled Caste persons of the same

village, the Commission took up the matter with District Magistrate and Supdt. of Police, Fatehpur for detail report of the incident and economic assistance provided to the family of the deceased. As per report received from the Supdt. of Police, Fatehpur a case against non-Scheduled Caste person at P.S. Hussainganj vide FIR No. 90/2001 U/s 452/323/504/506 IPC and 3(1)(X) SCs/STs (POA) Act, 1989 dated 08.5.2001 was registered. The accused was pressing the complainant to withdraw the case failing which he murdered five members of Scheduled Caste families on 17.6.2001. A case FIR No. 109/2001 U/s 302/506 IPC read with 3(2)(V) SCs/STs (POA) Act, 1989 registered against four accused were arrested. One Police Officer of P.S. Hussainganj was suspended with immediate effect. The district administration had provided an amount of Rs. 5 lakhs to the family of victim. PAC had been deployed for security of the family. The Supdt. of Police, Fatehpur intimated that the chargesheet has been filed in the Court on 5.7.2001 against all the four accused persons.

IV. A complaint was received in the Commission from a woman in District - Panipat, Haryana alleging that she has been subjected to the harassment by her Panchayat colleague as she had protested to her colleagues sinister plan to grab about 16 acres of land. She was also suspended by district administration at his behest. The matter was immediately brought to the notice of the Director, Panchayat, Deputy Commissioner and Supdt. of Police, District - Panipat for taking corrective action. The Supdt. of Police, District Panipat has informed that the complainant, has been reinstated as Sarpanch by the Deputy Commissioner, Panipat District.

V. A news report appearing in the Hindustan Times, dated 30.7.2001 highlighted the plights of dalits in the Khumbhadi village of Junagadh district, Gujarat State. It was reported that dalits have been driven out from the village by upper caste Ahirs as dalit farmers refused to till the land of upper castes. The dalit farmers had planned to cultivate their own crop in Government owned wasted land. According to the report, upper-caste people feared that the dalits would become self-sufficient by raising their own crop. This would mean that the high castes would not get farm labourers for their fields. Taking *suo-moio* action on the news report, the matter was taken up with District Collector and S.S.P., Junagadh district for corrective actions. The Supdt. of Police, Junagadh in his report admitted the fact that there has been a case of scuffle, intimidation etc. of dalits by upper-caste Ahirs. The main accused along with 14 others were booked U/s 143, 506(2) of IPC and 3(1)(X) of the SCs/STs (POA) Act, 1989 and sent to the Judicial custody.

VI. A complaint was received from the State President, Dalit Sena, Andhra Pradesh alleging that there has been instances of Caste discrimination in the villages namely Varada, A. Koduru, V. Santhapalem, Yamayogi Agrahram etc. in the northern-costal districts of Visakhapatnam and Vizianagaram, Andhra Pradesh. It was alleged that for the past 50 years, the Dalits are not allowed to take water directly from the village wells, instead they are asked to stand aside, a little distance from the well and some upper caste man used to pour water from a little high into the pots of the dalits. It is alleged that if any dalit dared to take water directly from the wells, they were severely punished physically. The Dalits were not allowed to work in



the fields of upper caste people due to social ostracism and were even objected to go to field to attend natural calls. According to the report received from the Collector and District Magistrate, Visakhapatnam, a case has been registered against three persons, as they were the persons inciting caste hatred under PCR Act vide Crime No. 8/2001 dated 07.4.2001 and they were sent them to remand in the Court of the 7<sup>th</sup> Metropolitan Magistrate, Visakhapatnam on 14.5.2001. Besides senior Government officials held a meeting and convinced the local dominant groups not to continue with the bad practices which tantamount to the practice of untouchability.

VII. A news item appeared in the Dainik Jagaran reporting that a group of upper caste people has burnt down 20 huts belonging to the member of Scheduled Castes near the Village Haladipadar, Ganjam District. Supdt. of Police when contacted by newsmen, stated that reason behind such incidence was age old enmity between two groups. Acting on the news report, a wireless message was sent to the Director General of Police, Govt. of Orissa, Supdt. of Police and Collector District- Ganjam for enquiry and taking firm steps under the provision of SCs/STs (POA) Act, 1989. According to a report received, the dispute had started when few youth belong to Scheduled Castes entered into a verbal duel with a youth belonging to upper caste. Annoyed with the misbehaviour and in order to give the Scheduled Caste people a lesson, a group of upper caste people, armed with lethal weapons, attacked the huts of Scheduled Caste people and burnt down about 20 huts. In the process, paddy, rice and other household articles were also damaged and two people sustained minor injuries. A case was registered under relevant Sections of IPCs and also under 3(I)(XV), 3(2)(IV) of SCs/STs (POA) Act. The effected people had been provided economic assistance and all the accused persons have been arrested and the case submitted to the Court.

VIII A news item appeared in the Hindustan Times dated 25.9.2001 captioned "Couple hounded by cops for inter-caste marriage". The news mentioned the fact that boy from Scheduled Caste had married a girl from upper caste and the marriage was secretly solemnized in May 15, 2001 at Arya Samaj Mandir and also later in a competent marriage Court. According to the report, the couple were majors and were from Narela of North district, New Delhi. The girl's family reported the matter to the Narela P.S. and complained it as a case of abduction of a minor the police have started a massive manhunt to nab the boy and in process the police also harassed his family. Eventually the boy was picked up and beaten in the Police Station and woman relations of the boy also reportedly not even spared and had to face wrath of the police by way unlawful detention, harassment and brutality. Taking *suo-moto* actions on the case, the matter was immediately brought to the notice of Joint Commissioner of Police, Vigilance, and Delhi Police for an enquiry and for immediate remedial actions. DCP, Vigilance and DCP, North-West district, Delhi, Delhi Police were summoned to discuss the matter. The police authorities were requested not to harass the Scheduled Caste family and also cancel the FIR, which was registered with malafide intentions. The police have intimated that due to judicial verdict the case registered against the boy stood cancelled.

- IX. On the basis of the complaint received from some members of Scheduled Castes R/o. Village - Rathivas, District - Gurgaon (Haryana) regarding not allowing the marriage party of Scheduled Caste community to pass through the villages, the Commission immediately took up the matter with the Sr. Supdt. of police, Gurgaon (Haryana) for detailed action taken report in the matter. In response, the Supdt. of Police, Gurgaon intimated that a case had been registered under the SCs and STs (POA) Act, 1989 against the accused persons at P.S. Manesar, District Gurgaon (Haryana). The accused was arrested and the chargesheet filed in the Court.
- X. The Reserve Bank SC/ST and Buddhist employees Association, Bhopal (MP) submitted a representation to the Commission, alleging that a lady member of Class IV staff was sexually harassed by some members of the Staff. The Commission took up the matter with the Reserve Bank of India, Bhopal (MP) Reserve Bank of India, Bhopal office intimated that after departmental enquiry, the penalty of reduction of six annual increments have been awarded to the accused employee by the competent authority.
- XI. On the basis of the News report published in the leading dailies, the State office, Bhopal of the Commission sent a brief note on the incidence of 02.4.2001 in which three tribals killed in the police firing in Bagli Tehsil, District of Devas (MP). The clash occurred between District Administration and members of Scheduled Tribes due to the procurement of forest products by the members of Scheduled Tribes. The Commission took up the matter with the Chief Secretary, Madhya Pradesh Government and requested to take urgent necessary action for rehabilitation of the affected families including initiation of criminal proceedings against the concerned officers. The State Govt. of Madhya Pradesh intimated that necessary measures have been taken to rehabilitate the families affected in the incident and Principal Secretary, Housing and Environment have been appointed as the Enquiry Officer. Based on his report action would be taken against erring officials. Meanwhile, the Supdt. of Police of the District was reported to be transferred as per recommendation of the Commission.
- XII. Baba Sahib Dr. Bheem Rao Ambedkar Sabha, Jhajhar (Haryana) had submitted a petition that a Hindi book 'Kavitayan', compiled by Dr. Bhola Nath Tewari was prescribed for the current course of Hindi Prabhakar in M.D.U, Rohtak. At page 39 of this book, a poem 'Chamaron Ka Naach' contained Caste aspersions. The Sabha demanded that such Malicious, Atrocious, Derogatory and Venomous literature must be banned. The Commission took up this matter with MDU, Rohtak who informed that the said book has been removed from the Prabhakar course of the University.
- XIII. A news report appeared in the Times of India that a Ph.D. Scholar belonging to Scheduled Caste in the Delhi University was abused and beaten up severely by some students within the D.U. premises. As a result of severe beating, the victim, reportedly, had to be admitted in Govt. hospital for emergency treatment. Taking *suo-moto* action, the matter was immediately taken up with the Vice-Chancellor, Dean, Student Welfare and Warden of concerned Hostel of Delhi University for immediate action. The University authorities had made the accused to apologize, fined and ultimately he was expelled him from the hostel.

- XIV. One employee belonging to Scheduled Caste of a nationalised bank lodged a complaint against his Colleague alleging that he has been constantly harassed and penalised. It was also alleged that apart from Caste abuse, the accused also was instrumental in not sanctioning loan etc. on frivolous grounds. Receiving the complaint, the matter was brought to the notice of the concerned bank. The bank authorities have taken a stern action and "censured" the guilty officer for his misconduct.
- XV. On the basis of a complaint received in the Commission on 25.1.2001 regarding murder of a Scheduled Caste student of District - Etah, Uttar Pradesh, the Commission took the matter with Inspector General of Police, Special Enquiry Cell, Lucknow (UP), for taking appropriate legal action under intimation to the Commission. The Supdt. of Police, Special Enquiry Cell, Lucknow (UP) intimated that in a case FIR No. 413/2000 U/s 302/392 IPC read with 3(2) (V) of the Scheduled Caste and Scheduled Tribes (POA) Act, 1989 against two accused have been registered at P.S. Kotwali Dehat, District - Etah (UP). After investigation of this case, the chargesheet against two accused persons have been filed on 31.3.2001 in the Court.
- XVI. In a village in Trichy District in Tamil Nadu some SC persons gathered with iron rod on the ground that the victims had informed the villagers that the accused in this case had neither returned the money he had taken from the victim with a promise to allot the house under the Jawahar Awas Yojana which were not constructed. On the interference by the Councillor the accused was arrested and was kept in the jail for some time. The case is still said to be pending before the Court. The District Collector has done some rehabilitation work like the construction of houses, provision of drinking water etc.
- XVII. In another case relating to the Dhidigal District (Nilakantha Taluk) one SC person was forced to drink urine by a caste Hindu (Annadurai) who also happened to be a Constable working in the State Govt. As a result of the interference by the Commission, the accused was arrested and put under suspension.

## CHAPTER-VIII

### SUMMARY OF RECOMMENDATIONS

Detailed recommendations have been made in different chapters. A summary of major recommendations made in each chapter is given below.

No.	RECOMMENDATION	Para No.
	<b>CHAPTER III</b> <b>ECONOMIC DEVELOPMENT OF SCHEDULED CASTES</b> <b>AND SCHEDULED TRIBES</b>	
1	All the Central Ministries/Departments, barring a few regulatory Ministries, must allocate funds under SCP and TSP as per the guidelines and also formulate need based schemes for accelerated socio-economic development of SCs and STs in consultation with M/o Social Justice and Empowerment, and M/o Tribal Affairs and NCSCST in terms of Article 338 (v) (c) of Constitution of India. All the funds so earmarked should be fully utilised.	3.37 (i)
2	The State Govt. and UTs similarly must ensure earmarking of funds and full utilisation under these guidelines. No diversions from these funds should be allowed.	3.37 (ii)
3	The funds allocated under SCP/TSP which are not spent at the end of the financial year by Central Ministries or States/UTs should be allowed to be carried forward for utilisation in the next financial year. These funds will be the additional funds and should not be allowed to be diverted.	3.37 (iii)
4	Of late while compiling the statistics on the economic condition of SCs and STs it has been noticed that separate data for SCs and STs is not being reflected. It is strongly recommended that while compiling details about Human Development indices and other related parameters specific data for SCs and STs should be compiled and indicated distinctly.	3.37 (iv)
5	The eligibility for selection of beneficiaries at village/district level for benefit under various schemes generally is 'people below poverty line'. However due to change in criteria for classification of BPL people, there is a confusion at the ground level. Earlier BPL used to be arrived on the basis of income. This has now been revised to consumption norms i.e. calorific value of food being consumed in a day. However the schemes still require proof of income as one of the eligibility criteria. This is leading to no transparent system of selection of beneficiaries at the ground level. It is felt that the definition of BPL should be crystal clear to ordinary functionaries at the ground level so that deserving candidates are not deprived of the intended benefit of the various developmental schemes. This must be done at the earliest in the rural areas as at village level the literacy levels still are far from satisfactory.	3.37 (v)

- 6 Non-release/delayed release of funds by State Govts. has emerged as one of the major hurdle for non implementation of schemes at ground for the welfare of SCs and STs. State Govts. must ensure timely release of funds for the various welfare schemes. Central Ministries should also consider direct release of funds to the implementing authorities under various schemes as is being done in case of DRDA by Ministry of Rural Development. 3.37 (vi)
- 7 Lack of coordination amongst various authorities involved in success of schemes/projects is also one of the major reason for ineffectiveness of schemes at ground. Similarly there are overlapping schemes being implemented by different authorities. A review of the schemes is urgently required with clearly defined objectives and roles. 3.37 (vii)
- 8 The Governmental schemes must aim to build competence, capacity to be self reliant, capacity to compete. There is a proverb that 'instead of giving a hungry person a fish to eat, teach him how to fish and he will never be hungry again'. Such a capacity building will only reduce the vulnerability of SCs and STs and SCP and TSP are precisely the strategies to achieve this objective of capacity building. 3.37 (viii)

#### CHAPTER IV

#### SERVICE SAFEGUARDS

- 1 The Commission recommends that arrangement envisaged in DOPT O.M.No.39016/9(S)89-Estt.(B) dated 16.8.1990 to have one member belonging to SC/ST and one member belonging to Minority Community on selection committees/Boards for filling up of vacancies for group C and D should be made a mandatory condition to all the categories for constituting Selection Committees/Departmental Promotions Committees without leaving an option for not doing so. 4.26
- 2 The Commission therefore recommends that Govt. should make special efforts to achieve the representation by launching SRD's as has already been suggested by DoPT in its OMs No. 36012/ 5/1997-Estt. (Res.) Vol.II dated 20-7-2000. 4.41
- 3 The position of representation of SCs and STs in both Teaching and Non-Teaching cadres, almost in all the Central Universities and Deemed Universities, was below the prescribed percentage. All the Universities may take concerted efforts to fill the back log/shortfalls of SCs and STs in a time bound manner. UGC may also keep a strict vigil on all the Universities to see that they implement the guidelines of UGC regarding reservation policy in letter and spirit and fill the backlog/shortfall of SCs and STs in a time bound manner and if any University fails to adhere to these guidelines, UGC may take corrective and punitive action against such University(s). 4.74
- 4 The National Commission for SCs/STs still however feels that Govt. should introduce some element of reservation in Armed 4.76

forces without adversely effecting the efficiency as there was no substance to challenge the competency when there were regiments like Sikh and Mahars known for their excellent achievements. The view of Ministry of Defence is not necessarily correct as competency and efficiency can be improved with intensive trainings. The Commission recommends that as far as possible in direct recruitments the reservation may be introduced.

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| 5 | The Commission re-iterates its recommendations made in its earlier reports that reservation provided for in judicial appointments below the High Courts needs to be implemented to fulfill the prescribed reservation percentage. The Commission also re-iterates its recommendation to consider provision of reservation in appointments of Judges to the High Courts and Supreme Court of India.      | 4.78 |
| 6 | The Commission reiterates its recommendation contained in its Sixth Report (period 1999-2000 and 2000-2001) to consider provision of reservation in private sectors.  | 4.83 |
| 7 | The Commission re-iterates that an Act should be enacted on reservation. The Commission has already sent its comments to the Ministry of Social Justice and Empowerment on the draft bill on the subject.   | 4.89 |
| 8 | The DOPT should take a decision in this regard keeping in view the majority/Minority status of the associations formed by the SC/ST employees and issue instructions to all the Central Ministries/Departments and Public Sector Enterprises etc. to provide certain minimum facilities with due recognition, out of which 1/3 rd of the office bearers should be women belonging to these communities. | 4.90 |
| 9 | Since the existing 8 <sup>th</sup> edition of 1993 is out dated, the DOPT may bring out a comprehensive brochure with full clarity of reservation in Govt. and an updated version of the brochure incorporating therein the modified/revised O.Ms, as early as possible.  | 4.91 |

**CHAPTER V**  
**PROBLEM OF FALSE CASTE/TRIBE CERTIFICATES AND**  
**REMEDIAL MEASURES**

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| 1 | The instructions issued by the Govt. of India from time to time about the issuance and verification of community certificate should be followed strictly by the competent issuing authorities. The issuing authority should be made accountable for the issuance of false/fake caste certificates.                          | 5.23 (i)   |
| 2 | The appointing authorities should verify the Scheduled Caste and Scheduled Tribe certificates through the competent authority of the place of permanent residence of the certificate holder(s) and in case, the verification reveals that the candidates claim is found to be false, his/her services should be terminated. | 5.23 (ii)  |
| 3 | In the case of elective offices such as Parliament/Legislative Assembly/ Municipal Corporation/Panchayat the false caste  | 5.23 (iii) |

certificate holder should be immediately sacked from the post/chair and must be debarred from contesting election for atleast 6 years besides the punishment provided under law.

- 4 Even after the cases are decided that community certificates are false after following the prescribed procedures (Deflected, follow up of inquiry, verification and cancellation of certificate) termination of services, sacking from elective officers and criminal action are not being taken. On the other hand, due to slow follow up action the false caste/Tribe certificate holders are able to take undue advantage and continue in service/chair by getting stay orders from the courts. Efforts should be made to get such stay orders vacated. This is not being pursued vigorously and expeditiously. 5.23 (iv)
- 5 In no case should the false SC/ST certificate holder be allowed to work as a general candidate. The services of such a fake certificate holder should be terminated and in case of elective officers should be sacked from the office, and post/seat so vacated be filled from SC/ST for whom it was originally reserved. 5.23 (v)
- 6 In case the false SC/ST certificate holder takes the shelter of court, the Hon'ble Court may be approached to vacate the stay order, if granted, and to finalise the case on top priority to ensure that the person does not continue to enjoy the benefits meant for SC/ST. This will ensure that not only such guilty persons are suitably punished but also face departmental action. 5.23 (vi)
- 7 A comprehensive bill to regulate the issue of community certificates relating to persons belonging to SC/ST/OBC should be introduced in the Parliament as early as possible so that action can be taken against those who misuse the provisions and obtain false caste certificate and these officers who abet such offences can also be suitably brought to book. A legislation, applicable to States/UTs and offices of Central Governments etc. will also facilitate the use of a common procedure and action throughout the country. 5.23 (vii)

## CHAPTER VI PROTECTION OF CIVIL RIGHTS

- 1 The Commission, therefore, recommend for speedy disposal of criminal cases by the Courts. The State Governments, particularly those whose number of pending cases is high, are recommended for setting up of Special Courts. 6.13
- 2 It is also recommended that the State Governments should approach their respective High Courts for issuing necessary directions to the trial Courts for speedy disposal of the PCR Act cases on priority basis. 6.13
- 3 The National Commission for SCs and STs is of the view that, in respect of PCR Act cases free legal aid should be provided to the Scheduled Castes without any financial limit on their income and a penal of competent lawyers preferably belonging to Scheduled Castes should be prepared in each district. 6.37

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| 4 | National Commission for SCs & STs recommends that the Officers appointed for initiating or exercising supervision over prosecution needs to be sensitized.   | 6.54 |
| 5 | The National Commission for SCs and STs recommends that all the States/UTs where the cases relating to the offences under the PCR Act are still pending for trial must set up special courts without further delay.  | 6.59 |
| 5 | The National Commission for SCs and STs recommends that in order to ensure proper implementation of the PCR Act, it is necessary for the States/UTs having or not having the problem of denial of Civil Rights to the Member of Scheduled Castes and still not constituted any Committee for the purpose must constitute Committee at all appropriate level. | 6.79 |
| 6 | The National Commission for SCs and STs recommends that the States/UTs should ensure periodic survey through NGOs even the case of denial of civil rights are not reported to the police. Suo-moto action is the need of hour.   | 6.84 |
| 7 | The National Commission for SCs and STs recommends that the States/UTs must identify the affected areas where the Members of Scheduled Caste are still denied their civil rights and initiate criminal action Suo-moto under the PCR Act.  | 6.95 |

## CHAPTER VII

### ATROCITIES ON SCHEDULED CASTES AND SCHEDULED TRIBES

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| 1 | The Ministry of Social Justice and Empowerment, Govt. of India had convened a meeting of Nodal Officers of State Governments and U.T. Administrations on 5.2.2002 to review the implementation of the Protection of Civil Rights Act, 1955 and the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 at New Delhi. Summing up of the discussion, the Secretary, the Ministry of Social Justice and Empowerment made certain observations. Some of them are as follows: | 7.30 |
|   | (i) Section 4 of the Act, which relates to 'Punishment for neglect of duties' needs to be amended to include public servants belonging to Scheduled Castes and Scheduled Tribes, in its scope.  |      |
|   | (ii) There is need to set up exclusive Special Courts. These Courts should not be given additional work.  |      |
|   | (iii) The provision of medical examination of a woman before payment of relief may have to be exempted.   |      |



- (iv) As a preventive mechanism to check atrocity cases, monthly visits to sensitive spots may be taken up on a regular basis.
- (v) A committee to review the Acts may be constituted in each State/U.T. and quarterly meetings are to be held.
- (vi) A system of regular training of police personnel and their sensitization is required to be evoked.

The Commission fully agrees with the observations of the Ministry of Social Justice and Empowerment and recommends that the State Governments and Union Territory Administration may implement these observations without further delay. The Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 and Rules, 1955 may also be amended accordingly by the Ministry.